

2022 Proceedings of the National Association of Insurance Commissioners

**2022 Summer National Meeting
August 9 – 13, 2022**

**Held at the
Hyatt Regency Portland, Doubletree Portland, &
Portland Convention Center
Portland, Oregon**

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Information about statutory accounting principles and the procedures necessary for filing financial annual statements and conducting risk-based capital calculations.

Consumer Information

Important answers to common questions about auto, home, health and life insurance — as well as buyer's guides on annuities, long-term care insurance and Medicare supplement plans.

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**CERTIFICATE OF INCORPORATION OF
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
a Nonstock Corporation**

I. Name

The name of the Corporation is: **National Association of Insurance Commissioners (NAIC)**.

II. Duration

The period of duration of the NAIC is perpetual.

III. Registered Office and Agent

The NAIC's Registered Office in the State of Delaware is to be located at: 1209 Orange St., in the City of Wilmington, Zip Code 19801. The registered agent in charge thereof is The Corporation Trust Company.

IV. Authority to Issue Stock

The NAIC shall have no authority to issue capital stock.

V. Incorporators

The name and address of the incorporator are as follows:

Catherine J. Weatherford
National Association of Insurance Commissioners
120 W. 12th St., Suite 1100
Kansas City, MO 64106

VI. Purpose

The NAIC is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue law), including without limitation, to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost-effective manner, consistent with the wishes of its members:

- (a) Protect the public interest, promote competitive markets and facilitate the fair and equitable treatment of insurance consumers.
- (b) Promote, in the public interest, the reliability, solvency and financial solidity of insurance institutions.
- (c) Support and improve state regulation of insurance.

VII. Restrictions

- A. No substantial part of the activities of the Corporation shall be the carrying of propaganda, or otherwise attempting to influence legislation except as otherwise permitted by Section 501(h) of the Code and in any corresponding laws of the State of Delaware, and the Corporation shall not participate in or intervene

in including the publishing or distribution of statements concerning any political campaign on behalf of or in opposition to any candidate for public office.

- B. For any period for which the Corporation may be considered a private foundation, as defined in Section 509(a), the Corporation shall be subject to the following restrictions and prohibitions:
1. The Corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Code.
 2. The Corporations shall make distributions for each taxable year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by section 4942 of the Code.
 3. The Corporation shall not retain any excess business holdings as defined in section 4943(c) of the Code.
 4. The Corporation shall not make any investments in such manner as to subject it to tax under section 4944 of the Code.
 5. The Corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

VIII. Membership

The NAIC shall have one class of members consisting of the Commissioners, Directors, Superintendents, or other officials who by law are charged with the principal responsibility of supervising the business of insurance within each State, territory, or insular possession of the United States. Members only shall be eligible to hold office in and serve on the Executive Committee, Committees and Subcommittees of the NAIC. However, a member may be represented on a Committee or Subcommittee by the member's duly authorized representative as defined in the Bylaws. Only one official from each State, territory or insular possession shall be a member and each member shall be limited to one vote. Any insurance supervisory official of a foreign government or any subdivision thereof, which has been diplomatically recognized by the United States government, may attend and participate in all meetings of this Congress but shall not be a member and shall not have the power to vote.

IX. Activities

The NAIC is a nonprofit charitable and educational organization and no part of the net earnings or property for the corporation will inure to the benefit of, or be distributable to its members, directors, officers or other private individuals, except that the NAIC shall be authorized and empowered to pay reasonable compensation for services rendered by employees and contractors, and to make payments and distributions in furtherance of the purposes set forth in Article VI hereof.

X. Powers

The NAIC shall have all of the powers conferred by the Delaware General Corporation Law for non-profit corporations, except that, any other provision of the Certificate to the contrary notwithstanding, the NAIC shall neither have nor exercise any power, nor carry on any other activities not permitted: (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue law); or (b) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, (or the corresponding provision of any future United States Internal Revenue law).

XI. Immunity

All officers and members of the Executive Committee shall be immune from personal liability for any civil damages arising from acts performed in their official capacity, and shall not be compensated for their services as an officer or member of the Executive Committee on a salary or a prorated equivalent basis. The immunity shall extend to such actions for which the member of the Executive Committee or officer would not otherwise be liable, but for the Executive Committee member's or officer's affiliation with the NAIC. This immunity shall not apply to intentional conduct, wanton or willful conduct or gross negligence. Nothing herein shall be construed to create or abolish an immunity in favor of the NAIC itself. Nothing herein shall be construed to abolish any immunities held by the state officials pursuant to their individual state's law.

XII. Exculpation and Indemnification

A member of the Executive Committee shall not be liable to the NAIC or its members for monetary damages for breach of fiduciary duty as a member of the Executive Committee, provided that this provision shall not eliminate or limit the liability of a member of the Executive Committee for any breach of the duty of loyalty to the NAIC or its members, for acts or omissions not in good faith, or which involve intentional misconduct or a knowing violation of law, or for any transaction from which the member of the Executive Committee involved derived an improper personal benefit. Any amendment, modification or repeal of the foregoing sentence shall not adversely affect any right or protection of a member of the Executive Committee of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment, modification, or repeal. If the Delaware General Corporation Law hereafter is amended to authorize the further elimination or limitation of the liability of the members of the Executive Committee, then the liability of a member of the Executive Committee, in addition to the limitation provided herein, shall be limited to the fullest extent permitted by the amended Delaware General Corporation Law.

The NAIC shall indemnify to the full extent authorized or permitted by the laws of the State of Delaware, as now in effect or as hereafter amended, any person made or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative, including an action by or in the right of the NAIC) by reason of the fact that the person is or was a member of the Executive Committee, officer, member, committee member, employee or agent of the NAIC or serves any other enterprise as such at the request of the NAIC.

The foregoing right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled apart from this Article XII. The foregoing right of indemnification shall continue as to a person who has ceased to be a member of the Executive Committee, officer, member, committee member, employee or agent and shall inure to the benefit of the heirs, the executors and administrators of such a person.

XIII. Dissolution

In the event of the dissolution of the NAIC, the Executive Committee shall, after paying or making provision for the payment of all of the liabilities of the NAIC, dispose of all the assets of the NAIC equitably to any state government which is represented as a member of the NAIC at the time of dissolution, provided that the assets are distributed upon the condition that they be used primarily and effectively to implement the public purpose of the NAIC, or to one or more such organizations organized and operated exclusively for religious, charitable, education, scientific, or literary purposes or similar purposes as shall at the time qualify: (a) as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue law); and (b) as an organization contributions to which are deductible under Section 170(c) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue law), as the Executive Committee shall determine.

XIV. Bylaws

The Bylaws of the NAIC may prescribe the powers and duties of the several officers, members of the Executive Committee and members and such rules as may be necessary for the work of the NAIC provided they are in conformity with the Certificate of Incorporation.

XV. Amendments

This Certificate of Incorporation may be altered or amended at any meeting of the full membership (Plenary Session) of the NAIC by an affirmative vote of two-thirds of the members qualified to vote, or their authorized representatives, provided that previous notice of the proposed amendment has been mailed to all members by direction of the Executive Committee at least thirty (30) days prior to the meeting.

IN WITNESS WHEREOF, this Certificate of Incorporation has been signed this 4th day of October 1999.

/signature/

Catherine J. Weatherford, Incorporator

ADOPTED 1999, Proc. Third Quarter

Adopted October 1999
Amended November 2002
Amended June 2003
Amended March 2004
Amended December 2004
Amended March 2009
Amended September 2009
Amended October 2011
Amended December 2015
Amended December 2021

Bylaws of the NAIC, a Delaware Non-Profit Corporation

**BYLAWS OF THE
 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS**

ARTICLE I

Name, Organization and Location

The name of this corporation is **NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS** (NAIC). The NAIC is organized under the General Corporation Law of the State of Delaware. The NAIC may have one (1) or more office locations within or without the State of Delaware as the Executive Committee may from time to time determine.

ARTICLE II

Membership

The Membership of the NAIC shall be comprised of those persons designated as members in the Certificate of Incorporation. Each member of the NAIC shall have the power to vote and otherwise participate in the affairs of the NAIC as set forth herein or as required by applicable law. This power may be exercised through a duly authorized representative who shall be a person officially affiliated with the member's department and who is wholly or principally employed by said department.

The organization may charge members an annual assessment, the amount of which shall be determined by the Executive Committee. Members failing to pay all NAIC assessments on a timely basis shall be placed in an inactive status. Members in an inactive status shall not have any voting rights and shall be denied membership on NAIC committees and task forces, access to mailings and services of the NAIC Offices, as well as access to zone examination processes and other benefits of membership in the NAIC.

The NAIC's receipt of full payment from the inactive member of all current and past due assessments shall serve to immediately remove them from inactive status.

The Membership of the NAIC shall be subject to a conflict of interest policy and disclosure form as adopted by the members.

The Executive Committee is empowered to reinstate, in part or in whole, an inactive member's participation on the committees and task forces, access to mailings and services of the NAIC Offices and satellite offices, as well as access to zone examination processes, and other benefits of membership in the NAIC upon good cause shown as determined by the Executive Committee.

ARTICLE III

Officers

The officers of the NAIC shall be a President, a President-Elect, a Vice President, and a Secretary-Treasurer. Annual officer elections shall be held at the last regular National Meeting of each calendar year or at such other plenary session as agreed to by the members. The voting membership, by secret ballot, shall elect officers as provided in these Bylaws. Officers' terms shall be for one year, beginning on January 1 following their election. The officers shall hold office until their death, resignation, removal or the election and qualification of their successors, whichever occurs first. Any Officer may resign at any time by giving notice thereof in writing to the President of the NAIC. Any such resignation will take effect upon delivery if no date is specified, or as of its date, unless some other date is specified therein, in which event it will be effective as of that date. The acceptance of that resignation will not be necessary to make it effective.

If an interim vacancy occurs in the office of President, the President-Elect shall cease to hold his or her office effective immediately and shall assume the office of President. If an interim vacancy occurs in any one or more of the other officer positions, an interim election shall be held to fill the vacancy. No member may hold any office for more than two consecutive years. Notwithstanding the foregoing, at no time shall more than two officer positions be filled by members of the same Zone during the same term. Any officer may be removed from office by the affirmative vote of two-thirds (2/3) of the members, but only after a resolution for removal is adopted by two-thirds (2/3) of the Executive Committee whenever, in their judgment, the best interests of the NAIC would be served thereby.

The President shall serve as Chairman of the Executive Committee and shall preside at all special and regular meetings of the members. The President shall serve as the leader of the organization and its principal spokesperson. The President shall work closely with the Executive Committee to establish and achieve the strategic, business and operational goals of the organization; ensure appropriate policies and procedures for the organization are implemented and followed; and protect the integrity as well as the resources of the organization. After a member completes his or her term or terms as President, he or she shall not be able to hold another officer position for a period of twelve (12) months from the date such member completes his or her term or terms as President, which shall be referred to as a "waiting period"; provided however, the Executive Committee may waive the twelve month waiting period if warranted by exigent circumstances.

The President-Elect shall serve as Vice-Chairman of the Executive Committee. In the absence of the President at a duly convened meeting of the Executive Committee or at a regular or special meeting of the members, the President-Elect shall preside over such meeting to the extent of the President's absence. The President-Elect shall perform such other duties and tasks as may be assigned by the President. Where the President does not run for re-election, the President-Elect shall become President at the conclusion of the President's term of office.

The Vice President, in the absence of the President and President-Elect at a duly convened meeting of the Executive Committee or at a regular or special meeting of the members, shall preside over such meeting to the extent of the President's and the President-Elect's absence; and shall perform such other duties as may be assigned by the President or President-Elect, or in the absence thereof, by the Executive Committee.

The Secretary-Treasurer shall assist the President and, as applicable, the President-Elect or the Vice President in the conduct of meetings of the Executive Committee and members. For member meetings, the Secretary-Treasurer shall call the roll of the membership and certify the presence of a quorum and shall receive, validate and maintain all proxies for elections held at member meetings. The Secretary-Treasurer shall also recommend to the Executive Committee such policies and procedures to maintain the history and continuity of the NAIC. The

Secretary-Treasurer shall also assist the President and President-Elect in all matters relating to the budget, accounting, expenditure and revenue practices of the NAIC; including, but not limited to reviewing the financial information of the organization and consulting with NAIC management, independent auditors, and other necessary parties regarding the financial operations and condition of the organization.

ARTICLE IV

Executive Committee

The business and affairs of the NAIC shall be managed by and under the direction of the Executive Committee. The Executive Committee shall be made up entirely of members of the NAIC. The Executive Committee shall consist of the following members: the officers of the NAIC; the most recent past president; the twelve (12) members of the zones as provided for in Article V of these Bylaws. The members of the Executive Committee shall be subject to a conflict of interest policy as adopted by the members. Any Executive Committee member may resign at any time by giving notice thereof in writing to the members of the NAIC. Resignation as an Executive Committee member also operates as resignation as a Zone officer. Any such resignation will take effect upon delivery if no date is specified, or as of its date, unless some other date is specified therein, in which event it will be effective as of that date. The acceptance of that resignation will not be necessary to make it effective.

1. The Executive Committee shall have the authority and responsibility to:
 - (a) manage the affairs of the NAIC in a manner consistent with the Certificate of Incorporation and Bylaws.
 - (b) make recommendations to achieve the goals of the NAIC based upon either its own initiative or the recommendations of the Standing Committees or Subcommittees reporting to it, for consideration and action by the members at any NAIC Plenary Session.
 - (c) create and terminate one or more Task Forces reporting to it to the extent needed and appropriate.
 - (d) establish and allocate, from time to time, functions and responsibilities to be performed by each Zone.
 - (e) to the extent needed and appropriate, oversee NAIC Offices to assist the NAIC and the individual members in achieving the goals of the NAIC.
 - (f) submit to the NAIC at each National Meeting, during which a Plenary Session is held, its report and recommendations concerning the reports of the Standing Committees. All Standing Committee reports shall be included as part of the Executive Committee report.
 - (g) plan, implement and coordinate communications and activities with other state, federal and local government organizations in order to advance the goals of the NAIC and promote understanding of state insurance regulation.
2. Duties and Operations of the Executive Committee.
 - (a) The Executive Committee shall hold at least two (2) regular meetings annually at a designated time and place. Special meetings may be held when called by the President, or by at least three (3) members of the Executive Committee in writing. In any case, the Executive Committee shall meet at least once per calendar month. At least five (5) days notice shall be given of all regular and special meetings. Meetings

may be held in person or by means of conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting in accordance with applicable laws. The presiding member of the Executive Committee shall only cast his or her vote in order to break a tie vote. In addition, the Executive Committee may act by written consent as provided by law.

- (b) The Executive Committee may, with the concurrence of two-thirds of the members of the Executive Committee, establish rules for its conduct that shall not conflict with the Certificate of Incorporation and Bylaws. Such rules may be changed only by a concurrence of two-thirds of the members of the Executive Committee after twenty-four (24) hours notice to all members of the Executive Committee.
- (c) Any action required or permitted to be taken at any meeting of the Executive Committee or any committee thereof may be taken without a meeting if all members of the Executive Committee or such committee, as the case may be, consent thereto in writing in accordance with applicable law.
- (d) The Executive Committee shall cause to be kept minutes of its meeting and have information of any action of a general character taken by it published to members qualified to vote.

(e) NAIC OFFICES

- (i) The Executive Committee shall oversee an Executive Office and a Central Office with management and staff personnel and appropriate resources for performance of duties and assigned responsibilities. Additional satellite offices may be established as needed. The Executive Committee shall have the authority to select, employ and terminate a Chief Executive Officer who shall not be a member of the NAIC and who shall have the primary responsibility for the internal management and functioning of the NAIC Offices within the direction of the Executive Committee, as well as other duties assigned by the Executive Committee through execution of an Employment Agreement or other authorization. The Chief Executive Officer appointed by the Executive Committee pursuant to this section shall not be considered an officer for purposes of Article III hereof and shall not be a member of the Executive Committee. The Executive Committee, through the Internal Administration (EX1) Subcommittee, shall provide oversight and direction to the Chief Executive Officer regarding Office operations.
- (ii) Consistent with the purposes of the NAIC, the role of the NAIC Offices is to: (1) provide services to the NAIC through support to the NAIC Committees, Subcommittees, Task Forces or otherwise; (2) provide services to individual State insurance departments; and (3) develop recommendations for consideration as to NAIC policy and administrative decisions of the NAIC.
- (iii) In performing its role, subject to the oversight and direction specified in (paragraph i) the NAIC Offices may engage in a variety of functions including but not limited to the following: research; analysis; information gathering and dissemination; library services; data collection; data base building and maintenance; report generation and dissemination; government liaison; non-regulatory liaison; securities valuation; administration; litigation; legislative and regulatory drafting; and educational development.
- (iv) The Chief Executive Officer shall prepare an annual budget, related to the priorities of the NAIC, for the NAIC Offices to be submitted through the EX1 Subcommittee to the Executive Committee, which shall make its recommendations to the members of the NAIC for action at the next Plenary Session of the NAIC.

3. Internal Administration (EX1) Subcommittee

The Internal Administration (EX1) Subcommittee shall be a Subcommittee reporting to the Executive Committee. Appointments of the Chair and Vice Chair of the Executive Subcommittee and members other than those specifically designated herein shall be made by the President and President-Elect.

This Subcommittee shall be comprised of the President, President-Elect, Vice President, the Secretary-Treasurer, the most recent past President, and three (3) other members of the Executive Committee. The presiding member of the Subcommittee shall only cast his or her vote in order to break a tie vote.

The Internal Administration (EX1) Subcommittee shall:

- (a) Exercise such powers and authority as may be delegated to it by the Executive Committee.
- (b) Generally oversee the NAIC Offices including, without limitation: (i) periodically monitor operations of the NAIC Offices, (ii) review and revise the budget of the NAIC, hold an annual hearing to receive public comments on the budget of the NAIC, and submit the revised budget to the Executive Committee, (iii) approve emergency expenditures which vary from the adopted budget and promptly certify its action in writing to the Executive Committee, (iv) evaluate the Chief Executive Officer and make appropriate recommendations to the Executive Committee, (v) assist the Chief Executive Officer in resolving competing demands for NAIC resources, (vi) review compensation of all senior management and (vii) quarterly prepare a report containing the current budget and expenditures which the Secretary-Treasurer shall present to the Executive Committee.

4. Audit Committee

The Executive Committee shall appoint an Audit Committee made up of at least four (4) members of the NAIC, including at least one member from each zone, in addition to the NAIC Secretary-Treasurer. The NAIC Secretary-Treasurer shall chair the Audit Committee. The Audit Committee shall report to the Executive Committee without any NAIC employees being present. The Audit Committee shall be directly responsible for the appointment, compensation, and oversight of the independent certified public accountant employed to conduct the audit. The Audit Committee shall also have the power, to the extent permitted by law, to: (i) initiate or review the results of an audit or investigation into the business affairs of the NAIC; (ii) review the NAIC's financial accounts and reports; (iii) conduct pre-audit and post-audit reviews with NAIC staff, members and independent auditors; and (iv) exercise such other powers and authority as delegated to it by the Executive Committee.

ARTICLE V

Zones

To accomplish the purposes of the NAIC in a timely and efficient manner, the United States, its territories and insular possessions shall be divided into four Zones. Each Zone shall consist of a group of at least eight States, located in the same geographical area, with each State being contiguous to at least one other State in the group so far as practicable, plus any territory or insular possession that may be deemed expedient, all as determined by majority of the Executive Committee. Members of each Zone shall annually elect a Chairman, a Vice Chairman and a Secretary from among themselves prior to or during the last regular National Meeting of each calendar year or at such time as agreed to by the Zone members. The Chairman, Vice Chairman and Secretary of each Zone shall be members of the Executive Committee with terms of office corresponding to that of the officers. Each Zone shall perform such functions as are designated by the Executive Committee of the

NAIC or by the members of the NAIC as a whole or by the members of the Zone. Each Zone may hold Zone Meetings for such purposes as may be deemed appropriate by members of the Zone.

ARTICLE VI

Standing Committees and Task Forces

1. General

The Standing Committees shall not be subcommittees of the Executive Committee and shall have no power or authority for the management of the business and affairs of the NAIC. Each Standing Committee shall be composed of not more than 15 members, including a Chair and one or more Vice Chairs, appointed by the President and President-Elect, and such appointments shall remain effective until the succeeding President and President-Elect appoint members for the following year. Standing Committees shall meet at least twice a year at National Meetings and may meet more often at the call of the Chair as required to complete its assignments from the Executive Committee in a timely manner.

The Executive Committee shall make all assignments of subject matter to the Standing Committees and shall require coordination between Committees and Task Forces of the subject matter if more than one Committee or Task Force is affected. The format of the Committee reports shall be prescribed by the Executive Committee. All appointments or elections of members of the NAIC to any office or Committee of the NAIC shall be deemed the appointment or election of a particular member and shall not automatically pass to a successor in office.

2. Specific Duties

The Standing Committees of the NAIC, their duties and responsibilities shall be as follows:

- (a) Life Insurance and Annuities (A) Committee: This Standing Committee shall consider issues relating to life insurance and annuities.
- (b) Health Insurance and Managed Care (B) Committee: This Standing Committee shall consider issues relating to health and accident insurance and managed care.
- (c) Property and Casualty Insurance (C) Committee: This Standing Committee shall consider issues relating to personal and commercial lines of property and casualty insurance, worker's compensation insurance, statistical information, surplus lines, and casualty actuarial matters.
- (d) Market Regulation and Consumer Affairs (D) Committee: This Standing Committee shall consider issues involving market conduct in the insurance industry; competition in insurance markets; the qualifications and conduct of agents and brokers; market conduct examination practices; the control and management of insurance institutions; consumer services of State insurance departments; and consumer participation in NAIC activities.
- (e) Financial Condition (E) Committee: This Standing Committee shall consider both administrative and substantive issues as they relate to accounting practices and procedures; blanks; valuation of securities; the Insurance Regulatory Information System (IRIS), as it relates to solvency and profitability; the call, monitoring and concluding report of Zone Examinations; and financial examinations and examiner training.
- (f) Financial Regulation Standards and Accreditation (F) Committee: This Standing Committee shall consider

both administrative and substantive issues as they relate to administration and enforcement of the NAIC Accreditation Program, including without limitation, consideration of standards and revisions of standards for accreditation, interpretation of standards, evaluation and interpretation of states' laws and regulations, and departments' practices, procedures and organizations as they relate to compliance with standards, examination of members for compliance with standards, development and oversight of procedures for examination of members for compliance with standards, qualification and selection of individuals to perform the examination of members for compliance with standards, and decisions regarding whether to accredit members.

- (g) International Insurance Relations (G) Committee. This Standing Committee shall have the responsibility for issues relating to international insurance.
- (h) Innovation, Cybersecurity and Technology (H) Committee. This Standing Committee shall consider issues related to cybersecurity, innovation, data security and privacy, and emerging technology issues.

3. Task Forces

The Executive Committee, its Subcommittee and the Standing Committees may establish one or more Task Forces, subject to approval of the Executive Committee. The parent Committee or Subcommittee, subject to approval of the Executive Committee, may vote to discontinue a Task Force once its charge has been completed.

Vacancies in the positions of Chair or Vice Chair of any Task Force shall be filled by the parent Committee or Subcommittee from within or outside the present Task Force membership; provided, however, that the chief insurance regulatory official of the state of the former Chair or Vice Chair shall become a member of the Task Force. A vacancy in the position of member shall be filled by the chief insurance regulatory official of the vacating member's state.

If an existing Task Force is dealing with insurance issues that require continuing study, the Executive Committee may adopt the recommendation of the parent Committee or Subcommittee that the Task Force be designated a Standing Task Force. A Standing Task Force shall continue in effect until terminated by the Executive Committee.

ARTICLE VII

Meetings of the Membership

1. Regular Meetings

The NAIC shall hold at least two (2) regular meetings of the members ("National Meetings") each calendar year. Notice, stating the place, day and hour and any special purposes of the National Meeting, shall be delivered by the Executive Committee not less than ten (10) calendar days nor more than sixty (60) calendar days before the date on which the National Meeting is to be held, either personally, by mail or by other lawful means, to each member entitled to be present and vote at such meeting.

2. Special Meetings

Special meetings of the members may be called by any five (5) members of the Executive Committee by giving all members notice of such meeting at least ten (10) but not more than sixty (60) days prior thereto, or by any twenty (20) members of the NAIC by giving all members notice of such meeting at least thirty (30) but not more than sixty (60) days prior thereto. Notice of the special meeting shall state the place, day and hour of the

special meeting and the purpose or purposes for which the special meeting is called, and shall be delivered by the persons calling the meeting within the applicable time period set forth herein, either personally, by mail or by other lawful means, to each member entitled to be present and vote at such meeting.

3. Waiver of Notice; Postponement

Member meetings may be held without notice if all members entitled to notice are present (except when members entitled to notice attend the meeting for the express purpose of objecting, at the beginning of the meeting, because the meeting is allegedly not lawfully called or convened), or if notice is waived by those not present. Any previously scheduled meeting of the members may be postponed by the Executive Committee (or members calling a special meeting, as the case may be) upon notice to members, in person or writing, given at least two (2) days prior to the date previously scheduled for such meeting.

4. Quorum

Except as otherwise provided by law or by the Certificate of Incorporation, the presence, by person or proxy, of a majority of the members shall constitute a quorum at a member meeting, a meeting of a Standing Committee, Task Force or a working group. The chairman of the meeting may adjourn the meeting from time to time, whether or not there is such a quorum. The members present at a duly called member meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

5. Any meeting of the NAIC may be held in executive session as defined in the NAIC policy on open meetings. Any member may attend and participate in any meeting of the NAIC or any meeting of a Standing Committee or Task Force whether or not such member has the right to vote. All National Meetings shall provide for a Plenary Session of the NAIC as a whole in order to consider and take action upon the matters submitted to the NAIC.

ARTICLE VIII

Elections

1. The election of officers of the NAIC shall be scheduled for the plenary session of the last National Meeting of the calendar year or at such other plenary session as agreed to by the members.
2. At the beginning of such Plenary Session, the Secretary-Treasurer shall ascertain and announce the presence of a quorum.
3. Upon the determination of a quorum, the chair shall briefly review the provisions of the Certificate of Incorporation and Bylaws in regard to voting.
4. The President shall ask for and announce all proxies. Proxies shall be held by the Secretary-Treasurer or a designee throughout the election session. Proxies shall be valid, subject to their term, until superseded by the member and shall be governed by ARTICLE IX of the Bylaws.
5. Every individual voting by proxy must meet the requirements of Article II of the Bylaws of the NAIC which requires that such a person be "...officially affiliated with the member's (the member delegating authority to vote) department, and is wholly or principally employed by said department."
6. Prior to opening the nominations for office, the Chair shall appoint three (3) members of the NAIC to act as

voting inspectors. The voting inspectors shall distribute, collect, count and/or verify ballots, and report their findings to the Secretary-Treasurer. If a voting inspector is nominated for an office and does not withdraw as a candidate, he or she shall not be a voting inspector for the election of the office to which he or she is nominated and the chair shall appoint another voting inspector in his or her place.

7. The Chair shall announce the opening of nominations for offices in the following order:
 - (a) President. Provided, however, where the President does not run for re-election, the President-Elect shall become President at the conclusion of the President's term of office. In those cases where the President runs for re-election or where a vacancy exists because the President-Elect fails or is otherwise unable to assume the Presidency, this office will be subject to an election.
 - (b) President-Elect.
 - (c) Vice President.
 - (d) Secretary-Treasurer.
8. Only members or duly authorized proxyholders may make nominations.
9. One nominating speech, not to exceed three (3) minutes in duration, shall be allowed for each nominee.
10. After nominations are closed for each office, each nominee must indicate whether he or she accepts the nomination and, if he or she accepts, shall be permitted to address the membership for a period of up to seven (7) minutes. Such addresses shall be given in the order by which the nominations were made.
11. The votes of members, in person or by proxy, constituting a majority of the quorum present at the meeting shall be necessary for election to such office. If no candidate receives a majority, the two candidates with the most votes will participate in a run-off election. The candidate with the most votes in the run-off election shall win such election.
12. Voting need not be by written ballot, unless otherwise required by these Bylaws, the Certificate of Incorporation, or applicable law.

ARTICLE IX

Proxies; Waiver of Notice

Where the delegation of power to vote or participate in the membership of the NAIC is required by ARTICLE II of these Bylaws to be in writing, such delegation must be effected by proxy. All proxies must be dated, give specific authority to a named individual who meets the requirements of ARTICLE II for duly authorized representatives, and meet any other applicable legal requirement. Documents such as electronic transmission, telegrams, mailgrams, etc. are acceptable as proxies if they otherwise meet the requirements contained herein and applicable law. Proxies should be maintained by NAIC Central Office staff. Notwithstanding the foregoing, a member may not vote by proxy in a meeting of the Executive Committee, Financial Regulation Standards and Accreditation (F) Committee in a vote concerning a state-specific item, Government Relations Leadership Council, or International Insurance Relations Leadership Group, or any respective subcommittees.

Whenever any notice is required to be given to any member (for a meeting of members or the Executive Committee) under the provisions of the Certificate of Incorporation, these Bylaws or applicable law, a written

waiver, signed by the person entitled to notice, or a waiver by electronic transmission by person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the members or any committee, subcommittee or task force need be specified in any waiver of notice of such meeting.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, Members may participate in a meeting by means of conference telephone or by any means by which all persons participating in the meeting are able to communicate with one another, and such participation shall constitute presence in person at the meeting.

Any notice required under these Bylaws may be provided by mail, facsimile, or electronic transmission.

ARTICLE X

Procedures: Books and Records

The Executive Committee shall adopt policies and procedures for the conduct of meetings. In the event such policies and procedures conflict with the NAIC's Certificate of Incorporation or Bylaws, the Certificate of Incorporation and Bylaws shall govern.

The books and records of the NAIC may be kept outside the State of Delaware at such place or places as may from time to time be designated by the Internal Administration Subcommittee (EX1) of the Executive Committee.

ARTICLE XI

Amendments

These Bylaws may be altered or repealed and new Bylaws may be adopted at any regular or special meeting of the members by an affirmative vote, in person or by proxy, of a majority of the members entitled to vote at such meeting; provided, however, that any proposed alteration (except to correct typographical or grammatical errors or article, section or paragraph cross- references caused by other alterations, repeals, or adoptions) or repeal of, or the adoption of any Bylaw inconsistent with, Article II [Membership], Article VII, Paragraph 2 [Special Meetings of Members] and Paragraph 4 [Quorum], Article VIII [Elections], or this Article XI [Amendments] of these Bylaws (the "Supermajority Bylaws") by the members shall require the affirmative vote, in person or by proxy, of at least two-thirds (2/3) of the members entitled to vote at such meeting and provided, further, that in the case of any such member action at a special meeting of members, notice of the proposed alteration, repeal or adoption of the new Bylaw or Bylaws must be contained in the notice of such special meeting. Corrections for typographical or grammatical errors or to article, section or paragraph cross- references caused by other alterations, repeals or adoption, shall only be made if approved by the affirmative vote of at least two-thirds (2/3) of the Executive Committee.

Adopted October 1999, see 1999 Proc., Third Quarter page 7

Amended November 2002, see 2002 Proc., Fourth Quarter page 25

Amended June 2003, see 2003 Proc., Second Quarter page 28

Amended March 2004, see 2004 Proc., First Quarter page 119

Amended December 2004, see 2004 Proc., Fourth Quarter page 58

Amended March 2009, see 2009 Proc., First Quarter page 3–67

Amended September 2009, see 2009 Proc., Third Quarter

Amended October 2011, see Proc., Summer 2011

Amended December 2015, see Proc., Spring 2016

Amended December 2021, see Proc., Spring 2022

NAIC Policy Statement on Open Meetings
Revised: April 1, 2014

The NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories. NAIC members are the elected and appointed state government officials who, along with their departments and staff, regulate the conduct of insurance companies and agents in their respective state or territory. The NAIC is committed to conducting its business openly. This policy statement applies to meetings of NAIC committees, subcommittees, task forces and working groups. It does not apply to Roundtable discussions, zone meetings, commissioners' conferences, and other like meetings of the members. Applicable meetings will be open unless the discussion or action contemplated will include:

1. Potential or pending litigation or administrative proceedings which may involve the NAIC, any NAIC member, or their staffs, in any capacity involving their official or prescribed duties, requests for briefs of amicus curiae, or legal advice.
2. Pending investigations which may involve either the NAIC or any member in any capacity.
3. Specific companies, entities or individuals, including, but not limited to, collaborative financial and market conduct examinations and analysis.
4. Internal or administrative matters of the NAIC or any NAIC member, including budget, personnel and contractual matters, and including consideration of internal administration of the NAIC, including, but not limited to, by the Internal Administration (EX1) Subcommittee or any subgroup appointed thereunder.
5. Voting on the election of officers of the NAIC.
6. Consultations with NAIC staff members related to NAIC technical guidance, including, but not limited to, Annual and Quarterly Statement Blanks and Instructions, the Accounting Practices and Procedures Manual, and similar materials.
7. Consideration of individual state insurance department's compliance with NAIC financial regulation standards by the Financial Regulation Standards and Accreditation (F) Committee or any subgroup appointed thereunder.
8. Consideration of strategic planning issues relating to federal legislative and regulatory matters or international regulatory matters.
9. Any other subject required to be kept confidential under any Memorandum of Understanding or other agreement, state or federal law or under any judicial or administrative order.

Because not all situations requiring a regulator to regulator discussion can be anticipated at the time a meeting is scheduled, a meeting convened in open session can move into regulator to regulator session on motion by the chair or other member approved by a majority of the members present. Public notice will be provided of all applicable meetings. The reason for holding a meeting in regulator only session will be announced when the meeting notice is published, at the beginning of any regulator only session, and when an open meeting goes into regulator only session.

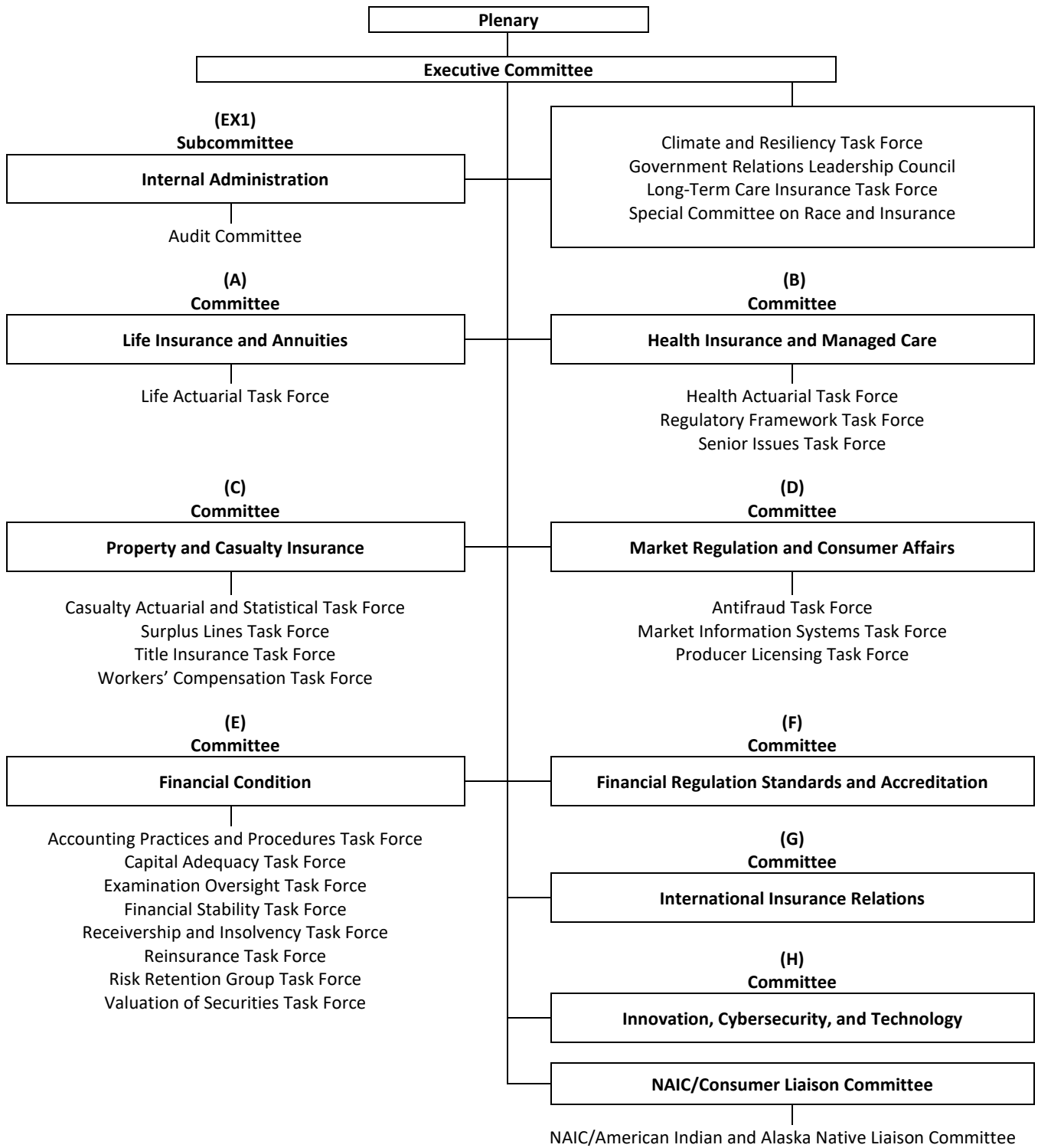
This revised policy statement shall take effect upon adoption by the membership.

[NOTE: (Effective Jan. 1, 1996, conference call meetings are included in the application of the policy statement, by action of the NAIC on June 4, 1995). This policy statement was originally adopted by the NAIC membership during the 1994 Fall National Meeting in Minneapolis, Minnesota, Sept. 18–20, 1994.]

Revisions Adopted by the NAIC Membership, April 1, 2014

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2022 COMMITTEE AND TASK FORCE STRUCTURE



APPOINTED AND DISBANDED

Current and Previous Year

APPOINTED SINCE JANUARY 2022	Effective Date	NAIC Support Staff
Cybersecurity (H) Working Group	12/16/2021	Denise Matthews
Innovation in Technology and Regulation (H) Working Group.....	04/05/2022	Denise Matthews
RENAMED SINCE JANUARY 2022	Effective Date	NAIC Support Staff
Big Data and Artificial Intelligence (H) Working Group (f.k.a Big Data and Artificial Intelligence (EX) Working Group).....	12/16/2021	Tim Mullen
E-Commerce (H) Working Group (f.k.a. E-Commerce (EX) Working Group)	12/16/2021	Casey McGraw
Innovation, Cybersecurity, and Technology (H) Committee (f.k.a. Innovation and Technology (EX) Task Force).....	12/16/2021	Denise Matthews
Privacy Protections (H) Working Group (f.k.a. Privacy Protections (D) Working Group).....	04/07/2022	Lois Alexander
Speed to Market (H) Working Group (f.k.a. Speed to Market (EX) Working Group)	12/16/2021	Randy Helder
Speed to Market (D) Working Group (f.k.a. Speed to Market (H) Working Group).....	04/05/2022	Randy Helder
Advisory Organization (D) Working Group (f.k.a. Advisory Organization Examination Oversight (D) Working Group).....	04/07/2022	Paul Santillanes
DISBANDED SINCE JANUARY 2022	Effective Date	NAIC Support Staff
Antifraud Education Enhancement (D) Working Group	04/07/2022	Greg Welker
Guaranteed Issue (GI) Life Valuation (A) Subgroup.....	03/31/2022	Reggie Mazyck
Information Systems (EX1) Task Force	01/14/2022	Sherry Stevens
Long-Term Care Insurance Restructuring (E) Subgroup	01/19/2022	Dan Daveline
DISBANDED IN 2021	Effective Date	NAIC Support Staff
Annuity Disclosure (A) Working Group.....	08/17/2021	Jennifer Cook
Biographical Third-Party Review (E) Subgroup.....	04/13/2021	Crystal Brown
Health Care Reform Actuarial (B) Working Group.....	12/15/2021	Eric King
Long-Term Care Insurance Financial Solvency (EX) Subgroup.....	12/14/2021	Jane Koenigsman
Retirement Security (A) Working Group.....	04/12/2021	Jennifer Cook
State Rate Review (B) Subgroup.....	12/15/2021	Eric King
Life Insurance Illustration Issues (A) Working Group	12/15/2021	Jennifer Cook

2022 MEMBERS BY ZONE

Northeast Zone		Southeast Zone	
Gary D. Anderson, Chair	Massachusetts	Scott A. White, Chair	Virginia
Kathleen A. Birrane, Vice Chair	Maryland	Carter Lawrence, Vice Chair	Tennessee
Trinidad Navarro, Secretary	Delaware	James J. Donelon, Secretary	Louisiana
Andrew N. Mais	Connecticut	Mark Fowler	Alabama
Karima M. Woods	District of Columbia	Alan McClain	Arkansas
Timothy N. Schott	Maine	David Altmaier	Florida
Chris Nicolopoulos	New Hampshire	John F. King	Georgia
Marlene Caride	New Jersey	Sharon P. Clark	Kentucky
Adrienne A. Harris	New York	Mike Chaney	Mississippi
Michael Humphreys	Pennsylvania	Mike Causey	North Carolina
Elizabeth Kelleher Dwyer	Rhode Island	Alexander S. Adams Vega	Puerto Rico
Kevin Gaffney	Vermont	Michael Wise	South Carolina
		Tregenza A. Roach	Virgin Islands
		Allan L. McVey	West Virginia
Midwest Zone		Western Zone	
Glen Mulready, Chair	Oklahoma	Lori K. Wing-Heier, Chair	Alaska
Doug Ommen, Vice Chair	Iowa	Michael Conway, Vice Chair	Colorado
Anita G. Fox, Secretary	Michigan	Andrew R. Stolfi, Secretary	Oregon
Dana Popish Severinghaus	Illinois	Peni Itula Sapini Teo	American Samoa
Amy L. Beard	Indiana	Evan G. Daniels	Arizona
Vicki Schmidt	Kansas	Ricardo Lara	California
Grace Arnold	Minnesota	Michelle B. Santos	Guam
Chlora Lindley-Myers	Missouri	Colin M. Hayashida	Hawaii
Eric Dunning	Nebraska	Dean L. Cameron	Idaho
Jon Godfred	North Dakota	Troy Downing	Montana
Judith L. French	Ohio	Edward M. Deleon Guerrero	N. Mariana Islands
Larry D. Deiter	South Dakota	Barbara D. Richardson	Nevada
Nathan Houdek	Wisconsin	Russell Toal	New Mexico
		Cassie Brown	Texas
		Jon Pike	Utah
		Mike Kreidler	Washington
		Jeff Rude	Wyoming

2022 EXECUTIVE (EX) COMMITTEE

Dean L. Cameron, President	Idaho
Chlora Lindley-Myers, President-Elect	Missouri
Andrew N. Mais, Vice President	Connecticut
Jon Godfread, Secretary-Treasurer	North Dakota

Most Recent Past President: David Altmaier	Florida
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Northeast Zone

Gary D. Anderson, Chair	Massachusetts
Kathleen A. Birrane, Vice Chair	Maryland
Trinidad Navarro, Secretary	Delaware

Southeast Zone

Scott A. White, Chair	Virginia
Carter Lawrence, Vice Chair	Tennessee
James J. Donelon, Secretary	Louisiana

Midwest Zone

Glen Mulready, Chair	Oklahoma
Doug Ommen, Vice Chair	Iowa
Anita G. Fox, Secretary	Michigan

Western Zone

Lori K. Wing-Heier, Chair	Alaska
Michael Conway, Vice Chair	Colorado
Andrew R. Stolfi, Secretary	Oregon

NAIC Support Staff: Andrew J. Beal/Kay Noonan

CLIMATE AND RESILIENCY (EX) TASK FORCE
of the Executive (EX) Committee

Ricardo Lara, Co-Chair	California
David Altmaier, Co-Chair	Florida
Colin M. Hayashida, Co-Vice Chair	Hawaii
James J. Donelon, Co-Vice Chair	Louisiana
Kathleen A. Birrane, Co-Vice Chair	Maryland
Barbara D. Richardson, Co-Vice Chair	Nevada
Andrew R. Stolfi, Co-Vice Chair	Oregon
Elizabeth Kelleher Dwyer, Co-Vice Chair	Rhode Island
Mark Fowler	Alabama
Lori K. Wing-Heier	Alaska
Peni Itula Sapini Teo	American Samoa
Alan McClain	Arkansas
Michael Conway	Colorado
Andrew N. Mais	Connecticut
Trinidad Navarro	Delaware
Karima M. Woods	District of Columbia
Dana Popish Severinghaus	Illinois
Doug Ommen	Iowa
Sharon P. Clark	Kentucky
Timothy N. Schott	Maine
Gary D. Anderson	Massachusetts
Anita G. Fox	Michigan
Grace Arnold	Minnesota
Mike Chaney	Mississippi
Chlora Lindley-Myers	Missouri
Troy Downing	Montana
Edward M. Deleon Guerrero	N. Mariana Islands
Eric Dunning	Nebraska
Marlene Caride	New Jersey
Adrienne A. Harris	New York
Mike Causey	North Carolina
Jon Godfread	North Dakota
Judith L. French	Ohio
Glen Mulready	Oklahoma
Michael Humphreys	Pennsylvania
Alexander S. Adams Vega	Puerto Rico
Michael Wise	South Carolina
Carter Lawrence	Tennessee
Kevin Gaffney	Vermont
Tregenza A. Roach	Virgin Islands
Scott A. White	Virginia
Mike Kreidler	Washington
Nathan Houdek	Wisconsin
Jeff Rude	Wyoming

NAIC Support Staff: Jennifer Gardner

GOVERNMENT RELATIONS (EX) LEADERSHIP COUNCIL
of the Executive (EX) Committee

Dean L. Cameron, Chair	Idaho
Chlora Lindley-Myers, Vice Chair	Missouri
Lori K. Wing-Heier	Alaska
Andrew N. Mais	Connecticut
David Altmaier	Florida
John F. King	Georgia
Sharon P. Clark	Kentucky
Kathleen A. Birrane	Maryland
Gary D. Anderson	Massachusetts
Anita G. Fox	Michigan
Troy Downing	Montana
Jon Godfread	North Dakota
Glen Mulready	Oklahoma
Elizabeth Kelleher Dwyer	Rhode Island
Carter Lawrence	Tennessee
Mike Kreidler	Washington

NAIC Support Staff: Ethan Sonnichsen/Brian R. Webb/Brooke Stringer

LONG-TERM CARE INSURANCE (EX) TASK FORCE
of the Executive (EX) Committee

Scott A. White, Chair	Virginia	Mike Chaney	Mississippi
Michael Conway, Vice Chair	Colorado	Chlora Lindley-Myers	Missouri
Mark Fowler	Alabama	Troy Downing	Montana
Lori K. Wing-Heier	Alaska	Eric Dunning	Nebraska
Evan G. Daniels	Arizona	Barbara D. Richardson	Nevada
Alan McClain	Arkansas	Marlene Caride	New Jersey
Ricardo Lara	California	Russell Toal	New Mexico
Andrew N. Mais	Connecticut	Mike Causey	North Carolina
Trinidad Navarro	Delaware	Judith L. French	Ohio
Karima M. Woods	District of Columbia	Glen Mulready	Oklahoma
David Altmaier	Florida	Andrew R. Stolfi	Oregon
Colin M. Hayashida	Hawaii	Michael Humphreys	Pennsylvania
Dean L. Cameron	Idaho	Elizabeth Kelleher Dwyer	Rhode Island
Dana Popish Severinghaus	Illinois	Michael Wise	South Carolina
Amy L. Beard	Indiana	Larry D. Deiter	South Dakota
Doug Ommen	Iowa	Carter Lawrence	Tennessee
Vicki Schmidt	Kansas	Cassie Brown	Texas
Sharon P. Clark	Kentucky	Jon Pike	Utah
James J. Donelon	Louisiana	Kevin Gaffney	Vermont
Timothy N. Schott	Maine	Mike Kreidler	Washington
Kathleen A. Birrane	Maryland	Allan L. McVey	West Virginia
Gary D. Anderson	Massachusetts	Nathan Houdek	Wisconsin
Anita G. Fox	Michigan	Jeff Rude	Wyoming
Grace Arnold	Minnesota		

NAIC Support Staff: Jeffrey C. Johnston/Jane Koenigsman

LONG-TERM CARE INSURANCE (EX) TASK FORCE (*Continued*)**Long-Term Care Insurance Multistate Rate Review (EX) Subgroup
of the Long-Term Care Insurance (EX) Task Force**

Michael Conway, Chair	Colorado
Alan McClain	Arkansas
Andrew N. Mais	Connecticut
Philip Barlow	District of Columbia
David Altmaier	Florida
Dean L. Cameron	Idaho
Amy L. Beard	Indiana
Doug Ommen	Iowa
James J. Donelon	Louisiana
Anita G. Fox	Michigan
Grace Arnold	Minnesota
William Leung	Missouri
Eric Dunning	Nebraska
Barbara D. Richardson	Nevada
Marlene Caride	New Jersey
Russell Toal	New Mexico
Andrew R. Stolfi	Oregon
Michael Humphreys	Pennsylvania
Elizabeth Kelleher Dwyer	Rhode Island
Michael Wise	South Carolina
R. Michael Markham	Texas
Tomasz Serbinowski	Utah
Kevin Gaffney	Vermont
Scott A. White	Virginia
Mike Kreidler	Washington
Allan L. McVey	West Virginia

NAIC Support Staff: Eric King

LONG-TERM CARE INSURANCE (EX) TASK FORCE (*Continued*)**Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup**
of the Long-Term Care Insurance (EX) Task Force

(Pending), Chair

Lori K. Wing-Heier

Alan McClain

Ricardo Lara

Trinidad Navarro

Dana Popish Severinghaus

Doug Ommen

James J. Donelon

Anita G. Fox

Fred Andersen

Eric Dunning

Michael Humphreys

Larry D. Deiter

Carter Lawrence

R. Michael Markham

Tomasz Serbinowski

Kevin Gaffney

Scott A. White

Mike Kreidler

Allan L. McVey

Alaska

Arkansas

California

Delaware

Illinois

Iowa

Louisiana

Michigan

Minnesota

Nebraska

Pennsylvania

South Dakota

Tennessee

Texas

Utah

Vermont

Virginia

Washington

West Virginia

NAIC Support Staff: Eric King

SPECIAL (EX) COMMITTEE ON RACE AND INSURANCE
of the Executive (EX) Committee

Dean L. Cameron, Co-Chair	Idaho	Troy Downing	Montana
Chlora Lindley-Myers, Co-Chair	Missouri	Edward M. Deleon Guerrero	N. Mariana Islands
Andrew N. Mais, Co-Vice Chair	Connecticut	Eric Dunning	Nebraska
Jon Godfread, Co-Vice Chair	North Dakota	Barbara D. Richardson	Nevada
Mark Fowler	Alabama	Marlene Caride	New Jersey
Lori K. Wing-Heier	Alaska	Adrienne A. Harris	New York
Peni Itula Sapini Teo	American Samoa	Mike Causey	North Carolina
Evan G. Daniels	Arizona	Judith L. French	Ohio
Alan McClain	Arkansas	Glen Mulready	Oklahoma
Ricardo Lara	California	Andrew R. Stolfi	Oregon
Michael Conway	Colorado	Michael Humphreys	Pennsylvania
Trinidad Navarro	Delaware	Elizabeth Kelleher Dwyer	Rhode Island
Karima M. Woods	District of Columbia	Michael Wise	South Carolina
David Altmaier	Florida	Larry D. Deiter	South Dakota
Colin M. Hayashida	Hawaii	Carter Lawrence	Tennessee
Dana Popish Severinghaus	Illinois	Cassie Brown	Texas
Doug Ommen	Iowa	Jon Pike	Utah
Vicki Schmidt	Kansas	Kevin Gaffney	Vermont
Sharon P. Clark	Kentucky	Tregenza A. Roach	Virgin Islands
James J. Donelon	Louisiana	Scott A. White	Virginia
Timothy N. Schott	Maine	Mike Kreidler	Washington
Kathleen A. Birrane	Maryland	Allan L. McVey	West Virginia
Gary D. Anderson	Massachusetts	Nathan Houdek	Wisconsin
Anita G. Fox	Michigan	Jeff Rude	Wyoming
Grace Arnold	Minnesota		

NAIC Support Staff: Andrew J. Beal/Michael F. Consedine

AUDIT COMMITTEE

Jon Godfread, Chair	North Dakota
Lori K. Wing-Heier	Alaska
Andrew N. Mais	Connecticut
David Altmaier	Florida
Sharon P. Clark	Kentucky
Kathleen A. Birrane	Maryland
Gary D. Anderson	Massachusetts
Chlora Lindley-Myers	Missouri
Edward M. Deleon Guerrero	N. Mariana Islands
Barbara D. Richardson	Nevada
Marlene Caride	New Jersey
Carter Lawrence	Tennessee
NAIC Support Staff: Jim Woody	

INTERNAL ADMINISTRATION (EX1) SUBCOMMITTEE

Dean L. Cameron, Chair	Idaho
Chloria Lindley-Myers, Vice Chair	Missouri
Lori K. Wing-Heier	Alaska
Andrew N. Mais	Connecticut
David Altmaier	Florida
Gary D. Anderson	Massachusetts
Jon Godfread	North Dakota
Scott A. White	Virginia

NAIC Support Staff: Andrew J. Beal/Kay Noonan/Jim Woody

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Judith L. French, Chair	Ohio
Carter Lawrence, Vice Chair	Tennessee
Mark Fowler	Alabama
Peni Itula Sapini Teo	American Samoa
Karima M. Woods	District of Columbia
Colin M. Hayashida	Hawaii
Doug Ommen	Iowa
Vicki Schmidt	Kansas
James J. Donelon	Louisiana
Barbara D. Richardson	Nevada
Marlene Caride	New Jersey
Adrienne A. Harris	New York
Cassie Brown	Texas
Scott A. White	Virginia
Nathan Houdek	Wisconsin

NAIC Support Staff: Jennifer R. Cook/Jolie H. Matthews

Accelerated Underwriting (A) Working Group *of the Life Insurance and Annuities (A) Committee*

Grace Arnold, Chair	Minnesota
Nathan Houdek, Vice Chair	Wisconsin
Peg Brown	Colorado
Russ Gibson	Iowa
Tom Travis	Louisiana
Cynthia Amann	Missouri
Laura Arp	Nebraska
Chris Aufenthie/Ross Hartley	North Dakota
Lori Barron	Ohio
Elizabeth Kelleher Dwyer/Matt Gendron	Rhode Island
Lichiou Lee	Washington

NAIC Support Staff: Jennifer R. Cook

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE (*Continued*)**Annuity Suitability (A) Working Group**
of the Life Insurance and Annuities (A) Committee

Doug Ommen, Chair	Iowa
Tate Flott, Vice Chair	Kansas
Jimmy Gunn	Alabama
Jodi Lerner	California
Jessica Luff	Delaware
Dean L. Cameron	Idaho
Renee Campbell	Michigan
Eric Dunning	Nebraska
Keith Nyhan	New Hampshire
Daniel Bradford	Ohio
Andrew Schallhorn	Oklahoma
Elizabeth Kelleher Dwyer	Rhode Island
Brian Hoffmeister	Tennessee
Richard Wicka	Wisconsin

NAIC Support Staff: Jolie H. Matthews

LIFE ACTUARIAL (A) TASK FORCE
of the Life Insurance and Annuities (A) Committee

Cassie Brown, Chair	Texas
Scott A. White, Vice Chair	Virginia
Mark Fowler	Alabama
Ricardo Lara	California
Michael Conway	Colorado
Andrew N. Mais	Connecticut
Dana Popish Severinghaus	Illinois
Doug Ommen	Iowa
Vicki Schmidt	Kansas
Grace Arnold	Minnesota
Chlora Lindley-Myers	Missouri
Eric Dunning	Nebraska
Marlene Caride	New Jersey
Adrienne A. Harris	New York
Judith L. French	Ohio
Glen Mulready	Oklahoma
Michael Humphreys	Pennsylvania
Jon Pike	Utah
Allan L. McVey	West Virginia

NAIC Support Staff: Reggie Mazyck/Jennifer Frasier

Experience Reporting (A) Subgroup
of the Life Actuarial (A) Task Force

Fred Andersen, Chair	Minnesota
Ahmad Kamil	California
Wanchin Chou	Connecticut
Nicole Boyd	Kansas
Bill Carmello	New York
Mike Boerner	Texas

NAIC Support Staff: Reggie Mazyck

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Jon Pike	Utah
Kevin Gaffney	Vermont
Allan L. McVey	West Virginia

NAIC Support Staff: Sara Robben/Aaron Brandenburg

WORKERS’ COMPENSATION (C) TASK FORCE (*Continued*)

**NAIC/International Association of Industrial Accident Boards and
Commissions (IAIABC) Joint (C) Working Group
*of the Workers’ Compensation (C) Task Force***

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Mitra Sanandajifar	California
George Bradner	Connecticut
David Altmaier	Florida
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Patrick Lennon	Missouri
Gennady Stolyarov	Nevada
Anna Krylova	New Mexico
Kim Bailey/Cuc Nguyen/Andrew Schallhorn	Oklahoma
Beth Vollucci	Rhode Island
Tracy Klausmeier	Utah
Kevin Gaffney	Vermont

NAIC Support Staff: Sara Robben/Aaron Brandenburg

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

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Karima M. Woods	District of Columbia
John F. King	Georgia
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Chlora Lindley-Myers	Missouri
Eric Dunning	Nebraska
Barbara D. Richardson	Nevada
Russell Toal	New Mexico
Mike Causey	North Carolina
Jon Godfread	North Dakota
Michael Humphreys	Pennsylvania
Cassie Brown	Texas
Kevin Gaffney	Vermont

NAIC Support Staff: Tim Mullen/Randy Helder

Advisory Organization (D) Working Group *of the Market Regulation and Consumer Affairs (D) Committee*

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Win Nickens/Jo LeDuc	Missouri
Connie Van Slyke	Nebraska
James Fox/Edwin Pugsley	New Hampshire
Ralph Boeckman/Erin Porter	New Jersey
Johnny Palsgraaf	North Dakota
David Dahl/Brian Fordham	Oregon
Matt Gendron/Brett Bache	Rhode Island
Larry D. Deiter	South Dakota

NAIC Support Staff: Paul Santillanes/Randy Helder

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Market Actions (D) Working Group***of the Market Regulation and Consumer Affairs (D) Committee*

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Russ Galbraith	Arkansas
Kurt Swan	Connecticut
Frank Pyle	Delaware
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Timothy N. Schott	Maine
Paul Hanson	Minnesota
Martin Swanson/John Koenig	Nebraska
Mark McLeod	New York
David Buono	Pennsylvania
Matt Gendron	Rhode Island
Matthew Tarpley	Texas
Don Beatty	Virginia
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NAIC Support Staff: Paul Santillanes/Randy Helder

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Market Analysis Procedures (D) Working Group**
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Don McKinley	California
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Scott Woods	Florida
Erica Weyhenmeyer	Illinois
Tate Flott	Kansas
Sandra Stumbo	Kentucky
Jeff Zewe	Louisiana
Timothy N. Schott	Maine
Dawna Kokosinski	Maryland
Mary Lou Moran	Massachusetts
Jeff Hayden	Michigan
Paul Hanson	Minnesota
Teresa Kroll	Missouri
David Dachs/Troy Smith	Montana
Martin Swanson/Robert McCullough	Nebraska
Peggy Willard-Ross	Nevada
Maureen Belanger/Edwin Pugsley	New Hampshire
Ralph Boeckman	New Jersey
Leatrice Geckler	New Mexico
Larry Wertel	New York
Todd Oberholtzer	Ohio
Landon Hubbart	Oklahoma
Jeffrey Arnold	Pennsylvania
Brett Bache/Matt Gendron	Rhode Island
Gwendolyn McGriff/Rachel Moore	South Carolina
Tanji J. Northrup	Utah
Kevin Gaffney	Vermont
Will Felvey	Virginia
Tom Whitener	West Virginia

NAIC Support Staff: Teresa Cooper/Randy Helder

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Market Conduct Annual Statement Blanks (D) Working Group**
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Scott Woods	Florida
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October Nickel	Idaho
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Lori Cunningham	Kentucky
Dawna Kokosinski	Maryland
Mary Lou Moran	Massachusetts
Jeff Hayden	Michigan
Paul Hanson	Minnesota
Jennifer Hopper/Teresa Kroll	Missouri
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Hermoliva Abejar	Nevada
Leatrice Geckler	New Mexico
Guy Self	Ohio
Gary Jones/Jeffrey Arnold/August Hall	Pennsylvania
Gwendolyn McGriff/Rachel Moore	South Carolina
Larry D. Deiter	South Dakota
Shelli Isiminger	Tennessee
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Melissa Gerachis/Will Felvey	Virginia
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NAIC Support Staff: Teresa Cooper/Beth Bentley

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Market Conduct Examination Guidelines (D) Working Group**
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Crystal Phelps/Teri Ann Mecca	Arkansas
Kurt Swan	Connecticut
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Sharon Shipp	District of Columbia
Elizabeth Nunes/Paula Shamburger	Georgia
Doug Ommen	Iowa
Ron Kreiter	Kentucky
Mary Lou Moran	Massachusetts
Jeff Hayden	Michigan
Paul Hanson	Minnesota
Win Nickens/Jo LeDuc	Missouri
Peggy Willard-Ross/Hermoliva Abejar	Nevada
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Leatrice Geckler	New Mexico
Sylvia Lawson	New York
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Landon Hubbart	Oklahoma
Brian Fordham/Tashia Sizemore	Oregon
Gary Jones/Paul Towsen	Pennsylvania
Matt Gendron/Brett Bache	Rhode Island
Matthew Tarpley	Texas
Tanji J. Northrup/Shelley Wiseman	Utah
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Desiree Mauller	West Virginia
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NAIC Support Staff: Petra Wallace/Lois E. Alexander

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Market Regulation Certification (D) Working Group**
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Chlora Lindley-Myers	Missouri
Martin Swanson/Robert McCullough	Nebraska
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Marlene Caride	New Jersey
Mike Causey	North Carolina
Judith L. French	Ohio
Glen Mulready	Oklahoma
Andrew R. Stolfi	Oregon
Michael Humphreys	Pennsylvania
Michael Wise	South Carolina
Tanji J. Northrup	Utah
Kevin Gaffney	Vermont
Don Beatty/Katie Johnson	Virginia
Allan L. McVey	West Virginia
Bill Cole	Wyoming

NAIC Support Staff: Randy Helder/Tim Mullen

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE (*Continued*)**Speed to Market (D) Working Group***of the Market Regulation and Consumer Affairs (D) Committee*

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Frank Cardamone	New Hampshire
Russell Toal	New Mexico
Ted Hamby	North Carolina
Jon Godfread	North Dakota
Cuc Nguyen/Glen Mulready	Oklahoma
Andrew R. Stolfi	Oregon
Mark Worman/Chris Herrick	Texas
Tanji J. Northrup	Utah
Lichiou Lee	Washington
Allan L. McVey	West Virginia
Barry Haney	Wisconsin

NAIC Support Staff: Randy Helder/Leana Massey

NAIC Technical Support: Renee Brownfield/Alex Rogers

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Karima M. Woods	District of Columbia
Dean L. Cameron	Idaho
Doug Ommen	Iowa
Vicki Schmidt	Kansas
Sharon P. Clark	Kentucky
Kathleen A. Birrane	Maryland
Anita G. Fox	Michigan
Grace Arnold	Minnesota
Mike Chaney	Mississippi
Chlora Lindley-Myers	Missouri
Troy Downing	Montana
Edward M. Deleon Guerrero	N. Mariana Islands
Eric Dunning	Nebraska
Barbara D. Richardson	Nevada
Chris Nicolopoulos	New Hampshire
Marlene Caride	New Jersey
Russell Toal	New Mexico
Mike Causey	North Carolina
Jon Godfread	North Dakota
Judith L. French	Ohio
Glen Mulready	Oklahoma
Andrew R. Stolfi	Oregon
Michael Humphreys	Pennsylvania
Michael Wise	South Carolina
Larry D. Deiter	South Dakota
Cassie Brown	Texas
Jon Pike	Utah
Kevin Gaffney	Vermont
Scott A. White	Virginia
Allan L. McVey	West Virginia

NAIC Support Staff: Greg Welker/Lois E. Alexander

ANTIFRAUD (D) TASK FORCE (*Continued*)**Antifraud Technology (D) Working Group**
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NAIC Support Staff: Greg Welker/Lois E. Alexander

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Susan Brown	Montana
Michael Fissel	Pennsylvania
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NAIC Support Staff: Greg Welker/Lois E. Alexander

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James J. Donelon	Louisiana
Chlora Lindley-Myers	Missouri
Edward M. Deleon Guerrero	N. Mariana Islands
Barbara D. Richardson	Nevada
Marlene Caride	New Jersey
Judith L. French	Ohio
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NAIC Support Staff: Randy Helder

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Don McKinley/Pam O'Connell	California
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Tate Flott	Kansas
Ron Kreiter	Kentucky
Martin Swanson/Robert McCullough	Nebraska
Todd Oberholtzer	Ohio
TK Keen	Oregon
Rachel Cloyd/Matthew Tarpley	Texas
Jeannie Tincher	West Virginia
Mark Prodoehl	Wisconsin

NAIC Support Staff: Ginny Ewing/Randy Helder

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Peni Itula Sapini Teo	American Samoa
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Trinidad Navarro	Delaware
David Altmaier	Florida
Michelle B. Santos	Guam
Colin M. Hayashida	Hawaii
Doug Ommen	Iowa
Vicki Schmidt	Kansas
James J. Donelon	Louisiana
Kathleen A. Birrane	Maryland
Gary D. Anderson	Massachusetts
Anita G. Fox	Michigan
Mike Chaney	Mississippi
Chlora Lindley-Myers	Missouri
Troy Downing	Montana
Edward M. Deleon Guerrero	N. Mariana Islands
Eric Dunning	Nebraska
Chris Nicolopoulos	New Hampshire
Marlene Caride	New Jersey
Mike Causey	North Carolina
Jon Godfread	North Dakota
Judith L. French	Ohio
Andrew R. Stolfi	Oregon
Michael Humphreys	Pennsylvania
Elizabeth Kelleher Dwyer	Rhode Island
Carter Lawrence	Tennessee
Cassie Brown	Texas
Jon Pike	Utah
Kevin Gaffney	Vermont
Scott A. White	Virginia
Mike Kreidler	Washington
Allan L. McVey	West Virginia
Nathan Houdek	Wisconsin
Jeff Rude	Wyoming

NAIC Support Staff: Tim Mullen/Greg Welker

PRODUCER LICENSING (D) TASK FORCE (*Continued*)**Producer Licensing Uniformity (D) Working Group**
of the Producer Licensing (D) Task Force

Rachel Chester, Chair	Rhode Island
Courtney Khodabakhsh, Vice Chair	Oklahoma
Russ Galbraith	Arkansas
Charlene Ferguson	California
Matt Guy/Matt Tamplin	Florida
Lisa Tordjman	Idaho
Lorelei Brillante	Maryland
Michele Riddering	Michigan
Kevin Schlautman	Nebraska
Stephanie McGee	Nevada
Victoria Baca	New Mexico
Janelle Middlestead	North Dakota
Karen Vourvopoulos	Ohio
Larry D. Deiter	South Dakota
Randy Overstreet	Utah
Mike Beavers	Virginia
Jeff Baughman	Washington
Melody Esquivel	Wisconsin

NAIC Support Staff: Greg Welker/Tim Mullen

Uniform Education (D) Working Group
of the Producer Licensing (D) Task Force

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Russ Galbraith	Arkansas
Charlene Ferguson	California
Matt Guy/Matt Tamplin	Florida
Lorelei Brillante	Maryland
Vanessa Miller	Mississippi
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Tynesia Dorsey/Karen Vourvopoulos	Ohio
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NAIC Support Staff: Greg Welker/Tim Mullen

FINANCIAL CONDITION (E) COMMITTEE

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Marlene Caride	New Jersey
Adrienne A. Harris	New York
Michael Wise	South Carolina
Cassie Brown	Texas
Nathan Houdek	Wisconsin
Jeff Rude	Wyoming

NAIC Support Staff: Dan Daveline/Julie Gann/Bruce Jenson

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John Sirovetz	New Jersey
Mark McLeod/Marc Allen	New York
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Dale Bruggeman	Ohio
Melissa Greiner	Pennsylvania
Amy Garcia	Texas
Greg Chew	Virginia
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NAIC Support Staff: Bruce Jenson/Andy Daleo/Jane Koenigsmann/
Ralph Villegas/Rodney Good/Bill Rivers

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Judy Weaver	Michigan
Kathleen Orth	Minnesota
Justin Schrader	Nebraska
David Wolf	New Jersey
Bob Kasinow	New York
Jackie Obusek	North Carolina
Dale Bruggeman/Tim Biler	Ohio
Doug Hartz	Oregon
Melissa Greiner/Jeffery Smith	Pennsylvania
Trey Hancock	Tennessee
Jamie Walker	Texas
Doug Stolte/David Smith	Virginia
Amy Malm	Wisconsin

NAIC Support Staff: Dan Daveline

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Roy Eft	Indiana
Kim Cross	Iowa
John Turchi	Massachusetts
Judy Weaver	Michigan
Debbie Doggett/Shannon Schmoeger	Missouri
Diana Sherman	New Jersey
Margot Small	New York
Dale Bruggeman/Tim Biler	Ohio
Melissa Greiner/Matt Milford	Pennsylvania
Ted Hurley	Rhode Island
Doug Stolte	Virginia
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NAIC Support Staff: Bruce Jenson/Ramon Calderon

Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup
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Robert Ridenour	Florida
Cindy Andersen/Eric Moser	Illinois
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Justin Schrader	Nebraska
Doug Bartlett/Pat Gosselin	New Hampshire
Victor Agbu	New York
David Cook/Jeff Lehr	Ohio
Melissa Greiner	Pennsylvania
Glorimar Santiago/Maria Morcelo	Puerto Rico
Mike Arendall	Texas
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NAIC Support Staff: Bruce Jenson/Eli Russo

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NAIC Support Staff: Andy Daleo

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Lindsay Crawford	Nebraska
Diana Sherman	New Jersey
Michael Campanelli	New York
Melissa Greiner	Pennsylvania
Daniel Morris	South Carolina
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NAIC Support Staff: Dan Schelp/Jake Stultz

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Ryan Keeling	Oregon
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Kari Leonard	Montana
Ursula Almada	New Mexico
Doug Hartz	Oregon
Karen Feather	Pennsylvania
Amy Garcia	Texas
Jay Sueoka	Utah
Ron Pastuch/Mark Durphy	Washington
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NAIC Support Staff: Jane Barr

FINANCIAL CONDITION (E) COMMITTEE (Continued)**Restructuring Mechanisms (E) Working Group**
of the Financial Condition (E) Committee

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Michael Conway	Colorado
Jack Broccoli/Jared Kosky	Connecticut
Judy Mottar	Illinois
Judy Weaver	Michigan
Fred Andersen	Minnesota
John Rehagen	Missouri
Lindsay Crawford	Nebraska
Marlene Caride	New Jersey
Bob Kasinow	New York
Melissa Greiner/Jeffery Smith	Pennsylvania
Michael Wise	South Carolina
Amy Garcia	Texas
Dan Petterson/Heidi Rabtoy	Vermont
Scott A. White	Virginia
Steve Drutz	Washington
Amy Malm/Richard Wicka	Wisconsin

NAIC Support Staff: Dan Daveline/Casey McGraw

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Fred Andersen	Minnesota
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David Wolf	New Jersey
Dale Bruggeman	Ohio
Andrew Schallhorn	Oklahoma
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Amy Garcia	Texas
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NAIC Support Staff: Dan Daveline/Robin Marcotte

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Roy Eft	Indiana
Daniel Mathis	Iowa
Stewart Guerin	Louisiana
Vanessa Sullivan	Maine
Dmitriy Valekha	Maryland
Judy Weaver	Michigan
Debbie Doggett/Shannon Schmoeger	Missouri
Pat Gosselin	New Hampshire
John Sirovetz	New Jersey
Mark McLeod	New York
Jackie Obusek/Monique Smith	North Carolina
Dwight Radel/Tracy Snow	Ohio
Eli Snowbarger	Oklahoma
Ryan Keeling	Oregon
Melissa Greiner	Pennsylvania
John Tudino/Ted Hurley	Rhode Island
Johanna Nickelson	South Dakota
Amy Garcia	Texas
Jake Garn	Utah
Dan Petterson	Vermont
David Smith/Greg Chew	Virginia
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NAIC Support Staff: Bruce Jenson/Jane Koenigsman

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Michael Muldoon	Nebraska
Seong-min Eom	New Jersey
Bill Carmello	New York
Peter Weber	Ohio
Tomasz Serbinowski	Utah
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NAIC Support Staff: Pat Allison

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Ricardo Lara	California
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David Altmaier	Florida
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Doug Ommen	Iowa
Vicki Schmidt	Kansas
Sharon P. Clark	Kentucky
James J. Donelon	Louisiana
Timothy N. Schott	Maine
Gary D. Anderson	Massachusetts
Anita G. Fox	Michigan
Grace Arnold	Minnesota
Chlora Lindley-Myers	Missouri
Troy Downing	Montana
Edward M. Deleon Guerrero	N. Mariana Islands
Eric Dunning	Nebraska
Chris Nicolopoulos	New Hampshire
Marlene Caride	New Jersey
Russell Toal	New Mexico
Adrienne A. Harris	New York
Jon Godfread	North Dakota
Judith L. French	Ohio
Michael Humphreys	Pennsylvania
Elizabeth Kelleher Dwyer	Rhode Island
Michael Wise	South Carolina
Larry D. Deiter	South Dakota
Carter Lawrence	Tennessee
Jon Pike	Utah
Kevin Gaffney	Vermont
Scott A. White	Virginia
Mike Kreidler	Washington
Allan L. McVey	West Virginia
Nathan Houdek	Wisconsin
Jeff Rude	Wyoming

NAIC Support Staff: Robin Marcotte

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RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE (*Continued*)**Receivership Law (E) Working Group**
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Lori K. Wing-Heier	Alaska
Peni Itula Sapini Teo	American Samoa
Evan G. Daniels	Arizona
Alan McClain	Arkansas
Ricardo Lara	California
Andrew N. Mais	Connecticut
Trinidad Navarro	Delaware
Karima M. Woods	District of Columbia
David Altmaier	Florida
Colin M. Hayashida	Hawaii
Dean L. Cameron	Idaho
Vicki Schmidt	Kansas
James J. Donelon	Louisiana
Kathleen A. Birrane	Maryland
Anita G. Fox	Michigan
Mike Chaney	Mississippi
Chlora Lindley-Myers	Missouri
Eric Dunning	Nebraska
Barbara D. Richardson	Nevada
Chris Nicolopoulos	New Hampshire
Adrienne A. Harris	New York
Mike Causey	North Carolina
Jon Godfread	North Dakota
Judith L. French	Ohio
Michael Humphreys	Pennsylvania
Cassie Brown	Texas
Jon Pike	Utah
Scott A. White	Virginia
Mike Kreidler	Washington
Allan L. McVey	West Virginia
Nathan Houdek	Wisconsin

NAIC Support Staff: Lois E. Alexander

NAIC/AMERICAN INDIAN AND ALASKA NATIVE LIAISON COMMITTEE
of the NAIC/Consumer Liaison Committee

Troy Downing, Chair	Montana
Russell Toal, Vice Chair	New Mexico
Lori K. Wing-Heier	Alaska
Trinidad Navarro	Delaware
Dean L. Cameron	Idaho
Grace Arnold	Minnesota
Edward M. Deleon Guerrero	N. Mariana Islands
Mike Causey	North Carolina
Jon Godfread	North Dakota
Glen Mulready	Oklahoma
Andrew R. Stolfi	Oregon
Larry D. Deiter	South Dakota
Mike Kreidler	Washington
Jeff Rude	Wyoming

NAIC Support Staff: Lois E. Alexander

MEMBERS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Alabama Acting Commissioner Mark Fowler	Montgomery 36130	Montana Commissioner/State Auditor Troy Downing	Helena 59601
Alaska Director Lori K. Wing-Heier	Anchorage 99501	Nebraska Director Eric Dunning	Lincoln 68501
American Samoa Commissioner Peni Itula Sapini Teo	Pago Pago 96799	Nevada Commissioner Barbara D. Richardson	Carson City 89706
Arizona Director Evan G. Daniels	Phoenix 85018	New Hampshire Commissioner Chris Nicolopoulos	Concord 03301
Arkansas Commissioner Alan McClain	Little Rock 72202	New Jersey Commissioner Marlene Caride	Trenton 08625
California Commissioner Ricardo Lara	Oakland 94612	New Mexico Superintendent Russell Toal	Santa Fe 87501
Colorado Commissioner Michael Conway	Denver 80202	New York Superintendent Adrienne A. Harris	New York 10004
Connecticut Commissioner Andrew N. Mais	Hartford 06103	North Carolina Commissioner Mike Causey	Raleigh 27603
Delaware Commissioner Trinidad Navarro	Dover 19904	North Dakota Commissioner Jon Godfread	Bismarck 58505
District of Columbia Commissioner Karima M. Woods	Washington 20002	N. Mariana Islands Secretary of Commerce Edward M. Deleon Guerrero	Saipan 96950
Florida Commissioner David Altmaier	Tallahassee 32399	Ohio Director Judith L. French	Columbus 43215
Georgia Commissioner John F. King	Atlanta 30334	Oklahoma Commissioner Glen Mulready	Oklahoma City 73112
Guam Commissioner Michelle B. Santos	Barrigada 96913	Oregon Commissioner Andrew R. Stolfi	Salem 97301
Hawaii Commissioner Colin M. Hayashida	Honolulu 96813	Pennsylvania Acting Commissioner Michael Humphreys	Harrisburg 17120
Idaho Director Dean L. Cameron	Boise 83720	Puerto Rico Commissioner Alexander S. Adams Vega	Guaynabo 00968
Illinois Director Dana Popish Severinghaus	Springfield 62767	Rhode Island Superintendent Elizabeth Kelleher Dwyer	Cranston 02920
Indiana Commissioner Amy L. Beard	Indianapolis 46204	South Carolina Acting Director Michael Wise	Columbia 29201
Iowa Commissioner Doug Ommen	Des Moines 50319	South Dakota Director Larry D. Deiter	Pierre 57501
Kansas Commissioner Vicki Schmidt	Topeka 66612	Tennessee Commissioner Carter Lawrence	Nashville 37243
Kentucky Commissioner Sharon P. Clark	Frankfort 40601	Texas Commissioner Cassie Brown	Austin 78701
Louisiana Commissioner James J. Donelon	Baton Rouge 70802	Utah Commissioner Jon Pike	Salt Lake City 84114
Maine Acting Superintendent Timothy N. Schott	Augusta 04333	Vermont Commissioner Kevin Gaffney	Montpelier 05620
Maryland Commissioner Kathleen A. Birrane	Baltimore 21202	Virgin Islands Lt. Governor/Commissioner Tregenza A. Roach	St. Thomas 00802
Massachusetts Commissioner Gary D. Anderson	Boston 02118	Virginia Commissioner Scott A. White	Richmond 23219
Michigan Director Anita G. Fox	Lansing 48933	Washington Commissioner Mike Kreidler	Olympia 98504
Minnesota Commissioner Grace Arnold	St. Paul 55101	West Virginia Commissioner Allan L. McVey	Charleston 25301
Mississippi Commissioner Mike Chaney	Jackson 39201	Wisconsin Commissioner Nathan Houdek	Madison 53703
Missouri Director Chlora Lindley-Myers	Jefferson City 65101	Wyoming Commissioner Jeff Rude	Cheyenne 82002

Updated: 7/8/2022

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
ALABAMA —Appointed, at the pleasure of the Governor; term concurrent with that of the Governor by whom appointed or for the unexpired portion of the term					
Acting Insurance Commissioner	Mark Fowler	7/1/2022		incumbent	
Insurance Commissioner	Jim L. Ridling (Appointed Sept. 15, 2008; Reappointed Jan. 17, 2011; Reappointed November 2017)	9/15/2008	6/30/2022	9	3
Acting Insurance Commissioner	D. David Parsons	9/1/2008	9/15/2008	0	1
Insurance Commissioner	Walter A. Bell	1/21/2003	8/31/2008	5	7
Insurance Commissioner	D. David Parsons	12/1/2000	1/21/2003	2	1
Acting Insurance Commissioner	D. David Parsons	1/20/1999	12/1/2000	1	11
Insurance Commissioner	Richard H. Cater	2/1/1998	1/19/1999	0	11
Insurance Commissioner	Michael 'Mickey' DeBellis	3/6/1996	1/31/1998	1	11
Acting Insurance Commissioner	Michael 'Mickey' DeBellis	1/16/1995	3/6/1996	1	2
Insurance Commissioner	James H. 'Jimmy' Dill	5/5/1993	1/16/1995	1	8
Insurance Commissioner	Michael C. 'Mike' Weaver	8/16/1988	5/5/1993	4	9
Insurance Commissioner	John S. Greeno	2/6/1987	8/16/1988	1	6
Insurance Commissioner	Michael 'Mickey' DeBellis	1/1/1986	1/19/1987	1	0
Insurance Commissioner	Tharpe Forrester	6/8/1984	1/1/1986	1	7
Insurance Commissioner	Joseph R. 'Joe' Holt	5/21/1984	6/5/1984	0	1
Insurance Commissioner	William G. 'Bill' Ward, Jr.	1/17/1983	5/21/1984	1	4
Insurance Commissioner	Tharpe Forrester, Jr.	5/19/1980	1/17/1983	2	8
Insurance Commissioner	Haskell H. Sumrall, Jr.	8/15/1979	5/19/1980	0	9
Acting Insurance Commissioner	Albert Jackson 'Jack' Winfield	2/2/1979	8/15/1979	0	6
Insurance Commissioner	Charles H. Payne	1/20/1975	2/2/1979	4	0
Insurance Commissioner	John G. Bookout	1/1/1972	1/20/975	3	0
Superintendent of Insurance	John G. Bookout	1/18/1971	1/1/1972	1	0
Superintendent of Insurance	R. Frank Usery (Died Nov. 13, 2021)	12/14/1968	1/18/1971	2	1
Superintendent of Insurance	Walter S. Houseal	1/15/1963	12/14/1968	5	11
Superintendent of Insurance	William D. Page	5/23/1961	1/15/1963	1	8
Superintendent of Insurance	Edmon L. Rinehart	1/19/1959	5/23/1961	2	4
Superintendent of Insurance	James H. Horn	10/3/1956	1/19/1959	2	3
Superintendent of Insurance	Leslie Lee Gwaltney, Jr.	1/18/1955	10/3/1956	1	9
Superintendent of Insurance	Herman A. Longshore	1/16/1951	1/18/1955	4	0
Superintendent of Insurance	Leslie Lee Gwaltney, Jr.	1/31/1947	1/16/1951	4	0
Director of Commerce/Superintendent of Insurance	Addie Lee Farish	12/1/1944	1/31/1947	2	1
Superintendent of Insurance	Frank N. Julian (Died Nov. 30, 1944)	2/1/1935	11/30/1944	9	10
Superintendent of Insurance	Charles C. Greer	2/1/1931	2/1/1935	4	0
Superintendent of Insurance	George H. Thigpen	10/1/1927	2/1/1931	3	4
Superintendent of Insurance	Frank N. Julian (Died Nov. 30, 1944)	9/30/1923	10/1/1927	4	0
Commissioner of Insurance	Frank N. Julian (Died Nov. 30, 1944)	3/1/1923	9/30/1923	0	7
Commissioner of Insurance	Russell B. Coleman	11/2/1922	3/1/1923	0	4
Commissioner of Insurance	Albert Walter Briscoe	10/1/1919	11/2/1922	3	1
Commissioner of Insurance	Leonard Y. Dean	7/1/1919	10/1/1919	0	3
Commissioner of Insurance	C. Brooks Smith	10/1/1915	7/1/1919	3	9
Secretary of State	John Purifoy	1/19/1915	10/1/1915	0	9
Secretary of State	Cyrus B. Brown	10/5/1910	1/19/1915	4	3

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
ALABAMA—Continued					
Secretary of State	Frank N. Julian <i>(Died Nov. 30, 1944)</i>	1/14/1907	10/5/1910	3	10
Secretary of State	Edmund R. 'Ned' McDavid	5/1/1904	1/14/1907	2	8
Secretary of State	J. Thomas Heflin	1/22/1903	5/1/1904	1	4
Secretary of State	Robert P. McDavid	12/1/1898	1/22/1903	4	1
Secretary of State	James K. Jackson	2/18/1897	12/1/1898	1	10
State Auditor	Walter S. White	12/1/1896	2/18/1897	0	2
State Auditor	John Purifoy	6/5/1892	12/1/1896	3	3
State Auditor	Cyrus D. Hogue <i>(Died June 4, 1892)</i>	12/1/1888	6/4/1892	3	6
State Auditor	Malcolm C. Burke	11/3/1884	11/30/1888	4	0
State Auditor	Jesse M. Carmichael	11/9/1880	11/2/1884	4	0
State Auditor	Willis Brewer	11/25/1876	11/9/1880	4	0
State Auditor	Robert T. Smith	11/26/1872	11/25/1876	4	0
State Auditor	Robert M. Reynolds	5/24/1871	11/25/1872	0	6

ALASKA—Appointed, at the pleasure of the Commissioner of Commerce, Community, and Economic Development					
Insurance Director	Lori K. Wing-Heier	2/25/2014		incumbent	
Acting Insurance Director	Marty Hester	12/20/2013	2/25/2014	0	2
Insurance Director	Bret S. Kolb	5/30/2012	11/30/2013	1	6
Insurance Director	Linda S. Hall	3/3/2003	5/29/2012	9	2
Acting Insurance Director	Stan Ridgeway	1/1/2003	3/3/2003	0	2
Insurance Director	Robert A. 'Bob' Lohr	8/11/1999	1/1/2003	3	5
Insurance Director	John Ference	7/1/1999	8/11/1999	0	1
Insurance Director	Marianne K. Burke	3/1/1995	7/1/1999	4	4
Acting Insurance Director	Thelma Walker	1/1/1995	3/1/1995	0	2
Insurance Director	David J. Walsh	2/15/1990	1/1/1995	4	11
Acting Insurance Director	Dick Monkman	2/1/1990	2/15/1990	0	1
Acting Insurance Director	James Jordan	9/1/1989	2/1/1990	0	5
Insurance Director	Paul Roller	4/1/1988	9/1/1989	1	5
Insurance Director	John George	11/1/1984	4/1/1988	3	5
Acting Insurance Director	John George	7/1/1984	11/1/1984	0	4
Insurance Director	Kenneth C. Moore	2/28/1979	7/1/1984	5	5
Insurance Director	Richard L. 'Dick' Block	12/7/1975	2/1/1979	3	2
Insurance Director	John J. O'Shea	6/4/1973	6/8/1975	2	0
Insurance Director	Cloyce A. 'Red' Drake	7/1/1971	12/3/1972	1	5
Insurance Director	William W. 'Bill' Fritz	1/1/1967	6/14/1971	4	5
Insurance Director	A. W. Lingle	3/1/1964	12/4/1966	2	9
Director of Insurance	Joseph B. Loonam	6/18/1962	3/1/1964	1	9
Director of Insurance	William M. Scott	5/30/1960	5/29/1962	2	0
Insurance Commissioner	Ross P. Duncan	11/1/1955	12/22/1959	4	1
Insurance Commissioner	Neil Moore	12/4/1950	5/1/1955	4	5
Auditor of Territory	Frank A. Boyle <i>(Died Dec. 15, 1950)</i>	4/1/1933	12/4/1950	17	8
Auditor of Territory	Cash Cole	12/16/1929	4/1/1933	3	4
Secretary of Territory	Karl Theile	7/22/1921	12/16/1929	8	5
Secretary of Territory	Robert J. Sommers	9/25/1919	7/22/1921	1	10
Secretary of Territory	Charles E. 'Chas' Davidson <i>(Died Aug. 8, 1919)</i>	10/18/1913	8/8/1919	5	10
Surveyor-General/Secretary	William L. Distin	8/7/1897	10/18/1913	16	2

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
AMERICAN SAMOA—Appointed, at the pleasure of the Governor					
Insurance Commissioner	Peni 'Ben' Itula Sapini Teo	2/15/2022		incumbent	
Acting Insurance Commissioner	Elizabeth S. Perri	8/5/2021	2/14/2022	0	6
Insurance Commissioner	Peni 'Ben' Itula Sapini Teo	1/3/2021	8/4/2021	0	7
Acting Insurance Commissioner	Elizabeth S. Perri	10/23/2019	1/3/2021	1	3
Insurance Commissioner	Peteru M. 'Peter' Fuimaono	2/12/2019	10/23/2019	0	8
Acting Insurance Commissioner	Elizabeth S. Perri	7/26/2018	2/12/2019	0	7
Insurance Commissioner	Peteru M. 'Peter' Fuimaono	1/16/2017	7/26/2018	1	6
Insurance Commissioner	Tau Fati Tanuvasa	11/25/2013	1/16/2017	3	2
Insurance Commissioner	<i>Position Vacant</i>	2/1/2013	11/25/2013	0	9
Insurance Commissioner	Aoomalo Manupo Turituri	4/28/2010	1/31/2013	2	9
Insurance Commissioner	Fiaigoa A. Paogofie	2/3/2009	4/28/2010	1	2
Insurance Commissioner	Laloulu Tagoilelagi	1/15/2008	2/3/2009	2	1
Insurance Commissioner	Elisara T. Togiai	6/2/1997	12/2/2007	10	6
Insurance Commissioner	Tauivi Tuinei	1/1/1997	6/2/1997	0	5
Acting Insurance Commissioner	Tafaoota Gaoteote	12/1/1996	1/1/1997	0	1
Insurance Commissioner	Albert Atuatasi	7/1/1996	12/1/1996	0	5
Insurance Commissioner	Moetulu'i T. Iuvale	1/1/1996	7/1/1996	0	6
Insurance Commissioner	Tauivi Tuinei	2/12/1995	1/1/1996	0	11
Insurance Commissioner	Moetulu'i T. Iuvale	3/7/1993	2/12/1995	2	1
Insurance Commissioner	Fanene Su'a Scanlan	6/4/1989	1/1/1993	3	7
Insurance Commissioner	Afa Roberts	6/9/1985	12/11/1988	3	6
Insurance Commissioner	John W. von Cramm	12/4/1983	12/9/1984	1	0
Acting Insurance Commissioner	Lyle L. Richmond	11/28/1982	12/4/1983	1	1
Insurance Commissioner	Patricia G. Trammel	6/15/1980	11/28/1982	2	5
ARIZONA—Appointed, at the pleasure of the Governor, subject to confirmation by the Senate					
Insurance Director	Evan G. Daniels	7/18/2020		incumbent	
Interim Insurance Director	Christina Corieri	2/15/2020	7/17/2020	0	5
Insurance Director	Keith A. Schraad	12/14/2018	2/14/2020	1	2
Interim Insurance Director	Keith A. Schraad	2/12/2018	12/14/2018	0	10
Acting Insurance Director	Robert D. Charlton	1/29/2018	2/11/2018	0	1
Interim Insurance Director	Leslie R. Hess	2/8/2016	1/26/2018	1	11
Insurance Director	Andrew M. Tobin	10/12/2015	2/1/2016	0	4
Interim Insurance Director	Darren T. Ellingson	8/17/2015	10/11/2015	0	2
Insurance Director	Germaine L. 'Gerrie' Marks	11/27/2012	8/15/2015	2	9
Acting Insurance Director	Germaine L. 'Gerrie' Marks	6/30/2012	11/27/2012	0	5
Insurance Director	Christina Urias	11/3/2003	6/30/2012	8	7
Insurance Director	Charles R. 'Chuck' Cohen	10/10/1998	10/31/2003	5	0
Acting Insurance Director	Charles R. 'Chuck' Cohen	9/16/1998	10/10/1998	0	1
Insurance Director	John A. Greene	1/16/1997	9/16/1998	1	8
Acting Insurance Director	John King	8/1/1996	1/15/1997	0	5
Insurance Director	Chris Herstam	1/1/1994	8/1/1996	2	7
Insurance Director	Susan Gallinger	5/1/1988	12/31/1993	5	7
Acting Insurance Director	Vern R. Pierson	10/1/1987	5/1/1988	0	7
Insurance Director	S. David Childers	6/18/1984	9/30/1987	3	3
Insurance Director	J. Michael Low	1/1/1980	6/18/1984	4	5
Insurance Director	John N. 'Jack' Trimble	1/1/1976	1/1/1980	4	0
Insurance Director	Thomas Millard Humphrey	1/29/1969	12/31/1975	6	11
Insurance Director	Jerry P. Shea	2/1/1968	1/28/1969	1	0
Acting Insurance Director	George A. Livermore	10/28/1967	1/31/1968	0	3
Insurance Director	George A. Bushnell	12/12/1951	10/27/1967	15	10

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
ARIZONA—Continued					
Insurance Director	Roy B. Rummage <i>(Died Dec. 1, 1951)</i>	1/5/1937	12/1/1951	14	11
Insurance Director	George A. Brown	6/1/1933	1/4/1937	3	7
Insurance Director	Glenn D. Grant	9/17/1929	6/1/1933	3	9
Chair, Corporation Commission	Amos A. Betts	6/27/1921	9/17/1929	8	3
Chair, Corporation Commission	Forest A. Jones	9/1/1917	9/1/1920	3	0
Superintendent of Insurance	Cleveland C. Thompson	9/21/1915	8/28/1917	1	11
Chair, Corporation Commission	William P. Geary	6/1/1912	9/21/1915	3	3
Secretary of State	Sidney P. Osborn	2/14/1912	6/1/1912	0	2
Secretary of Territory	George U. Young	4/1/1909	2/13/1912	3	3
Secretary of Territory	John H. Page	4/1/1908	4/1/1909	1	0
Secretary of Territory	W. F. Nichols	4/1/1904	4/1/1908	4	0
Secretary of Territory	Isaac Coddard	9/1/1903	4/1/1904	0	7
Secretary of Territory	Charles H. Akers	9/1/1901	9/1/1903	2	0
Territorial Treasurer	Thomas W. Pemberton	9/1/1899	9/1/1901	2	0
Territorial Treasurer	Charles W. Johnstone	9/1/1897	9/1/1899	2	0
Territorial Treasurer	Thomas E. Farish	6/18/1896	9/1/1897	0	3
Territorial Treasurer	Phillip J. Cole	1/30/1895	6/18/1896	1	5
Territorial Treasurer	James A. Fleming	5/1/1893	1/1/1895	1	8
Territorial Treasurer	William Christy	4/1/1891	5/1/1893	2	1
Territorial Treasurer	John Y. T. Smith	4/8/1889	4/1/1891	2	0
Territorial Treasurer	C. B. Foster	3/1/1887	4/8/1889	2	1

ARKANSAS—Appointed, at the pleasure of the Governor with the advice and consent of the Senate					
Commissioner of Insurance	Alan McClain	4/3/2020		incumbent	
Commissioner of Insurance	Allen W. Kerr	1/13/2015	3/27/2020	5	2
Commissioner of Insurance	Jay Bradford	1/15/2009	1/13/2015	6	0
Interim Commissioner of Insurance	Lenita Blasingame	1/1/2009	1/15/2009	0	1
Commissioner of Insurance	Julie Benafield Bowman	1/15/2005	12/31/2008	3	11
Commissioner of Insurance	J. Michael 'Mike' Pickens	1/15/1997	1/15/2005	8	0
Commissioner of Insurance	Lee Douglass	12/14/1990	1/15/1997	6	1
Commissioner of Insurance	Ron Taylor III	12/23/1988	12/14/1990	2	0
Commissioner of Insurance	Robert M. Eubanks III	1/21/1985	12/23/1988	3	11
Commissioner of Insurance	Linda N. Garner	1/3/1983	1/21/1985	2	0
Commissioner of Insurance	William H. L. Woodyard III	7/2/1976	12/31/1982	6	6
Commissioner of Insurance	Ark Monroe III	10/2/1972	7/2/1976	3	9
Commissioner of Insurance	A. Gene Sykes	9/16/1970	10/2/1972	2	1
Acting Commissioner of Insurance	Ernest J. W. 'Ernie' Fennell	6/15/1970	9/16/1970	0	3
Commissioner of Insurance	Allan W. 'Dick' Horne	2/21/1968	6/15/1970	2	4
Commissioner of Insurance	John Norman Harkey	1/30/1967	2/21/1968	1	1
Commissioner of Insurance	Harvey G. Combs	4/15/1953	1/30/1967	13	9
Commissioner of Insurance	Usco A. Gentry	1/15/1953	4/15/1953	0	3
Commissioner of Insurance	J. Herbert Graves	1/11/1949	1/15/1953	4	0
Commissioner of Insurance	Jack G. McKenzie	1/15/1945	1/11/1949	4	0
Commissioner of Insurance	J. Herbert Graves	1/14/1941	1/15/1945	4	0
Commissioner of Insurance	M. J. Harrison	1/15/1937	1/14/1941	4	0
Ins. Cmsr. and State Fire Marshal	Usco A. Gentry	3/4/1933	1/15/1937	3	10
Ins. Cmsr. and State Fire Marshal	Arlander D. DuLaney	3/4/1931	3/4/1933	2	0
Ins. Cmsr. and State Fire Marshal	William E. Floyd	5/23/1929	3/4/1931	1	10
Ins. Cmsr. and State Fire Marshal	John S. Maloney <i>(Died May 22, 1929)</i>	3/8/1927	5/22/1929	2	2

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
ARKANSAS—Continued					
Cmsr. of Insurance and Revenue	J. Frank Beasley	2/8/1927	3/8/1927	0	1
Cmsr. of Insurance and Revenue	William E. Floyd	6/11/1925	2/8/1927	1	8
Acting Cmsr. of Ins. and Revenue	J. W. Hatley	5/15/1925	6/11/1925	0	1
Insurance Commissioner	M. J. Harrison	1/12/1925	5/15/1925	0	5
Insurance Commissioner	Bruce T. Bullion	3/7/1917	12/31/1924	7	9
State Auditor/Ins. Commissioner	Hogan Oliver	1/10/1917	3/7/1917	0	2
State Auditor/Ins. Commissioner	M. F. Dickinson	3/5/1915	1/10/1917	2	10
State Auditor/Ins. Commissioner	Lafayette L. Coffman	6/23/1913	3/4/1915	1	9
State Auditor/Ins. Commissioner	John M. Oathout <i>(Died June 20, 1913)</i>	1/17/1913	6/20/1913	0	5
State Auditor/Ins. Commissioner	John R. Jobe	1/14/1909	1/17/1913	4	0
State Auditor/Ins. Commissioner	Avery E. Moore	1/12/1905	1/14/1909	4	0
State Auditor/Ins. Commissioner	Thomas C. Monroe	1/18/1901	1/12/1905	4	0
State Auditor/Ins. Commissioner	Clay Sloan	1/15/1897	1/18/1901	4	0
State Auditor/Ins. Commissioner	Charles B. Mills	1/14/1893	1/15/1897	4	0
State Auditor/Ins. Commissioner	William S. Dunlop	11/30/1887	1/14/1893	5	2
State Auditor/Ins. Commissioner	William R. Miller <i>(Died Nov. 29, 1887)</i>	1/14/1887	11/29/1887	0	10
State Auditor/Ins. Commissioner	A.W. Files	1/11/1883	1/14/1887	4	0
State Auditor/Ins. Commissioner	John Crawford	1/11/1877	1/11/1883	6	0
State Auditor/Ins. Commissioner	William R. Miller	11/12/1874	1/11/1877	2	2
Insurance Commissioner	Lucien J. Barnes	4/29/1873	11/12/1874	1	6
State Auditor	Stephen Wheeler	1/6/1873	4/29/1873	0	3
State Auditor	James R. Berry	5/24/1871	1/6/1873	1	8

CALIFORNIA—Elected; 4-year term (not to exceed two 4-year terms)					
Insurance Commissioner	Ricardo Lara <i>(Elected Nov. 6, 2018)</i>	1/7/2019		incumbent	
Insurance Commissioner	David E. 'Dave' Jones <i>(Elected Nov. 2, 2010; Re-elected Nov. 4, 2014)</i>	1/3/2011	1/6/2019	8	0
Insurance Commissioner	Steve Poizner	1/8/2007	1/3/2011	4	0
Insurance Commissioner	John R. Garamendi	1/6/2003	1/8/2007	4	0
Insurance Commissioner	Harry W. Low	9/18/2000	1/6/2003	2	4
Acting Insurance Commissioner	J. Clark Kelso	7/10/2000	9/18/2000	0	2
Insurance Commissioner	Charles 'Chuck' Quackenbush	1/2/1995	7/10/2000	5	6
Insurance Commissioner	John R. Garamendi	1/7/1991	1/2/1995	4	0
Insurance Commissioner	Roxani M. Gillespie	1/5/1987	12/31/1990	4	0
Insurance Commissioner	Bruce A. Bunner	3/21/1983	7/1/1986	3	4
Insurance Commissioner	Robert C. Quinn	1/1/1981	3/21/1983	2	2
Insurance Commissioner	Wesley J. Kinder	3/1/1975	1/1/1981	5	10
Insurance Commissioner	Gleeson L. 'Tige' Payne	11/1/1972	3/1/1975	2	4
Insurance Commissioner	Richards D. 'Dick' Barger	8/21/1968	11/1/1972	4	3
Insurance Commissioner	Richard S. L. Roddis	1/20/1966	1/1/1969	3	0
Insurance Commissioner	Stafford R. Grady	1/1/1964	1/1/1966	2	0
Insurance Commissioner	F. Britton McConnell	1/1/1955	1/1/1964	9	0
Insurance Commissioner	John R. Maloney	1/1/1951	1/1/1955	4	0
Insurance Commissioner	Wallace K. Downey	2/1/1947	1/1/1951	3	11
Insurance Commissioner	Maynard Garrison	10/1/1943	2/1/1947	3	4
Insurance Commissioner	Anthony J. Caminetti, Jr.	6/28/1939	10/1/1943	4	4
Insurance Commissioner	Rex B. Goodcell	7/15/1938	6/28/1939	0	11

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
CALIFORNIA—Continued					
Insurance Commissioner	Samuel L. Carpenter, Jr.	4/4/1935	7/15/1938	3	3
Insurance Commissioner	E. Forrest Mitchell	4/24/1929	4/4/1935	6	0
Insurance Commissioner	Charles R. 'Charlie' Detrick	1/13/1925	4/24/1929	4	3
Insurance Commissioner	George D. Squires	3/22/1923	1/13/1925	1	10
Acting Insurance Commissioner	Edward C. Cooper	1/1/1923	3/22/1923	0	2
Insurance Commissioner	Alexander L. McCabe	3/15/1917	1/1/1923	5	10
Insurance Commissioner	Joseph E. Phelps	7/1/1914	3/15/1917	2	8
Insurance Commissioner	Edward C. Cooper	6/16/1910	7/1/1914	4	1
Insurance Commissioner	E. Myron Wolf	4/8/1902	4/8/1910	8	0
Insurance Commissioner	Andrew J. Clunie	3/15/1897	4/8/1902	5	1
Insurance Commissioner	M. R. Higgins	4/8/1894	3/15/1897	2	11
Insurance Commissioner	J. N. E. Wilson	4/8/1890	4/8/1894	4	0
Insurance Commissioner	J. C. L. Wadsworth	4/19/1886	4/8/1890	4	0
Insurance Commissioner	George A. Knight	4/8/1882	4/19/1886	4	0
Insurance Commissioner	J. C. Maynard	4/8/1878	4/8/1882	4	0
Insurance Commissioner	John W. Foard	4/1/1872	4/8/1878	6	0
Insurance Commissioner	George W. Mowe	5/24/1871	4/1/1872	0	11

COLORADO—Appointed, at the pleasure of the Governor; subject to confirmation by the Senate					
Commissioner of Insurance	Michael Conway	1/22/2019		incumbent	
Interim Commissioner of Insurance	Michael Conway	1/1/2018	1/21/2019	1	0
Commissioner of Insurance	Marguerite Salazar	8/19/2013	12/31/2017	4	4
Interim Commissioner of Insurance	Doug Dean	7/8/2013	8/14/2013	0	1
Commissioner of Insurance	James L. 'Jim' Riesberg	7/1/2011	7/8/2013	2	0
Interim Commissioner of Insurance	John J. Postolowski	12/1/2010	7/1/2011	0	7
Commissioner of Insurance	Marcy Morrison	1/9/2007	12/1/2010	3	11
Commissioner of Insurance	David Rivera	4/20/2005	1/9/2007	1	9
Commissioner of Insurance	Doug Dean	1/7/2003	4/20/2005	2	3
Acting Commissioner of Insurance	M. Michael Cooke	8/9/2002	1/7/2003	0	5
Commissioner of Insurance	William J. Kirven III	2/26/1999	8/9/2002	3	6
Commissioner of Insurance	John B. 'Jack' Ehnes	2/11/1994	2/26/1999	5	0
Commissioner of Insurance	<i>Position Vacant</i>	1/1/1994	1/31/1994	0	1
Commissioner of Insurance	Joanne Hill	10/1/1989	12/31/1993	4	2
Acting Commissioner of Insurance	Bruce Smith	9/1/1989	10/1/1989	0	1
Commissioner of Insurance	John Kezer	2/5/1985	9/1/1989	4	7
Acting Commissioner of Insurance	D. Colaianna	2/1/1984	2/5/1985	1	0
Commissioner of Insurance	J. Richard Barnes	3/23/1964	1/31/1984	19	10
Commissioner of Insurance	Sam N. Beery	1/1/1955	3/1/1964	9	2
Commissioner of Insurance	Luke J. Kavanaugh	4/22/1939	12/31/1954	15	8
Commissioner of Insurance	Jackson Cochrane	11/1/1921	4/22/1939	17	5
Commissioner of Insurance	Earl Wilson	11/5/1920	10/15/1921	0	11
Commissioner of Insurance	Claude W. Fairchild	3/24/1917	11/5/1920	3	8
Acting Commissioner of Insurance	Mrs. D. M. Rolph	1/23/1917	3/24/1917	0	2
Commissioner of Insurance	Erastus R. Harper	6/14/1915	1/22/1917	1	7
Acting Commissioner of Insurance	Mrs. D. M. Rolph	1/16/1915	6/14/1915	0	5
Commissioner of Insurance	Saul Epstein	5/10/1913	1/16/1915	1	8
Commissioner of Insurance	William L. Clayton	1/31/1909	5/10/1913	4	4
Commissioner of Insurance	Elmer E. Rittenhouse	7/1/1907	1/31/1909	1	6
Superintendent of Insurance	Alfred E. Bent	6/1/1905	6/30/1907	2	0
Superintendent of Insurance	John A. Holmberg	6/1/1903	6/1/1905	2	0
Superintendent of Insurance	Charles W. Crouter	6/1/1901	6/1/1903	2	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
COLORADO—Continued					
Superintendent of Insurance	George W. Temple	6/1/1899	6/1/1901	2	0
Superintendent of Insurance	John M. Lowell	6/1/1897	6/1/1899	2	0
Superintendent of Insurance	Clifford C. Parks	6/1/1895	6/1/1897	2	0
Superintendent of Insurance	F. M. Goodykoontz	6/1/1893	6/1/1895	2	0
Superintendent of Insurance	John M. Henderson	6/1/1891	6/1/1893	2	0
Auditor of State	Louis B. Schwanbeck	9/1/1889	6/1/1891	1	9
Auditor of State	Darwin P. Kingsley	9/1/1887	9/1/1889	2	0
Superintendent of Insurance	Hiram A. Spruance	9/1/1885	9/1/1887	2	0
Superintendent of Insurance	John C. Abbott	4/1/1883	9/1/1885	2	5
CONNECTICUT—Appointed, at the pleasure of the Governor with the advice and consent of either house of the General Assembly; 4-year term					
Insurance Commissioner	Andrew N. 'Andy' Mais	3/4/2019		incumbent	
Acting Insurance Commissioner	Paul Lombardo	12/20/2018	3/1/2019	0	3
Insurance Commissioner	Katharine L. 'Katie' Wade	3/24/2015	12/19/2018	3	9
Acting Insurance Commissioner	Anne Melissa Dowling	12/11/2014	3/24/2015	0	3
Insurance Commissioner	Thomas B. Leonardi	2/4/2011	12/11/2014	3	10
Acting Insurance Commissioner	Barbara C. Spear	11/12/2010	2/4/2011	0	3
Insurance Commissioner	Thomas R. Sullivan	4/1/2007	11/12/2010	3	7
Insurance Commissioner	Susan F. Cogswell	6/22/2000	4/1/2007	6	10
Acting Insurance Commissioner	William J. Gilligan	5/8/2000	6/22/2000	0	1
Insurance Commissioner	George M. Reider Jr.	5/1/1995	5/5/2000	5	0
Acting Insurance Commissioner	William J. Gilligan	6/1/1994	5/1/1995	0	11
Insurance Commissioner	Robert R. Googins	3/1/1991	6/1/1994	3	3
Acting Insurance Commissioner	Robert R. Googins	2/1/1991	3/1/1991	0	1
Insurance Commissioner	Peter F. Kelly	8/17/1988	2/1/1991	2	6
Acting Insurance Commissioner	William J. Gilligan	7/1/1988	8/1/1988	0	1
Insurance Commissioner	Peter W. Gillies	1/5/1983	7/1/1988	5	6
Insurance Commissioner	Joseph C. Mike	6/1/1977	1/1/1983	5	7
Insurance Commissioner	T. F. Gilroy Daly	6/1/1976	6/1/1977	1	0
Insurance Commissioner	Jay W. Jackson	6/1/1975	6/1/1976	1	0
Insurance Commissioner	Thomas C. White	6/1/1973	6/1/1975	2	0
Insurance Commissioner	Paul B. Altermatt	6/1/1971	6/1/1973	2	0
Insurance Commissioner	Robert F. Claffey	1/1/1971	6/1/1971	0	5
Insurance Commissioner	William R. Cotter	7/1/1966	12/31/1970	4	5
Acting Insurance Commissioner	James G. McCabe	6/1/1966	7/1/1966	0	1
Insurance Commissioner	William R. Cotter	5/4/1964	6/1/1966	2	1
Insurance Commissioner	Alfred N. Premo	6/1/1958	5/4/1964	5	11
Insurance Commissioner	Thomas J. Spellacy	6/1/1955	6/1/1958	3	0
Insurance Commissioner	W. Ellery Allyn	7/1/1943	6/1/1955	11	11
Insurance Commissioner	John C. Blackall	7/1/1935	7/1/1943	8	0
Insurance Commissioner	Howard P. Dunham	7/1/1923	7/1/1935	12	0
Insurance Commissioner	Burton Mansfield	7/1/1911	7/1/1923	12	0
Insurance Commissioner	Theodore H. Macdonald	7/1/1907	7/1/1911	4	0
Insurance Commissioner	Theron Upson	6/1/1902	7/1/1907	5	1
Insurance Commissioner	Edwin L. Scofield	7/1/1899	6/1/1902	2	11
Insurance Commissioner	Frederick A. Betts	7/1/1895	7/1/1899	4	0
Insurance Commissioner	Burton Mansfield	4/11/1893	7/1/1895	2	3
Acting Insurance Commissioner	John S. Seymour	3/3/1893	4/11/1893	0	1
Insurance Commissioner	Orsamus R. Fyler	7/1/1886	3/3/1893	6	8

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
CONNECTICUT—Continued					
Insurance Commissioner	Ephraim Williams	7/1/1883	7/1/1886	3	0
Insurance Commissioner	John W. Brooks	7/27/1880	7/1/1883	3	0
Insurance Commissioner	John W. Steadman	7/27/1874	7/27/1880	6	0
Insurance Commissioner	George S. Miller	7/27/1871	7/27/1874	3	0
Insurance Commissioner	Benjamin Noyes	5/24/1871	7/27/1871	0	2
DELAWARE—Elected; 4-Year Term					
Insurance Commissioner	Trinidad Navarro <i>(Elected Nov. 8, 2016; Re-elected Nov. 3, 2020)</i>	1/3/2017		incumbent	
Insurance Commissioner	Karen Weldin Stewart	1/6/2009	1/3/2017	8	0
Insurance Commissioner	Matthew Denn	1/4/2005	1/6/2009	4	0
Insurance Commissioner	Donna Lee Williams	1/1/1993	1/4/2005	12	0
Insurance Commissioner	David N. Levinson	1/1/1985	1/1/1993	8	0
Insurance Commissioner	David H. Elliot	1/4/1977	1/1/1985	8	0
Insurance Commissioner	John F. Richardson	4/1/1976	1/4/1977	0	9
Insurance Commissioner	Robert A. Short	1/1/1963	4/1/1976	13	3
Insurance Commissioner	Harry S. Smith	1/1/1955	1/1/1963	8	0
Insurance Commissioner	William R. Murphy	1/1/1951	1/1/1955	4	0
Insurance Commissioner	William J. Swain	1/1/1939	1/1/1951	12	0
Insurance Commissioner	J. Postles Hammond	1/1/1935	1/1/1939	4	0
Insurance Commissioner	James G. Shaw	1/1/1927	1/1/1935	8	0
Insurance Commissioner	Charles M. Hollis	1/1/1923	1/1/1927	4	0
Insurance Commissioner	William J. Swain	7/24/1922	1/1/1923	0	6
Insurance Commissioner	Horace Sudler <i>(Died July 24, 1922)</i>	1/1/1921	7/24/1922	1	6
Insurance Commissioner	Thomas R. Wilson	1/1/1917	1/1/1921	4	0
Insurance Commissioner	William R. McCabe	1/1/1913	1/1/1917	4	0
Insurance Commissioner	Charles H. Maull	1/5/1909	1/1/1913	4	0
Insurance Commissioner	George W. Marshall	1/1/1901	1/5/1909	8	0
Insurance Commissioner	Edward D. Fowler	3/23/1897	1/1/1901	3	10
Insurance Commissioner	Peter K. Meredith	3/22/1893	3/23/1897	4	0
Insurance Commissioner	Isaac N. Fooks	3/23/1889	3/22/1893	4	0
Insurance Commissioner	Nathan Pratt	3/21/1885	3/23/1889	4	0
Insurance Commissioner	Henry C. Douglass <i>(Died Feb. 27, 1885)</i>	4/21/1883	2/27/1885	1	10
Insurance Commissioner	John R. McFee	4/21/1879	4/21/1883	4	0
Secretary of State	Ignatius C. Grubb	1/18/1875	4/21/1879	4	3
Secretary of State	John H. Paynter	5/24/1871	1/18/1875	3	8
DISTRICT OF COLUMBIA—Appointed, at the pleasure of the Mayor; confirmed by the Council of District Columbia					
Commissioner, Dept. of Insurance, Securities & Banking (DISB)	Karima M. Woods	7/28/2020		incumbent	
Acting Commissioner, DISB	Karima M. Woods	1/21/2020	7/28/2020	0	6
Commissioner, DISB	Stephen C. Taylor	11/3/2015	1/20/2020	4	2
Acting Commissioner, DISB	Stephen C. Taylor	6/19/2015	11/3/2015	0	5
Acting Commissioner, DISB	Chester A. McPherson	4/20/2014	6/19/2015	1	2
Interim Commissioner, DISB	Chester A. McPherson	11/15/2013	4/20/2014	0	5
Commissioner, DISB	William P. White	6/7/2011	11/15/2013	2	5
Acting Commissioner, DISB	William P. White	2/14/2011	6/7/2011	0	4
Commissioner, DISB	Gennet Purcell	11/3/2009	2/14/2011	1	3

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
DISTRICT OF COLUMBIA—Continued					
Acting Commissioner, DISB	Gennet Purcell	9/2/2009	11/3/2009	0	2
Commissioner, DISB	Thomas E. Hampton	5/9/2006	8/28/2009	3	3
Acting Commissioner, DISB	Thomas E. Hampton	10/1/2005	5/9/2006	0	7
Commissioner, DISB	Lawrence H. ‘Larry’ Mirel	3/1/2004	9/30/2005	1	7
Commissioner of Ins. & Securities	Lawrence H. ‘Larry’ Mirel	10/5/1999	3/1/2004	4	5
Acting Cmsr. of Ins. & Securities	Lawrence H. ‘Larry’ Mirel	7/6/1999	10/5/1999	0	3
Acting Cmsr. of Ins. & Securities	Reginald Berry	1/4/1999	7/12/1999	0	6
Commissioner of Ins. & Securities	Patrick E. Kelly	7/21/1998	1/4/1999	0	6
Interim Cmsr. of Ins. & Securities	Patrick E. Kelly	7/22/1997	7/21/1998	1	0
Interim Commissioner of Insurance	Patrick E. Kelly	1/1/1995	7/22/1997	2	6
Commissioner of Insurance	Robert M. Willis <i>(Died Oct. 21, 2020)</i>	8/12/1991	1/1/1995	3	5
Acting Commissioner of Insurance	Patrick E. Kelly	4/1/1991	8/12/1991	0	4
Commissioner of Insurance	Margurite Stokes	4/1/1983	4/1/1991	8	0
Acting Superintendent of Insurance	James R. Montgomery III	11/8/1978	4/1/1983	3	10
Superintendent of Insurance	Maximilian ‘Max’ Wallach <i>(Died Nov. 7, 1978)</i>	11/24/1973	11/7/1978	4	10
Acting Superintendent of Insurance	Maximilian ‘Max’ Wallach <i>(Died Nov. 7, 1978)</i>	9/16/1973	11/24/1973	0	2
Superintendent of Insurance	Edward P. Lombard	3/1/1970	9/14/1973	3	6
Acting Superintendent of Insurance	Edward P. Lombard	1/24/1970	3/1/1970	0	2
Superintendent of Insurance	Albert F. Jordan	8/1/1939	1/23/1970	30	5
Superintendent of Insurance	J. Balch Moor <i>(Died July 22, 1939)</i>	3/23/1936	7/22/1939	3	4
Superintendent of Insurance	John A. Marshall	2/19/1934	3/23/1936	2	1
Superintendent of Insurance	Herbert L. Davis	5/1/1931	2/19/1934	2	9
Acting Superintendent of Insurance	Frank B. Bryan, Jr.	4/28/1931	5/1/1931	0	1
Superintendent of Insurance	Thomas M. Baldwin, Jr.	9/16/1924	4/28/1931	7	1
Acting Superintendent of Insurance	Thomas M. Baldwin, Jr.	3/29/1924	9/16/1924	0	6
Superintendent of Insurance	Burt A. Miller	6/22/1922	3/28/1924	1	9
Superintendent of Insurance	Lewis A. Griffith	6/4/1919	6/22/1922	3	0
Superintendent of Insurance	Lee B. Mosher	11/14/1917	5/7/1919	1	6
Acting Superintendent of Insurance	Charles C. Wright	10/22/1917	11/14/1917	0	1
Superintendent of Insurance	Charles F. Nesbit	1/10/1914	10/22/1917	3	9
Superintendent of Insurance	George W. Ingham	11/17/1910	12/22/1913	3	1
Acting Superintendent of Insurance	Daniel E. Curry	7/23/1910	11/17/1910	0	4
Superintendent of Insurance	Thomas E. Drake <i>(Died July 23, 1910)</i>	1/1/1902	7/23/1910	8	6
Assessor of the District	Hopewell H. Darnelle	12/1/1899	12/31/1901	1	1
Assessor of the District	Matthew Trimble	3/16/1890	12/1/1899	9	9
Assessor of the District	Roger Williams	3/19/1889	3/16/1890	1	0
Assessor of the District	Roswell A. Fish	5/23/1887	3/19/1889	1	10
Treasurer and Assessor	Robert P. Dodge <i>(Died May 21, 1887)</i>	7/11/1876	5/21/1887	10	10
Treasurer of the District	James S. Wilson	12/1/1873	7/11/1876	2	8
Treasurer of the District	John T. Johnson	10/18/1871	11/29/1873	2	1
FLORIDA—Appointed, at the Pleasure of the Financial Services Commission					
Insurance Commissioner	David Altmaier	4/29/2016		incumbent	
Insurance Commissioner	Kevin M. McCarty	1/9/2003	4/29/2016	13	0
State Treasurer/Ins. Commissioner	C. Thomas ‘Tom’ Gallagher	1/3/2001	1/3/2003	2	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
FLORIDA—Continued					
State Treasurer/Ins. Commissioner	C. William 'Bill' Nelson	1/3/1995	1/3/2001	6	0
State Treasurer/Ins. Commissioner	C. Thomas 'Tom' Gallagher	1/3/1989	1/3/1995	6	0
State Treasurer/Ins. Commissioner	William D. 'Bill' Gunter	11/9/1976	1/3/1989	12	2
State Treasurer/Ins. Commissioner	Philip F. Ashler	6/3/1975	11/9/1976	1	5
State Treasurer/Ins. Commissioner	Thomas D. O'Malley	1/5/1971	6/3/1975	4	5
State Treasurer/Ins. Commissioner	Broward Williams	1/25/1965	1/5/1971	5	11
State Treasurer/Ins. Commissioner	J. Edwin Larson (Died Jan. 24, 1965)	1/7/1941	1/24/1965	24	0
State Treasurer/Ins. Commissioner	William V. Knott	9/28/1928	1/7/1941	12	3
State Treasurer/Ins. Commissioner	John C. Luning (Died Sept. 26, 1928)	2/19/1912	9/26/1928	16	7
State Treasurer	William V. Knott	3/1/1903	2/19/1912	8	11
State Treasurer	James B. Whitfield	6/19/1897	3/1/1903	5	9
State Treasurer	Clarence B. Collins	1/3/1893	6/19/1897	4	5
State Treasurer	Eduardo J. Triay	12/31/1891	1/3/1893	2	0
State Treasurer	Francis J. Pons (Died Dec. 24, 1981)	1/8/1889	12/24/1891	2	11
State Treasurer	Edward S. Crill	2/19/1885	1/8/1889	3	11
State Treasurer	Henry A. L'Engle	2/1/1881	2/19/1885	4	0
State Treasurer	Walter H. Gwynn	1/9/1877	2/1/1881	3	11
State Treasurer	Charles H. Foster	1/16/1873	1/9/1877	4	0
State Treasurer	Simon B. Conover	5/24/1871	1/16/1873	1	4

FLORIDA (Department of Financial Services)—Elected; 4-Year Term					
Chief Financial Officer	Jimmy T. Patronis, Jr. (Appointed June 25, 2017; Elected Nov. 6, 2018)	6/30/2017		incumbent	
Chief Financial Officer	Jeffrey H. 'Jeff' Atwater	1/4/2011	6/30/2017	6	6
Chief Financial Officer	Adelaide Alexander 'Alex' Sink	1/2/2007	1/4/2011	4	0
Chief Financial Officer	C. Thomas 'Tom' Gallagher	1/3/2003	1/2/2007	4	0

GEORGIA—Elected; 4-Year Term					
Insurance Commissioner	John F. King (Appointed June 12, 2019)	7/1/2019		incumbent	
Insurance Commissioner	Position Vacant	5/16/2019	7/1/2019	0	2
Insurance Commissioner	Jim Beck (Suspended May 16, 2019)	1/14/2019	5/16/2019	0	4
Insurance Commissioner	Ralph T. Hudgens	1/10/2011	1/13/2019	8	0
Insurance Commissioner	John Oxendine	1/20/1995	1/1/2011	16	0
Insurance Commissioner	Tim Ryles	1/20/1991	1/20/1995	4	0
Insurance Commissioner	Warren D. Evans	11/1/1985	1/3/1991	5	2
Ins. Commissioner/Comptroller General	Johnnie L. Caldwell	1/12/1971	11/1/1985	14	0
Ins. Commissioner/Comptroller General	James L. Bentley	1/1/1963	11/1/1971	8	10
Ins. Commissioner/Comptroller General	Zachariah D. 'Zack' Cravey	1/1/1947	1/1/1963	16	0
Ins. Commissioner/Comptroller General	William R. Mitchell	6/25/1946	1/1/1947	0	7
Ins. Commissioner/Comptroller General	Homer C. Parker (Died June 22, 1946)	1/14/1941	6/22/1946	5	5
Ins. Commissioner/Comptroller General	C. Downing Musgrove	6/7/1940	1/14/1941	0	7
Ins. Commissioner/Comptroller General	William B. Harrison (Died June 3, 1940)	1/12/1937	6/3/1940	3	5
Ins. Commissioner/Comptroller General	Homer C. Parker	6/16/1936	1/12/1937	0	7

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
GEORGIA—Continued					
Ins. Commissioner/Comptroller General	Glenn B. Carreker	2/24/1936	6/16/1936	0	4
Ins. Commissioner/Comptroller General	William B. Harrison	9/18/1929	2/24/1936	6	5
Ins. Commissioner/Comptroller General	William A. Wright (Died Sept. 13, 1929)	9/17/1879	9/13/1929	50	0
Comptroller-General	Washington L. Goldsmith	1/11/1873	9/17/1879	6	8
Comptroller-General	Madison Bell	5/24/1871	1/11/1873	1	8
GUAM—Appointed, at the pleasure of the Governor					
Cmsr. of Banking and Insurance	Michelle B. Santos	12/7/2020		incumbent	
Director of Rev. & Taxation/Acting Cmsr. of Banking & Insurance	Dafne M. Shimizu	1/7/2019	12/7/2020	1	11
Director of Rev. & Taxation/Acting Cmsr. of Banking & Insurance	John P. Camacho	2/5/2018	12/31/2018	0	10
Cmsr. of Banking and Insurance	Artemio B. 'Art' Ilagan	5/17/2011	2/5/2018	6	9
Director of Rev. & Taxation/Acting Cmsr. of Banking & Insurance	John P. Camacho	1/3/2011	5/17/2011	0	4
Cmsr. of Banking and Insurance	John P. Camacho	10/29/2008	1/3/2011	2	3
Director of Rev. & Taxation/Acting Cmsr. of Banking & Insurance	Artemio B. 'Art' Ilagan	1/1/2008	10/29/2008	0	9
Cmsr. of Banking and Insurance	John P. Camacho	6/26/2007	1/1/2008	0	7
Director of Rev. & Taxation/Acting Cmsr. of Banking & Insurance	Artemio B. 'Art' Ilagan	3/9/2007	6/26/2007	0	3
Cmsr. of Banking and Insurance	Andreas J. 'Andy' Jordanou	8/27/2004	3/9/2007	2	7
Director of Revenue and Taxation	Artemio B. 'Art' Ilagan	1/6/2003	8/27/2004	1	7
Acting Director of Revenue and Taxation/Acting Insurance Cmsr.	George V. Cruz	9/28/2001	1/6/2003	1	4
Director of Revenue and Taxation/Insurance Commissioner	Joseph T. 'Joey' Duenas	1/1/1995	9/28/2001	6	8
Director of Revenue and Taxation/Insurance Commissioner	Joaquin G. Blaz	1/1/1988	1/1/1995	7	0
Acting Director of Revenue and Taxation/Acting Insurance Cmsr.	J.C. Carr Bettis	1/1/1987	1/1/1988	1	0
Director of Revenue and Taxation/Insurance Commissioner	David J. 'Dave' Santos	1/3/1983	1/1/1987	4	0
Director of Revenue and Taxation/Insurance Commissioner	Jose R. Rivera	1/2/1981	1/3/1983	2	0
Director of Revenue and Taxation/Insurance Commissioner	Ignacio C. Borja	1/2/1979	1/2/1981	2	0
Director of Revenue and Taxation/Insurance Commissioner	Manuel A. Chaco	1/6/1975	1/2/1979	4	0
Director of Revenue and Taxation/Insurance Commissioner	Joaquin G. Blaz	7/20/1969	12/31/1974	4	5
Director of Revenue and Taxation/Insurance Commissioner	Joaquin C. Guerrero	10/1/1968	7/20/1969	0	9
Director of Finance/Insurance Commissioner	Joaquin C. Guerrero	1/4/1965	10/1/1968	3	9
Acting Director of Finance/Acting Insurance Commissioner	Segundo C. Aguon	6/1/1964	1/4/1965	0	7
Acting Director of Finance/Acting Insurance Commissioner	Robert A. Smith	1/1/1964	6/1/1964	0	5
Director of Finance/Insurance Commissioner	George W. Ingling (Died March 26, 1979)	3/6/1961	1/1/1964	2	10
Director of Finance/Insurance Commissioner	Richard F. 'Dick' Taitano (Died Jan. 4, 1997)	6/8/1959	3/6/1961	0	9

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
HAWAII—Appointed, at the pleasure of the Director of Commerce and Consumer Affairs; approved by the Governor					
Insurance Commissioner	Colin M. Hayashida	1/1/2019		incumbent	
Insurance Commissioner	Gordon I. Ito	12/1/2010	12/31/2018	8	0
Acting Insurance Commissioner	Gordon I. Ito	7/20/2010	12/1/2010	0	5
Insurance Commissioner	J. P. Schmidt	2/3/2003	7/1/2010	7	5
Acting Insurance Commissioner	Gordon I. Ito	11/29/2002	2/3/2003	0	3
Insurance Commissioner	Wayne C. Metcalf	3/1/1999	11/1/2002	3	8
Insurance Commissioner	Rey Grauly	2/4/1997	3/1/1999	2	1
Insurance Commissioner	Wayne C. Metcalf	1/1/1995	2/1/1997	2	1
Insurance Commissioner	Lawrence M. Reifurth	3/1/1994	1/1/1995	0	10
Insurance Commissioner	Linda Chu Takayama	12/16/1991	2/28/1994	2	2
Insurance Commissioner	Robin Campaniano	1/1/1987	12/16/1991	4	11
Insurance Commissioner	Mario R. Ramil	5/1/1984	1/1/1987	2	8
Insurance Commissioner	Susan Kee-Young Park	7/1/1982	5/1/1984	1	10
Insurance Commissioner	Mary G. F. Bitterman	2/1/1981	7/1/1982	1	5
Insurance Commissioner	Tany S. Hong	1/1/1979	2/1/1981	1	11
Insurance Commissioner	Wayne Minami	1/1/1975	1/1/1979	4	0
Insurance Commissioner	Edwin H. Honda	1/8/1968	12/31/1974	6	11
Insurance Commissioner	Sidney I. Hashimoto	1/17/1963	1/1/1968	5	0
Insurance Commissioner	Charles H. Silva	1/1/1960	1/17/1963	3	0
Insurance Commissioner	Raymond Y. C. Ho	1/1/1959	1/1/1960	1	0
Insurance Commissioner	Kam Tai Lee	1/1/1953	1/1/1959	6	0
Insurance Commissioner	Sakae Takahashi	1/1/1952	1/1/1953	1	0
Insurance Commissioner	Howard H. Adams	1/1/1951	1/1/1952	1	0
Insurance Commissioner	William B. Brown	12/15/1947	1/1/1951	3	11
Insurance Commissioner	Walter D. Ackerman, Jr.	2/19/1943	12/15/1947	4	10
Insurance Commissioner	Norman D. Godbold, Jr.	11/7/1940	2/19/1943	2	3
Insurance Commissioner	W. C. McGonagle	6/30/1934	11/7/1940	6	5
Insurance Commissioner	E. S. Smith	7/15/1929	6/30/1934	4	11
Insurance Commissioner	Henry C. Hapai	11/1/1922	7/15/1929	6	8
Insurance Commissioner	A. Lewis, Jr.	12/1/1921	11/1/1922	0	11
Insurance Commissioner	Delbert E. Metzger	6/22/1918	12/1/1921	3	6
Insurance Commissioner	Charles J. McCarthy	10/31/1914	6/22/1918	3	8
Insurance Commissioner	David L. Conkling	7/1/1909	10/31/1914	5	3
Insurance Commissioner	A. J. Campbell	1/1/1907	7/1/1909	2	6
Insurance Commissioner	A. N. Keoikai	1/1/1903	1/1/1907	4	0
IDAHO—Appointed; 4-year term, subject to earlier removal by the Governor					
Insurance Director	Dean L. Cameron (Reappointed March 19, 2019)	6/15/2015		incumbent	
Acting Insurance Director	Thomas A. 'Tom' Donovan	1/5/2015	6/15/2015	0	5
Insurance Director	William W. 'Bill' Deal	1/2/2007	12/31/2014	7	11
Acting Insurance Director	Shad Priest	7/1/2006	1/1/2007	0	6
Insurance Director	Gary L. Smith	12/1/2004	6/30/2006	1	6
Insurance Director	Mary L. Hartung	1/4/1999	11/30/2004	5	10
Acting Insurance Director	Mary L. Hartung	4/17/1998	1/3/1999	0	9
Insurance Director	James M. Alcorn	3/1/1996	4/17/1998	2	1
Acting Insurance Director	James M. Alcorn	12/1/1995	3/1/1996	0	3
Insurance Director	John Michael 'Mike' Brassey	1/16/1995	12/1/1995	0	11
Acting Insurance Director	James M. Alcorn	6/1/1994	1/16/1995	0	7
Insurance Director	Harry C. Walrath	7/1/1991	6/1/1994	2	11
Acting Insurance Director	George J. Neumayer	3/1/1991	7/1/1991	0	4

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
IDAHO—Continued					
Insurance Director	Anthony J. 'Tony' Fagiano	1/5/1987	3/1/1991	4	2
Insurance Director	Wayne L. Soward	5/14/1984	1/5/1987	3	5
Insurance Director	Trent M. Woods	9/12/1980	5/14/1984	3	8
Insurance Director	Monroe C. Gollaher	1/1/1974	9/12/1980	6	8
Acting Insurance Commissioner	Monroe C. Gollaher	8/29/1973	1/1/1974	0	5
Insurance Commissioner	Robert Hay	4/18/1972	8/29/1973	1	4
Insurance Commissioner	John R. Blaine	1/11/1967	4/18/1972	6	3
Insurance Commissioner	Leo O'Connell	7/29/1950	1/11/1967	16	5
Insurance Commissioner	James Hubbard	7/1/1947	7/28/1950	3	0
Insurance Director	Edward B. McMonigle	8/1/1945	7/1/1947	1	11
Acting Insurance Director	Laura E. Dewey	4/5/1945	8/1/1945	0	4
Insurance Director	Howard C. Cullimore	5/21/1944	4/5/1945	0	11
Insurance Director	James A. Dement	4/8/1944	5/21/1944	0	1
Insurance Director	Howard C. Cullimore	1/4/1943	4/8/1944	1	3
Insurance Director	Joel Jenifer	1/7/1941	1/4/1943	2	0
Insurance Director	Ted M. Walrath	3/1/1939	1/7/1941	1	10
Insurance Director	Warren H. Bakes	3/2/1931	3/1/1939	8	0
Insurance Director	David C. Neifert	6/1/1924	3/1/1931	6	9
Insurance Director	Harry D. Smith	12/22/1922	6/1/1924	0	6
Insurance Director	Howard J. Brace	10/18/1919	12/22/1922	3	2
Insurance Director	Willet R. Hyatt	5/15/1917	10/18/1919	1	11
Insurance Commissioner	George F. Steele	7/1/1915	5/15/1917	1	10
Insurance Commissioner	Elmer F. Van Valkenberg	4/1/1913	7/1/1915	2	3
Insurance Commissioner	Isaac C. Hattabaugh	4/1/1911	4/1/1913	2	0
Insurance Commissioner	Charles D. Goaslind	8/24/1909	4/1/1911	1	7
ILLINOIS—Appointed, at the Pleasure of the Governor					
Director of Insurance	Dana Popish Severinghaus	2/22/2022		incumbent	
Acting Director of Insurance	Dana Popish Severinghaus	1/19/2021	2/22/2022	1	1
Interim Acting Director of Insurance	Shannon Whalen	12/11/2020	1/18/2021	0	1
Director of Insurance	Robert H. Muriel	5/31/2019	12/11/2020	1	7
Acting Director of Insurance	Robert H. Muriel	3/11/2019	5/31/2019	0	2
Acting Director of Insurance	Kevin Fry	1/25/2019	3/8/2019	0	2
Acting Director of Insurance	Karin Zosel	12/12/2018	1/25/2019	0	1
Director of Insurance	Jennifer Hammer	2/15/2017	12/10/2018	0	10
Acting Director of Insurance	Jennifer Hammer	1/17/2017	2/15/2017	0	1
Acting Director of Insurance	Anne Melissa Dowling	7/1/2015	1/17/2017	1	6
Acting Director of Insurance	James A. Stephens	1/12/2015	7/1/2015	0	6
Director of Insurance	Andrew Boron	1/27/2012	1/12/2015	3	0
Acting Director of Insurance	Robert E. 'Bob' Wagner	1/1/2012	1/27/2012	0	1
Acting Director of Insurance	Andrew R. Stolfi	10/1/2011	12/31/2011	0	2
Acting Director of Insurance	Jack Messmore	6/1/2011	10/1/2011	0	4
Director of Insurance	Michael T. McRaith	3/21/2005	5/31/2011	6	3
Acting Director of Insurance	Deirdre K. Manna	2/17/2004	3/21/2005	1	1
Director of Insurance	J. Anthony Clark	3/31/2003	1/31/2004	0	10
Acting Director of Insurance	Arnold Dutcher	1/1/2003	3/31/2003	0	2
Director of Insurance	Nathaniel S. 'Nat' Shapo	1/19/1999	1/1/2003	4	0
Acting Director of Insurance	Arnold Dutcher	2/27/1998	1/19/1999	0	11
Director of Insurance	Mark Boozell	7/1/1995	2/27/1998	2	7
Acting Director of Insurance	James W. 'Jim' Schacht	2/1/1994	7/1/1995	1	5
Director of Insurance	Stephen F. Selcke	9/3/1991	2/1/1994	2	5

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
ILLINOIS—Continued					
Acting Director of Insurance	James W. 'Jim' Schacht	2/15/1991	9/3/1991	0	7
Director of Insurance	Zachary 'Zack' Stamp	9/14/1989	2/15/1991	1	5
Director of Insurance	John E. Washburn	11/16/1983	9/14/1989	5	10
Acting Director of Insurance	James W. 'Jim' Schacht	7/19/1982	11/16/1983	1	4
Director of Insurance	Philip R. O'Connor	7/11/1979	7/19/1982	3	0
Director of Insurance	Richard L. Mathias	2/2/1977	7/11/1979	2	5
Director of Insurance	Michael P. Duncan	7/1/1976	2/2/1977	0	7
Acting Director of Insurance	Dennis W. Toivonen	6/14/1976	7/1/1976	0	1
Director of Insurance	Robert B. 'Bob' Wilcox	8/13/1974	6/14/1976	1	10
Director of Insurance	Fred A. Mauck	1/19/1973	8/13/1974	1	7
Director of Insurance	James R. Baylor	1/20/1969	1/19/1973	4	0
Director of Insurance	John F. Bolton, Jr.	2/16/1965	1/20/1969	3	11
Director of Insurance	Richard G. Hershey	1/29/1963	2/16/1965	2	1
Director of Insurance	Joseph S. Gerber	1/11/1957	1/29/1963	6	0
Director of Insurance	Justin T. McCarthy	8/30/1954	1/11/1957	2	5
Acting Director of Insurance	Laddie T. Pelnar	6/14/1954	8/30/1954	0	2
Director of Insurance	Robert E. Barrett (Died June 14, 1954)	1/11/1953	6/14/1954	1	5
Director of Insurance	J. Edward Day	9/1/1950	1/11/1953	2	4
Director of Insurance	Harry B. Hershey	1/17/1949	9/1/1950	1	8
Director of Insurance	Nellis P. Parkinson	4/4/1945	1/17/1949	3	9
Acting Director of Insurance	Nellis P. Parkinson	4/15/1944	4/4/1945	1	0
Director of Insurance	Paul F. Jones	1/15/1941	4/15/1944	3	3
Director of Insurance	C. Hayden Davis	11/7/1940	1/15/1941	0	2
Director of Insurance	Ernest Palmer	7/1/1933	11/7/1940	6	4
Insurance Superintendent	Ernest Palmer	1/23/1933	7/1/1933	0	6
Insurance Superintendent	Harry W. Hanson	7/1/1930	1/23/1933	2	6
Insurance Superintendent	George W. Huskinson	1/26/1927	7/1/1930	3	6
Director of Trade and Commerce	H. U. Bailey	1/27/1926	1/26/1927	1	0
Director of Trade and Commerce	Clifford C. Ireland	11/15/1923	1/27/1926	2	2
Insurance Superintendent	Thomas J. Houston	8/8/1921	11/15/1923	2	3
Insurance Superintendent	Frederick W. 'Fred' Potter	5/15/1917	8/8/1921	4	3
Insurance Superintendent	Rufus M. Potts	8/11/1913	5/15/1917	3	9
Insurance Superintendent	Frederick W. 'Fred' Potter	1/1/1907	8/11/1913	6	7
Insurance Superintendent	William R. Vredenburg	5/2/1903	1/1/1907	3	8
Insurance Superintendent	Henry Yates (Died May 1, 1903)	5/6/1901	5/1/1903	2	0
Insurance Superintendent	James R. B. Van Cleave	5/1/1897	5/6/1901	4	0
Insurance Superintendent	Bradford K. Durfee	7/13/1893	5/1/1897	3	10
Auditor of State	David P. Gore	1/10/1893	7/13/1893	0	6
Auditor of State	Charles W. Pavey	1/14/1889	1/10/1893	4	0
Auditor of State	Charles P. Swigert	1/10/1881	1/14/1889	8	0
Auditor of State	Thomas B. Needles	1/8/1877	1/10/1881	4	0
Auditor of State	Charles E. Lippencott	5/24/1871	1/8/1877	5	8
INDIANA—Appointed, at the Pleasure of the Governor					
Commissioner of Insurance	Amy L. Beard	6/2/2021		incumbent	
Commissioner of Insurance	Stephen W. 'Steve' Robertson	10/13/2010	6/1/2021	10	8

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
INDIANA—Continued					
Acting Commissioner of Insurance	Stephen W. ‘Steve’ Robertson NOTE: Robertson began serving as acting commissioner when Cutter went on medical leave in June 2010.	6/14/2010	10/13/2010	0	4
Commissioner of Insurance	Carol Cutter <i>(Died Sept. 6, 2010)</i>	6/22/2009	9/6/2010	1	3
Commissioner of Insurance	James D. ‘Jim’ Atterholt	2/22/2005	6/22/2009	4	4
Acting Commissioner of Insurance	James D. ‘Jim’ Atterholt	1/10/2005	2/22/2005	0	1
Interim Commissioner of Insurance	Amy E. Strati	7/15/2004	1/10/2005	0	6
Commissioner of Insurance	Sarah Ann ‘Sally’ McCarty	6/26/1997	7/15/2004	7	1
Commissioner of Insurance	John J. Quinn	4/16/1997	6/26/1997	0	2
Commissioner of Insurance	Marjorie Maginn	7/12/1996	4/16/1997	0	9
Commissioner of Insurance	Donna D. Bennett	6/24/1994	7/12/1996	2	1
Interim Commissioner of Insurance	Donna D. Bennett	2/17/1994	6/24/1994	0	4
Commissioner of Insurance	John F. ‘Jack’ Mortell	9/1/1991	2/16/1994	2	5
Acting Commissioner of Insurance	John F. ‘Jack’ Mortell	7/15/1991	9/1/1991	0	2
Commissioner of Insurance	John J. Dillon III	7/3/1989	7/15/1991	2	0
Acting Commissioner of Insurance	Bettye L. Foy	1/9/1989	7/3/1989	0	6
Commissioner of Insurance	Harry E. Eakin	4/1/1985	1/9/1989	3	9
Commissioner of Insurance	Donald H. ‘Don’ Miller	2/16/1981	4/1/1985	4	2
Commissioner of Insurance	H. Peter ‘Pete’ Hudson	12/10/1979	2/16/1981	1	2
Acting Commissioner of Insurance	Richard S. Baldwin	11/15/1979	12/10/1979	0	1
Commissioner of Insurance	H. Peter ‘Pete’ Hudson	8/4/1975	11/15/1979	4	3
Commissioner of Insurance	Lloyd M. Allen	4/23/1973	8/4/1975	2	4
Commissioner of Insurance	Oscar H. Ritz	1/13/1969	4/23/1973	4	4
Commissioner of Insurance	Joseph G. Wood, Sr.	2/1/1965	1/13/1969	3	11
Commissioner of Insurance	Harry E. McClain	1/10/1961	2/1/1965	4	1
Commissioner of Insurance	James K. Ashley	6/15/1960	1/10/1961	0	7
Commissioner of Insurance	Alden C. Palmer	1/16/1957	6/15/1960	3	5
Commissioner of Insurance	William J. Davey	10/15/1955	1/16/1957	1	3
Commissioner of Insurance	Harry E. Wells	1/12/1953	10/15/1955	2	9
Commissioner of Insurance	Frank J. Viehmann	1/10/1949	1/12/1953	4	0
Commissioner of Insurance	John D. Pearson	1/8/1945	1/10/1949	4	0
Commissioner of Insurance	Frank J. Viehmann	3/1/1940	1/8/1945	4	10
Commissioner of Insurance	George H. Newbauer	2/1/1937	3/1/1940	3	1
Commissioner of Insurance	Harry E. McClain	4/1/1933	2/1/1937	3	10
Commissioner of Insurance	John C. Kidd	1/1/1931	4/1/1933	2	3
Commissioner of Insurance	Clarence S. Wysong	10/1/1926	1/1/1931	4	3
Commissioner of Insurance	Thomas S. McMurray, Jr.	4/1/1921	10/1/1926	5	6
Commissioner of Insurance	Miles Schaeffer	10/1/1920	4/1/1921	0	6
State Auditor	Otto L. Klaus	12/1/1916	10/1/1920	3	10
State Auditor	Dale J. Crittenberger	12/1/1914	12/1/1916	2	0
State Auditor	William H. O’Brien	12/1/1910	12/1/1914	4	0
State Auditor	John C. Billheimer	11/24/1906	12/1/1910	4	0
State Auditor	Warren Bigler	9/14/1905	11/24/1906	1	2
State Auditor	David E. Sherrick	1/26/1903	9/14/1905	1	8
State Auditor	William H. Hart	1/26/1899	1/26/1903	4	0
State Auditor	Americus C. Dailey	1/26/1895	1/26/1899	4	0
State Auditor	John O. Henderson	1/26/1891	1/26/1895	4	0
State Auditor	Bruce Carr	1/26/1887	1/26/1891	4	0
State Auditor	James H. ‘Jim’ Rice	1/27/1883	1/26/1887	4	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
INDIANA—Continued					
State Auditor	Edward H. Wolfe	1/26/1881	1/27/1883	2	0
State Auditor	Mahlon D. Manson	1/27/1879	1/26/1881	2	0
State Auditor	Ebenezer Henderson	1/26/1875	1/27/1879	4	0
State Auditor	James A. Wildman	1/25/1873	1/26/1875	2	0
State Auditor	John C. Shoemaker	5/24/1871	1/25/1873	1	8
IOWA—Appointed, at the Pleasure of the Governor; 4-Year Term					
Commissioner of Insurance	Douglas M. 'Doug' Ommen	1/30/2017		incumbent	
Interim Commissioner of Insurance	Douglas M. 'Doug' Ommen	12/26/2016	1/30/2017	0	1
Commissioner of Insurance	Nicholas C. 'Nick' Gerhart	2/1/2013	12/23/2016	3	10
Commissioner of Insurance	Susan E. Voss	1/1/2005	1/31/2013	8	1
Commissioner of Insurance	Therese M. 'Terri' Vaughan	8/1/1994	12/31/2004	10	4
Commissioner of Insurance	David J. Lyons	11/21/1990	7/1/1994	3	7
Acting Commissioner of Insurance	David J. Lyons	6/1/1990	11/21/1990	0	6
Commissioner of Insurance	William D. Hager	7/1/1986	5/31/1990	3	11
Commissioner of Insurance	Fred M. Haskins	5/19/1986	6/30/1986	0	1
Commissioner of Insurance	Bruce W. Foudree	2/11/1980	5/19/1986	6	3
Acting Commissioner of Insurance	Richard S. Baldwin	10/8/1979	2/11/1980	0	4
Commissioner of Insurance	Herbert W. Anderson <i>(Died Oct. 8, 1979)</i>	6/17/1976	10/8/1979	3	4
Commissioner of Insurance	William H. Huff III	7/1/1971	6/17/1976	4	11
Commissioner of Insurance	Lorne R. Worthington	1/1/1967	7/1/1971	4	6
Commissioner of Insurance	William E. Timmons	7/1/1959	12/31/1966	7	6
Commissioner of Insurance	Oliver P. Bennett	10/12/1955	6/30/1959	3	8
Commissioner of Insurance	Charles R. Fischer	7/1/1951	10/12/1955	4	3
Commissioner of Insurance	Sterling Alexander	7/1/1947	6/30/1951	4	0
Commissioner of Insurance	Charles R. Fischer	2/11/1939	6/30/1947	8	4
Commissioner of Insurance	Maurice V. Pew	2/15/1938	2/9/1939	1	0
Commissioner of Insurance	Ray Murphy	7/1/1935	2/15/1938	2	7
Commissioner of Insurance	Edward W. Clark	6/23/1931	7/1/1935	4	1
Commissioner of Insurance	Ray A. Yenter	3/1/1926	6/23/1931	5	3
Commissioner of Insurance	William R. C. Kendrick	2/1/1923	3/1/1926	3	1
Commissioner of Insurance	Arthur C. Savage	2/3/1919	2/1/1923	4	0
Commissioner of Insurance	John F. Taake	1/16/1918	2/3/1919	1	1
Commissioner of Insurance	Emory H. English	7/1/1914	1/16/1918	3	7
State Auditor	John L. Bleakley	11/3/1908	7/1/1914	5	8
State Auditor	Beryl F. Carroll	11/4/1902	11/3/1908	6	0
State Auditor	Frank F. Merriam	11/8/1898	11/4/1902	4	0
State Auditor	Cornelius G. McCarthy	11/8/1892	11/8/1898	6	0
State Auditor	James A. Lyons	11/2/1886	11/8/1892	6	0
State Auditor	John L. Brown	7/14/1886	11/2/1886	0	4
State Auditor	Charles Beardsley	4/13/1886	7/14/1886	0	3
State Auditor	John L. Brown	1/23/1886	4/13/1886	0	3
State Auditor	Jonathan W. Cattell	3/19/1885	1/23/1886	0	10
State Auditor	John L. Brown	10/7/1882	3/19/1885	2	5
State Auditor	William V. Lucas	11/2/1880	10/7/1882	1	11
State Auditor	Buren R. Sherman	10/13/1874	11/2/1880	6	1
State Auditor	John Russell	10/18/1871	10/13/1874	3	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
KANSAS—Elected; 4-Year Term					
Commissioner of Insurance	Vicki Schmidt (Elected Nov. 6, 2018)	1/14/2019		incumbent	
Commissioner of Insurance	Kenneth A. 'Ken' Selzer	1/12/2015	1/14/2019	4	0
Commissioner of Insurance	Sandra K. 'Sandy' Praeger	1/13/2003	1/12/2015	12	0
Commissioner of Insurance	Kathleen Sebelius	1/9/1995	1/13/2003	8	0
Commissioner of Insurance	Ronald L. 'Ron' Todd	1/14/1991	1/9/1995	4	0
Commissioner of Insurance	W. Fletcher Bell	1/11/1971	1/14/1991	20	0
Commissioner of Insurance	Frank Sullivan	1/13/1947	1/1/1971	24	0
Commissioner of Insurance	Charles F. Hobbs	1/14/1929	1/13/1947	18	0
Superintendent of Insurance	William R. Baker	1/8/1923	1/14/1929	6	0
Superintendent of Insurance	Frank L. Travis	1/13/1919	1/8/1923	4	0
Superintendent of Insurance	Carey J. Wilson	1/11/1915	1/13/1919	4	0
Superintendent of Insurance	Isaac S. 'Ike' Lewis	1/9/1911	1/11/1915	4	0
Superintendent of Insurance	Charles W. Barnes	1/1/1907	1/9/1911	4	0
Superintendent of Insurance	Charles H. Luling	1/1/1903	1/1/1907	4	0
Superintendent of Insurance	Willard V. Church	1/1/1899	1/1/1903	4	0
Superintendent of Insurance	Webb McNall	1/1/1897	1/1/1899	2	0
Superintendent of Insurance	Alexander P. Riddle	1/1/1896	1/1/1897	1	0
Superintendent of Insurance	George Tobey Anthony	1/1/1895	1/1/1896	1	0
Superintendent of Insurance	Simon H. Snider	1/1/1893	1/1/1895	2	0
Superintendent of Insurance	William H. McBride	1/1/1891	1/1/1893	2	0
Superintendent of Insurance	Daniel W. Wilder	1/1/1887	1/1/1891	4	0
Superintendent of Insurance	Richard D. Morris	1/1/1883	1/1/1887	4	0
Superintendent of Insurance	Orrin T. Welch	1/1/1875	1/1/1883	8	0
Superintendent of Insurance	Harrison Clarkson	1/1/1874	1/1/1875	1	0
Superintendent of Insurance	Edward Russell	1/1/1873	1/1/1874	1	0
Superintendent of Insurance	William C. Webb	5/24/1871	1/1/1873	1	8
KENTUCKY—Appointed, at the Pleasure of the Governor					
Commissioner of Insurance	Sharon P. Clark	1/6/2020		incumbent	
Commissioner of Insurance	Nancy G. Atkins	5/1/2017	1/3/2020	2	8
Commissioner of Insurance	Brian Maynard	1/12/2016	4/30/2017	1	3
Commissioner of Insurance	Sharon P. Clark	6/30/2008	1/11/2016	7	6
Acting Commissioner of Insurance	John Burkholder	3/1/2008	6/30/2008	0	4
Acting Commissioner of Insurance	Timothy LeDonne	12/1/2007	3/1/2008	0	3
Commissioner of Insurance	Julie Mix McPeak	7/17/2006	12/1/2007	1	5
Executive Director	Glenn Jennings	4/27/2005	7/17/2006	1	3
Executive Director	Martin J. Koettters	7/15/2004	4/27/2005	0	9
Acting Commissioner of Insurance	Glenn Jennings	12/1/2003	7/15/2004	0	7
Commissioner of Insurance	Janie A. Miller	12/1/2000	12/1/2003	3	0
Commissioner of Insurance	George Nichols III	4/1/1996	12/1/2000	4	8
Commissioner of Insurance	Theodore 'Ted' Rich	1/24/1996	4/1/1996	0	3
Acting Commissioner of Insurance	Laura Douglas	12/29/1995	1/24/1996	0	1
Acting Commissioner of Insurance	Suetta Dickinson	12/8/1995	12/29/1995	0	1
Commissioner of Insurance	Donald W. 'Don' Stephens	11/16/1992	12/8/1995	3	1
Commissioner of Insurance	Ronnie Moore	12/1/1991	11/16/1992	0	11
Commissioner of Insurance	Elizabeth Wright	5/1/1990	12/1/1991	1	7
Commissioner of Insurance	Leroy Morgan	3/1/1988	5/1/1990	2	2
Commissioner of Insurance	Gill McCarty	12/1/1983	3/1/1988	4	3
Commissioner of Insurance	Daniel D. Briscoe	1/1/1980	12/1/1983	3	11

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
KENTUCKY—Continued					
Acting Commissioner of Insurance	Donald N. Rhody	12/1/1979	12/31/1979	0	1
Commissioner of Insurance	Harold B. McGuffey	12/8/1971	12/1/1979	8	0
Commissioner of Insurance	Robert D. Preston	12/1/1968	12/8/1971	3	0
Acting Commissioner of Insurance	Robert D. Preston	1/1/1968	12/1/1968	0	11
Commissioner of Insurance	S. Roy Woodall, Jr.	12/1/1966	12/31/1967	1	0
Commissioner of Insurance	William E. Bivin	1/1/1965	12/1/1966	1	11
Commissioner of Insurance	J. Elliott Flanery	12/1/1963	12/31/1964	1	0
Commissioner of Insurance	Lawrence D. Cassady	1/1/1963	12/1/1963	0	11
Commissioner of Insurance	William T. Hockensmith	11/1/1960	12/31/1962	2	1
Commissioner of Insurance	C. P. Thurman	1/1/1957	11/1/1960	3	10
Commissioner of Insurance	S. H. Goebel	6/1/1953	12/31/1956	3	6
Commissioner of Insurance	Spaulding Southall	5/1/1949	6/1/1953	4	1
Commissioner of Insurance	Cad. P. Thurman	4/1/1948	5/1/1949	1	1
Commissioner of Insurance	Harry B. Wilson	5/1/1945	4/1/1948	2	11
Commissioner of Insurance	Sherman Goodpaster	6/1/1936	5/1/1945	8	11
Commissioner of Insurance	J. Dan Talbott	1/31/1936	6/1/1936	0	5
Acting Commissioner of Insurance	Charles I. Brown	1/1/1936	1/31/1936	0	1
Commissioner of Insurance	McKay Reed	4/11/1935	1/1/1936	0	9
Commissioner of Insurance	Gemill B. Senff	11/1/1932	4/1/1935	2	5
Commissioner of Insurance	Bush W. Allin	4/1/1929	11/1/1932	3	7
Commissioner of Insurance	Shelton M. Saufley	1/1/1924	4/1/1929	5	3
Commissioner of Insurance	A. M. Wash	5/1/1923	1/1/1924	0	8
Commissioner of Insurance	James F. Ramey	1/1/1920	5/1/1923	3	4
Commissioner of Insurance	Charles F. Thomas	3/1/1916	1/1/1920	3	10
Commissioner of Insurance	M. C. Clay	3/1/1912	3/1/1916	4	0
Commissioner of Insurance	Charles W. Bell	9/1/1907	3/1/1912	4	6
Commissioner of Insurance	Henry R. Prewitt	9/1/1904	9/1/1907	3	0
Commissioner of Insurance	John B. Chenault	9/1/1900	9/1/1904	4	0
Commissioner of Insurance	Will H. Stone	9/1/1898	9/1/1900	2	0
Commissioner of Insurance	David N. Comingore	9/22/1896	9/1/1898	2	0
Commissioner of Insurance	Henry F. Duncan	8/1/1890	9/1/1896	6	1
Commissioner of Insurance	Leslie C. Norman	9/20/1881	8/1/1890	8	11
Commissioner of Insurance	Bedford Leslie	9/18/1877	9/1/1881	4	0
Insurance Commissioner	Gustavus W. Smith	5/24/1871	9/19/1876	5	4

LOUISIANA—Elected; 4-Year Term					
Insurance Commissioner	James J. 'Jim' Donelon <i>(Appointed Feb. 15, 2006; Elected Sept. 30, 2006; Re-elected Oct. 20, 2007; Re-elected Oct. 22, 2011; Re-elected Oct. 24, 2015; Re-elected Oct. 12, 2019)</i>	2/15/2006		incumbent	
Insurance Commissioner	J. Robert 'Robert' Wooley	4/1/2003	2/15/2006	2	10
Acting Insurance Commissioner	J. Robert 'Robert' Wooley	10/1/2000	4/1/2003	2	6
Insurance Commissioner	James H. 'Jim' Brown	12/1/1991	10/1/2000	8	10
Acting Insurance Commissioner	Darrell Cobb	8/1/1991	12/1/1991	0	4
Acting Insurance Commissioner	Hunter O. Wagner, Jr.	3/1/1991	8/1/1991	0	5
Insurance Commissioner	Doug Green	4/1/1988	3/1/1991	2	11
Insurance Commissioner	Sherman A. Bernard	5/1/1972	4/1/1988	15	11
Insurance Commissioner	Dudley A. Guglielmo	5/1/1964	5/1/1972	8	0
Commissioner of Insurance	Rufus D. Hayes	8/1/1956	5/1/1964	7	9

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
LOUISIANA—Continued					
Secretary of State/Insurance Cmsr.	Wade O. Martin, Jr.	12/4/1944	6/1/1956	11	6
Secretary of State/Insurance Cmsr.	James A. Gremillion	6/24/1940	6/7/1943	3	0
Insurance Commissioner	Eugene A. Conway	6/22/1932	2/19/1940	7	8
Insurance Commissioner	John D. Saint	9/8/1930	5/1/1932	1	8
Insurance Commissioner	James J. Bailey	9/30/1916	12/1/1929	13	3
Insurance Commissioner	William E. Millsaps	9/21/1915	9/29/1916	1	0
Acting Deputy Insurance Commissioner	Richard Flower	3/10/1915	4/1/1915	0	1
Secretary of State/Ins. Commissioner	Alvin E. Hebert <i>(Died March 9, 1915)</i>	7/23/1912	3/9/1915	2	8
Deputy Insurance Commissioner	E. J. O'Brien	5/1/1911	5/1/1912	1	0
Deputy Insurance Commissioner	Edward Everett	1/1/1911	5/1/1911	0	4
Assistant Secretary of State/Ins. Commissioner	Eugene J. McGivney	9/29/1903	9/30/1910	7	0
Secretary of State/Ins. Commissioner	<i>No Record in NAIC Proceedings</i>	9/13/1898	9/25/1902	4	0
Deputy Insurance Commissioner	Edward Newman	1897	1898	1	
Deputy Insurance Commissioner	John J. McCann	1896	1897	0	
Deputy Insurance Commissioner	John T. Michel	1896	1896	0	
Deputy Insurance Commissioner	W. B. Spencer	10/1/1895	1896	1	
Deputy Insurance Commissioner	George Spencer	10/1/1894	10/1/1895	1	0
Deputy Insurance Commissioner	W. B. Spencer	10/1/1891	10/1/1894	3	0
Deputy Insurance Commissioner	L. F. Mason	10/1/1889	10/1/1891	2	0
Secretary of State	Simeon Toby	8/6/1888	10/1/1891	3	2
Deputy Insurance Commissioner	Oscar Orroyo	10/1/1885	10/1/1889	4	0
Deputy Insurance Commissioner	William A. Strong	9/1/1878	9/25/1884	6	0
Secretary of State	<i>No Record in NAIC Proceedings</i>	4/16/1872	8/27/1878	6	4
Secretary of State	Richard Gaines	10/18/1871	4/15/1872	0	6
Secretary of State	George E. Bovee	5/24/1871	10/18/1871	0	5
MAINE—Appointed; 5-Year Term					
Acting Superintendent of Insurance	Timothy N. Schott	4/1/2022		Incumbent	
Superintendent of Insurance	Eric A. Cioppa	9/27/2011	3/31/2022	10	6
Acting Superintendent of Insurance	Eric A. Cioppa	6/1/2011	9/27/2011	0	3
Superintendent of Insurance	Mila Kofman	3/1/2008	5/31/2011	3	2
Acting Superintendent of Insurance	Eric A. Cioppa	1/14/2007	2/28/2008	1	1
Superintendent of Insurance	Alessandro A. 'Al' Iuppa	2/4/1998	1/13/2007	8	11
Acting Superintendent of Insurance	Alessandro A. 'Al' Iuppa	8/30/1997	2/4/1998	0	6
Superintendent of Insurance	Brian K. Atchinson	5/20/1992	8/29/1997	5	3
Acting Superintendent of Insurance	Richard Johnson	10/22/1991	5/19/1992	0	7
Acting Superintendent of Insurance	Jeri E. Brown	9/1/1991	10/21/1991	0	1
Superintendent of Insurance	Joseph A. 'Joe' Edwards	6/1/1987	9/1/1991	4	3
Acting Superintendent of Insurance	Everard B. Stevens	11/10/1986	6/1/1987	0	7
Superintendent of Insurance	Theodore T. 'Ted' Briggs	5/21/1979	11/10/1986	7	6
Superintendent of Insurance	Frank M. Hogerty, Jr.	10/3/1973	5/20/1979	5	7
Commissioner of Insurance	Frank M. Hogerty, Jr.	11/15/1967	10/3/1973	5	11
Acting Commissioner of Insurance	Harold E. Trahey	6/2/1967	11/15/1967	0	5
Commissioner of Insurance	George F. Mahoney <i>(Died June 1, 1967)</i>	6/18/1951	6/1/1967	16	0
Commissioner of Insurance	David B. Soule	6/12/1947	6/18/1951	4	0
Commissioner of Insurance	Alfred W. Perkins	1/14/1946	3/5/1947	1	2
Acting Insurance Commissioner	Guy R. Whitten <i>(Alfred W. Perkins on leave of absence for military service)</i>	1/13/1944	1/13/1946	2	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MAINE—Continued					
Commissioner of Insurance	Alfred W. Perkins	5/1/1942	1/12/1944	1	8
Commissioner of Insurance	Pearce J. Francis (Died Feb. 13, 1942)	12/30/1940	2/13/1942	1	2
Commissioner of Insurance	C. Waldo Lovejoy	3/23/1937	11/12/1940	3	8
Commissioner of Insurance	Wilbur D. Spencer	5/3/1923	3/22/1937	13	10
Acting Commissioner of Insurance	Leon W. Helson	11/26/1922	5/2/1923	0	6
Commissioner of Insurance	G. Waldon Smith	4/24/1918	11/25/1922	4	7
Acting Commissioner of Insurance	Ivan E. Lang	1/1/1918	4/24/1918	0	3
Commissioner of Insurance	Erastus J. Carter	2/1/1915	1/1/1918	2	11
Commissioner of Insurance	J. Wallace Blunt	7/1/1913	2/1/1915	1	7
Commissioner of Insurance	Andrew P. Havey	12/9/1911	7/1/1913	1	7
Commissioner of Insurance	Beecher Putnam	1/1/1909	12/9/1911	2	11
Commissioner of Insurance	Stephen W. Carr	12/26/1893	1/1/1909	15	0
Commissioner of Insurance	Joseph O. Smith	1/1/1885	12/26/1893	9	0
Commissioner of Insurance	Frank E. Nye	9/1/1884	11/20/1884	0	2
Commissioner of Insurance	Oramandal Smith	4/1/1883	9/1/1884	1	5
Commissioner of Insurance	Joseph B. Peaks	3/1/1880	4/1/1883	3	1
Commissioner of Insurance	William Philbrick	5/5/1879	3/1/1880	0	10
Commissioner of Insurance	Joshua Nye	4/26/1873	5/5/1879	6	0
Commissioner of Insurance	Albert W. Paine	5/24/1871	4/26/1873	1	11

MARYLAND—Appointed, at the Pleasure of the Governor; 4-Year Term					
Commissioner of Insurance	Kathleen A. Birrane	5/18/2020		incumbent	
Commissioner of Insurance	Alfred W. 'Al' Redmer, Jr.	1/22/2015	5/15/2020	5	4
Commissioner of Insurance	Therese M. Goldsmith	6/13/2011	1/21/2015	3	7
Acting Commissioner of Insurance	Elizabeth 'Beth' Sammis	1/1/2010	6/13/2011	1	5
Commissioner of Insurance	Ralph S. Tyler III	9/1/2007	1/1/2010	2	4
Interim Commissioner of Insurance	Peggy J. Watson	6/1/2007	9/1/2007	0	3
Commissioner of Insurance	R. Steven 'Steve' Orr	1/1/2006	5/31/2007	1	4
Acting Commissioner of Insurance	James V. 'Jim' McMahan	10/1/2005	1/1/2006	0	3
Commissioner of Insurance	Alfred W. 'Al' Redmer, Jr.	6/1/2003	10/1/2005	2	4
Commissioner of Insurance	Steven B. 'Steve' Larsen	6/16/1997	6/1/2003	6	0
Acting Commissioner of Insurance	Charles B. Kelly III	5/1/1997	6/1/1997	0	1
Commissioner of Insurance	Dwight K. Bartlett III	5/1/1993	5/1/1997	4	0
Commissioner of Insurance	John A. Donaho	5/1/1989	5/1/1993	4	0
Commissioner of Insurance	E. Susan Kellogg	7/1/1988	5/1/1989	0	10
Acting Commissioner of Insurance	Martha Roach	1/1/1988	7/1/1988	0	6
Commissioner of Insurance	Edward J. Muhl	7/1/1982	1/1/1988	5	6
Commissioner of Insurance	Edward J. Birrane, Jr.	7/1/1976	7/1/1982	5	0
Commissioner of Insurance	Thomas J. Hatem	7/16/1970	7/1/1976	6	0
Commissioner of Insurance	Newton I. Steers, Jr.	5/15/1967	7/15/1970	3	2
Commissioner of Insurance	Norman Polovoy	12/16/1966	5/15/1967	0	5
Commissioner of Insurance	Francis B. 'Bill' Burch	7/15/1965	12/16/1966	1	5
Commissioner of Insurance	F. Douglass Sears	5/4/1959	6/24/1965	6	2
Commissioner of Insurance	Charles S. Jackson	12/17/1952	5/4/1959	6	5
Acting Commissioner of Insurance	John H. Coppage	8/18/1952	12/17/1952	0	4
Commissioner of Insurance	Harvey M. Chesney (Died Aug. 17, 1952)	5/8/1951	8/17/1952	1	3
Commissioner of Insurance	Claude M. Hanley	5/1/1947	5/8/1951	4	0
Commissioner of Insurance	Lawrence E. Ensor	9/1/1943	5/1/1947	3	8
Commissioner of Insurance	John B. Gontrum	5/1/1939	9/1/1943	4	4

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MARYLAND—Continued					
Commissioner of Insurance	Wesley S. Hanna	5/1/1935	5/1/1939	4	0
Commissioner of Insurance	William C. Walsh	5/1/1931	5/1/1935	4	0
Commissioner of Insurance	Harrison Rider	3/1/1929	5/1/1931	2	2
Commissioner of Insurance	Carville D. Benson (Died Feb. 8, 1929)	8/1/1924	2/8/1929	4	6
Commissioner of Insurance	Harvey L. Cooper	9/1/1922	8/1/1924	1	11
Commissioner of Insurance	Thomas J. Keating	4/1/1919	9/1/1922	3	5
Commissioner of Insurance	William Mason Shehan	2/1/1912	3/1/1919	7	1
Commissioner of Insurance	Emerson C. Harrington	11/9/1910	1/31/1912	1	2
Commissioner of Insurance	Benjamin F. Crouse (Died Nov. 8, 1910)	12/1/1905	11/8/1910	4	11
Commissioner of Insurance	Frank I. Duncan	1/10/1905	10/31/1905	0	10
Commissioner of Insurance	Lloyd Wilkinson	9/1/1900	1/9/1905	4	4
Commissioner of Insurance	F. Albert Kurtz	3/13/1896	9/1/1900	4	0
Commissioner of Insurance	Thomas B. Townsend	12/18/1895	3/13/1896	0	3
Commissioner of Insurance	I. Freeman Rasin	1/7/1893	12/14/1895	2	11
Commissioner of Insurance	J. Frederick C. Talbott	10/1/1889	1/7/1893	3	3
Commissioner of Insurance	Jesse K. Hines (Died Sept. 20, 1889)	2/1/1877	9/20/1889	12	7
Commissioner of Insurance	John M. Miller	4/29/1876	1/31/1877	0	9
Commissioner of Insurance	Position Vacant	1/31/1876	4/29/1876	0	3
Commissioner of Insurance	Charles A. Wailes (Died Jan. 31, 1876)	1/1/1872	1/31/1876	4	1
Chief Clerk of the Treasury and Superintendent of Insurance	Charles A. Wailes (Died Jan. 31, 1876)	5/24/1871	1/1/1872	0	7

MASSACHUSETTS—Appointed, at the Discretion of the Governor					
Commissioner of Insurance	Gary D. Anderson	10/31/2017		incumbent	
Acting Commissioner of Insurance	Gary D. Anderson	2/23/2017	10/31/2017	0	8
Commissioner of Insurance	Daniel R. Judson	4/1/2015	2/23/2017	1	10
Acting Commissioner of Insurance	Gary D. Anderson	12/1/2014	4/1/2015	0	4
Commissioner of Insurance	Joseph G. Murphy	2/8/2010	12/1/2014	4	10
Acting Commissioner of Insurance	Joseph G. Murphy	9/1/2009	2/8/2010	0	5
Commissioner of Insurance	Nonnie S. Burnes (Died Aug. 14, 2021)	2/1/2007	9/1/2009	2	7
Acting Commissioner of Insurance	Joseph G. Murphy	1/1/2007	2/1/2007	0	1
Commissioner of Insurance	Julianne M. 'Julie' Bowler	4/2/2002	1/1/2007	4	9
Commissioner of Insurance	Linda L. Ruthardt	8/1/1993	4/2/2002	8	8
Commissioner of Insurance	Kay Doughty	7/1/1991	6/30/1993	1	11
Acting Commissioner of Insurance	Susan Scott	1/1/1991	7/1/1991	0	6
Commissioner of Insurance	Timothy H. Gailey	7/1/1989	1/1/1991	1	6
Commissioner of Insurance	Roger M. Singer	7/16/1987	7/1/1989	2	0
Commissioner of Insurance	Peter Hiam	4/1/1983	7/16/1987	4	3
Commissioner of Insurance	Michael J. Sabbagh	6/1/1979	4/1/1983	3	10
Commissioner of Insurance	John G. Ryan	11/1/1971	6/1/1979	7	7
Commissioner of Insurance	C. Eugene Farnam	12/1/1962	11/1/1971	8	11
Commissioner of Insurance	Otis M. Whitney	1/1/1959	12/1/1962	3	11
Commissioner of Insurance	Joseph A. Humphreys	1/1/1954	12/31/1958	4	11
Commissioner of Insurance	Edmund S. Cogswell	1/1/1953	12/31/1953	0	11
Commissioner of Insurance	Dennis E. Sullivan	1/1/1951	12/31/1952	1	11
Commissioner of Insurance	Charles F. J. Harrington	4/1/1938	12/31/1950	12	8
Commissioner of Insurance	Francis J. DeCelles	4/1/1935	4/1/1938	3	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MASSACHUSETTS—Continued					
Commissioner of Insurance	Merton L. Brown	12/1/1928	4/1/1935	6	4
Acting Commissioner of Insurance	Arthur E. Linnell	9/1/1928	12/1/1928	0	3
Commissioner of Insurance	Wesley E. Monk	6/1/1923	9/1/1928	5	3
Commissioner of Insurance	Clarence W. Hobbs	3/1/1920	6/1/1923	3	3
Acting Commissioner of Insurance	Clarence W. Hobbs	9/1/1919	3/1/1920	0	6
Commissioner of Insurance	Frank H. Hardison	11/1/1907	9/1/1919	11	10
Commissioner of Insurance	Frederick L. 'Fred' Cutting	9/30/1897	11/1/1907	10	1
Insurance Commissioner	George S. Merrill	9/1/1887	9/30/1897	10	1
Insurance Commissioner	John K. Tarbox <i>(Died May 28, 1887)</i>	4/21/1883	5/28/1887	4	1
Insurance Commissioner	Julius L. Clarke	5/24/1871	2/14/1883	12	4
MICHIGAN—Appointed, at the Pleasure of the Governor; 4-Year Term					
Director, Department of Insurance and Financial Services (DIFS)	Anita G. Fox	1/14/2019		incumbent	
Acting Director, DIFS	Judith A. 'Judy' Weaver	12/28/2018	1/14/2019	0	1
Director, DIFS	Patrick M. McPharlin	5/18/2015	12/28/2018	3	7
Director, DIFS	Annette E. Flood	11/1/2013	5/18/2015	1	6
Director, DIFS	R. Kevin Clinton	3/18/2013	11/1/2013	0	7
Commissioner, Office of Financial and Insurance Regulation (OFIR)	R. Kevin Clinton	4/16/2011	3/17/2013	1	11
Commissioner, OFIR	Kenneth 'Ken' Ross	4/6/2008	4/15/2011	3	0
Commissioner, Office of Financial and Insurance Services (OFIS)	Kenneth 'Ken' Ross	2/22/2008	4/5/2008	0	2
Acting Commissioner, OFIS	Kenneth 'Ken' Ross	11/1/2007	2/21/2008	0	3
Commissioner, OFIS	Linda A. Watters	4/11/2003	10/31/2007	4	6
Acting Commissioner, OFIS	Ronald C. Jones, Jr.	2/1/2003	4/11/2003	0	2
Commissioner, OFIS	Frank M. Fitzgerald	4/3/2000	2/1/2003	2	10
Commissioner of Insurance	Frank M. Fitzgerald	1/1/1999	4/2/2000	1	3
Commissioner of Insurance	E. L. Cox	5/4/1998	1/1/1999	0	8
Acting Commissioner of Insurance	Dominic A. D'Annunzio	8/11/1997	5/4/1998	0	9
Commissioner of Insurance	D. Joseph Olson	4/4/1995	8/11/1997	2	4
Acting Commissioner of Insurance	Patrick M. McQueen	1/1/1995	4/4/1995	0	3
Commissioner of Insurance	David J. Dykhouse	4/1/1991	1/1/1995	3	9
Acting Commissioner of Insurance	Dominic A. D'Annunzio	1/1/1991	4/1/1991	0	3
Acting Commissioner of Insurance	Dhiraj N. Shah	10/3/1988	1/1/1991	2	3
Commissioner of Insurance	Herman W. Coleman	9/1/1985	10/3/1988	3	1
Commissioner of Insurance	Nancy A. Baerwaldt	11/1/1980	9/1/1985	4	10
Acting Commissioner of Insurance	Elbert C. Mackey	6/1/1980	11/1/1980	0	5
Commissioner of Insurance	Richard A. Hemmings	12/1/1979	6/1/1980	0	6
Acting Commissioner of Insurance	Jean K. Carlson	1/1/1979	12/1/1979	0	11
Commissioner of Insurance	Thomas C. Jones	12/1/1975	1/1/1979	3	1
Commissioner of Insurance	Daniel J. Demlow	12/1/1973	12/1/1975	2	0
Commissioner of Insurance	Russell E. Van Hooser	1/27/1969	12/1/1973	4	10
Commissioner of Insurance	David J. Dykhouse	12/1/1966	1/27/1969	2	2
Acting Commissioner of Insurance	John W. Wickstrom	1/1/1966	12/1/1966	0	11
Commissioner of Insurance	Allen L. Mayerson	12/1/1963	1/1/1966	2	1
Commissioner of Insurance	Sherwood Colburn	1/1/1962	12/1/1963	1	11
Commissioner of Insurance	Frank Blackford	1/1/1959	1/1/1962	3	0
Commissioner of Insurance	Joseph A. Navarre	1/1/1951	1/1/1959	8	0
Commissioner of Insurance	David A. Forbes	2/16/1943	1/1/1951	7	11
Acting Commissioner of Insurance	Horace B. Corell	1/2/1943	2/16/1943	0	1

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MICHIGAN—Continued					
Commissioner of Insurance	Eugene P. Berry	1/6/1941	12/31/1942	2	0
Commissioner of Insurance	John G. Emery	4/1/1939	1/6/1941	1	9
Commissioner of Insurance	Charles E. Gauss	1/1/1937	4/1/1939	2	3
Commissioner of Insurance	John C. Ketcham	1/1/1935	1/1/1937	2	0
Commissioner of Insurance	Charles E. Gauss	2/19/1933	1/1/1935	1	11
Commissioner of Insurance	Charles D. Livingston	1/12/1927	2/19/1933	6	1
Commissioner of Insurance	Leonard T. Hands	5/18/1921	1/12/1927	5	8
Commissioner of Insurance	Frank H. Ellsworth	7/1/1917	4/30/1921	3	10
Commissioner of Insurance	John T. Winship	7/1/1913	7/1/1917	4	0
Commissioner of Insurance	Calvin A. ‘Puss’ Palmer	2/1/1911	7/1/1913	2	5
Commissioner of Insurance	Marion O. Rowland	11/15/1910	2/1/1911	0	3
Commissioner of Insurance	James V. Barry	1/1/1901	11/15/1910	9	10
Commissioner of Insurance	Harry H. Stevens	7/1/1899	1/1/1901	1	6
Commissioner of Insurance	Milo D. Campbell	7/1/1897	7/1/1899	2	0
Commissioner of Insurance	Theron F. Giddings	7/1/1893	7/1/1897	4	0
Commissioner of Insurance	William E. Magill	7/1/1891	7/1/1893	2	0
Commissioner of Insurance	Henry S. Raymond	1/1/1885	7/1/1891	6	6
Commissioner of Insurance	Eugene Pringle	3/1/1883	1/1/1885	1	10
Commissioner of Insurance	Samuel H. Row	5/24/1871	3/1/1883	11	10

MINNESOTA—Appointed, at the Pleasure of the Governor; Confirmed by the Senate					
Commissioner of Commerce	Grace Arnold	4/15/2021		incumbent	
Temporary Cmsr. of Commerce	Grace Arnold	9/11/2020	4/15/2021	0	7
Commissioner of Commerce	Steve Kelley	1/7/2019	9/11/2020	1	8
Commissioner of Commerce	Jessica Looman	11/17/2017	1/7/2019	1	2
Commissioner of Commerce	Michael J. ‘Mike’ Rothman	1/12/2011	11/17/2017	6	10
Commissioner of Commerce	Glenn Wilson, Jr.	1/6/2003	1/12/2011	8	0
Commissioner of Commerce	James C. ‘Jim’ Bernstein	7/31/2000	1/6/2003	2	6
Acting Commissioner of Commerce	James C. ‘Jim’ Bernstein	2/24/2000	7/31/2000	0	5
Commissioner of Commerce	Steve Minn	8/16/1999	2/24/2000	0	6
Acting Commissioner of Commerce	Gary LaVasseur	8/6/1999	8/16/1999	0	1
Commissioner of Commerce	David M. Jennings	1/4/1999	8/6/1999	0	7
Commissioner of Commerce	David B. ‘Dave’ Gruenes	12/26/1995	1/4/1999	3	0
Commissioner of Commerce	James E. ‘Jim’ Ulland	9/1/1993	12/26/1995	2	4
Commissioner of Commerce	<i>Position Vacant</i>	8/1/1993	9/1/1993	0	1
Commissioner of Commerce	Bert J. McKasy	1/14/1991	8/1/1993	2	7
Acting Commissioner of Commerce	James Miller	1/7/1991	1/14/1991	0	1
Commissioner of Commerce	Thomas H. ‘Tom’ Borman	1/9/1990	1/7/1991	1	0
Commissioner of Commerce	Michael A. Hatch	7/1/1983	1/9/1990	6	6
Commissioner of Insurance	Reynaud L. Harp	1/3/1983	7/1/1983	0	6
Acting Commissioner of Insurance	Thomas L. O’Malley	7/1/1982	1/3/1983	0	6
Commissioner of Insurance	Michael D. ‘Mike’ Markman	3/5/1979	7/1/1982	3	4
Commissioner of Insurance	Berton W. Heaton	4/6/1971	3/5/1979	7	11
Acting Commissioner of Insurance	Alfred O. Anderson	8/1/1970	4/6/1971	0	8
Commissioner of Insurance	Thomas C. Hunt	7/15/1967	7/31/1970	3	0
Acting Commissioner of Insurance	L. Edwin Wang	3/13/1967	7/15/1967	0	4
Acting Commissioner of Insurance	Joseph ‘Joe’ Haveson	11/4/1965	3/9/1967	1	5
Commissioner of Insurance	Cyrus E. Magnusson	4/15/1959	11/4/1965	6	7
Commissioner of Insurance	Cyril C. Sheehan	2/16/1953	4/15/1959	6	2
Commissioner of Insurance	A. Herbert Nelson	5/15/1951	2/15/1953	1	9
Commissioner of Insurance	Armand W. Harris	12/1/1947	5/15/1951	3	5

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MINNESOTA—Continued					
Commissioner of Insurance	Newell R. Johnson	2/1/1941	12/1/1947	6	10
Commissioner of Insurance	Frank Yetka	3/1/1935	2/1/1941	5	11
Commissioner of Insurance	Garfield W. Brown	10/15/1928	2/29/1935	6	5
Commissioner of Insurance	George W. Wells, Jr.	6/1/1922	10/15/1928	6	4
Commissioner of Insurance	Gustaf Lindquist	7/1/1920	6/1/1922	1	11
Commissioner of Insurance	John B. Sanborn	1/7/1919	7/1/1920	1	6
Commissioner of Insurance	C. Louis Weeks	9/3/1918	1/7/1919	0	4
Commissioner of Insurance	John B. Sanborn	1/7/1917	9/3/1918	1	8
Commissioner of Insurance	Samuel D. Works	1/13/1915	1/7/1917	2	0
Commissioner of Insurance	Ira C. Peterson	1/3/1915	1/13/1915	0	1
Commissioner of Insurance	Jacob A. O. Preus	1/3/1911	1/3/1915	4	0
Commissioner of Insurance	John A. Hartigan	8/1/1907	1/3/1911	3	5
Commissioner of Insurance	Thomas D. O'Brien	1/12/1905	8/1/1907	2	7
Commissioner of Insurance	Elmer H. Dearth	1/23/1901	1/12/1905	3	11
Commissioner of Insurance	John A. O'Shaughnessy	2/27/1899	1/23/1901	2	0
Commissioner of Insurance	Elmer H. Dearth	1/8/1897	2/27/1899	2	1
Acting Commissioner of Insurance	David C. Lightbourn	6/19/1896	1/8/1897	0	7
Commissioner of Insurance	Christopher H. Smith (Died June 18, 1896)	1/5/1891	6/18/1896	5	6
Commissioner of Insurance	Calvin P. Bailey	1/22/1889	1/5/1891	2	0
Commissioner of Insurance	Charles Shandrew	1/6/1887	1/22/1889	2	0
Commissioner of Insurance	Andrew R. McGill	12/15/1873	1/6/1887	13	1
Commissioner of Insurance	Pennock Pusey	3/1/1872	12/15/1873	1	9
MISSISSIPPI—Elected; 4-Year Term					
Commissioner of Insurance	Michael J. 'Mike' Chaney (Elected Nov. 6, 2007; Re-elected Nov. 8, 2011; Re-elected Nov. 3, 2015; Re-elected Nov. 5, 2019)	1/1/2008		incumbent	
Commissioner of Insurance	George Dale	1/1/1976	1/1/2008	32	0
Commissioner of Insurance	Evelyn Gandy	1/1/1972	1/1/1976	4	0
Commissioner of Insurance	Walter D. Davis	6/1/1952	1/1/1972	19	7
Commissioner of Insurance	Jesse L. White	2/2/1944	6/1/1952	8	4
Commissioner of Insurance	John Sharp Williams III (Died Jan. 29, 1944)	1/1/1936	1/29/1944	8	1
Commissioner of Insurance	James H. Johnson	6/18/1935	1/1/1936	0	7
Commissioner of Insurance	George D. Riley (Died June 18, 1935)	1/18/1932	6/18/1935	3	5
Commissioner of Insurance	Ben S. Lowry	1/16/1928	1/18/1932	4	0
Commissioner of Insurance	Thomas M. Henry	1/18/1908	1/16/1928	20	0
Commissioner of Insurance	William Q. Cole	1/18/1904	1/18/1908	4	0
Auditor of Public Accounts/Cmsr. of Insurance	William Q. Cole	3/5/1902	1/18/1904	1	10
Auditor of Public Accounts	William Q. Cole	1/15/1900	3/5/1902	2	2
Auditor of Public Accounts	William D. Holder	1/20/1896	1/15/1900	4	0
Auditor of Public Accounts	W. W. Stone	1/1/1886	1/20/1896	10	0
Auditor of Public Accounts	Sylvester Gwin	1/1/1878	1/1/1886	6	4
Auditor of Public Accounts	William H. Gibbs	1/1/1874	1/1/1876	2	0
Auditor of Public Accounts	Henry Musgrove	5/24/1871	1/1/1874	3	8

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MISSOURI—Appointed, at the Pleasure of the Governor; Confirmed by the Senate					
Director of Insurance	Chlora Lindley-Myers	4/13/2017		incumbent	
Acting Director of Insurance	Chlora Lindley-Myers	3/6/2017	4/13/2017	0	1
Acting Director of Insurance	John F. Rehagen	2/7/2017	3/6/2017	0	1
Director of Insurance	John M. Huff	2/6/2009	2/6/2017	8	0
Acting Director of Insurance	Kip Stetzler	1/10/2009	2/5/2009	0	1
Acting Director of Insurance	Linda Bohrer	6/1/2008	1/1/2009	0	7
Director of Insurance	Douglas M. ‘Doug’ Ommen	1/2/2007	6/1/2008	1	5
Director of Insurance	W. Dale Finke	1/10/2005	1/2/2007	2	0
Director of Insurance	Scott B. Lakin	3/15/2001	1/10/2005	3	10
Director of Insurance	Keith Wenzel	5/10/1999	3/15/2001	1	10
Acting Director of Insurance	A. W. McPherson	10/31/1998	5/10/1999	0	7
Director of Insurance	Jay Angoff	2/16/1993	10/30/1998	5	8
Director of Insurance	Lewis E. Melahn	7/3/1989	2/11/1993	3	7
Acting Director of Insurance	Larry C. Call	5/24/1989	7/1/1989	0	2
Director of Insurance	William A. Bennett	2/28/1989	5/19/1989	0	3
Acting Director of Insurance	Larry C. Call	10/3/1988	2/27/1989	0	4
Director of Insurance	Lewis R. Crist	1/6/1986	10/1/1988	2	9
Acting Director of Insurance	Mary Hall	9/30/1985	1/5/1986	0	4
Director of Insurance	C. Donald Ainsworth	2/18/1981	9/27/1985	4	7
Acting Director of Insurance	William Arthur Jones	9/1/1980	2/17/1981	0	5
Director of Insurance	Richard J. Fredrick	6/1/1979	8/30/1980	1	3
Director of Insurance	Jerry B. Buxton	6/1/1977	5/31/1979	2	0
Superintendent of Insurance	Henry W. Edmiston	6/25/1975	5/31/1977	1	11
Acting Superintendent of Insurance	John Webb	6/1/1975	6/25/1975	0	1
Superintendent of Insurance	Edward G. Farmer, Jr.	4/1/1973	5/31/1975	2	2
Superintendent of Insurance	James P. Dalton	11/1/1972	3/31/1973	0	5
Superintendent of Insurance	William Y. ‘Bill’ McCaskill	5/22/1969	10/31/1972	3	5
Superintendent of Insurance	Robert D. Scharz	1/11/1965	5/21/1969	4	4
Superintendent of Insurance	Ralph H. Duggins	9/6/1963	1/11/1965	2	2
Superintendent of Insurance	Jack L. Clay	12/8/1961	9/6/1963	1	9
Acting Superintendent of Insurance	Jack L. Clay	11/15/1961	12/8/1961	0	1
Superintendent of Insurance	C. Lawrence Leggett	11/25/1949	11/15/1961	12	0
Superintendent of Insurance	Owen G. Jackson	11/15/1945	11/24/1949	4	0
Superintendent of Insurance	Edward L. Scheufler	9/29/1941	10/15/1945	4	1
Superintendent of Insurance	Ray B. Lucas	1/10/1939	9/29/1941	2	8
Acting Superintendent of Insurance	F. P. Sizer	1/3/1939	1/9/1939	0	1
Superintendent of Insurance	George A. S. Robertson <i>(Died Jan. 2, 1939)</i>	7/1/1937	1/2/1939	1	6
Superintendent of Insurance	Robert Emmett O’Malley	7/1/1933	7/1/1937	4	0
Superintendent of Insurance	Joseph B. Thompson	3/1/1929	7/1/1933	4	4
Superintendent of Insurance	Ben C. Hyde	10/1/1921	3/1/1929	7	5
Superintendent of Insurance	Alfred L. Harty	5/1/1918	10/1/1921	3	5
Acting Superintendent of Insurance	Claud L. Clark	3/5/1918	5/1/1918	0	2
Superintendent of Insurance	Walter K. Chorn	9/1/1915	3/5/1918	2	6
Superintendent of Insurance	Charles G. Revelle	3/1/1913	9/1/1915	2	6
Superintendent of Insurance	Frank Blake	11/1/1909	3/1/1913	3	4
Superintendent of Insurance	John Kennish	3/1/1909	11/1/1909	0	8
Superintendent of Insurance	W. D. Vandiver	4/1/1905	3/1/1909	3	11
Superintendent of Insurance	Robert G. Yates	11/1/1902	4/1/1905	2	5
Superintendent of Insurance	Edward E. Yates	6/1/1902	11/1/1902	0	5
Superintendent of Insurance	Thomas H. Wagner	8/1/1901	6/1/1902	0	10

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
MISSOURI—Continued					
Superintendent of Insurance	Edward T. Orear	3/1/1897	8/1/1901	4	5
Superintendent of Insurance	James R. Waddill	3/1/1893	3/1/1897	4	0
Superintendent of Insurance	Christopher P. Ellerbe	3/1/1889	3/1/1893	4	0
Superintendent of Insurance	Alfred Carr	3/1/1885	3/1/1889	4	0
Superintendent of Insurance	John F. Williams	3/1/1881	3/1/1885	4	0
Superintendent of Insurance	William S. Relfe	3/1/1877	3/1/1881	4	0
Superintendent of Insurance	Celsus Price	7/1/1875	3/1/1877	1	8
Superintendent of Insurance	Francis P. Blair, Jr.	10/1/1873	7/1/1875	1	9
Superintendent of Insurance	William Selby	3/1/1873	10/1/1873	0	7
Superintendent of Insurance	Miles Sells	6/1/1872	3/1/1873	0	9
Superintendent of Insurance	Wyllis King	5/24/1871	6/1/1872	1	1

MONTANA—Elected; 4-Year Term					
Cmsr. of Securities and Insurance / State Auditor	Troy Downing <i>(Elected Nov. 3, 2020)</i>	1/4/2021		incumbent	
Cmsr. of Securities and Insurance / State Auditor	Matthew M. 'Matt' Rosendale <i>(Elected Nov. 8, 2016)</i>	1/2/2017	1/3/2021	4	0
Cmsr. of Securities and Insurance / State Auditor	Monica J. Lindeen <i>(Elected Nov. 4, 2008; Re-elected Nov. 6, 2012)</i>	1/5/2009	1/2/2017	8	0
Cmsr. of Securities and Insurance / State Auditor	John Morrison <i>(Elected Nov. 7, 2000; Re-elected Nov. 2, 2004)</i>	1/1/2001	1/5/2009	8	0
Cmsr. of Insurance/State Auditor	Mark D. O'Keefe <i>(Elected Nov. 3, 1992; Re-elected Nov. 5, 1996)</i>	1/4/1993	1/1/2001	8	0
Cmsr. of Insurance/State Auditor	Andrea M. 'Andy' Bennett <i>(Elected Nov. 6, 1984; Re-elected Nov. 8, 1988)</i>	1/7/1985	1/4/1993	8	0
Cmsr. of Insurance/State Auditor	Elmer V. 'Sonny' Omholt	5/21/1962	1/7/1985	22	8
Cmsr. of Insurance/State Auditor	John J. Holmes <i>(Died May 12, 1962)</i>	1/3/1933	5/12/1962	29	4
Cmsr. of Insurance/State Auditor	George P. Porter	1/6/1919	1/3/1933	14	0
Cmsr. of Insurance/State Auditor	Rufus G. Poland	6/28/1917	1/6/1919	1	7
Cmsr. of Insurance/State Auditor	William Keating <i>(Died June 23, 1917)</i>	1/6/1913	6/23/1917	4	5
Cmsr. of Insurance/State Auditor	Charles M. McCoy	12/15/1911	1/6/1913	1	1
Cmsr. of Insurance/State Auditor	Henry R. Cunningham	1/1/1905	12/14/1911	6	11
State Auditor	James H. Calderhead	1/7/1901	1/1/1905	4	0
State Auditor	Thomas W. Poindexter, Jr.	1/4/1897	1/7/1901	4	0
State Auditor	Andrew B. Cook	1/2/1893	1/4/1897	4	0
State Auditor	Edwin A. Kenney	6/15/1892	1/2/1893	3	2

NEBRASKA—Appointed, at the Pleasure of the Governor					
Director of Insurance	Eric Dunning	4/19/2021		incumbent	
Director of Insurance	Bruce R. Ramge	11/15/2010	4/18/2021	10	5
Acting Director of Insurance	Bruce R. Ramge	10/30/2010	11/15/2010	0	1
Director of Insurance	Ann M. Frohman	11/28/2007	10/30/2010	2	11
Acting Director of Insurance	Ann M. Frohman	10/10/2007	11/28/2007	0	1
Director of Insurance	L. Timothy 'Tim' Wagner <i>(Died Oct. 9, 2007)</i>	1/7/1999	10/9/2007	8	9
Director of Insurance	Timothy J. Hall	1/3/1998	1/7/1999	1	0
Director of Insurance	Robert G. Lange	3/1/1995	1/3/1998	2	10

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEBRASKA—Continued					
Acting Director of Insurance	Robert G. Lange	2/1/1994	3/1/1995	1	1
Director of Insurance	William H. 'Bill' McCartney	3/2/1987	2/1/1994	6	11
Director of Insurance	Michael J. Dugan	3/1/1983	3/2/1987	4	0
Director of Insurance	Walter D. Weaver	2/1/1979	3/1/1983	4	1
Director of Insurance	M. Berri Balka	1/1/1977	2/1/1979	1	1
Director of Insurance	E. Benjamin 'Ben' Nelson	8/15/1975	12/31/1976	1	4
Director of Insurance	James M. Jackson	7/7/1972	8/15/1975	3	1
Director of Insurance	Samuel 'Sam' Van Pelt	1/7/1971	7/7/1972	1	6
Director of Insurance	Benjamin C. 'Ben' Neff, Jr.	7/1/1967	1/7/1971	3	6
Acting Director of Insurance	Benjamin C. 'Ben' Neff, Jr.	1/28/1967	7/1/1967	0	6
Director of Insurance	Frank J. Barrett	1/5/1961	1/5/1967	6	0
Director of Insurance	William E. Grubbs	1/8/1959	1/5/1961	2	0
Director of Insurance	John H. Binning	7/1/1957	1/8/1959	1	6
Director of Insurance	Thomas R. 'Tom' Pansing	1/8/1953	7/1/1957	5	6
Director of Insurance	Loren H. Laughlin	1/1/1952	12/31/1952	1	0
Director of Insurance	Bernard R. Stone	1/9/1947	12/31/1951	6	0
Director of Insurance	Donald R. 'Don' Hodder	7/1/1946	1/9/1947	0	6
Director of Insurance	Stanley A. Matzke	6/15/1945	7/1/1946	1	0
Director of Insurance	Cecil C. Frazier	1/9/1941	6/15/1945	4	5
Director of Insurance	Charles Smrha	9/9/1935	1/9/1941	5	4
Acting Director of Insurance	John S. Logan	8/5/1935	9/9/1935	0	1
Director of Insurance	Conn W. Moose	1/3/1935	8/5/1935	0	7
Director of Insurance	Robert E. Lee 'Lee' Herdman	4/1/1933	1/3/1935	1	9
Commissioner of Insurance	Robert E. Lee 'Lee' Herdman	6/1/1931	4/1/1933	1	10
Acting Commissioner of Insurance	Joseph L. Kizer	1/3/1931	6/1/1931	0	5
Commissioner of Insurance	Lloyd C. Dort	10/16/1929	1/3/1931	1	3
Acting Commissioner of Insurance	Joseph L. Kizer	2/1/1929	10/16/1929	0	8
Commissioner of Insurance	Charles B. Anderson	1/3/1929	2/1/1929	0	1
Commissioner of Insurance	John R. Dumont	4/10/1925	1/3/1929	3	9
Acting Chief, Bureau of Insurance	Mary A. Fairchild	1/4/1923	4/10/1925	2	3
Chief, Bureau of Insurance	W. Bruce Young	8/23/1919	1/4/1923	3	4
Secretary of Insurance Board /Insurance Commissioner	William B. Eastham	7/23/1915	8/23/1919	4	1
Secretary of Insurance Board /Insurance Commissioner	Lawson G. Brian	7/22/1913	7/23/1915	2	0
State Auditor	William B. Howard	1/9/1913	7/22/1913	0	6
State Auditor	Silas R. Barton	1/7/1909	1/9/1913	4	0
State Auditor	Edward M. Searle, Jr.	1/5/1905	1/7/1909	4	0
State Auditor	Charles E. Weston	1/3/1901	1/5/1905	4	0
State Auditor	John F. Cornell	1/7/1897	1/3/1901	4	0
State Auditor	Eugene Moore	1/13/1893	1/7/1897	4	0
State Auditor	Thomas H. Benton	1/3/1889	1/13/1893	4	0
State Auditor	Heman A. Babcock	1/8/1885	1/3/1889	4	0
State Auditor	John Wallich	11/12/1880	1/8/1885	4	2
State Auditor	Frederick W. Liedtke	1/9/1879	11/11/1880	1	10
State Auditor	Jefferson B. Weston	1/13/1873	1/9/1879	6	0
State Auditor	John Gillespie	5/24/1871	1/13/1873	1	8
NEVADA—Appointed, at the Pleasure of the Director of the Department of Business and Industry					
Insurance Commissioner	Barbara D. Richardson	3/7/2016		incumbent	
Acting Insurance Commissioner	Amy L. Parks	7/7/2015	3/7/2016	0	8

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEVADA—Continued					
Insurance Commissioner	Scott J. Kipper	10/24/2011	7/2/2015	3	9
Acting Insurance Commissioner	Amy L. Parks	8/12/2011	10/24/2011	0	2
Insurance Commissioner	Brett J. Barratt	7/7/2010	7/1/2011	1	0
Insurance Commissioner	Scott J. Kipper	12/29/2008	6/30/2010	1	6
Acting Insurance Commissioner	Betty Baker	9/1/2008	12/29/2008	0	3
Insurance Commissioner	Alice Molasky-Arman	1/6/1995	9/1/2008	13	8
Insurance Commissioner	Teresa 'Terry' Froncek Rankin	9/6/1991	12/1/1994	3	3
Acting Insurance Commissioner	Teresa 'Terry' Froncek Rankin	2/1/1991	9/6/1991	0	7
Insurance Commissioner	Alessandro A. 'Al' Iuppa	1/1/1990	2/1/1991	1	1
Insurance Commissioner	David A. Gates	7/6/1984	1/1/1990	5	6
Insurance Commissioner	Kevin Sullivan	1/3/1983	7/6/1984	1	6
Insurance Commissioner	Patsy Redmond	5/12/1981	1/3/1983	1	8
Insurance Commissioner	Donald W. 'Don' Heath	1/1/1979	5/12/1981	2	4
Insurance Commissioner	James L. 'Jim' Wadhams	6/1/1978	1/1/1979	0	7
Insurance Commissioner	Richard L. 'Dick' Rottman	3/11/1971	6/1/1978	7	3
Insurance Commissioner	Louis T. Mastos	6/1/1965	3/11/1970	5	9
Insurance Commissioner	Paul A. Hammel (Died April 21, 1965)	4/1/1951	4/21/1965	14	1
Deputy Controller	Paul A. Hammel (Died April 21, 1965)	1/1/1951	4/1/1951	0	3
State Comptroller	Jerome P. 'Jerry' Donovan	12/1/1947	1/1/1951	3	5
State Comptroller	Henry C. Schmidt	1/8/1935	12/1/1947	12	11
State Comptroller	Edward C. Peterson	1/3/1927	1/8/1935	8	0
State Comptroller	George A. Cole	1/1/1915	1/1/1927	12	0
State Comptroller	Jacob Eggers	1/1/1907	1/1/1915	8	0
State Comptroller	Samuel P. Davis	1/1/1899	1/1/1907	8	0
State Comptroller	C. A. LaGrave	1/1/1895	1/1/1899	4	0
State Comptroller	Robert L. Horton	1/1/1891	1/1/1895	4	0
State Comptroller	James F. Hallock	1/1/1879	1/1/1891	12	0
State Comptroller	William W. Hobart	5/24/1871	1/1/1879	7	8
NEW HAMPSHIRE—Appointed, 5-Year Term; Nominated by the Governor; Approved by the Executive Council					
Insurance Commissioner	Christopher R. 'Chris' Nicolopoulos	2/19/2020		incumbent	
Acting Insurance Commissioner	Alexander K. 'Alex' Feldvebel	1/1/2020	2/19/2020	0	1
Insurance Commissioner	John Elias	6/11/2018	12/31/2019	1	6
Insurance Commissioner	Roger A. Sevigny	8/13/2003	6/9/2018	14	10
Insurance Commissioner	Paula T. Rogers	5/12/1999	8/12/2003	4	3
Insurance Commissioner	Charles N. 'Charlie' Blossom	8/1/1996	5/7/1999	2	9
Insurance Commissioner	Sylvio L. Dupuis	1/1/1994	8/1/1996	2	5
Insurance Commissioner	Louis E. Bergeron	7/28/1983	12/31/1993	10	5
Insurance Commissioner	Francis E. 'Frank' Whaland	3/31/1976	7/28/1983	7	4
Acting Insurance Commissioner	Leo W. Fraser, Jr.	4/11/1975	3/31/1976	1	0
Insurance Commissioner	Francis E. 'Frank' Whaland	6/13/1973	4/11/1975	1	10
Insurance Commissioner	John A. Durkin	7/2/1968	6/13/1973	4	11
Insurance Commissioner	Donald 'Don' Knowlton	6/9/1943	7/2/1968	25	1
Acting Insurance Commissioner	Simon M. Sheldon	4/30/1943	6/9/1943	0	1
Insurance Commissioner	Arthur J. Rouillard	9/17/1937	4/30/1943	5	7
Insurance Commissioner	John E. Sullivan (Died Sept. 6, 1937)	6/16/1931	9/6/1937	6	3
Acting Insurance Commissioner	William N. Johnston	9/26/1930	6/16/1931	0	9
Insurance Commissioner	John E. Sullivan	5/17/1923	9/26/1930	7	4

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEW HAMPSHIRE—Continued					
Insurance Commissioner	John J. Donahue (Died May 8, 1923)	4/2/1919	5/8/1923	4	1
Insurance Commissioner	Rufus N. Elwell (Died Feb. 9, 1919)	11/21/1917	2/9/1919	1	3
Insurance Commissioner	Robert J. Merrill	1/13/1915	11/21/1917	2	10
Insurance Commissioner	Joseph Warren	12/31/1914	1/13/1915	0	1
Insurance Commissioner	Robert J. Merrill	11/23/1911	12/31/1914	3	1
Insurance Commissioner	George H. Adams	9/25/1905	11/18/1911	6	2
Insurance Commissioner	John C. Linehan (Died Sept. 19, 1905)	9/25/1890	9/19/1905	15	0
Insurance Commissioner	Henry H. Huse	3/14/1888	9/7/1890	2	6
Insurance Commissioner	Oliver Pillsbury (Died Feb. 21, 1888)	5/24/1871	2/21/1888	16	9
NEW JERSEY—Appointed, at the Pleasure of the Governor					
Cmsr. of Banking and Insurance	Marlene Caride	6/27/2018		incumbent	
Acting Cmsr. of Banking and Ins.	Marlene Caride	1/16/2018	6/27/2018	0	5
Commissioner Designee	Marlene Caride	12/20/2017	1/15/2018	0	1
Cmsr. of Banking and Insurance	Richard J. Badolato	6/21/2016	12/19/2017	1	6
Acting Cmsr. of Banking and Ins.	Richard J. Badolato	8/1/2015	6/21/2016	0	10
Acting Cmsr. of Banking and Ins.	Peter L. Hartt	7/1/2015	8/1/2015	0	1
Cmsr. of Banking and Insurance	Kenneth E. Kobylowski	12/20/2012	6/30/2015	2	6
Acting Cmsr. of Banking and Ins.	Kenneth E. Kobylowski	2/11/2012	12/20/2012	0	10
Cmsr. of Banking and Insurance	Thomas B. 'Tom' Considine	2/1/2010	2/11/2012	2	0
Acting Cmsr. of Banking and Ins.	William Radar	1/1/2010	2/1/2010	0	1
Cmsr. of Banking and Insurance	Neil N. Jasey	7/17/2009	1/1/2010	0	6
Cmsr. of Banking and Insurance	Steven M. Goldman	3/20/2006	7/17/2009	3	4
Acting Cmsr. of Banking and Ins.	Donald Bryan	3/1/2005	3/20/2006	1	0
Cmsr. of Banking and Insurance	Holly C. Bakke	2/4/2002	3/1/2005	3	1
Acting Cmsr. of Banking and Ins.	Donald Bryan	10/15/2001	2/4/2002	0	4
Cmsr. of Banking and Insurance	Karen L. Suter	6/29/2000	10/15/2001	1	4
Acting Cmsr. of Banking and Ins.	Karen L. Suter	1/18/2000	6/29/2000	0	5
Cmsr. of Banking and Insurance	Jaynee LaVecchia	9/1/1998	1/18/2000	1	4
Acting Cmsr. of Banking and Ins.	Jaynee LaVecchia	8/24/1998	9/1/1998	0	1
Cmsr. of Banking and Insurance	Elizabeth 'Lisa' Randall	10/1/1995	8/24/1998	2	10
Acting Insurance Commissioner	Anita B. Kartalopoulos	9/14/1995	10/1/1995	0	1
Insurance Commissioner	Andrew J. 'Drew' Karpinski	5/1/1994	9/14/1995	1	4
Acting Insurance Commissioner	Andrew J. 'Drew' Karpinski	3/4/1994	5/1/1994	0	2
Insurance Commissioner	Samuel F. Fortunato	4/1/1990	3/1/1994	3	11
Acting Insurance Commissioner	Jasper Jackson	1/1/1990	4/1/1990	0	3
Insurance Commissioner	Kenneth D. Merin	5/1/1986	1/1/1990	3	8
Insurance Commissioner	Hazel Frank Gluck	3/1/1985	5/1/1986	1	2
Acting Insurance Commissioner	Jasper Jackson	1/1/1985	3/1/1985	0	2
Insurance Commissioner	Kenneth D. Merin	10/1/1984	1/1/1985	0	3
Acting Insurance Commissioner	Kenneth D. Merin	4/1/1984	10/1/1984	0	6
Insurance Commissioner	Joseph F. Murphy	2/1/1982	4/1/1984	2	2
Acting Insurance Commissioner	John G. Foley	1/1/1982	2/1/1982	0	1
Insurance Commissioner	James J. Sheeran	1/1/1974	1/1/1982	8	0
Insurance Commissioner	Richard C. McDonough	2/14/1972	1/1/1974	1	11
Insurance Commissioner	Robert L. Clifford	1/1/1970	2/14/1972	2	1
Cmsr. of Banking and Insurance	Horace J. Bryant	3/1/1969	1/1/1970	0	10
Cmsr. of Banking and Insurance	Charles R. Howell	2/1/1955	3/1/1969	14	1

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEW JERSEY—Continued					
Acting Cmsr. of Banking and Ins.	Jerome B. McKenna	10/1/1954	2/1/1955	0	4
Cmsr. of Banking and Insurance	Warren N. Gaffney	5/1/1950	10/1/1954	4	5
Acting Cmsr. of Banking and Ins.	Christopher A. Gough	1/1/1949	5/1/1950	1	4
Cmsr. of Banking and Insurance	John J. Dickerson	7/1/1948	1/1/1949	0	6
Acting Cmsr. of Banking and Ins.	Christopher A. Gough	5/1/1948	7/1/1948	0	2
Cmsr. of Banking and Insurance	Lawrence B. Carey	2/1/1945	5/1/1948	3	3
Cmsr. of Banking and Insurance	Eugene E. Agger	1/1/1942	2/1/1945	3	1
Cmsr. of Banking and Insurance	Louis A. Reilly	3/1/1938	1/1/1942	3	10
Cmsr. of Banking and Insurance	Carl K. Withers	4/1/1935	3/1/1938	2	11
Cmsr. of Banking and Insurance	William H. Kelly	2/1/1932	4/1/1935	3	2
Cmsr. of Banking and Insurance	Frank H. Smith	2/1/1929	2/1/1932	3	0
Cmsr. of Banking and Insurance	Edward E. Maxson	2/28/1923	2/1/1929	6	0
Cmsr. of Banking and Insurance	William E. Tuttle, Jr. <i>(Died Feb. 11, 1923)</i>	1/1/1921	2/11/1923	2	1
Cmsr. of Banking and Insurance	Frank H. Smith	12/1/1917	1/1/1921	3	1
Cmsr. of Banking and Insurance	George M. La Monte	11/1/1912	12/1/1917	5	1
Cmsr. of Banking and Insurance	Henry J. Ford	4/1/1912	11/1/1912	0	7
Cmsr. of Banking and Insurance	Vivian M. Lewis	4/1/1909	4/1/1912	3	0
Cmsr. of Banking and Insurance	David O. Watkins	4/1/1903	4/1/1909	6	0
Cmsr. of Banking and Insurance	William Bettle	3/1/1897	3/31/1903	6	0
Cmsr. of Banking and Insurance	George W. Wurts	10/1/1896	3/1/1897	0	5
Cmsr. of Banking and Insurance	George S. Duryea	6/1/1891	10/1/1896	5	4
Cmsr. of Banking and Insurance	George B. M. Harvey	4/1/1891	6/1/1891	0	2
Cmsr. of Banking and Insurance	<i>No Record in Proceedings</i> <i>(Represented by Actuary David P. Fackler)</i>	9/20/1881	8/20/1890	8	11
Secretary of State	Henry C. Kelsey	5/24/1871	4/1/1881	9	11
NEW MEXICO—Appointed, by the Insurance Nominating Committee; 4-Year Term					
Superintendent of Insurance	Russell Toal	1/1/2020		incumbent	
Superintendent of Insurance	John G. Franchini	7/27/2010	12/31/2019	9	5
Acting Superintendent of Insurance	Johnny L. Montoya	6/15/2010	7/27/2010	0	1
Interim Superintendent of Insurance	Craig Dunbar	5/24/2010	6/15/2010	0	1
Interim Superintendent of Insurance	Thomas R. 'Tom' Rushton	5/4/2010	5/24/2010	0	1
Superintendent of Insurance	Morris J. 'Mo' Chavez	10/1/2006	5/4/2010	3	7
Acting Superintendent of Insurance	Thomas R. 'Tom' Rushton	6/14/2006	10/1/2006	0	4
Superintendent of Insurance	Eric P. Serna	2/20/2001	6/14/2006	5	4
Superintendent of Insurance	Donald J. 'Don' Letherer	10/4/1999	1/31/2001	1	3
Acting Superintendent of Insurance	Michael C. Batte	1/1/1999	10/4/1999	0	9
Superintendent of Insurance	Christopher P. 'Chris' Krahling	6/1/1995	12/11/1998	3	6
Acting Superintendent of Insurance	Thomas R. 'Tom' Rushton	4/28/1995	6/1/1995	0	1
Superintendent of Insurance	Fabian Chavez	4/18/1988	4/28/1995	7	0
Superintendent of Insurance	Vicente B. Jasso	8/1/1981	4/18/1988	6	8
Superintendent of Insurance	Manuel A. Garcia, Jr.	6/11/1978	8/1/1981	3	2
Superintendent of Insurance	Kenneth C. Moore	6/1/1976	6/11/1978	3	0
Superintendent of Insurance	Ralph F. Apodaca	10/15/1976	6/11/1978	1	8
Superintendent of Insurance	George A. Biel	8/20/1939	10/15/1976	37	2
Superintendent of Insurance	Eliseo Gonzales	2/15/1935	3/1/1935	0	1
Superintendent of Insurance	Alfonso Aguilar	1/6/1933	2/15/1935	2	1
Superintendent of Insurance	Max Fernandez	1/5/1931	1/6/1933	2	0
Superintendent of Insurance	J. H. Vaughn	2/1/1928	1/5/1931	2	11

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEW MEXICO—Continued					
Superintendent of Insurance	H. A. Delgado	3/20/1925	2/1/1928	2	11
Bank Examiner of State	L. B. Gregg	3/3/1921	3/20/1925	4	0
Superintendent of Insurance and Corporation Commission	Remijio Mirabel	3/6/1919	3/3/1921	2	0
Superintendent of Insurance and Corporation Commission	Cleofas Romero	3/15/1917	3/6/1919	2	0
Superintendent of Insurance	Jacobo Chavez	3/19/1907	3/15/1917	10	0
Superintendent of Insurance	John H. Sloan	1/19/1906	3/19/1907	1	2
Superintendent of Insurance	Pedro Perea <i>(Died Jan. 11, 1906)</i>	3/1/1905	1/11/1906	0	10
Territorial Auditor	William G. Sargent	4/1/1901	3/1/1905	3	11
Territorial Auditor	Luis M. Ortiz	3/14/1899	4/1/1901	2	0
Territorial Auditor	Marcelino Garcia	2/21/1895	3/14/1899	4	0
Territorial Auditor	Demetrio Perez	3/18/1891	2/21/1895	4	0
Territorial Auditor	Trinidad Alarid	8/15/1888	3/18/1891	2	7
NEW YORK—Appointed, at the Pleasure of the Governor					
Superintendent of Financial Services	Adrienne A. Harris	1/25/2022		incumbent	
Acting Superintendent of Fin. Svcs.	Adrienne A. Harris	9/13/2021	1/25/2022	0	4
Acting Superintendent of Fin. Svcs.	Shirin Emami	8/25/2021	9/12/2021	0	1
Superintendent of Financial Services	Linda A. Lacewell	6/21/2019	8/24/2021	2	2
Acting Superintendent of Fin. Svcs.	Linda A. Lacewell	2/4/2019	6/20/2019	0	4
Superintendent of Financial Services	Maria T. Vullo	6/15/2016	2/1/2019	2	8
Acting Superintendent of Fin. Svcs.	Maria T. Vullo	2/22/2016	6/15/2016	0	4
Acting Superintendent of Fin. Svcs.	Shirin Emami	12/1/2015	2/22/2016	0	2
Acting Superintendent of Fin. Svcs.	Anthony J. Albanese	6/18/2015	11/30/2015	0	5
Superintendent of Financial Services	Benjamin M. Lawskey	10/3/2011	6/17/2015	3	8
Superintendent of Insurance	James J. Wrynn	9/11/2009	10/3/2011	2	1
Acting Superintendent of Insurance	James J. Wrynn	8/20/2009	9/11/2009	0	1
Acting Superintendent of Insurance	Kermitt J. Brooks	7/4/2009	8/19/2009	0	1
Superintendent of Insurance	Eric R. Dinallo	4/18/2007	7/3/2009	2	3
Acting Superintendent of Insurance	Eric R. Dinallo	1/29/2007	4/17/2007	0	3
Acting Superintendent of Insurance	Louis W. 'Lou' Pietroluongo	1/1/2007	1/28/2007	0	1
Superintendent of Insurance	Howard D. Mills III	5/18/2005	12/31/2006	1	7
Acting Superintendent of Insurance	Howard D. Mills III	1/18/2005	5/17/2005	0	4
Superintendent of Insurance	Gregory V. 'Greg' Serio	5/9/2001	1/18/2005	3	9
Acting Superintendent of Insurance	Gregory V. 'Greg' Serio	4/5/2001	5/9/2001	0	1
Superintendent of Insurance	Neil D. Levin <i>(Died Sept. 11, 2001)</i>	4/7/1997	4/5/2001	4	0
Acting Superintendent of Insurance	Gregory V. 'Greg' Serio	12/29/1996	4/7/1997	0	4
Superintendent of Insurance	Edward J. Muhl	2/12/1995	12/29/1996	1	10
Superintendent of Insurance	Salvatore R. Curiale	6/30/1990	12/31/1994	4	6
Acting Superintendent of Insurance	Wendy E. Cooper	1/27/1990	6/29/1990	0	5
Superintendent of Insurance	James P. Corcoran	3/8/1983	1/26/1990	6	10
Superintendent of Insurance	Albert B. Lewis	1/5/1978	3/7/1983	5	2
Acting Superintendent of Insurance	John F. Lennon	7/21/1977	1/4/1978	0	6
Superintendent of Insurance	Thomas A. Harnett	6/24/1975	7/20/1977	2	1
Acting Superintendent of Insurance	John P. Gemma	4/11/1975	6/23/1975	0	2
Superintendent of Insurance	Lawrence W. Keepnews	3/18/1975	4/11/1975	0	1
Acting Superintendent of Insurance	Lawrence O. Monin	3/10/1975	3/18/1975	0	1
Superintendent of Insurance	Benjamin R. Schenck	1/1/1971	3/10/1975	4	2

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NEW YORK—Continued					
Superintendent of Insurance	Richard E. 'Dick' Stewart	1/1/1967	12/31/1970	3	11
Superintendent of Insurance	Henry Root Stern, Jr.	1/28/1964	12/31/1966	2	11
Acting Superintendent of Insurance	Samuel C. Cantor	10/3/1963	1/27/1964	0	3
Superintendent of Insurance	Thomas Thacher	1/27/1959	10/2/1963	4	9
Superintendent of Insurance	Julius S. Wikler	3/17/1958	1/26/1959	0	10
Superintendent of Insurance	Leffert Holz	2/3/1955	3/15/1958	3	1
Acting Superintendent of Insurance	Adelbert G. Straub, Jr.	2/1/1955	2/3/1955	0	1
Superintendent of Insurance	Alfred J. Bohlinger	7/1/1950	1/31/1955	4	6
Superintendent of Insurance	Robert E. Dineen	9/23/1943	6/30/1950	6	9
Acting Superintendent of Insurance	Thomas J. Cullen	2/1/1943	9/22/1943	0	7
Superintendent of Insurance	Louis H. Pink	5/10/1935	1/31/1943	8	4
Superintendent of Insurance	George S. Van Schaick	3/5/1931	5/9/1935	4	2
Acting Superintendent of Insurance	Henry A. Thellusson	2/17/1931	3/4/1931	0	1
Acting Superintendent of Insurance	Thomas F. Behan	7/1/1930	2/16/1931	0	7
Superintendent of Insurance	Albert Conway	1/1/1929	6/30/1930	1	6
Superintendent of Insurance	James A. Beha	7/1/1924	1/1/1929	4	6
Superintendent of Insurance	Francis R. Stoddard, Jr.	12/1/1921	6/30/1924	2	6
Acting Superintendent of Insurance	Henry D. Appleton	11/1/1921	11/30/1921	0	1
Superintendent of Insurance	Jesse S. Phillips	7/1/1915	10/31/1921	6	3
Superintendent of Insurance	Frank Hasbrouck	3/27/1914	6/30/1915	1	3
Superintendent of Insurance	William Temple Emmet	2/21/1912	3/26/1914	2	1
Superintendent of Insurance	William H. Hotchkiss	2/18/1909	2/18/1912	3	0
Acting Superintendent of Insurance	Henry D. Appleton	1/14/1909	2/17/1909	0	1
Superintendent of Insurance	Otto Kelsey	5/17/1906	1/13/1909	2	8
Superintendent of Insurance	Francis Hendricks	2/2/1900	5/16/1906	6	3
Superintendent of Insurance	Louis F. Payn	2/11/1897	2/1/1900	3	0
Superintendent of Insurance	James F. Pierce	2/12/1891	2/10/1897	6	0
Superintendent of Insurance	Robert A. Maxwell	1/1/1886	2/11/1891	5	1
Superintendent of Insurance	John A. McCall, Jr.	4/23/1883	12/31/1885	2	8
Superintendent of Insurance	Charles G. Fairman	4/27/1880	4/23/1883	3	0
Superintendent of Insurance	John F. Smyth	2/21/1877	4/26/1880	3	2
Acting Superintendent of Insurance	William Smyth	2/1/1876	2/20/1877	1	0
Superintendent of Insurance	Orlow W. Chapman	11/29/1872	1/31/1876	3	2
Acting Superintendent of Insurance	George B. Church	5/13/1872	11/28/1872	0	6
Superintendent of Insurance	George W. Miller	5/24/1871	5/12/1872	1	0

NORTH CAROLINA—Elected; 4-Year Term					
Commissioner of Insurance	Mike Causey (Elected Nov. 8, 2016; Re-elected Nov. 3, 2020)	1/1/2017		incumbent	
Commissioner of Insurance	G. Wayne Goodwin	1/10/2009	1/1/2017	8	0
Commissioner of Insurance	James E. 'Jim' Long	1/5/1985	1/10/2009	24	0
Commissioner of Insurance	John Randolph Ingram	1/10/1973	1/5/1985	12	0
Commissioner of Insurance	Edwin S. Lanier	7/16/1962	1/10/1973	10	6
Commissioner of Insurance	Charles F. Gold	6/1/1953	7/16/1962	9	1
Commissioner of Insurance	Waldo C. Cheek	6/1/1949	6/1/1953	4	0
Commissioner of Insurance	William P. 'Bill' Hodges	9/1/1942	6/1/1949	6	9
Commissioner of Insurance	Daniel C. 'Dan' Boney	11/15/1927	9/1/1942	14	10
Commissioner of Insurance	Stacey W. Wade	1/1/1921	11/15/1927	6	10
Commissioner of Insurance	James R. Young	1/1/1899	1/1/1921	22	0
Secretary of State	Cyrus Thompson	1/1/1897	1/1/1899	2	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
NORTH CAROLINA—Continued					
Secretary of State	C. M. Cooke	8/1/1895	1/1/1897	1	5
Secretary of State	Octavius Coke	4/1/1891	8/1/1895	4	4
Secretary of State	William L. Saunders	1/1/1879	4/1/1891	12	3
Secretary of State	J. A. Englehard	1/1/1877	1/1/1879	2	0
Secretary of State	W. H. Howerton	1/1/1873	1/1/1877	4	0
Secretary of State	<i>No Record in Proceedings</i> (Represented by Special Delegate William H. Finch)	10/1/1871	1/1/1873	1	3

NORTH DAKOTA—Elected; 4-Year Term					
Commissioner of Insurance	Jon Godfread <i>(Elected Nov. 8, 2016; Re-elected Nov. 3, 2020)</i>	1/3/2017		incumbent	
Commissioner of Insurance	Adam W. Hamm	10/9/2007	1/3/2017	9	3
Acting Commissioner of Insurance	Rebecca Ternes	9/1/2007	10/9/2007	0	1
Commissioner of Insurance	James A. ‘Jim’ Poolman	1/1/2001	8/31/2007	6	8
Commissioner of Insurance	Glenn Pomeroy	1/1/1993	1/1/2001	8	0
Commissioner of Insurance	Earl R. Pomeroy	1/1/1985	1/1/1993	8	0
Commissioner of Insurance	Jorris O. Wigen	1/1/1981	1/1/1985	4	0
Commissioner of Insurance	Byron Knutson	1/1/1977	1/1/1981	4	0
Commissioner of Insurance	Jorris O. Wigen	1/1/1969	1/1/1977	8	0
Commissioner of Insurance	Karsten O. Nygaard	1/1/1965	1/1/1969	4	0
Commissioner of Insurance	Frank Albers	1/1/1963	1/1/1965	2	0
Commissioner of Insurance	Alfred J. Jensen	1/1/1951	1/1/1963	12	0
Commissioner of Insurance	Otto G. Krueger	9/7/1945	1/1/1951	5	4
Commissioner of Insurance	Oscar E. Erickson <i>(Died Aug. 15, 1945)</i>	1/11/1937	8/15/1945	8	7
Commissioner of Insurance	Harold L. Hopton	1/7/1935	1/11/1937	2	0
Commissioner of Insurance	Sveinung A. Olsness	1/2/1917	1/7/1935	18	0
Commissioner of Insurance	Walter C. Taylor	1/1/1911	1/2/1917	6	0
Commissioner of Insurance	Ernest C. Cooper	1/1/1905	12/31/1910	6	0
Commissioner of Insurance	Ferdinand ‘Ferd’ Leutz	1/1/1901	12/31/1904	4	0
Commissioner of Insurance	George W. Harrison	1/3/1899	12/31/1900	2	0
Commissioner of Insurance	Frederick B. ‘Fred’ Fancher	1/7/1895	1/3/1899	4	0
Commissioner of Insurance	James ‘Jim’ Cudhie	1/3/1893	1/7/1895	2	0
Commissioner of Insurance	A. L. Carey	11/4/1889	1/3/1893	3	2
Territorial Auditor	John C. McManima	9/4/1889	11/4/1889	0	2

NORTHERN MARIANA ISLANDS—Appointed, Concurrent with Current Governor					
Secretary of Commerce	Edward M. Deleon Guerrero	7/8/2021		incumbent	
Acting Secretary of Commerce	Edward M. Deleon Guerrero	3/28/2021	7/8/2021	0	4
Secretary of Commerce	Mark O. Rabauliman	3/6/2015	3/26/2021	6	0
Acting Secretary of Commerce	Mark O. Rabauliman	9/9/2014	3/6/2015	0	6
Secretary of Commerce	Sixto K. Igisomar	1/24/2012	9/9/2014	2	8
Acting Secretary of Commerce	Sixto K. Igisomar	10/8/2010	1/24/2012	1	3
Secretary of Commerce	Michael J. Ada	9/18/2008	10/8/2010	2	1
Acting Secretary of Commerce	Michael J. Ada	8/15/2008	9/18/2008	0	1
Secretary of Commerce	James A. Santos	5/8/2006	8/15/2008	2	3
Acting Secretary of Commerce	James A. Santos	1/9/2006	5/8/2006	0	4
Secretary of Commerce	Andrew S. Salas	1/1/2006	1/9/2006	3	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
OHIO—Appointed, at the Pleasure of the Governor; Confirmed by the Senate					
Director of Insurance	Judith L. ‘Judi’ French	2/8/2021		incumbent	
Interim Director of Insurance	Tynesia Dorsey	8/24/2020	2/7/2021	0	6
Director of Insurance	Jillian E. Froment	3/31/2017	8/24/2020	3	5
Lt. Governor/Director of Insurance	Mary Taylor	1/10/2011	3/31/2017	6	2
Director of Insurance	Mary Jo Hudson	1/8/2007	1/10/2011	4	0
Director of Insurance	Ann H. Womer Benjamin	1/6/2003	1/8/2007	4	0
Interim Director of Insurance	Holly Saelens	11/29/2002	1/6/2003	0	2
Director of Insurance	J. Lee Covington II	5/7/1999	11/29/2002	3	7
Interim Director of Insurance	Alan F. Berliner	4/1/1999	5/7/1999	0	1
Interim Director of Insurance	David S. Meyer	1/11/1999	4/1/1999	0	3
Director of Insurance	Harold T. Duryee	3/1/1991	1/11/1999	7	10
Acting Director of Insurance	Dana Rudmose	1/14/1991	3/1/1991	0	2
Director of Insurance	George Fabe	2/4/1983	1/14/1991	7	11
Director of Insurance	Robert H. Katz	8/31/1982	2/4/1983	0	5
Director of Insurance	Robert L. Ratchford, Jr.	12/31/1979	8/31/1982	2	8
Director of Insurance	Harry V. Jump	1/13/1975	12/31/1979	4	11
Director of Insurance	Kenneth E. ‘Ken’ DeShetler	1/11/1971	1/13/1975	4	0
Director of Insurance	Fred B. Smith	2/4/1969	1/11/1971	1	11
Director of Insurance	Eugene P. Brown (Died Jan. 27, 1969)	3/1/1968	1/27/1969	0	10
Superintendent of Insurance	William R. Morris	1/14/1963	3/1/1968	5	2
Superintendent of Insurance	Robert L. Mullins	12/1/1961	1/14/1963	1	1
Acting Superintendent of Insurance	Robert L. Mullins	10/1/1961	12/1/1961	0	2
Superintendent of Insurance	Edward A. ‘Ted’ Stowell	1/12/1959	10/1/1961	2	9
Superintendent of Insurance	Arthur I. ‘Art’ Vorys	1/16/1957	1/12/1959	2	0
Superintendent of Insurance	August ‘Augie’ Pryatel	7/2/1955	1/16/1957	1	6
Superintendent of Insurance	Walter A. Robinson	1/10/1949	7/2/1955	6	6
Superintendent of Insurance	W. Lee Shield	1/13/1947	1/10/1949	2	0
Superintendent of Insurance	Walter Dressel	1/15/1945	1/13/1947	2	0
Superintendent of Insurance	J. Roth Crabbe	3/1/1943	1/15/1945	1	10
Superintendent of Insurance	John A. Lloyd	1/16/1939	3/1/1943	4	2
Superintendent of Insurance	Robert L. Bowen	1/14/1935	1/16/1939	4	0
Superintendent of Insurance	Charles T. Warner	2/1/1931	1/14/1935	3	11
Superintendent of Insurance	Charles S. Younger	1/14/1929	1/31/1931	2	0
Superintendent of Insurance	William A. Doody	12/15/1928	1/14/1929	0	1
Superintendent of Insurance	William C. Safford	4/15/1927	12/15/1928	1	8
Superintendent of Insurance	Harry L. Conn	2/1/1925	4/15/1927	2	2
Superintendent of Insurance	Emmett L. Savage	6/25/1924	2/1/1925	0	8
Superintendent of Insurance	Harry L. Conn	1/12/1923	6/25/1924	1	5
Superintendent of Insurance	Bert W. Gearheart	1/25/1921	1/12/1923	2	0
Superintendent of Insurance	Robert T. Crew	7/1/1920	1/25/1921	0	6
Superintendent of Insurance	William H. Tomlinson	6/1/1917	7/1/1920	3	1
Superintendent of Insurance	Frank Taggart	2/11/1915	6/1/1917	2	4
Superintendent of Insurance	Price Russell	11/7/1914	2/11/1915	0	3
Superintendent of Insurance	Robert M. Small	4/18/1914	11/7/1914	0	7
Acting Superintendent of Insurance	Robert M. Small	2/9/1914	4/18/1914	0	2
Superintendent of Insurance	Edmond H. Moore	5/18/1911	2/9/1914	2	9
Superintendent of Insurance	Charles C. Lemert	12/16/1907	4/30/1911	3	5
Superintendent of Insurance	Arthur I. ‘Jake’ Vorys	6/3/1900	12/16/1907	7	6
Superintendent of Insurance	William S. Matthews	6/3/1896	6/3/1900	4	0
Superintendent of Insurance	William M. Hahn	6/3/1893	6/3/1896	3	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
OHIO—Continued					
Superintendent of Insurance	William H. Kinder	6/3/1890	6/3/1893	3	0
Superintendent of Insurance	Samuel E. Kemp	6/3/1887	6/3/1890	3	0
Superintendent of Insurance	Henry J. Reinmund	6/2/1884	6/3/1887	3	0
Superintendent of Insurance	Charles H. Moore	6/2/1881	6/2/1884	3	0
Superintendent of Insurance	Joseph F. Wright	6/2/1878	6/2/1881	3	0
Superintendent of Insurance	William D. Hill	6/2/1875	6/2/1878	3	0
Superintendent of Insurance	William F. Church	6/2/1872	6/2/1875	3	0
Auditor of State	James Williams	1/8/1872	6/2/1872	0	5
Auditor of State	James H. Godman	5/24/1871	1/8/1872	0	8

OKLAHOMA—Elected; 4-Year Term					
Insurance Commissioner	Glen Mulready <i>(Elected Nov. 6, 2018)</i>	1/14/2019		incumbent	
Insurance Commissioner	John D. Doak	1/10/2011	1/14/2019	8	0
Insurance Commissioner	Kim Holland	1/24/2005	1/10/2011	6	0
Insurance Commissioner	<i>Position Vacant</i>	9/24/2004	1/1/2005	0	3
Insurance Commissioner	Carroll Fisher	1/1/1999	9/24/2004	5	9
Insurance Commissioner	John P. Crawford	1/1/1995	1/1/1999	4	0
Insurance Commissioner	Catherine J. ‘Cathy’ Weatherford	10/1/1991	1/1/1995	3	3
Insurance Commissioner	Gerald Grimes	1/1/1975	10/1/1991	16	9
Insurance Commissioner	Joe B. Hunt	1/1/1955	1/1/1975	20	0
Insurance Commissioner	Robert L. Birdwell	6/1/1954	1/1/1955	0	7
Insurance Commissioner	Donald F. Dickey	7/21/1946	6/1/1954	7	11
Insurance Commissioner	Jess G. Read <i>(Died July 20, 1946)</i>	1/6/1924	7/20/1946	22	6
Insurance Commissioner	E. W. Hardin	2/1/1921	1/6/1924	2	11
Insurance Commissioner	A. L. Welch	4/28/1913	2/1/1921	7	10
Insurance Commissioner	Perry A. Ballard	1/9/1911	4/28/1913	2	3
Insurance Commissioner	Milas Lasater	12/3/1909	1/9/1911	1	1
Insurance Commissioner	T. J. McComb	11/1/1907	12/3/1909	2	1
Territorial Secretary	Charles H. Filson	1/1/1906	11/1/1907	1	10
Territorial Secretary	William Grimes	5/1/1901	1/1/1906	4	8
Territorial Secretary	William M. Jenkins	6/1/1897	5/1/1901	3	11
Territorial Secretary	Thomas J. Lowe	9/1/1893	6/1/1897	3	9
Territorial Secretary	Robert Martin	5/1/1890	9/1/1893	3	4

OREGON—Appointed, Indefinite					
Director, Department of Consumer and Business Services (DCBS) / Insurance Commissioner	Andrew R. Stolfi	4/7/2020		incumbent	
Insurance Commissioner	Andrew R. Stolfi	2/1/2018	4/7/2020	2	2
Acting Director, DCBS / Insurance Commissioner	Cameron Smith	12/21/2017	1/31/2018	0	2
Acting Director, DCBS / Insurance Commissioner	Jean Straight	9/1/2017	12/20/2017	0	3
Insurance Commissioner / Chief Actuary	Laura N. Cali Robison	7/15/2013	8/31/2017	4	1
Insurance Commissioner	Louis D. Savage	5/1/2012	7/15/2013	1	2
Acting Insurance Commissioner	Louis D. Savage	11/1/2011	5/1/2012	0	6
Insurance Administrator	Teresa D. Miller	7/8/2009	11/1/2011	2	4
Acting Insurance Administrator	Teresa D. Miller	10/1/2008	7/8/2009	0	9
Insurance Administrator	Scott J. Kipper	12/1/2007	10/1/2008	0	10

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
OREGON—Continued					
Acting Insurance Administrator	Carl Lundberg	7/1/2007	12/1/2007	0	5
Insurance Administrator (named NAIC member rep. by Dir. Neidig)	Joel S. Ario	12/1/2000	7/1/2007	7	3
Director, DCBS / Insurance Commissioners	Mary C. Neidig (<i>exp. 1/1/2003</i>)	4/27/2000	12/1/2000	2	9
Acting Director, DCBS / Insurance Commissioners	Mary C. Neidig	3/1/2000	4/27/2000	0	1
Acting Director, DCBS / Insurance Commissioners	Deborah Lincoln	3/1/2000	3/1/2000	0	1
Acting Director, DCBS / Insurance Commissioners	Mike Greenfield	7/1/1998	3/1/2000	1	8
Acting Director, DCBS / Insurance Commissioners	Deborah Lincoln	3/1/1998	7/1/1998	0	4
Acting Director, DCBS / Insurance Commissioners	Kerry Barnett	12/1/1993	12/31/1997	4	0
Acting Insurance Commissioner	Geoff Guilfooy	10/1/1993	12/1/1993	0	2
Insurance Commissioner	Gary Weeks	3/1/1991	10/1/1993	2	7
Acting Insurance Commissioner	Geoff Guilfooy	1/1/1991	3/1/1991	0	2
Insurance Commissioner	Theodore R. Kulongoski	1/1/1987	1/1/1991	4	0
Insurance Commissioner	Josephine M. 'Jo' Driscoll	12/1/1981	1/1/1987	5	1
Insurance Commissioner	Wilfred W. Fritz	2/1/1978	12/1/1981	3	10
Insurance Commissioner	Lester L. Rawls	8/1/1972	12/31/1977	5	4
Acting Insurance Commissioner	F. Frank Howatt	4/1/1972	8/1/1972	0	4
Insurance Commissioner	Cornelius C. Bateson	12/1/1969	4/1/1972	2	4
Insurance Commissioner	James R. Faulstich	1/1/1967	12/1/1969	2	11
Insurance Commissioner	Walter G. Korlann	11/1/1961	1/1/1967	5	2
Insurance Commissioner	V. Dean Musser	1/1/1959	11/1/1961	2	10
Insurance Commissioner	Hugh H. Earle	7/1/1957	1/1/1959	1	6
Insurance Commissioner	Robert B. Taylor	7/1/1949	6/30/1957	7	11
Insurance Commissioner	<i>Research Proceedings</i>	1/1/1941	6/30/1949	8	5
Insurance Commissioner	Seth B. Thompson	6/1/1940	12/1/1940	0	6
Insurance Commissioner	Hugh H. Earle	7/1/1935	6/1/1939	3	11
Insurance Commissioner	Alva H. Averill	6/1/1931	12/1/1934	3	6
Insurance Commissioner	Clare A. Lee	2/1/1927	12/1/1930	3	10
Insurance Commissioner	Will Moore	8/1/1923	10/1/1926	3	2
Insurance Commissioner	A. C. Barbour	9/1/1920	9/1/1921	1	0
Insurance Commissioner	Harvey W. Wells	9/1/1915	9/1/1919	4	0
Insurance Commissioner	John W. Ferguson	7/1/1912	9/1/1915	3	2
Insurance Commissioner	Samuel A. Kozler	8/1/1911	7/1/1912	0	11
Insurance Superintendent	Samuel A. Kozler	8/24/1909	8/1/1911	2	0
PENNSYLVANIA—Appointed, by the Governor with the Advice and Consent of the Senate					
Acting Insurance Commissioner	Michael M. Humphreys	2/26/2022		incumbent	
Insurance Commissioner	Jessica K. Altman	3/20/2018	2/25/2022	3	11
Acting Insurance Commissioner	Jessica K. Altman	8/19/2017	3/20/2018	0	7
Insurance Commissioner	Teresa D. Miller	6/3/2015	8/18/2017	2	2
Acting Insurance Commissioner	Teresa D. Miller	1/21/2015	6/3/2015	0	5
Insurance Commissioner	Michael F. 'Mike' Consedine	4/26/2011	1/20/2015	3	9
Acting Insurance Commissioner	Michael F. 'Mike' Consedine	1/19/2011	4/26/2011	0	3
Acting Insurance Commissioner	Robert L. Pratter	8/30/2010	1/18/2011	0	5
Insurance Commissioner	Joel S. Ario	7/3/2008	8/29/2010	2	1

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
PENNSYLVANIA—Continued					
Acting Insurance Commissioner	Joel S. Ario	7/2/2007	7/3/2008	1	0
Acting Insurance Commissioner	Randolph R. ‘Randy’ Rohrbaugh	2/20/2007	7/1/2007	0	5
Insurance Commissioner	M. Diane Koken	8/27/1997	2/19/2007	9	6
Acting Insurance Commissioner	Gregory S. Martino	6/30/1997	8/27/1997	0	2
Insurance Commissioner	Linda S. Kaiser	1/30/1995	6/30/1997	2	5
Insurance Commissioner	Cynthia M. Maleski	4/7/1992	1/30/1995	2	10
Acting Insurance Commissioner	Ronald Chronister	2/28/1992	4/7/1992	0	2
Insurance Commissioner	Constance B. Foster	1/20/1987	2/28/1992	5	1
Insurance Commissioner	George F. Grode	7/23/1985	1/20/1987	1	6
Acting Insurance Commissioner	William R. Muir, Jr.	5/1/1984	7/23/1985	1	3
Acting Insurance Commissioner	Anthony A. Geyelin	9/26/1983	5/1/1984	0	7
Insurance Commissioner	Michael L. Browne	7/24/1980	9/26/1983	3	2
Acting Insurance Commissioner	James R. Farley	5/21/1980	7/24/1980	0	2
Insurance Commissioner	Harvey Bartle III	2/23/1979	5/20/1980	1	3
Acting Insurance Commissioner	John J. Sheehy	1/2/1979	2/23/1979	0	2
Insurance Commissioner	William J. Sheppard	4/30/1974	1/1/1979	4	9
Insurance Commissioner	Herbert S. Denenberg	1/25/1971	4/30/1974	3	3
Insurance Commissioner	George F. Reed	9/11/1969	1/25/1971	1	4
Insurance Commissioner	David O. Maxwell	1/17/1967	9/11/1969	2	8
Insurance Commissioner	Audrey R. Kelly	1/15/1963	1/17/1967	4	0
Insurance Commissioner	Theodore S. Gutowicz	7/16/1962	1/15/1963	0	6
Insurance Commissioner	Francis R. Smith	1/18/1955	7/16/1962	7	6
Insurance Commissioner	Artemas C. Leslie	4/8/1950	1/18/1955	4	9
Insurance Commissioner	James F. Malone, Jr.	1/21/1947	4/8/1950	3	3
Insurance Commissioner	Gregg L. Neel	1/10/1943	1/21/1947	4	0
Insurance Commissioner	Ralph H. Alexander	11/5/1942	1/10/1943	0	2
Acting Insurance Commissioner	Ralph H. Alexander	7/23/1942	11/5/1942	0	4
Insurance Commissioner	Matthew H. Taggart <i>(Died July 23, 1942)</i>	1/17/1939	7/23/1942	3	6
Insurance Commissioner	Owen B. Hunt	1/15/1935	1/17/1939	4	0
Acting Insurance Commissioner	Charles H. Groff	2/5/1934	1/15/1935	0	11
Insurance Commissioner	Charles F. Armstrong <i>(Died Feb. 4, 1934)</i>	1/20/1931	2/4/1934	3	1
Insurance Commissioner	Matthew H. Taggart	4/18/1927	1/20/1931	3	9
Insurance Commissioner	Einar Barford	8/16/1926	4/18/1927	0	8
Insurance Commissioner	Samuel W. McCulloch	6/15/1923	8/16/1926	3	2
Insurance Commissioner	Thomas B. Donaldson	5/6/1919	6/15/1923	3	1
Insurance Commissioner	Charles A. Ambler	9/10/1917	5/6/1919	1	8
Insurance Commissioner	J. Denny O’Neil	6/23/1916	9/6/1917	1	3
Acting Insurance Commissioner	Samuel W. McCulloch	3/31/1916	6/23/1916	0	3
Insurance Commissioner	Charles Johnson	11/15/1911	3/30/1916	4	4
Insurance Commissioner	Samuel W. McCulloch	12/23/1909	11/15/1911	1	11
Insurance Commissioner	David Martin	7/1/1905	12/23/1909	4	5
Insurance Commissioner	Israel W. Durham	1/18/1899	6/30/1905	6	5
Insurance Commissioner	James H. Lambert	1/15/1895	1/18/1899	4	0
Insurance Commissioner	George B. Luper	5/21/1891	1/15/1895	3	8
Insurance Commissioner	John Montgomery Forster	5/5/1873	5/21/1891	8	0
Auditor General	Harrison Allen	12/2/1872	5/5/1873	0	5
Auditor General	John F. Hartranft	5/24/1871	12/2/1872	1	7

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
PUERTO RICO—Appointed, Indefinite					
Commissioner of Insurance	Alexander S. Adams Vega	12/20/2021		incumbent	
Commissioner of Insurance	<i>Position Vacant</i>	11/25/2021	12/19/2020	0	1
Commissioner of Insurance	Mariano A. Mier Romeu	1/4/2021	11/24/2021	0	10
Commissioner of Insurance	Rafael Cestero-Lopategui	9/10/2020	1/4/2021	0	4
Acting Commissioner of Insurance	Rafael Cestero-Lopategui	1/23/2020	9/10/2020	0	8
Commissioner of Insurance	Javier Rivera Rios	1/17/2017	1/22/2020	3	0
Commissioner of Insurance	Ángela Weyne	1/2/2013	12/31/2016	3	11
Commissioner of Insurance	Ramón L. Cruz-Colón	1/4/2009	1/2/2013	4	0
Commissioner of Insurance	Dorelisse Juarbe Jiménez	1/7/2004	12/31/2008	4	11
Commissioner of Insurance	Fermín M. Contreras Gómez	3/15/2001	1/7/2004	2	10
Commissioner of Insurance	Juan Antonio Garcia	1/1/1993	3/15/2001	8	2
Commissioner of Insurance	Ralph J. Rexach Chandri	1/14/1992	12/31/1992	0	11
Commissioner of Insurance	Miguel A. Villafañe-Neriz	1/1/1989	1/14/1992	3	0
Commissioner of Insurance	Juan Antonio Garcia	1/4/1982	12/31/1988	6	11
Commissioner of Insurance	Rolando Cruz	1/13/1977	12/18/1981	4	11
Commissioner of Insurance	Manuel Juarbe	4/18/1975	12/31/1976	1	8
Commissioner of Insurance	Carlos R. Rios	7/2/1973	3/25/1975	1	8
Acting Commissioner of Insurance	Juan Antonio Garcia	12/31/1972	7/2/1973	0	6
Commissioner of Insurance	Pedro J. Fernández Badillo	4/17/1969	12/31/1972	3	8
Commissioner of Insurance	Julio R. Hernandez	11/1/1967	3/25/1969	1	5
Commissioner of Insurance	Jorge Soto Garcia	8/1/1964	9/30/1967	3	1
Commissioner of Insurance	Pablo J. Lopez Castro	8/1/1957	7/15/1964	7	0
Superintendent of Insurance	Mariano Nieves Hidalgo (Died June 13, 1957)	1/9/1953	6/13/1957	4	5
Superintendent of Insurance	Jorge Font Saldaña	6/1/1949	12/31/1952	2	7
Superintendent of Insurance	Lorenzo J. Noa	1/9/1943	4/6/1949	6	3
Superintendent of Insurance	Hector R. Ball	5/24/1933	12/31/1942	9	7
Superintendent of Insurance	Augusto R. Soltero	12/9/1930	5/23/1933	4	9
RHODE ISLAND—Appointed, at the Discretion of the Director of Business Regulation					
Superintendent of Insurance	Elizabeth ‘Beth’ Kelleher Dwyer	1/11/2016		incumbent	
Deputy Director/Insurance and Banking Superintendent	Joseph Torti III	12/16/2002	12/31/2015	13	0
Superintendent of Insurance	Alfonso E. ‘Al’ Mastrostefano	7/1/1994	12/16/2002	8	5
Superintendent of Insurance	Charles P. Kwolek, Jr.	11/19/1991	7/1/1994	3	8
Insurance Commissioner	Maurice C. Paradis	1/1/1991	11/19/1991	0	10
Insurance Commissioner	Robert J. Janes	10/30/1988	1/1/1991	2	2
Insurance Commissioner	Mark A. Pfeiffer	4/21/1986	10/30/1988	2	6
Insurance Commissioner	Clifton A. Moore	2/1/1985	4/21/1986	1	2
Insurance Commissioner	William F. Carroll	2/3/1984	2/1/1985	1	0
Insurance Commissioner	Thomas J. Caldarone, Jr.	1/16/1977	2/3/1984	6	1
Insurance Commissioner	Peter F. Mullaney	1/10/1969	1/16/1977	9	0
Insurance Commissioner	Ralph A. Petarca	6/30/1967	1/10/1969	2	6
Insurance Commissioner	Warren R. Campbell	1/1/1963	6/30/1967	4	6
Insurance Commissioner	Thomas J. Coyle	1/9/1961	1/1/1963	2	0
Insurance Commissioner	Hartley F. Roberts	1/20/1959	1/9/1961	2	0
Insurance Commissioner	George A. Bisson	2/11/1947	1/20/1959	11	11
Insurance Commissioner	J. Austin Carroll	7/1/1942	2/1/1947	4	7
Insurance Commissioner	Henri N. Morin	3/1/1939	7/1/1942	3	4
Chief, Division of Banking & Ins.	M. Joseph Cummings	3/4/1935	2/28/1939	4	0
Insurance Commissioner	Oscar L. Heltzen	12/29/1932	3/4/1935	2	2

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
RHODE ISLAND—Continued					
Insurance Commissioner	Philip H. Wilbour	4/8/1929	12/9/1932	3	8
State Auditor/Ins. Commissioner	Philip H. Wilbour	2/1/1917	4/8/1929	12	2
State Auditor/Ins. Commissioner	Charles M. Arnold	12/23/1916	1/31/1917	0	1
State Auditor/Ins. Commissioner	Charles C. Gray (Died Dec. 21, 1916)	1/16/1899	12/21/1916	17	11
State Auditor/Ins. Commissioner	Albert C. Landers	5/27/1891	1/16/1899	7	7
State Auditor/Ins. Commissioner	Elisha W. Bucklin	5/28/1890	5/27/1891	1	0
State Auditor/Ins. Commissioner	William C. Townsend	5/30/1889	5/28/1890	1	0
State Auditor/Ins. Commissioner	Almon K. Goodwin	6/1/1888	5/30/1889	1	0
State Auditor/Ins. Commissioner	Elisha W. Bucklin	6/1/1887	6/1/1888	1	0
State Auditor/Ins. Commissioner	Samuel H. Cross	6/30/1882	6/1/1887	4	11
State Auditor/Ins. Commissioner	Joel M. Spencer	5/24/1871	6/30/1882	11	1
SOUTH CAROLINA—Appointed, by the Governor upon the Advice and Consent of the Senate					
Acting Director of Insurance	Michael Wise	4/16/2022		incumbent	
Director of Insurance	Raymond G. 'Ray' Farmer (Appointed Nov. 12, 2012; Confirmed Feb. 14, 2013; Reappointed Dec. 12, 2018)	12/3/2012	4/15/2022	9	4
Acting Director of Insurance	Gwendolyn Fuller McGriff	12/29/2011	12/2/2012	1	0
Director of Insurance	David Black	2/1/2011	12/28/2011	0	10
Director of Insurance	Scott H. Richardson	2/15/2007	2/1/2011	4	0
Director of Insurance	Eleanor Kitzman	2/1/2005	2/15/2007	2	0
Co-Acting Director of Insurance	Gwendolyn Fuller & Tim Baker	8/1/2004	2/1/2005	0	6
Director of Insurance	Ernst N. 'Ernie' Csiszar	1/26/1999	8/1/2004	5	7
Director of Insurance	Lee P. Jedziniak	7/1/1995	1/13/1999	3	6
Chief Insurance Commissioner	Susanne K. Murphy	3/1/1995	7/1/1995	0	4
Chief Insurance Commissioner	John G. Richards	3/7/1985	3/1/1995	10	0
Chief Insurance Commissioner	Rogers T. Smith	10/21/1981	3/7/1985	3	5
Acting Insurance Commissioner	Rogers T. Smith	9/3/1981	10/21/1981	0	1
Chief Insurance Commissioner	John W. 'Jack' Lindsay	7/1/1975	9/3/1981	6	2
Chief Insurance Commissioner	Howard B. Clark	1/14/1974	6/30/1975	1	5
Acting Insurance Commissioner	Glen E. Craig	12/1/1973	1/13/1974	0	1
Acting Insurance Commissioner	Lanville H. Mengedoht	1/1/1973	12/1/1973	0	11
Chief Insurance Commissioner	John W. 'Jack' Lindsay	3/2/1970	12/31/1972	2	9
Chief Insurance Commissioner	Leroy M. Brandt	7/1/1968	3/2/1970	1	8
Chief Insurance Commissioner	Charles W. Gambrell	2/17/1964	6/30/1968	4	4
Chief Insurance Commissioner	William F. Austin	7/1/1960	2/15/1964	3	7
Insurance Commissioner	R. Lee Kelly	8/5/1954	7/1/1960	5	11
Insurance Commissioner	D. D. 'Pat' Murphy	9/15/1948	8/4/1954	5	11
Insurance Commissioner	L. George Benjamin, Jr.	11/1/1945	9/15/1948	2	10
Insurance Commissioner	D. D. 'Pat' Murphy	8/16/1944	11/1/1945	1	3
Insurance Commissioner	William Egleston	9/4/1942	8/16/1944	1	11
Insurance Commissioner	L. George Benjamin, Jr.	4/1/1942	9/4/1942	0	5
Insurance Commissioner	Samuel B. 'Sam' King	4/2/1928	4/1/1942	14	0
Insurance Commissioner	John J. McMahan	4/7/1921	4/2/1928	7	0
Insurance Commissioner	William A. McSwain	3/1/1918	4/7/1921	3	1
Insurance Commissioner	Fitz Hugh McMaster	3/4/1908	3/1/1918	10	0
Comptroller-General of State	Adolphus W. Jones	1/21/1903	3/4/1908	5	2
Comptroller-General of State	John P. Derham	1/26/1898	1/21/1903	5	0
Comptroller-General of State	Layfayette P. Epton	11/2/1897	1/26/1898	0	2
Comptroller-General of State	James W. Norton	11/26/1894	11/2/1897	3	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
SOUTH CAROLINA—Continued					
Comptroller-General of State	William H. Ellerbe	11/21/1890	11/26/1894	4	0
Comptroller-General of State	John S. Verner	12/22/1887	11/21/1890	2	11
Comptroller-General of State	William E. Stoney	11/23/1882	12/22/1887	5	1
Comptroller-General of State	John Bratton	12/22/1880	11/23/1882	1	11
Comptroller-General of State	John C. Coit	11/30/1880	12/20/1880	0	1
Comptroller-General of State	Johnson Hagood	11/23/1876	11/30/1880	4	0
Comptroller-General of State	Thomas C. Dunn	3/23/1875	11/23/1876	1	8
Comptroller-General of State	Solomon L. Hoge	12/7/1872	3/23/1875	2	3
Comptroller-General of State	John L. Neagle	10/18/1871	12/7/1872	1	2
SOUTH DAKOTA—Appointed, at the Pleasure of the Secretary of the Department of Labor and Regulation					
Director of Insurance	Larry D. Deiter	1/8/2015		incumbent	
Interim Director of Insurance	Larry D. Deiter	12/1/2014	1/8/2015	0	1
Director of Insurance	Merle D. Scheiber	8/8/2005	12/1/2014	9	4
Director of Insurance	Gary L. Steuck	5/12/2003	7/31/2005	2	2
Acting Director of Insurance	Wendell Malsam	1/1/2003	5/12/2003	0	4
Director of Insurance	Darla L. Lyon	1/6/1992	1/1/2003	11	0
Acting Director of Insurance	Darla L. Lyon	10/1/1991	1/6/1992	0	3
Director of Insurance	Mary Jane Cleary	7/6/1987	10/1/1991	4	3
Director of Insurance	Susan L. Walker	8/30/1983	7/6/1987	3	11
Director of Insurance	Henry J. Lussem, Jr.	3/1/1980	8/30/1983	3	9
Director of Insurance	Lowell L. Knutson	1/1/1976	3/1/1980	4	2
Acting Director of Insurance	Donald D. Graham	6/30/1975	1/1/1976	0	7
Commissioner of Insurance	Ralph A. Nauman	7/1/1971	6/30/1975	4	0
Commissioner of Insurance	Warren E. Dirks	1/1/1967	7/1/1971	4	6
Acting Commissioner of Insurance	Warren E. Dirks	12/1/1966	1/1/1967	0	1
Commissioner of Insurance	J. R. Menning	6/30/1963	12/1/1966	3	6
Acting Commissioner of Insurance	D. E. Mitchell	6/1/1963	6/30/1963	0	0
Commissioner of Insurance	Robert A. Hurlbut	6/1/1961	6/1/1963	2	0
Commissioner of Insurance	Randolph Bagby	11/15/1960	6/1/1961	0	7
Commissioner of Insurance	William J. 'Bill' Dawson (Died Nov. 15, 1960)	6/1/1959	11/15/1960	1	5
Commissioner of Insurance	D. E. Mitchell	5/1/1956	6/1/1959	3	1
Commissioner of Insurance	George O. Burt	6/1/1952	5/1/1956	4	6
Commissioner of Insurance	D. E. Mitchell	6/1/1951	6/1/1952	1	0
Commissioner of Insurance	George O. Burt	1/2/1950	6/1/1951	1	5
Commissioner of Insurance	Waldemar A. Mueller	7/18/1944	1/2/1950	5	6
Commissioner of Insurance	George K. Burt (Died May 23, 1944)	3/1/1940	5/23/1944	4	3
Commissioner of Insurance	P. J. Dunn	7/1/1937	3/1/1940	2	8
Commissioner of Insurance	William J. 'Bill' Dawson (Died Nov. 15, 1960)	7/1/1933	7/1/1937	4	0
Commissioner of Insurance	Clyde R. Horswill	7/1/1931	7/1/1933	2	0
Commissioner of Insurance	Donald C. 'Don' Lewis	7/1/1927	7/1/1931	4	0
Commissioner of Insurance	G. H. Helgerson	7/1/1925	7/1/1927	2	0
Commissioner of Insurance	William N. Van Camp	3/1/1917	7/1/1925	8	4
Commissioner of Insurance	M. Harry O'Brien	10/1/1915	3/1/1917	1	5
Commissioner of Insurance	Otto K. Stablein	9/1/1913	10/1/1915	2	1
Commissioner of Insurance	Orville S. Basford	9/1/1907	9/1/1913	6	0
Commissioner of Insurance	Len U. Doty	10/1/1906	9/1/1907	0	11
Commissioner of Insurance	John C. Perkins	9/1/1903	10/1/1906	3	1
Commissioner of Insurance	Howard C. Shober	9/1/1901	9/1/1903	2	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
SOUTH DAKOTA—Continued					
Commissioner of Insurance	F. G. King	9/1/1899	9/1/1901	2	0
Commissioner of Insurance	L. C. Campbell	9/30/1898	9/1/1899	1	0
Commissioner of Insurance	Thomas H. Ayers	9/1/1898	9/30/1898	0	1
Commissioner of Insurance	J. H. Kipp	9/1/1897	9/1/1898	1	0
Commissioner of Insurance	H. E. Mayhew	1/1/1897	9/1/1897	0	8
Auditor of State	J. E. Hipple	1/1/1893	1/1/1897	4	0
Auditor of State	L. C. Taylor	11/2/1889	1/1/1893	3	2
Territorial Auditor	John C. McManima	9/4/1889	11/2/1889	0	2
TENNESSEE—Appointed, at the Discretion of the Governor					
Cmsr. of Commerce and Insurance	Carter Lawrence	11/12/2020		incumbent	
Cmsr. of Commerce and Insurance	Hodgen Mainda	10/1/2019	11/12/2020	1	1
Interim Cmsr. of Commerce & Ins.	Carter Lawrence	6/15/2019	9/30/2019	0	3
Cmsr. of Commerce and Insurance	Julie Mix McPeak	1/12/2011	6/14/2019	8	5
Cmsr. of Commerce and Insurance	Leslie A. Newman	1/1/2007	1/12/2011	4	0
Cmsr. of Commerce and Insurance	Paula A. Flowers	1/18/2003	1/1/2007	4	0
Cmsr. of Commerce and Insurance	Anne B. Pope	11/1/1999	1/1/2003	3	2
Cmsr. of Commerce and Insurance	Douglas M. 'Doug' Sizemore	1/21/1995	10/31/1999	4	10
Cmsr. of Commerce and Insurance	Allan S. Curtis	4/1/1994	1/21/1995	0	9
Cmsr. of Commerce and Insurance	Elaine A. McReynolds	1/17/1987	4/1/1994	7	3
Cmsr. of Commerce and Insurance	William H. Inman	4/1/1986	1/17/1987	0	9
Commissioner of Insurance	John C. Neff	1/20/1979	4/1/1986	7	3
Commissioner of Insurance	Millard V. Oakley	1/18/1975	1/20/1979	4	0
Commissioner of Insurance	Richard F. Keathley	1/1/1974	1/18/1975	1	0
Cmsr. of Insurance and Banking	Halbert L. Carter, Jr.	1/25/1971	12/31/1973	2	11
Cmsr. of Insurance and Banking	Milton P. Rice	9/5/1969	1/25/1971	1	4
Cmsr. of Insurance and Banking	David M. Pack	1/16/1967	9/2/1969	1	8
Cmsr. of Insurance and Banking	Albert Williams	1/15/1963	1/16/1967	4	0
Cmsr. of Insurance and Banking	John R. Long, Jr.	1/19/1959	1/15/1963	4	0
Cmsr. of Insurance and Banking	Leon Gilbert	1/1/1959	1/19/1959	0	1
Cmsr. of Insurance and Banking	Arch E. Northington	1/15/1953	12/23/1958	5	11
Cmsr. of Insurance and Banking	Robert L. Taylor	12/8/1952	1/15/1953	0	1
Cmsr. of Insurance and Banking	Malcolm O. Allen (Died Nov. 27, 1952)	1/17/1949	11/27/1952	3	10
Cmsr. of Insurance and Banking	James M. McCormack	1/16/1939	1/17/1949	10	0
Cmsr. of Insurance and Banking	John W. Britton	1/10/1938	1/16/1939	1	0
Cmsr. of Insurance and Banking	James M. McCormack	1/15/1937	1/10/1938	1	0
Cmsr. of Insurance and Banking	Joseph S. Tobin	1/17/1933	1/15/1937	4	0
Cmsr. of Insurance and Banking	Joseph I. Reece	7/14/1931	1/17/1933	1	6
Cmsr. of Insurance and Banking	Albert S. Caldwell	2/1/1923	7/14/1931	8	5
Insurance Commissioner	Earl N. Rogers	7/1/1921	2/1/1923	1	8
Insurance Commissioner	Robert L. Carden	1/17/1921	6/30/1921	0	5
Acting Insurance Commissioner	Thomas E. Miles	12/1/1920	1/17/1921	0	1
Insurance Commissioner	Leslie K. Arrington	7/7/1917	12/1/1920	3	5
Insurance Commissioner	William F. Dunbar	6/1/1915	7/1/1917	2	1
Insurance Commissioner	J. Will Taylor	3/1/1913	6/1/1915	2	3
State Treasurer/Ins. Commissioner	G. Thomas 'Tom' Taylor	2/20/1911	3/1/1913	2	1
State Treasurer/Ins. Commissioner	Reau E. Folk	2/16/1901	2/20/1911	10	0
State Treasurer/Ins. Commissioner	Edward B. Craig	1/26/1893	2/16/1901	8	1
State Treasurer/Ins. Commissioner	Mansfield F. 'Manse' House	2/11/1889	1/26/1893	3	11
State Treasurer/Ins. Commissioner	Atha Thomas	10/26/1886	2/11/1889	2	4

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
TENNESSEE—Continued					
State Treasurer/Ins. Commissioner	James W. Thomas <i>(Died Oct. 25, 1886)</i>	2/3/1885	10/25/1886	1	8
State Treasurer/Ins. Commissioner	Atha Thomas	1/17/1883	2/3/1885	2	1
State Treasurer/Ins. Commissioner	Marshall T. Polk	2/8/1877	1/17/1883	5	11
State Treasurer/Ins. Commissioner	William L. Morrow	5/24/1871	2/8/1877	5	9
TEXAS—Appointed; 2-Year Term					
Insurance Commissioner	Cassie Brown	9/8/2021		incumbent	
Chief Deputy Commissioner	J. Douglas 'Doug' Slape	10/1/2020	9/8/2021	0	11
Insurance Commissioner	Kent Sullivan	9/21/2017	9/30/2020	3	0
Insurance Commissioner	<i>Position Vacant</i>	4/13/2017	9/21/2017	0	5
Insurance Commissioner	David C. Mattax <i>(Died April 13, 2017)</i>	1/13/2015	4/13/2017	2	3
Insurance Commissioner	Julia Rathgeber	5/27/2013	1/13/2015	1	8
Insurance Commissioner	Eleanor Kitzman	8/15/2011	5/27/2013	1	9
Insurance Commissioner	Michael 'Mike' Geeslin	6/7/2005	8/15/2011	6	2
Insurance Commissioner	José Montemayor	2/1/1999	6/7/2005	6	4
Interim Insurance Commissioner	José Montemayor	1/11/1999	2/1/1999	0	1
Insurance Commissioner	Elton L. Bomer	2/2/1995	1/10/1999	3	11
Interim Insurance Commissioner	Rebecca Lightsey	12/11/1994	1/27/1995	0	1
Insurance Commissioner	J. Robert 'Bob' Hunter	11/3/1993	12/11/1994	1	1
Interim Commissioner of Insurance	Edna Ramon Butts	9/1/1993	11/1/1993	0	2
Insurance Commissioner	Georgia D. Flint	3/1/1992	8/31/1993	1	6
Acting Insurance Commissioner	Georgia D. Flint	11/4/1992	3/1/1992	0	4
Insurance Commissioner	Philip W. 'Phil' Barnes	1/8/1991	11/4/1991	0	10
Insurance Commissioner	A. W. 'Woody' Pogue	12/19/1988	11/1/1990	1	11
Acting Insurance Commissioner	A. W. 'Woody' Pogue	11/4/1988	12/19/1988	0	1
Insurance Commissioner	Doyce R. Lee	8/6/1985	11/4/1988	3	4
Insurance Commissioner	Tom Bond	9/24/1982	8/6/1985	2	11
Insurance Commissioner	E. J. Voorhis, Jr.	6/29/1977	9/24/1982	5	3
Insurance Commissioner	Joseph D. 'Joe' Hawkins	8/1/1975	6/29/1977	1	11
Acting Insurance Commissioner	Thomas I. 'Tom' McFarling	5/13/1975	8/1/1975	0	2
Insurance Commissioner	Don B. Odum	1/1/1974	5/13/1975	1	4
Insurance Commissioner	Clay Cotten	11/15/1965	1/1/1974	8	2
Insurance Commissioner	J. N. Nutt	9/1/1963	11/1/1965	2	2
Insurance Commissioner	William A. Harrison	8/5/1957	9/1/1963	6	1
Acting Insurance Commissioner	William A. Harrison	6/21/1957	8/5/1957	0	2
Commissioner of Life Insurance/Chairman of Board	John Osorio	1/1/1957	6/1/1957	0	5
Commissioner of Life Insurance/Chairman of Board	J. Byron Saunders	1/30/1956	1/1/1957	0	11
Commissioner of Life Insurance/Chairman of the Board	Garland A. 'Chink' Smith	10/6/1953	1/30/1956	2	4
Commissioner of Life Insurance/Chairman of the Board	George B. Butler <i>(Died Sept. 28, 1953)</i>	2/11/1945	9/28/1953	8	8
Commissioner of Life Insurance/Chairman of the Board	Omicron P. Lockhart	5/12/1941	2/1/1945	3	9
Commissioner of Life Insurance/Chairman of Board	Reuben Williams	1/2/1941	5/12/1941	0	4
Commissioner of Life Insurance/Chairman of the Board	Walter C. Woodward <i>(Died Dec. 17, 1940)</i>	3/6/1939	12/17/1940	1	9

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
TEXAS—Continued					
Commissioner of Life Insurance/Chairman of the Board	R. L. Daniel	2/10/1933	3/1/1939	6	1
Commissioner of Life Insurance/Chairman of the Board	William A. Tarver	5/2/1929	2/10/1933	3	9
Commissioner of Life Insurance/Chairman of the Board	Robert B. Cousins, Jr.	9/1/1927	5/1/1929	1	8
Commissioner of Insurance	R. L. Daniel	10/1/1925	9/1/1927	1	11
Commissioner of Insurance	John M. Scott	8/21/1923	10/1/1925	2	1
Cmsr. of Insurance and Banking	James L. Chapman	9/1/1922	8/21/1923	1	0
Cmsr. of Insurance and Banking	Edward ‘Ed’ Hall	1/20/1921	9/1/1922	1	8
Cmsr. of Insurance and Banking	J. T. McMillan	8/1/1920	1/20/1921	0	5
Cmsr. of Insurance and Banking	John C. Chidsey	4/1/1920	8/1/1920	0	4
Cmsr. of Insurance and Banking	George Waverly Briggs	2/1/1919	4/1/1920	1	2
Cmsr. of Insurance and Banking	Charles O. Austin	8/31/1916	1/31/1919	2	5
Cmsr. of Insurance and Banking	John S. Patterson <i>(Died Aug. 29, 1916)</i>	1/20/1915	8/29/1916	1	7
Cmsr. of Insurance and Banking	William W. Collier	7/22/1913	1/20/1915	1	6
Cmsr. of Insurance and Banking	Bennett L. ‘Ben’ Gill	1/17/1911	7/10/1913	2	6
Cmsr. of Insurance and Banking	Frederick C. von Rosenberg	8/4/1910	1/6/1911	0	5
Cmsr. of Insurance and Banking	William E. Hawkins	2/1/1910	8/3/1910	0	6
Cmsr. of Insurance and Banking	Thomas B. Love	9/1/1907	1/31/1910	2	5
Commissioner of Agriculture, Insurance, Statistics and History	Robert T. Milner	8/1/1906	8/31/1907	1	1
Commissioner of Agriculture, Insurance, Statistics and History	William J. Clay	8/1/1901	8/1/1906	5	0
Commissioner of Agriculture, Insurance, Statistics and History	Jefferson Johnson	8/1/1897	8/1/1901	4	0
Commissioner of Agriculture, Insurance, Statistics and History	Archibald J. Rose	1/10/1895	8/1/1897	2	7
Commissioner of Agriculture, Insurance, Statistics and History	John E. Hollingsworth	5/15/1891	1/10/1895	3	8
Commissioner of Agriculture, Insurance, Statistics and History	Lafayette L. Foster	1/21/1887	5/5/1891	4	4
Commissioner of Agriculture, Insurance, Statistics and History	Hamilton P. Bee	12/30/1884	1/21/1887	2	1
Commissioner of Agriculture, Insurance, Statistics and History	Henry P. Brewster <i>(Died Dec. 26, 1884)</i>	1/31/1883	12/26/1884	1	11
Commissioner of Agriculture, Insurance, Statistics and History	Ashley W. Spaight	1/26/1881	1/31/1883	2	0
Commissioner of Agriculture, Insurance, Statistics and History	Valentine O. King	9/17/1879	1/26/1881	1	4

UTAH—Appointed, at the Pleasure of the Governor; Confirmed by the Senate					
Commissioner of Insurance	Jonathan T. ‘Jon’ Pike	2/4/2021		incumbent	
Acting Commissioner of Insurance	Jonathan T. ‘Jon’ Pike	1/5/2021	2/4/2021	0	1
Interim Commissioner of Insurance	Tanji J. Northrup	10/1/2020	1/5/2021	0	3
Commissioner of Insurance	Todd E. Kiser	12/20/2012	9/30/2020	7	9
Commissioner of Insurance	Neal T. Gooch	5/24/2010	12/20/2012	2	7
Acting Commissioner of Insurance	Neal T. Gooch	1/19/2010	5/24/2010	0	4
Commissioner of Insurance	D. Kent Michie	1/5/2005	1/19/2010	5	0
Commissioner of Insurance	Merwin U. Stewart	2/7/1997	12/31/2004	7	11
Commissioner of Insurance	Robert E. Wilcox	1/27/1993	2/7/1997	4	1
Commissioner of Insurance	Harold C. Yancey	7/1/1985	1/27/1993	7	7

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
UTAH—Continued					
Commissioner of Insurance	Roger C. Day <i>(Died July 18, 2019)</i>	6/1/1977	7/1/1985	8	1
Commissioner of Insurance	Clifton N. Ottosen	2/1/1965	6/1/1977	12	4
Commissioner of Insurance	E. Virgil Norton	1/1/1961	1/30/1965	3	8
Commissioner of Insurance	Carl A. Hulbert	6/1/1958	12/31/1960	2	7
Commissioner of Insurance	Albert E. 'Buck' Buckwell	3/15/1957	6/1/1958	1	3
Commissioner of Insurance	Walter M. Jones	9/11/1953	3/15/1957	3	6
Commissioner of Insurance	Lewis M. Terry	5/1/1949	9/11/1953	4	4
Acting Commissioner of Insurance	H. J. Timmerman	3/16/1949	5/1/1949	0	2
Commissioner of Insurance	Oscar W. Carlson	9/12/1941	3/16/1949	7	6
Acting Commissioner of Insurance	Clifton N. Ottosen	3/15/1941	9/12/1941	0	6
Commissioner of Insurance	C. Clarence Nelson	4/1/1937	3/15/1941	4	0
Commissioner of Insurance	Elias A. Smith, Jr.	4/1/1933	4/1/1937	4	0
Commissioner of Insurance	John G. McQuarrie	3/13/1925	4/1/1933	8	1
Commissioner of Insurance	John W. Walker	4/1/1921	3/13/1925	3	11
Commissioner of Insurance	Rulon S. Wells	3/15/1917	4/1/1921	4	1
Commissioner of Insurance	John James	7/10/1914	3/15/1917	2	8
Commissioner of Insurance	Willard Done	10/10/1910	7/10/1914	3	9
Commissioner of Insurance	George B. Squires <i>(Died Sept. 30, 1910)</i>	4/8/1909	9/30/1910	1	6
Secretary of State	Charles S. Tingey	1/2/1905	4/3/1909	4	3
Secretary of State	James T. Hammond	1/6/1896	1/2/1905	9	0
Secretary of Territory	Elijah Sells	5/16/1889	5/6/1893	4	0
Secretary of Territory	William C. Hall	4/6/1887	5/16/1889	2	1
Secretary of Territory	Arthur L. Thomas	9/1/1884	4/6/1887	2	7
VERMONT—Appointed, Biennially by the Governor with the Advice and Consent of the Senate					
Commissioner, Department of Financial Regulation (DFR)	Kevin Gaffney	7/8/2022		incumbent	
Interim Commissioner, DFR	Kevin Gaffney	5/17/2022	7/8/2022	0	2
Commissioner, DFR	Michael S. 'Mike' Pieciak <i>(Reappointed Dec. 22, 2016; Reappointed March 1, 2019)</i>	7/5/2016	5/16/2022	5	10
Commissioner, DFR	Susan L. Donegan	1/10/2013	6/30/2016	3	5
Commissioner, DFR	Stephen W. 'Steve' Kimbell	4/4/2012	1/9/2013	0	9
Commissioner, Department of Banking, Insurance, Securities, & Health Care Administration (BISHCA)	Stephen W. 'Steve' Kimbell	1/7/2011	4/3/2012	1	3
Commissioner, BISHCA	Michael F. 'Mike' Bertrand	6/18/2010	1/6/2011	0	7
Commissioner, BISHCA	Paulette J. Thabault	1/22/2007	6/18/2010	3	5
Commissioner, BISHCA	John P. Crowley	1/9/2003	1/5/2007	4	0
Commissioner, BISHCA	Elizabeth R. 'Betsy' Costle	8/17/1992	1/9/2003	10	5
Commissioner of Banking and Insurance	Jeffery P. Johnson	1/13/1990	8/14/1992	2	7
Commissioner of Banking and Insurance	Gretchen Babcock	7/10/1987	1/13/1990	2	6
Commissioner of Banking and Insurance	Thomas P. Menson	3/30/1986	7/1/1987	1	3
Commissioner of Banking and Insurance	David T. Bard	1/23/1985	3/7/1986	1	2
Commissioner of Banking and Insurance	George A. Chaffee	3/24/1980	11/16/1984	4	8
Commissioner of Banking and Insurance	Stewart M. Ledbetter	2/16/1977	2/22/1980	3	0
Acting Cmsr. of Banking and Insurance	Jean B. Baldwin	6/23/1976	2/16/1977	0	8
Commissioner of Banking and Insurance	James A. Guest	7/16/1973	6/23/1976	2	11
Acting Cmsr. of Banking and Insurance	Eugene R. Lemke	1/3/1973	7/16/1973	0	6
Commissioner of Banking and Insurance	Charles F. Black	1/9/1969	1/3/1973	4	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
VERMONT—Continued					
Commissioner of Banking and Insurance	James H. Hunt	7/20/1965	1/8/1969	3	6
Commissioner of Banking and Insurance	Robert E. Cummings, Jr.	6/7/1963	7/19/1965	2	1
Commissioner of Banking and Insurance	Albert D. Pingree	3/1/1961	6/7/1963	2	3
Commissioner of Banking and Insurance	Alexander H. Miller	3/1/1951	2/28/1961	10	0
Acting Cmsr. of Banking and Insurance	Albert D. Pingree	11/15/1950	3/1/1951	0	4
Commissioner of Banking and Insurance	Donald A. Hemenway	12/1/1947	11/15/1950	2	11
Commissioner of Banking and Insurance	Charles E. Burns	7/1/1943	12/1/1947	4	5
Acting Cmsr. of Banking and Insurance	Albert D. Pingree	4/29/1943	7/1/1943	0	2
Commissioner of Banking and Insurance	Reginald T. Cole	2/1/1941	4/29/1943	2	3
Commissioner of Banking and Insurance	Donald A. Hemenway	2/1/1937	2/1/1941	4	0
Commissioner of Banking and Insurance	George B. Carpenter	8/12/1935	2/1/1937	1	6
Commissioner of Banking and Insurance	L. Douglas Meredith	8/1/1934	8/12/1935	1	0
Commissioner of Banking and Insurance	George H.V. Allen	5/1/1934	8/1/1934	0	3
Commissioner of Banking and Insurance	Robert C. Clark	4/15/1923	5/1/1934	11	1
Insurance Commissioner	Laurence A. Kelty	10/1/1922	4/15/1923	0	6
Insurance Commissioner	Joseph G. Brown	4/11/1917	10/1/1922	5	6
Secretary of State	Guy W. Bailey	10/1/1915	4/11/1917	1	6
State Treasurer	Walter F. Scott				
Secretary of State	Guy W. Bailey	10/1/1908	10/1/1915	7	0
State Treasurer	Edward H. Deavitt				
Secretary of State	F. L. Fleetwood	10/1/1902	10/1/1908	6	0
State Treasurer	Edward H. Deavitt				
Secretary of State	Fred A. Howland	10/1/1898	10/1/1902	4	0
State Treasurer	John L. Bacon				
Secretary of State	Chauncey W. Browell, Jr.	10/1/1890	10/1/1898	8	0
State Treasurer	Henry F. Field				
Secretary of State	Charles W. Porter	10/1/1884	10/1/1890	6	0
State Treasurer	William H. Dubois				
Secretary of State	George Nichols	10/1/1882	10/1/1884	2	0
State Treasurer	William H. Dubois				
Secretary of State	George Nichols	9/17/1873	10/1/1882	9	1
State Treasurer	John B. Page				

VIRGIN ISLANDS—Elected; 4-Year Term					
Lt. Governor/Ins. Commissioner	Tregenza A. Roach <i>(Elected Nov. 20, 2018)</i>	1/7/2019		incumbent	
Lt. Governor/Ins. Commissioner	Osbert E. Potter	1/5/2015	1/7/2019	3	11
Lt. Governor/Ins. Commissioner	Gregory R. Francis	1/1/2007	1/5/2015	8	0
Lt. Governor/Ins. Commissioner	Vargrave A. Richards	1/6/2003	1/1/2007	4	0
Lt. Governor/Ins. Commissioner	Gerard Luz James II	1/4/1999	1/6/2003	4	0
Lt. Governor/Ins. Commissioner	Kenneth E. Mapp	5/1/1998	1/4/1999	0	8
Director, Banking & Insurance	Gwendolyn 'Gwen' Hall Brady	5/1/1996	5/1/1998	2	0
Acting Director, Banking & Ins.	Gwendolyn 'Gwen' Hall Brady	3/4/1996	5/1/1996	0	2
Director, Banking & Insurance	Margery O. Resnick	6/1/1995	3/4/1996	0	9
Lt. Governor/Ins. Commissioner	Kenneth E. Mapp	2/12/1995	6/1/1995	0	4
Director, Banking & Insurance	Larry Diehl	1/2/1995	2/12/1995	1	1
Lt. Governor/Ins. Commissioner	Derek M. Hodge	1/5/1987	1/2/1995	8	0
Lt. Governor/Ins. Commissioner	Julio A. Brady	1/3/1983	1/5/1987	4	0
Lt. Governor/Ins. Commissioner	Henry A. Millan	4/10/1978	1/3/1983	4	9
Lt. Governor/Ins. Commissioner	<i>Position Vacant</i>	1/3/1978	4/9/1978	0	3
Lt. Governor/Ins. Commissioner	Juan Francisco Luis	1/6/1975	1/2/1978	3	0
Lt. Governor/Ins. Commissioner	Athniel C. Ottley	4/5/1973	1/6/1975	1	9

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
VIRGIN ISLANDS—Continued					
Lt. Governor/Ins. Commissioner	<i>Position Vacant</i>	2/21/1973	4/4/1957	0	2
Lt. Governor/Ins. Commissioner	David E. Maas	10/1/1969	2/20/1973	2	8
Govt. Secretary/Ins. Commissioner	Cyril E. King	5/1/1961	9/30/1969	8	4
Govt. Secretary/Ins. Commissioner	Roy W. Bornn	9/25/1958	5/1/1961	2	8
Govt. Secretary/Ins. Commissioner	John D. Merwin	12/23/1957	9/25/1958	0	9
Govt. Secretary/Ins. Commissioner	<i>Position Vacant</i>	5/31/1957	12/23/1957	0	7
Govt. Secretary/Ins. Commissioner	Charles K. Claunch	4/9/1954	5/31/1957	3	1
Government Secretary	Daniel W. Ambrose	8/1/1952	4/9/1954	1	7
VIRGINIA—Appointed, at the Pleasure of the State Corporation Commission					
Commissioner of Insurance	Scott A White	1/1/2018		incumbent	
Commissioner of Insurance	Jacqueline K. Cunningham	1/1/2011	12/31/2017	6	11
Commissioner of Insurance	Alfred W. 'Al' Gross	8/1/1996	1/1/2011	14	5
Acting Commissioner of Insurance	Alfred W. 'Al' Gross	5/1/1996	8/1/1996	0	3
Commissioner of Insurance	Steven T. Foster	2/9/1987	4/30/1996	9	2
Commissioner of Insurance	James M. Thomson	12/1/1981	2/1/1987	5	2
Commissioner of Insurance	James W. Newman, Jr.	3/1/1979	12/1/1981	2	9
Acting Commissioner of Insurance	James W. Newman, Jr.	12/1/1978	3/1/1979	0	3
Commissioner of Insurance	John G. Day	6/1/1975	12/1/1978	2	6
Commissioner of Insurance	Everette S. Francis	7/1/1969	6/1/1975	5	11
Commissioner of Insurance	T. Nelson Parker	6/1/1956	7/1/1969	13	1
Commissioner of Insurance	George A. Bowles (Died June 1, 1956)	4/14/1932	6/1/1956	24	2
Cmsr. of Insurance and Banking	Myron E. Bristow	1/15/1930	4/14/1932	2	3
Cmsr. of Insurance and Banking	T. McCall Frazier	11/6/1929	1/17/1930	0	3
Cmsr. of Insurance and Banking	Joseph L. Button	3/1/1928	10/15/1929	1	7
Commissioner of Insurance	Joseph L. Button	7/1/1906	3/1/1928	21	8
Auditor of Public Accounts	Morton Marye	9/4/1889	7/1/1906	16	10
Auditor of Public Accounts	<i>Research Proceedings</i>	1884	1889	5	
Auditor of Public Accounts	S. B. Allen	11/7/1882	1884	2	
Auditor of Public Accounts	John E. Massey	1879	11/7/1882	3	
Auditor of Public Accounts	<i>Research Proceedings</i>	4/1/1872	1879	7	
Special Delegate for Auditor	Edward M. Alfriend	10/18/1871	4/1/1872	0	6
WASHINGTON—Elected; 4-Year Term					
Insurance Commissioner	Mike Kreidler (Elected Nov. 7, 2000; Re-elected Nov. 2, 2004; Re-elected Nov. 4, 2008; Re-elected Nov. 6, 2012; Re-elected Nov. 8, 2016; Re-Elected Nov. 3, 2020)	1/10/2001		incumbent	
Insurance Commissioner	Deborah M. Senn	1/13/1993	1/10/2001	8	0
Insurance Commissioner	Richard G. 'Dick' Marquardt	1/12/1977	1/13/1993	16	0
Insurance Commissioner	Karl V. Herrmann	1/15/1969	1/12/1977	8	0
Insurance Commissioner	Lee I. Kueckelhan	1/1/1961	1/15/1969	8	0
Insurance Commissioner	William A. Sullivan	1/11/1933	1/1/1961	28	0
Insurance Commissioner	Herbert O. Fishback	1/13/1913	1/11/1933	20	0
Insurance Commissioner	John H. Schively	1/1/1909	1/13/1913	4	0
Secretary of State	Sam H. Nichols	1/1/1901	1/1/1909	8	0
Secretary of State	Will D. Jenkins	1/1/1897	1/1/1901	4	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
WASHINGTON—Continued					
Secretary of State	James H. Price	1/1/1893	1/1/1897	4	0
Secretary of State	Allen Weir	6/26/1890	1/1/1893	2	7
WEST VIRGINIA—Appointed, at the Pleasure of the Governor					
Insurance Commissioner	Allan L. McVey	9/22/2021		incumbent	
Insurance Commissioner	James A. Dodrill	3/4/2019	9/20/2021	2	6
Acting Insurance Commissioner	Erin K. Hunter	1/25/2019	3/1/2019	0	2
Insurance Commissioner	Allan L. McVey	4/1/2017	1/23/2019	1	10
Acting Insurance Commissioner	Andrew R. Pauley	2/1/2017	3/31/2017	0	2
Insurance Commissioner	Michael D. Riley	1/9/2012	1/31/2017	5	0
Acting Insurance Commissioner	Michael D. Riley	7/1/2011	1/8/2012	0	6
Insurance Commissioner	Jane L. Cline	1/15/2001	6/30/2011	10	5
Insurance Commissioner	Hanley C. Clark	1/18/1989	1/15/2001	12	0
Acting Insurance Commissioner	Hanley C. Clark	7/1/1988	1/17/1989	0	6
Insurance Commissioner	Fred E. Wright	2/21/1985	6/30/1988	3	4
Insurance Commissioner	Richard G. Shaw	1/17/1977	1/11/1985	8	0
Insurance Commissioner	Donald W. Brown	1/16/1975	1/14/1977	2	0
Insurance Commissioner	Samuel H. Weese	1/31/1969	1/16/1975	6	0
Insurance Commissioner	Robert J. Shipman	10/1/1968	1/30/1969	1	4
Insurance Commissioner	Frank R. Montgomery	1/16/1966	9/30/1968	2	8
Insurance Commissioner	Harlan Justice	9/4/1962	1/15/1966	3	4
Insurance Commissioner	Virginia Mae Brown	5/17/1961	9/3/1962	1	4
Insurance Commissioner	Hugh N. Mills	1/16/1961	5/16/1961	0	4
Insurance Commissioner	C. Judson Pearson	2/7/1958	1/15/1961	2	11
Insurance Commissioner	Harold E. Neeley	7/1/1957	2/5/1958	0	7
Insurance Commissioner	Louis Miller, Jr.	10/1/1956	6/30/1957	0	9
Insurance Commissioner	Thomas J. Gillooly	7/1/1953	9/30/1956	3	3
Insurance Commissioner	Hugh N. Mills	7/1/1952	6/30/1953	1	0
Insurance Commissioner	Robert A. Crichton	5/1/1949	6/30/1952	3	2
Insurance Commissioner	David S. Butler	7/1/1947	4/30/1949	1	10
State Auditor	Edgar B. Sims	3/4/1933	7/1/1947	14	4
State Auditor	Edgar C. Lawson	3/4/1929	3/4/1933	4	0
State Auditor	Samuel T. 'Sam' Mallison	3/18/1927	3/4/1929	2	0
State Auditor	John C. Bond	3/4/1921	3/15/1927	6	0
State Auditor	John S. Darst	3/4/1909	3/4/1921	12	0
State Auditor	Arnold C. Sherr	3/4/1901	3/4/1909	8	0
State Auditor	Latelle M. LaFollette	3/4/1897	3/4/1901	4	0
State Auditor	Isaac V. Johnson	3/4/1893	3/4/1897	4	0
State Auditor	Patrick F. Duffy	9/30/1891	3/4/1893	8	0
WISCONSIN—Appointed, at the Pleasure of the Governor					
Insurance Commissioner	Nathan Houdek	1/2/2022		incumbent	
Interim Commissioner	Nathan Houdek	12/18/2021	1/2/2022	0	1
Insurance Commissioner	Mark V. Afable	1/22/2019	12/17/2021	2	11
Insurance Commissioner	Theodore K. 'Ted' Nickel	1/3/2011	1/7/2019	8	0
Insurance Commissioner	Sean Dilweg	1/1/2007	1/3/2011	4	0
Insurance Commissioner	Jorge Gomez	2/17/2003	12/18/2006	3	10
Acting Insurance Commissioner	Randy Blumer	1/7/2003	2/16/2003	0	1
Insurance Commissioner	Connie L. O'Connell	1/4/1999	1/6/2003	4	0
Acting Insurance Commissioner	Randy Blumer	1/6/1998	1/2/1999	1	0
Insurance Commissioner	Josephine W. 'Jo' Musser	3/8/1993	1/2/1998	4	10

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
WISCONSIN—Continued					
Insurance Commissioner	<i>Position Vacant</i>	1/1/1993	3/7/1993	0	2
Insurance Commissioner	Robert D. Haase	4/28/1987	12/31/1992	5	8
Insurance Commissioner	Thomas P. Fox	3/1/1983	4/27/1987	4	2
Insurance Commissioner	Ann J. Haney	8/1/1982	2/28/1983	0	7
Insurance Commissioner	Susan M. Mitchell	3/19/1979	7/31/1982	3	4
Insurance Commissioner	Harold R. Wilde, Jr.	4/8/1975	3/18/1979	3	11
Insurance Commissioner	Stanley C. DuRose, Jr.	10/1/1969	4/8/1975	5	6
Insurance Commissioner	Robert D. Haase	9/15/1965	9/7/1969	4	0
Insurance Commissioner	Charles L. Manson	7/2/1959	9/15/1965	6	2
Insurance Commissioner	Paul J. Rogan	11/1/1955	7/2/1959	3	8
Insurance Commissioner	Alfred Van DeZande	7/15/1955	11/1/1955	0	4
Insurance Commissioner	John R. Lange	12/1/1948	6/15/1955	6	6
Insurance Commissioner	John L. Sonderegger	10/1/1948	12/1/1948	0	2
Insurance Commissioner	Morvin Duel	10/1/1939	8/8/1948	8	10
Insurance Commissioner	Harry J. Mortensen	7/1/1931	10/1/1939	8	2
Insurance Commissioner	Milton A. Freedy	1/10/1927	7/1/1931	4	5
Insurance Commissioner	Olaf H. Johnson	6/2/1926	1/10/1927	0	7
Insurance Commissioner	W. Stanley Smith	7/17/1923	6/2/1926	2	11
Insurance Commissioner	Platt Whitman	4/10/1919	7/17/1923	4	3
Insurance Commissioner	Michael J. 'Mike' Cleary	7/1/1915	4/10/1919	3	9
Insurance Commissioner	Herman L. Ekern	1/2/1911	7/1/1915	4	6
Insurance Commissioner	George E. Beedle	1/7/1907	1/2/1911	4	0
Insurance Commissioner	Zeno M. Host	1/5/1903	1/1/1907	4	0
Insurance Commissioner	Emil Giljohann	10/15/1898	1/5/1903	4	3
Insurance Commissioner	William A. Fricke	1/7/1895	10/15/1898	3	9
Insurance Commissioner	Wilbur M. Root	1/5/1891	1/7/1895	4	0
Insurance Commissioner	Philip Cheek, Jr.	1/3/1887	1/5/1891	4	0
Insurance Commissioner	Philip L. Spooner, Jr.	4/1/1878	1/3/1887	8	9
Secretary of State	Hans B. Warner	1/7/1878	4/1/1878	3	0
Secretary of State	Peter Doyle	1/5/1874	1/7/1878	4	0
Secretary of State	Llewelyn Breese	5/24/1871	1/5/1874	2	8

WYOMING—Appointed, at the Pleasure of the Governor					
Insurance Commissioner	Jeffrey P. 'Jeff' Rude	9/19/2019		incumbent	
Interim Insurance Commissioner	Jeffrey P. 'Jeff' Rude	6/19/2019	9/19/2019	0	3
Insurance Commissioner	Paul Thomas 'Tom' Glause	1/3/2015	6/19/2019	4	5
Insurance Commissioner	Thomas C. 'Tom' Hirsig	4/16/2012	12/31/2014	2	8
Insurance Commissioner	Kenneth G. 'Ken' Vines	2/21/2003	4/16/2012	9	2
Acting Insurance Commissioner	Kenneth G. 'Ken' Vines	10/16/2002	2/21/2003	0	4
Insurance Commissioner	John P. McBride	5/7/1992	10/1/2002	10	5
Acting Insurance Commissioner	John P. McBride	10/1/1991	5/7/1992	0	7
Insurance Commissioner	Kenneth Erickson	2/1/1990	10/1/1991	1	8
Acting Insurance Commissioner	Ralph Thomas	12/1/1989	2/1/1990	0	2
Insurance Commissioner	Gordon W. Taylor, Jr.	7/1/1986	12/1/1989	3	5
Acting Insurance Commissioner	Monroe D. Lauer	3/1/1986	7/1/1986	0	4
Insurance Commissioner	Robert W. Schrader	6/1/1984	3/1/1986	1	9
Insurance Commissioner	John T. Langdon	1/1/1975	6/1/1984	9	5
Insurance Commissioner	Ben S. Murphy	1/1/1971	1/1/1975	4	0
Insurance Commissioner	Vincent J. Horn, Jr.	6/1/1970	1/1/1971	0	7
Insurance Commissioner	William G. Walton	6/1/1967	6/1/1970	3	0
Insurance Commissioner	Mark Duncan	6/1/1963	6/1/1967	4	0

NAIC MEMBER TENURE LIST

STATE/MEMBER TITLE	MEMBER NAME	BEG. DATE	END DATE	YRS. SERVED	MOS. SERVED
WYOMING—Continued					
Insurance Commissioner	Gilbert A.D. Hart	5/1/1960	6/1/1963	3	1
Insurance Commissioner	Robert Adams	3/1/1959	5/1/1960	1	2
Insurance Commissioner	Ford S. Taft	3/1/1951	3/1/1959	8	0
Insurance Commissioner	Rodney Barrus	3/18/1945	3/1/1951	6	0
Insurance Commissioner	Alex MacDonald	2/1/1939	3/18/1945	6	1
Insurance Commissioner	Arthur J. Ham	3/1/1935	2/1/1939	3	11
Insurance Commissioner	Theodore Thulemeyer	2/13/1929	3/1/1935	6	1
Insurance Commissioner	Lyle E. Jay	6/6/1927	2/13/1929	1	8
Insurance Commissioner	John M. Fairfield (Died May 21, 1927)	3/1/1927	5/21/1927	0	2
Insurance Commissioner	Harry A. Loucks	3/1/1923	3/1/1927	4	0
Insurance Commissioner	Donald M. Forsyth	11/8/1920	3/1/1923	2	4
Insurance Commissioner	Robert B. Forsyth	3/1/1919	11/8/1920	1	8
State Auditor	Robert B. Forsyth	1/2/1911	3/1/1919	8	2
State Auditor	LeRoy Grant	1/2/1899	1/2/1911	12	0
State Auditor	William O. Owen	1/7/1895	1/2/1899	4	0
State Auditor	Charles W. Burdick	11/9/1890	1/7/1895	4	2
State Auditor	Mortimer N. Grant	7/10/1890	11/8/1890	0	4
Territorial Auditor	Mortimer N. Grant	3/8/1888	7/10/1890	2	4
Insurance Commissioner	Joseph B. Adams	4/1/1884	3/8/1888	3	11
Territorial Auditor	Jesse Knight	4/1/1882	3/31/1884	1	11
Territorial Auditor	John H. Nason	1/4/1880	3/31/1882	2	2
Territorial Auditor	James France	12/13/1877	1/4/1880	2	1

Updated: 8/6/2022

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NAIC MEETING RECORD

The following is a record of officers and list of national meeting locations at which the NAIC has met since its organization.

<u>Mtg</u>	<u>Date</u>	<u>Meeting Site</u>	<u>President</u>	<u>Vice-President</u>	<u>Secretary / Secretary-Treasurer</u>
1	5/24–6/2/1871	New York, NY	George W. Miller, NY	Llewelyn Breese, WI	Henry S. Olcott, NY
2	10/18–30/1871	New York, NY	George W. Miller, NY	Llewelyn Breese, WI	Henry S. Olcott, NY
3	10/--/1872	New York, NY	George W. Miller, NY	Llewelyn Breese, WI	Henry S. Olcott, NY
4	9/17–20/1873	Boston, MA	Llewelyn Breese, WI	John W. Foard, CA	Oliver Pillsbury, NH
5	9/2–5/1874	Detroit, MI	Orlow W. Chapman, NY	Samuel H. Row, MI	Oliver Pillsbury, NH
6	9/20–25/1875	New York, NY	Orlow W. Chapman, NY	Samuel H. Row, MI	Oliver Pillsbury, NH
7	9/19–21/1876	Harrisburg, PA	Samuel H. Row, MI	Oliver Pillsbury, NH	Stephen H. Rhodes, MA
8	9/18/1877	St. Paul, MN	Samuel H. Row, MI	Oliver Pillsbury, NH	Stephen H. Rhodes, MA
9	8/27/1878	Providence, RI	Oliver Pillsbury, NH	Andrew R. McGill, MN	Orrin T. Welch, KS
10	9/17/1879	St. Louis, MO	Oliver Pillsbury, NH	Andrew R. McGill, MN	Orrin T. Welch, KS
11	9/10/1880	Chicago, IL	Andrew R. McGill, MN	Julius L. Clarke, MA	Orrin T. Welch, KS
12	9/20–21/1881	Detroit, MI	Julius L. Clarke, MA	Philip L. Spooner, WI	Orrin T. Welch, KS
13	10/4–5/1882	Niagara Falls, NY	Julius L. Clarke, MA	John A. McCall Jr., NY	Orrin T. Welch, KS
14	9/26–27/1883	Columbus, OH	Oliver Pillsbury, NH	Charles P. Swigert, IL	John W. Brooks, CT
15	9/24–25/1884	Chicago, IL	John A. McCall Jr., NY	Charles H. Moore, OH	Charles P. Swigert, IL
16	9/23–24/1885	Chicago, IL	John A. McCall Jr., NY	Eugene Pringle, MI	Charles P. Swigert, IL
17	9/22–23/1886	St. Paul, MN	Charles P. Swigert, IL	Henry J. Reinmund, OH	Charles Shandrew, MN
18	9/21–22/1887	Niagara Falls, NY	Oliver Pillsbury, NH ¹	Samuel H. Cross, RI ¹	Jacob A. McEwen, OH ¹
19	8/15–16/1888	Madison, WI	Philip Cheek Jr., WI	Orsamus R. Fyler, CT	Jacob A. McEwen, OH
20	9/4–5/1889	Denver, CO	Orsamus R. Fyler, CT	Samuel E. Kemp, OH	George B. Luper, PA
21	8/20–21/1890	Cleveland, OH	George S. Merrill, MA	Samuel E. Kemp, OH	George B. Luper, PA
22	9/30–10/2/1891	St. Louis, MO	Christopher P. Ellerbe, MO	George B. Luper, PA	John J. Brinkerhoff, IL ²
23	6/15–16/1892	St. Paul, MN	George B. Luper, PA	William H. Kinder, OH	John J. Brinkerhoff, IL
24	9/12–13/1893	Chicago, IL	John C. Linehan, NH	Christopher H. Smith, MN	John J. Brinkerhoff, IL
25	9/5–6/1894	Alexandria Bay, NY	James F. Pierce, NY	Bradford K. Durfee, IL	John J. Brinkerhoff, IL
26	9/17–18/1895	Mackinac Island, MI	Bradford K. Durfee, IL	William M. Hahn, OH	Frederick L. ‘Fred’ Cutting, MA
27	9/22–23/1896	Philadelphia, PA	James R. Waddill, MO ³	Stephen W. Carr, ME ³	Frederick L. ‘Fred’ Cutting, MA
28	9/7–8/1897	Old Point Comfort, VA	Stephen W. Carr, ME ⁴	Stephen W. Carr, ME ⁴	John J. Brinkerhoff, IL ⁵
29	9/1898	Milwaukee, WI	Stephen W. Carr, ME	William A. Fricke, WI	John J. Brinkerhoff, IL ⁶
30	9/1899	Detroit, MI	Edward T. Orear, MO ⁷	Milo D. Campbell, MI	John J. Brinkerhoff, IL
31	9/1900	Hartford, CT	Edward T. Orear, MO	W. S. Matthews, OH	John J. Brinkerhoff, IL
32	9/1901	Buffalo, NY	William H. Hart, IN ⁸	Edwin L. Scofield, CT	John J. Brinkerhoff, IL
33	9/1902	Columbus, OH	William H. Hart, IN	Fred A. Howland, VT	John J. Brinkerhoff, IL
34	9/1903	Baltimore, MD	Arthur I. Vorys, OH	John L. Bacon, VT	John J. Brinkerhoff, IL
35	9/1904	Indianapolis, IN	John L. Bacon, VT	James V. Barry, MI	John J. Brinkerhoff, IL
36	9/1905	Bretton Woods, NH	Frederick L. ‘Fred’ Cutting, MA	James V. Barry, MI	John J. Brinkerhoff, IL
37	10/1906	Washington, DC	James V. Barry, MI	Theron Upson, CT	John J. Brinkerhoff, IL
38	9/1907	Richmond, VA	George H. Adams, NH	Reau E. Folk, TN	John J. Brinkerhoff, IL
39	8/1908	Detroit, MI	Reau E. Folk, TN	Beryl F. Carroll, IA	John J. Brinkerhoff, IL
40	8/1909	Colorado Springs, CO	Benjamin F. Crouse, MD	Fred W. Potter, IL	John A. Hartigan, MN
41	9/1910	Mobile, AL	John A. Hartigan, MN	Eugene J. McGivney, LA	Harry R. Cunningham, MT
42	8/1911	Milwaukee, WI	Joseph L. Button, VA	Theodore H. Macdonald, CT ⁹	Harry R. Cunningham, MT
43	7/1912	Spokane, WA	Fred W. Potter, IL	Frank H. Hardison, MA	Fitz Hugh McMaster, SC ¹⁰
44	7/1913	Burlington, VT	Frank H. Hardison, MA	1st James R. Young, NC 2nd Willard Done, UT	Fitz Hugh McMaster, SC
45	9/1914	Asheville, NC	James R. Young, NC	1st Willard Done, UT ¹¹ 2nd John S. Darst, WV	Fitz Hugh McMaster, SC
46	9/1915	Del Monte, CA	John S. Darst, WV	1st Burton Mansfield, CT 2nd John T. Winship, MI	Fitz Hugh McMaster, SC
47	9/1916	Richmond, VA	Burton Mansfield, CT	1st John T. Winship, MI 2nd W. C. Taylor, ND	Fitz Hugh McMaster, SC
48	8/1917	St. Paul, MN	Jesse S. Phillips, NY	1st John T. Winship, MI 2nd Emory H. English, IA	Fitz Hugh McMaster, SC
49	9/1918	Denver, CO	Michael J. ‘Mike’ Cleary, WI ¹²	1st Robert J. Merrill, NH ¹² 2nd Walter K. Chorn, MO ¹²	Joseph L. Button, VA ¹³
50	9/1919	Hartford, CT	Claude W. Fairchild, CO	1st Joseph G. Brown, VT 2nd Frank H. Ellsworth, MI	Joseph L. Button, VA
51	9/1920	Beverly Hills, CA	Joseph G. Brown, VT	1st Frank H. Ellsworth, MI 2nd Alfred L. Harty, MO ¹⁴	Joseph L. Button, VA

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<u>Mtg</u>	<u>Date</u>	<u>Meeting Site</u>	<u>President</u>	<u>Vice-President</u>	<u>Secretary / Secretary-Treasurer</u>
52	9/1921	Louisville, KY	Alfred L. Harty, MO ¹⁵	1st Thomas B. Donaldson, PA ¹⁵ 2nd Platt Whitman, WI ¹⁵	Joseph L. Button, VA
53	9/1922	Swampscott, MA	Thomas B. Donaldson, PA	1st Platt Whitman, WI 2nd H. O. Fishback, WA	Joseph L. Button, VA
54	8/1923	Minneapolis, MN	Herbert O. Fishback, WA ¹⁶	1st. John C. Luning, FL ¹⁶ 2nd John C. Luning, FL ¹⁶	Joseph L. Button, VA
55	7/1924	Seattle, WA	Herbert O. Fishback, WA	1st John C. Luning, FL 2nd Samuel W. McCulloch, PA	Joseph L. Button, VA
56	9/1925	San Antonio, TX	John C. Luning, FL	1st Samuel W. McCulloch, PA 2nd Bruce T. Bullion, AR	Joseph L. Button, VA
57	11/1926	Los Angeles, CA	Harry L. Conn, OH ¹⁷	1st T. M. Henry, MA 2nd Thomas M. Baldwin, Jr., DC	Joseph L. Button, VA
58	9/1927	Cincinnati, OH	Albert S. Caldwell, TN ¹⁸	1st James A. Beha, NY ¹⁸ 2nd Charles R. Detrick, CA	Joseph L. Button, VA
59	9/1928	Rapid City, SD	Albert S. Caldwell, TN	1st Charles R. Detrick, CA 2nd James A. Beha, NY	Joseph L. Button, VA
60	9/1929	Toronto, Canada	Howard P. Dunham, CT ¹⁹	1st Clarence C. Wysong, IN ¹⁹ 2nd Jess G. Read, OK ¹⁹	Joseph L. Button, VA
61	9/1930	Hartford, CT	Howard P. Dunham, CT	1st Clarence C. Wysong, IN 2nd Jess G. Read, OK	Albert S. Caldwell, TN ²⁰
62	9/1931	Portland, OR	Jess G. Read, OK ²¹	1st Charles D. Livingston, MI ²¹ 2nd William A. Tarver, TX ²¹	Albert S. Caldwell, TN
63	10/1932	Dallas, TX	Charles D. Livingston, MI	1st William A. Tarver, TX 2nd Garfield W. Brown, MN	Jess G. Read, OK
64	6/1933	Chicago, IL	Garfield W. Brown, MN ²²	1st Daniel C. 'Dan' Boney, NC ²² 2nd George S. Van Schaick, NY ²²	Jess G. Read, OK
65	12/1934	St. Petersburg, FL	Garfield W. Brown, MN	1st Daniel C. 'Dan' Boney, NC 2nd George S. Van-Schaick, NY	Jess G. Read, OK
66	7/1935	Seattle, WA	Daniel C. 'Dan' Boney, NC	1st George S. Van-Schaick, NY ²³ 2nd Merton L. Brown, MA ²³	Jess G. Read, OK
67	6/1936	St. Paul, MN	William A. Sullivan, WA	1st Ernest Palmer, IL 2nd George A. Bowles, VA	Jess G. Read, OK
68	6/1937	Philadelphia, PA	Ernest Palmer, IL	George A. Bowles, VA	Jess G. Read, OK
69	6/1938	Quebec, Canada	George A. Bowles, VA	Samuel L. Carpenter, Jr., CA	Jess G. Read, OK
70	6/1939	San Francisco, CA	Frank N. Julian, AL	Arthur J. Ham, WY	Jess G. Read, OK
71	6/1940	Hartford, CT	C. Clarence Nelson, UT	John C. Blackall, CT ²⁴	Jess G. Read, OK
72	6/1941	Detroit, MI	John C. Blackall, CT	Charles F. Hobbs, KS	Jess G. Read, OK
73	6/1942	Denver, CO	Charles F. Hobbs, KS	John Sharp Williams III, MS	Jess G. Read, OK
74	6/1943	Boston, MA	John Sharp Williams III, MS	Charles F. J. Harrington, MA	Jess G. Read, OK
75	6/1944	Chicago, IL	Charles F. J. Harrington, MA	Newell R. Johnson, MN	Jess G. Read, OK
76	6/1945	St. Paul, MN	Newell R. Johnson, MN	James M. McCormack, TN	Jess G. Read, OK
77	6/1946	Portland, OR	James M. McCormack, TN	Robert E. Dineen, NY ²⁵	Jess G. Read, OK
78	6/1947	Atlantic City, NJ	Robert E. Dineen, NY	Seth B. Thompson, OR	Nellis P. Parkinson, IL ²⁶
79	6/1948	Philadelphia, PA	Seth B. Thompson, OR	J. Edwin Larson, FL	William P. Hodges, NC
80	6/1949	Seattle, WA	J. Edwin Larson, FL	David A. Forbes, MI	George A. Bowles, VA
81	6/1950	Quebec, Canada	David A. Forbes, MI	W. Ellery Allyn, CT	George A. Bowles, VA
82	6/1951	Swampscott, MA	W. Ellery Allyn, CT	Frank Sullivan, KS	George A. Bowles, VA
83	6/1952	Chicago, IL	Frank Sullivan, KS	Wade O. Martin Jr., LA	George A. Bowles, VA
Reg. 84	12/1952 6/1953	New York, NY San Francisco, CA	Wade O. Martin Jr., LA Wade O. Martin Jr., LA	D. D. 'Pat' Murphy, SC D. D. 'Pat' Murphy, SC	George A. Bowles, VA George A. Bowles, VA
Reg. 85	11/1953 6/1954	Miami Beach, FL Detroit, MI	D. D. 'Pat' Murphy, SC D. D. 'Pat' Murphy, SC	Donald Knowlton, NH ²⁷ Donald Knowlton, NH	George A. Bowles, VA George A. Bowles, VA
Reg. 86	11/1954 5/1955	New York, NY Los Angeles, CA	Donald Knowlton, NH Donald Knowlton, NH	C. Lawrence Leggett, MO C. Lawrence Leggett, MO	George A. Bowles, VA George A. Bowles, VA
Reg. 87	11/1955 5/1956	New York, NY St. Louis, MO	C. Lawrence Leggett, MO C. Lawrence Leggett, MO	Robert B. Taylor, OR Robert B. Taylor, OR	George A. Bowles, VA George A. Bowles, VA
Reg. 88	12/1956 6/1957	Miami Beach, FL Atlantic City, NJ	Robert B. Taylor, OR Robert B. Taylor, OR	Joseph A. Navarre, MI Joseph A. Navarre, MI	Paul A. Hammel, NV ²⁸ Paul A. Hammel, NV
Reg. 89	12/1957 6/1958	New York, NY Chicago, IL	Joseph A. Navarre, MI Joseph A. Navarre, MI	Arch E. Northington, TN Arch E. Northington, TN	J. Edwin Larson, FL J. Edwin Larson, FL
Reg. 90	12/1958 6/1959	New Orleans, LA Boston, MA	Arch E. Northington, TN Paul A. Hammel, NY ²⁹	Paul A. Hammel, NY Sam N. Beery, CO ²⁹	J. Edwin Larson, FL J. Edwin Larson, FL
Reg. 91	11/1959	Miami Beach, FL	Paul A. Hammel, NV	Sam N. Beery, CO	Alfred N. Premo, CT

Mtg	Date	Meeting Site	President	Vice-President	Secretary / Secretary-Treasurer
91	5/1960	San Francisco, CA	Paul A. Hammel, NV	Sam N. Beery, CO	Alfred N. Premo, CT
Reg.	11/1960	New York, NY	Sam N. Beery, CO	T. Nelson Parker, VA	Alfred N. Premo, CT
92	6/1961	Philadelphia, PA	Sam N. Beery, CO	T. Nelson Parker, VA	Alfred N. Premo, CT
Reg.	12/1961	Dallas, TX	T. Nelson Parker, VA	Rufus D. Hayes, LA	Harvey G. Combs, AR
93	6/1962	Montreal, Canada	T. Nelson Parker, VA	Rufus D. Hayes, LA	Harvey G. Combs, AR
Reg.	12/1962	Chicago, IL	Rufus D. Hayes, LA	Joseph S. Gerber, IL	Harvey G. Combs, AR
94	6/1963	Seattle, WA	Rufus D. Hayes, LA	Joseph S. Gerber, IL ³⁰	Harvey G. Combs, AR
Reg.	12/1963	Phoenix, AZ	Lee I. Kueckelhan, WA	Cyrus E. Magnusson, MN	Ralph F. Apodaca, NM
95	6/1964	Minneapolis, MN	Lee I. Kueckelhan, WA	Cyrus E. Magnusson, MN	Ralph F. Apodaca, NM
Reg.	11/1964	Las Vegas, NV	Cyrus E. Magnusson, MN	William E. Timmons, IA	Ralph F. Apodaca, NM
96	6/1965	New York, NY	Cyrus E. Magnusson, MN	William E. Timmons, IA	Ralph F. Apodaca, NM
Reg.	11/1965	Miami Beach, FL	William E. Timmons, IA	Frank J. Barrett, NE	Ralph F. Apodaca, NM
97	6/1966	Richmond, VA	William E. Timmons, IA	Frank J. Barrett, NE	Ralph F. Apodaca, NM
Reg.	12/1966	Dallas, TX	Frank J. Barrett, NE	James L. Bentley, GA	Ralph F. Apodaca, NM
98	6/1967	Boston, MA	Frank J. Barrett, NE	James L. Bentley, GA	Ralph F. Apodaca, NM
Reg.	12/1967	Honolulu, HI	James L. Bentley, GA	Charles R. Howell, NJ	Ralph F. Apodaca, NM
99	6/1968	Portland, OR	James L. Bentley, GA	Charles R. Howell, NJ	Ralph F. Apodaca, NM
Reg.	12/1968	Los Angeles, CA	Charles R. Howell, NJ ³¹	Ned Price, TX	Ralph F. Apodaca, NM
100	6/1969	Philadelphia, PA	Ned Price, TX	Richard E. 'Dick' Stewart, NY	Ralph F. Apodaca, NM
Reg.	12/1969	New Orleans, LA	Ned Price, TX	Richard E. 'Dick' Stewart, NY	Ralph F. Apodaca, NM
101	6/1970	Cleveland, OH	Ned Price, TX	Richard E. 'Dick' Stewart, NY	Ralph F. Apodaca, NM
Reg.	12/1970	Chicago, IL	Richard E. 'Dick' Stewart, NY ³²	Lorne R. Worthington, IA	Ralph F. Apodaca, NM
102	6/1971	New York, NY	Lorne Worthington, IA	Richards D. 'Dick' Barger, CA	Ralph F. Apodaca, NM
Reg.	11/1971	Miami Beach, FL	Richards D. 'Dick' Barger, CA	Russell E. Van Hooser, MI	Ralph F. Apodaca, NM
103	6/1972	Denver, CO	Richards D. 'Dick' Barger, CA	Russell E. Van Hooser, MI	Ralph F. Apodaca, NM
Reg.	12/1972	Atlanta, GA	Russell E. Van Hooser, MI	W. Fletcher Bell, KS	Ralph F. Apodaca, NM
104	6/1973	Washington, DC	Russell E. Van Hooser, MI	W. Fletcher Bell, KS	Ralph F. Apodaca, NM
Reg.	12/1973	Las Vegas, NV	W. Fletcher Bell, KS	Johnnie L. Caldwell, GA	Ralph F. Apodaca, NM
105	6/1974	San Francisco, CA	W. Fletcher Bell, KS	Johnnie L. Caldwell, GA	Ralph F. Apodaca, NM
Reg.	12/1974	Mexico City, Mexico	Johnnie L. Caldwell, GA ³³	Kenneth E. 'Ken' DeShetler, OH ³⁴	Ralph F. Apodaca, NM
106	6/1975	Seattle, WA	William H. Huff III, IA ³⁴	Richard L. 'Dick' Rottman, NV	Ralph F. Apodaca, NM
Reg.	12/1975	San Juan, PR	William H. Huff III, IA	Richard L. 'Dick' Rottman, NV	Ralph F. Apodaca, NM
107	6/1976	New Orleans, LA	Richard L. 'Dick' Rottman, NV	Lester L. Rawls, OR	Ralph F. Apodaca, NM
Reg.	12/1976	Phoenix, AZ	Richard L. 'Dick' Rottman, NV	Lester L. Rawls, OR	Ralph F. Apodaca, NM
108	6/1977	Minneapolis, MN	Lester L. Rawls, OR	Harold B. McGuffey, KY	Elmer V. Omholt, MT
Reg.	12/1977	Miami Beach, FL	Lester L. Rawls, OR	Harold B. McGuffey, KY	Elmer V. Omholt, MT
109	6/1978	Washington, DC	Harold B. McGuffey, KY	H. Peter 'Pete' Hudson, IN	Elmer V. Omholt, MT
Reg.	12/1978	Las Vegas, NV	Harold B. McGuffey, KY	H. Peter 'Pete' Hudson, IN	Elmer V. Omholt, MT
110	6/1979	Chicago, IL	H. Peter 'Pete' Hudson, IN	Wesley J. Kinder, CA	Elmer V. Omholt, MT
Reg.	12/1979	Los Angeles, CA	H. Peter 'Pete' Hudson, IN ³⁵	Wesley J. Kinder, CA	Elmer V. Omholt, MT
111	6/1980	Denver, CO	Wesley J. Kinder, CA	William H. L. Woodyard III, AR	Elmer V. Omholt, MT
Reg.	11/1980	New York, NY	Wesley J. Kinder, CA	William H. L. Woodyard III, AR	Elmer V. Omholt, MT
112	6/1981	Detroit, MI	William H. L. Woodyard, AR	John W. Lindsay, SC ³⁶	Elmer V. Omholt, MT
Reg.	12/1981	New Orleans, LA	William H. L. Woodyard, AR	Johnnie L. Caldwell, GA ³⁶	Elmer V. Omholt, MT
113	6/1982	Philadelphia, PA	Lyndon L. Olson Jr., TX	Roger C. Day, UT	Elmer V. Omholt, MT
Zone	9/1982	Nashville, TN	Lyndon L. Olson Jr., TX	Roger C. Day, UT	Elmer V. Omholt, MT
114	11/1982	Dallas, TX	Lyndon L. Olson Jr., TX	Roger C. Day, UT	Elmer V. Omholt, MT
Zone	3/1983	Baltimore, MD	Roger C. Day, UT	William D. 'Bill' Gunter, FL	Elmer V. Omholt, MT
115	6/1983	St. Louis, MO	Roger C. Day, UT	William D. 'Bill' Gunter, FL	Elmer V. Omholt, MT
Zone	9/1983	Tampa, FL	Roger C. Day, UT	William D. 'Bill' Gunter, FL	Elmer V. Omholt, MT
116	12/1983	San Diego, CA	Roger C. Day, UT	William D. 'Bill' Gunter, FL	Elmer V. Omholt, MT
Zone	3/1984	Portland, OR	William D. 'Bill' Gunter, FL	Bruce W. Foudree, IA	Elmer V. Omholt, MT
117	6/1984	New Orleans, LA	William D. 'Bill' Gunter, FL	Bruce W. Foudree, IA	Elmer V. Omholt, MT
Zone	9/1984	Omaha, NE	William D. 'Bill' Gunter, FL	Bruce W. Foudree, IA	Elmer V. Omholt, MT
118	12/1984	Washington, DC	William D. 'Bill' Gunter, FL	Bruce W. Foudree, IA	Elmer V. Omholt, MT
Zone	3/1985	Williamsburg, VA	Bruce W. Foudree, IA	Josephine M. Driscoll, OR	Elmer V. Omholt, MT
119	6/1985	Kansas City, MO	Bruce W. Foudree, IA	Josephine M. Driscoll, OR	Elmer V. Omholt, MT
Zone	9/1985	Syracuse, NY	Bruce W. Foudree, IA	Josephine M. Driscoll, OR	Elmer V. Omholt, MT
120	12/1985	Reno, NV	Bruce W. Foudree, IA	Josephine M. Driscoll, OR	Elmer V. Omholt, MT
Zone	3/1986	San Francisco, CA	Josephine M. 'Jo' Driscoll, OR	Edward J. Muhl, MD	W. Fletcher Bell, KS
121	6/1986	Boston, MA	Josephine M. 'Jo' Driscoll, OR	Edward J. Muhl, MD	W. Fletcher Bell, KS
Zone	9/1986	Des Moines, IA	Josephine M. 'Jo' Driscoll, OR	Edward J. Muhl, MD	W. Fletcher Bell, KS
122	12/1986	Orlando, FL	Josephine M. 'Jo' Driscoll, OR	Edward J. Muhl, MD	W. Fletcher Bell, KS
Zone	4/1987	Lexington, KY	Edward J. Muhl, MD	John E. Washburn, IL	W. Fletcher Bell, KS
123	6/1987	Chicago, IL	Edward J. Muhl, MD	John E. Washburn, IL	W. Fletcher Bell, KS
Zone	9/1987	Pittsburgh, PA	Edward J. Muhl, MD	John E. Washburn, IL	W. Fletcher Bell, KS

<u>Mtg</u>	<u>Date</u>	<u>Meeting Site</u>	<u>President</u>	<u>Vice-President</u>	<u>Secretary / Secretary-Treasurer</u>
124	12/1987	Phoenix, AZ	Edward J. Muhl, MD	John E. Washburn, IL	W. Fletcher Bell, KS
Zone	3/1988	Santa Fe, NM	John E. Washburn, IL	David A. Gates, NV	W. Fletcher Bell, KS
125	6/1988	New York, NY	John E. Washburn, IL	David A. Gates, NV	W. Fletcher Bell, KS
Zone	9/1988	Mackinac Island, MI	John E. Washburn, IL	David A. Gates, NV	W. Fletcher Bell, KS
126	12/1988	New Orleans, LA	John E. Washburn, IL	David A. Gates, NV	W. Fletcher Bell, KS
Zone	3/1989	Little Rock, AR	David A. Gates, NV	Earl R. Pomeroy, ND	W. Fletcher Bell, KS
127	6/1989	Cincinnati, OH	David A. Gates, NV	Earl R. Pomeroy, ND	W. Fletcher Bell, KS
Zone	9/1989	Wilmington, DE	David A. Gates, NV	Earl R. Pomeroy, ND	W. Fletcher Bell, KS
128	12/1989	Las Vegas, NV	David A. Gates, NV	Earl R. Pomeroy, ND	W. Fletcher Bell, KS
Zone	3/1990	Salt Lake City, UT	Earl R. Pomeroy, ND	James E. 'Jim' Long, NC	W. Fletcher Bell, KS
129	6/1990	Baltimore, MD	Earl R. Pomeroy, ND	James E. 'Jim' Long, NC	W. Fletcher Bell, KS
Zone	9/1990	Kansas City, MO	Earl R. Pomeroy, ND	James E. 'Jim' Long, NC	W. Fletcher Bell, KS
130	12/1990	Louisville, KY	Earl R. Pomeroy, ND	James E. 'Jim' Long, NC	W. Fletcher Bell, KS
Zone	4/1991	Charleston, WV	James E. 'Jim' Long, NC	William H. 'Bill' McCartney, NE	Robin Campaniano, HI
131	6/1991	Indianapolis, IN	James E. 'Jim' Long, NC	William H. 'Bill' McCartney, NE	Robin Campaniano, HI
Zone	9/1991	Pittsburgh, PA	James E. 'Jim' Long, NC	William H. 'Bill' McCartney, NE	Robin Campaniano, HI
132	12/1991	Houston, TX	James E. 'Jim' Long, NC	William H. 'Bill' McCartney, NE	Robin Campaniano, HI
Zone	3/1992	Seattle, WA	William H. 'Bill' McCartney, NE	Steven T. Foster, VA	David J. Walsh, AK
133	6/1992	Washington, DC	William H. 'Bill' McCartney, NE	Steven T. Foster, VA	David J. Walsh, AK
Zone	9/1992	Cincinnati, OH	William H. 'Bill' McCartney, NE	Steven T. Foster, VA	David J. Walsh, AK
134	12/1992	Atlanta, GA	William H. 'Bill' McCartney, NE	Steven T. Foster, VA	David J. Walsh, AK
Zone	3/1993	Nashville, TN	Steven T. Foster, VA	David J. Walsh, AK	David J. Lyons, IA
135	6/1993	Chicago, IL	Steven T. Foster, VA	David J. Walsh, AK	David J. Lyons, IA
136	9/1993	Boston, MA	Steven T. Foster, VA	David J. Walsh, AK	David J. Lyons, IA
137	12/1993	Honolulu, HI	Steven T. Foster, VA	David J. Walsh, AK	David J. Lyons, IA
138	3/1994	Denver, CO	David J. Walsh, AK	David J. Lyons, IA	Catherine J. Weatherford, OK
139	6/1994	Baltimore, MD	David J. Walsh, AK	David J. Lyons, IA ³⁷	Catherine J. Weatherford, OK
140	9/1994	Minneapolis, MN	David J. Walsh, AK	Lee Douglass, AR ³⁷	Catherine J. Weatherford, OK
141	12/1994	New Orleans, LA	David J. Walsh, AK	Lee Douglass, AR	Catherine J. Weatherford, OK
142	3/1995	Miami, FL	Lee Douglass, AR	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI
143	6/1995	St. Louis, MO	Lee Douglass, AR	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI
144	9/1995	Philadelphia, PA	Lee Douglass, AR	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI
145	12/1995	San Antonio, TX	Lee Douglass, AR	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI
146	3/1996	Detroit, MI	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND
147	6/1996	New York, NY	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND
148	9/1996	Anchorage, AK	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND
149	12/1996	Atlanta, GA	Brian Atchinson, ME	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND
150	3/1997	Orlando, FL	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND	George M. Reider Jr., CT
151	6/1997	Chicago, IL	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND	George M. Reider Jr., CT
152	9/1997	Washington, DC	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND	George M. Reider Jr., CT
153	12/1997	Seattle, WA	Josephine W. 'Jo' Musser, WI	Glenn Pomeroy, ND	George M. Reider Jr., CT
154	3/1998	Salt Lake City, UT	Glenn Pomeroy, ND	George M. Reider Jr., CT	George Nichols, III, KY
155	6/1998	Boston, MA	Glenn Pomeroy, ND	George M. Reider Jr., CT	George Nichols, III, KY
156	9/1998	New York, NY	Glenn Pomeroy, ND	George M. Reider Jr., CT	George Nichols, III, KY
157	12/1998	Orlando, FL	Glenn Pomeroy, ND	George M. Reider Jr., CT	George Nichols, III, KY
158	3/1999	Washington, DC	George M. Reider Jr., CT	George Nichols, III, KY	Kathleen Sebelius, KS
159	6/1999	Kansas City, MO	George M. Reider Jr., CT	George Nichols, III, KY	Kathleen Sebelius, KS
160	10/1999	Atlanta, GA	George M. Reider Jr., CT	George Nichols, III, KY	Kathleen Sebelius, KS
161	12/1999	San Francisco, CA	George M. Reider Jr., CT	George Nichols, III, KY	Kathleen Sebelius, KS
162	3/2000	Chicago, IL	George Nichols, III, KY	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA
163	6/2000	Orlando, FL	George Nichols, III, KY	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA
164	9/2000	Dallas, TX	George Nichols, III, KY	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA
165	12/2000	Boston, MA	George Nichols, III, KY	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA
166	3/2001	Nashville, TN	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR
167	6/2001	New Orleans, LA	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR
N/A	9/2001	Mtg. canceled ³⁸	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR
168	12/2001	Chicago, IL	Kathleen Sebelius, KS	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR
169	3/2002	Reno, NV	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC
170	6/2002	Philadelphia, PA	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC
171	9/2002	New Orleans, LA	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC
172	12/2002	San Diego, CA	Therese M. 'Terri' Vaughan, IA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC
173	3/2003	Atlanta, GA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC	James A. 'Jim' Poolman, ND
174	6/2003	New York, NY	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC	James A. 'Jim' Poolman, ND
175	9/2003	Chicago, IL	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC	James A. 'Jim' Poolman, ND
176	12/2003	Anaheim, CA	J. Michael 'Mike' Pickens, AR	Ernst N. 'Ernie' Csiszar, SC	James A. 'Jim' Poolman, ND
177	3/2004	New York, NY	Ernst N. 'Ernie' Csiszar, SC	James A. 'Jim' Poolman, ND	Joel S. Ario, OR

<u>Mtg</u>	<u>Date</u>	<u>Meeting Site</u>	<u>President</u>	<u>Vice-President</u>	<u>Secretary / Secretary-Treasurer</u>
178	6/2004	San Francisco, CA	Ernst N. 'Ernie' Csiszar, SC ³⁹	James A. 'Jim' Poolman, ND	Joel S. Ario, OR
179	9/2004	Anchorage, AK	M. Diane Koken, PA ³⁹	Joel S. Ario, OR ³⁹	Alessandro A. 'Al' Iuppa, ME ³⁹
180	12/2004	New Orleans, LA ⁴⁰	M. Diane Koken, PA	Joel Ario, OR	Alessandro A. 'Al' Iuppa, ME

3. Sept. 18, 1895: William M. Hahn (OH) was elected President for the 1896 Convention and James R. Waddill (MO) was elected Vice-President; however, Superintendent Hahn was out of office effective June 3, 1886. Sept. 22, 1896: Superintendent Waddill was elected President for the 1896 Convention and Stephen W. Carr (ME) was chosen to act as Vice-President.
4. Sept. 23, 1896: James R. Waddill (MO) was elected President for the 1897 Convention and Stephen W. Carr (ME) was elected Vice-President; however, Mr. Waddill was out of office effective March 1, 1897. Sept. 7, 1897: Commissioner Carr was elected President for the 1897 Convention. It is unknown who acted as Vice-President.
5. Sept. 23, 1896: Frederick L. 'Fred' Cutting (MA) was elected Secretary for the 1897 Convention; however, he was out of office at the date of the Convention. Sept. 7, 1897: John J. Brinkerhoff (Illinois actuary) was elected Secretary for the 1897 Convention.
6. Sept. 7, 1897: Frederick L. 'Fred' Cutting (MA) was elected Secretary for the 1898 Convention; however, he declined the offer. Sept. 13, 1898: John J. Brinkerhoff (Illinois actuary) was elected Secretary for the 1898 Convention.
7. Sept. 15, 1898: Elmer H. Dearth (MN) was elected President for the 1899 Convention; however, he was out of office at the date of the Convention. Sept. 5, 1899: Edward T. Orear (MO) was elected President for the 1899 Convention.
8. Sept. 20, 1900: John A. O'Shaughnessy (MN) was elected President for the 1901 Convention; however, he was out of office at the date of the Convention. September 1901: William H. Hart (IN) was elected President for the 1901 Convention.
9. Sept. 29, 1910: Theodore H. Macdonald (CT) was elected Vice-President for the 1911 Convention; however, he was out of office at the date of the Convention. It is unknown who acted as Vice-President.
10. Aug. 25, 1911: Harry R. Cunningham (MT) was elected Secretary for the 1912 Convention; however, he resigned before the Convention assembled. March 1912: Fitz Hugh McMaster (SC) was elected Secretary for the 1912 Convention.
11. Aug. 1, 1913: Willard Done (UT) was elected First Vice-President for the 1914 Convention; however, he resigned before the Convention assembled. It is unknown who acted as First Vice-President.
12. Aug. 31, 1917: Emory H. English (IA) was elected President for the 1918 Convention; Robert J. Merrill (NH) was elected First Vice-President; and Michael J. Cleary (WI) was elected Second Vice-President. November 1917: Mr. Merrill resigned as First Vice-President. Dec. 6, 1917: Mr. Cleary was elected First Vice-President for the 1918 Convention and Walter K. Chorn (MO) was elected Second Vice-President. Jan. 1, 1918: Mr. English resigned as President and Mr. Cleary was elected President for the 1918 Convention by the Executive (EX) Committee. It is unknown who acted as First Vice-President.
13. Aug. 31, 1917: Fitz Hugh McMaster (SC) was elected Secretary for the 1918 Convention; however, he resigned before the Convention assembled. Dec. 6, 1917: Joseph L. Button (VA) was elected Secretary for the 1918 Convention.
14. Sept. 12, 1919: John B. Sanborn (MN) was elected Second Vice-President for the 1920 Convention; however, he resigned before the Convention assembled. June 1920: Alfred L. Harty (MO) was chosen to act as Second Vice-President for the 1920 Convention.
15. Sept. 3, 1920: Frank H. Ellsworth (MI) was elected President for the 1921 Convention; Alfred L. Harty (MO) was elected First Vice-President; and Thomas B. Donaldson (PA) was elected Second Vice-President. Commissioner Ellsworth resigned effective April 30, 1921, as NAIC President and Michigan Insurance Commissioner. June 27, 1921: Superintendent Harty was elected President for the 1921 Convention by the Executive (EX) Committee; Commissioner Donaldson was elected First Vice-President; and Platt Whitman (WI) was elected Second Vice-President.
16. Sept. 8, 1922: Platt Whitman (WI) was elected President for the 1923 Convention; Herbert O. Fishback (WA) was elected First Vice-President; and John C. Luning (FL) was elected Second Vice-President. July 1, 1923: Commissioner Whitman resigned as President; Commissioner Fishback was elected President for the 1923 Convention by the Executive (EX) Committee; and Mr. Luning was elected First Vice-President by the Executive (EX) Committee. It is unknown who acted as Second Vice-President.
17. Sept. 18, 1925: William R. C. Kendrick (IA) was elected President for the 1926 Convention. January 1926: Commissioner Kendrick resigned as NAIC President and Harry L. Conn (OH) was elected President for the 1926 Convention. Commissioner Kendrick remained as Iowa Insurance Commissioner until March 1, 1926.

18. Nov. 19, 1926: Harry L. Conn (OH) was elected President for the 1927 Convention and Albert S. Caldwell (TN) was elected First Vice-President. April 15, 1927: Superintendent Conn resigned as NAIC President and Ohio Insurance Superintendent. May 3, 1927: Commissioner Caldwell was elected President for the 1927 Convention and James A. Beha (NY) was elected First Vice-President.
19. Sept. 26, 1928: Charles R. Detrick (CA) was elected President for the 1929 Convention; James A. Beha (NY) was elected First Vice-President; and Howard P. Dunham (CT) was elected Second Vice-President. Jan. 1, 1929: Superintendent Beha resigned as NAIC First Vice-President and New York Insurance Superintendent. Commissioner Dunham was elected First Vice-President for the 1929 Convention. April 24, 1929: Commissioner Detrick resigned as NAIC President and California Insurance Commissioner. Commissioner Dunham was elected President for the 1929 Convention; Clarence C. Wysong (IN) was elected First Vice-President; and Jess G. Read (OK) was elected Second Vice-President.
20. Sept. 19, 1929: Joseph L. Button (VA) was elected Secretary for the 1930 Convention; however, he resigned effective Oct. 15, 1929, as NAIC Secretary and Virginia Commissioner of Insurance and Banking. Dec. 10, 1929: Albert S. Caldwell (TN) was elected Secretary for the 1930 Convention.
21. Sept. 9, 1930: Clarence C. Wysong (IN) was elected President for the 1931 Convention; Jess G. Read (OK) was elected First Vice-President; and Clare A. Lee (OR) was elected Second Vice-President. January 1931: Commissioner Wysong resigned effective Jan. 1, 1931, as NAIC President and Indiana Insurance Commissioner; Commissioner Lee was no longer serving as Second Vice-President; and Commissioner Read was elected President by the Executive (EX) Committee for the 1931 Convention. June 17, 1931: Charles D. Livingston (MI) was elected First Vice-President by the Executive (EX) Committee for the 1931 Convention and William A. Tarver (TX) was elected Second Vice-President by the Executive (EX) Committee.
22. Oct. 20, 1932: William A. Tarver (TX) was elected President for the 1933 Convention; Garfield W. Brown (MN) was elected First Vice-President; and Daniel C. 'Dan' Boney (NC) was elected Second Vice-President. Commissioner Tarver resigned effective Feb. 10, 1933, as NAIC President and Texas Life Insurance Commissioner. Commissioner Brown was elected President for the 1933 Convention; Commissioner Boney was chosen to act as First Vice-President and George S. Van Schaick (NY) was chosen to act as Second Vice-President.
23. July 1935: It is unclear why no one acted as First Vice-President or Second Vice-President for the 1935 Convention.
24. June 23, 1939: J. Balch Moor (DC) was elected Vice-President; however, he died July 22, 1939, before the 1940 Convention assembled. John C. Blackall (CT) was elected Vice-President by the Executive (EX) Committee to fill the unexpired term.
25. June 6, 1945: Edward L. Scheufler (MO) was elected Vice-President for the 1946 Convention; however, he resigned effective Oct. 15, 1945, as NAIC Vice-President and Missouri Insurance Superintendent. Dec. 3, 1945: Robert E. Dineen (NY) was elected Vice-President by the Executive (EX) Committee for the 1946 Convention.
26. June 11, 1946: Jess G. Read (OK) was elected Secretary for the 1947 Convention; however, he died July 20, 1946. Sept. 4, 1946: Nellis P. Parkinson (IL) was elected Secretary by the Executive (EX) Committee to fill the unexpired term.
27. June 1953: George B. Butler (TX) was elected Vice-President; however, he died Sept. 28, 1953. It is unknown who acted as Vice-President for the November 1953 Convention. Nov. 30, 1953: Donald Knowlton (NH) was elected Vice-President by the Executive (EX) Committee to fill the unexpired term.
28. May 1956: George A. Bowles (VA) was elected Secretary; however, he died June 1, 1956. Paul A. Hammel (NV) was elected Secretary to fill the unexpired term.
29. June 1958: Arch E. Northington (TN) was elected President; however, he resigned effective Dec. 23, 1958, as NAIC President and Tennessee Insurance Commissioner. January 1959: Paul A. Hammel (NV) was elected President and Sam N. Beery (CO) was elected Vice-President by the Executive (EX) Committee to fill the unexpired term.
30. June 1962: Joseph S. Gerber (IL) was elected Vice-President; however, he resigned effective Jan. 29, 1963, as NAIC Vice-President and Illinois Insurance Director. The office of Vice-President was vacant for the June 1963 Convention.
31. June 1968: Charles R. Howell (NJ) was elected President; however, he resigned effective Feb. 28, 1969, as NAIC President and New Jersey Commissioner of Banking and Insurance. Ned Price (TX) was elected by the Executive (EX) Committee to fill the unexpired term.

32. June 1970: Richard E. ‘Dick’ Stewart (NY) was elected President; however, he resigned as NAIC President effective Dec. 17, 1970, and as New York Insurance Superintendent effective Dec. 31, 1970. Dec. 17, 1970: Lorne R. Worthington (IA) was elected by Plenary to fill the unexpired term.
33. A constitutional amendment moved NAIC officer elections from June to December (commencing December 1974), President Johnnie L. Caldwell (GA) served a six-month term.
34. Kenneth E. ‘Ken’ DeShetler (OH) was elected President; however, he resigned effective Jan. 13, 1975, as NAIC President and Ohio Insurance Director. William H. Huff, III (IA) was elected by the Executive (EX) Committee to fill the unexpired term.
35. H. Peter ‘Pete’ Hudson (IN) was elected President; however, he resigned as NAIC President and Indiana Insurance Commissioner effective Nov. 15, 1979. It is unknown who presided over the December 1979 Convention.
36. John W. Lindsay resigned effective Sept. 3, 1981, as NAIC Vice-President and South Carolina Insurance Commissioner. Johnnie L. Caldwell (GA) was elected by the Executive (EX) Committee to fill the unexpired term.
37. David J. Lyons resigned effective June 17, 1994, as NAIC Vice President but remained as Iowa Insurance Commissioner until July 31, 1994. A special interim Plenary election was held June 12, 1994: Arkansas Insurance Commissioner Lee Douglass was elected Vice President to serve June 17, 1994, to Dec. 31, 1994.
38. September 2001: NAIC members unanimously agreed that the 2001 Fall National Meeting should be canceled in the wake of the tragic events that occurred Sept. 11, 2001. The meeting had been scheduled for Sept. 22–25, 2001, at the Marriott and Westin Copley Place hotels in Boston, Massachusetts.
39. Ernst N. ‘Ernie’ Csiszar resigned effective Aug. 18, 2004, as NAIC President and South Carolina Director of Insurance. Approximately two weeks later, James A. ‘Jim’ Poolman resigned as NAIC Vice President but remained as North Dakota Insurance Commissioner. A special interim Plenary election was held Sept. 13, 2004, during the Fall National Meeting in Anchorage, Alaska: Pennsylvania Insurance Commissioner M. Diane Koken was elected President; Oregon Insurance Administrator Joel S. Ario was elected Vice President; and Maine Insurance Superintendent Alessandro A. ‘Al’ Iuppa was elected Secretary-Treasurer to serve from Sept. 13, 2004, to Dec. 31, 2004.
40. December 2004: NAIC members voted at its 2004 Winter National Meeting to adopt amendments to the NAIC Bylaws, which included the creation of a President-Elect position as an NAIC officer.
41. September 2005: NAIC members agreed to cancel the 2005 Fall National Meeting due to the devastation caused by Hurricane Katrina on Aug. 29, 2005. The meeting had been scheduled for Sept. 10–13, 2005, at the Sheraton hotel in New Orleans, Louisiana.
42. Eric P. Serna resigned effective June 14, 2006, as NAIC Secretary-Treasurer and New Mexico Superintendent of Insurance. A special Plenary interim election was held during the 2006 Summer National Meeting: New Hampshire Insurance Commissioner Roger A. Seigny was elected Secretary-Treasurer to serve from June 14, 2006, to Dec. 31, 2006.
43. Michael T. McRaith resigned effective May 31, 2011, as NAIC Secretary-Treasurer and Illinois Director of Insurance. A special Plenary interim election was held via conference call May 16, 2011: North Dakota Insurance Commissioner Adam Hamm was elected Secretary-Treasurer to serve from May 31, 2011, to Dec. 31, 2011.
44. Aug. 25, 2011: NAIC members agreed to cancel its 2011 Summer National Meeting so members could assist consumers in disaster situations caused by Hurricane Irene. The meeting had been scheduled for Aug. 29–Sept. 1, 2011, at the Marriott Philadelphia Downtown in Philadelphia, Pennsylvania.
45. Michael F. ‘Mike’ Consedine resigned effective Jan. 20, 2015, as NAIC President-Elect and Pennsylvania Insurance Commissioner. A special Plenary interim election was held via conference call Feb. 8, 2015: Missouri Insurance Director John M. Huff was elected President-Elect to serve from Feb. 8, 2015, to Dec. 31, 2015.
46. Sharon P. Clark resigned effective Jan. 11, 2016, as NAIC President-Elect and Kentucky Insurance Commissioner. A special Plenary interim election was held in Bonita Springs, Florida, on Feb. 7, 2016: Wisconsin Insurance Commissioner Theodore K. ‘Ted’ Nickel was elected President-Elect; Tennessee Insurance Commissioner Julie Mix McPeak was elected Vice President; and Maine Insurance Superintendent Eric A. Cioppa was elected Secretary-Treasurer to serve from Feb. 7, 2016, to Dec. 31, 2017.

47. David C. Mattax, NAIC Secretary-Treasurer and Texas Insurance Commissioner, died in office April 13, 2017. A special Plenary interim election was held via conference call on May 12, 2017: South Carolina Insurance Director Raymond G. Farmer was elected Secretary-Treasurer to serve from May 12, 2017, to Dec. 31, 2017.
48. Gordon I. Ito resigned effective Dec. 31, 2018, as NAIC Vice President and Hawaii Insurance Commissioner. A special Plenary interim election was held in La Quinta, California, on Feb. 4, 2019: Florida Insurance Commissioner David Altmaier was elected Vice President to serve from Feb. 4, 2019, to Dec. 31, 2019.
49. March 11, 2020: Due to concerns about the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership— decided to hold the 2020 Spring National Meeting in a virtual format. However, on March 23, 2020, the NAIC officers decided to suspend holding any further sessions of the virtual Spring National Meeting to allow NAIC members and staff more time to focus on the health emergency. The meeting had been scheduled for March 21–24, 2020, at the Phoenix Convention Center and the Sheraton Grand and Hyatt Regency hotels in Phoenix, Arizona.
50. June 10, 2020: Given the ongoing health challenges associated with holding large in-person meetings in the midst of the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership—decided to hold the 2020 Summer National Meeting in a virtual format. The meeting had been scheduled for Aug. 8–11, 2020, at the Minneapolis Convention Center and the Hilton and Hyatt Regency hotels in Minneapolis, Minnesota.
51. Sept. 21, 2020: Given the ongoing health challenges associated with holding large in-person meetings in the midst of the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership—decided to hold the 2020 Fall National Meeting in a virtual format. The meeting had been scheduled for Nov. 14–17, 2020, at the JW Marriott hotel in Indianapolis, Indiana.
52. Feb. 24, 2021: Given the ongoing health challenges associated with holding large in-person meetings in the midst of the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership—decided to hold the 2021 Spring National Meeting in a virtual format. The meeting had been scheduled for April 10–13, 2021, at the Gaylord Texan Hotel and Convention Center in Grapevine, Texas.
53. June 1, 2021: Given the ongoing health challenges associated with holding large in-person meetings in the midst of the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership—decided to hold the 2021 Summer National Meeting in a hybrid format. In-person meetings took place for NAIC members and interested parties as capacity allowed. Meetings were live-streamed for participants who attended virtually.
54. Oct. 27, 2021: Given the ongoing health challenges associated with holding large in-person meetings in the midst of the COVID-19 pandemic, the NAIC officers—in consultation with the NAIC membership—decided to hold the 2021 Fall National Meeting in a hybrid format. In-person meetings took place for NAIC members and interested parties as capacity allowed. Meetings were live-streamed for participants who attended virtually.

Updated: 10/4/2022

https://naiconline.sharepoint.com/teams/MemberServicesExecutive/Shared/Meeting_Officer_Record.docx

Documents/Commissioner/Meeting_Officer_Record/08-

NAIC MODEL LAWS, REGULATIONS AND GUIDELINES

The following is a listing of NAIC model laws, regulations, and guidelines referenced in the *Proceedings* of the 2022 Summer National Meeting.

Advertisements of Accident and Sickness Insurance Model Regulation (#40)
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Guideline for Administration of Large Deductible Policies in Receivership (#1980)
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Guideline for Stay on Termination of Netting Agreements and Qualified Financial Contracts (#1556)
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*NAIC 2022 Summer National Meeting
Portland, OR*

OPENING SESSION

August 9, 2022

CALL TO ORDER

Dean L. Cameron, NAIC President

The 235th session of the National Association of Insurance Commissioners (NAIC) will now come to order. Good morning, my name is Dean Cameron. I am Idaho's Insurance Commissioner and President of the NAIC. I am pleased to be here with you today and would like to welcome you to the 2022 NAIC Summer National Meeting.

INTRODUCTION OF HEAD TABLE

Dean L. Cameron, NAIC President

I am honored to introduce the members of our head table.

Honorable Andrew R. Stolfi, Meeting Host and Oregon Insurance Commissioner
Honorable James J. Donelon, NAIC Past President and Louisiana Insurance Commissioner
Honorable Raymond G. Farmer, NAIC Past President and South Carolina Insurance Director
Honorable David Altmaier, NAIC Most Recent Past President and Florida Insurance Commissioner
Honorable Chlora Lindley-Myers, NAIC President-Elect, Missouri Insurance Director, and Meeting Host
Honorable Andrew N. Mais, NAIC Vice President and Connecticut Insurance Commissioner
Honorable Jon Godfread, NAIC Secretary-Treasurer and North Dakota Insurance Commissioner
Andrew J. Beal, NAIC Chief Operating Officer (COO) and Chief Legal Officer (CLO)
Michael F. Consedine, NAIC Chief Executive Officer (CEO)

Please welcome the members of our NAIC Summer National Meeting head table.

Oregon Commissioner of Insurance Speech

Thank you, Mr. President.

Good afternoon everyone, and welcome to the beautiful Pacific Northwest. It is our pleasure to host this Summer National Meeting and my pleasure to share a few thoughts and attempts at humor with you as our meetings get into full swing.

I must start with a small but important lesson in how to pronounce the great state you are now in. It is not Ore - a - gone but Oh - re - guhn, as you can see on the screen. If I could finally say Nevada right for Commissioner Barbara D. Richardson, I am hoping you can all get this right for me. In fact, Oregon is not even the hardest or most mispronounced word you will hear around town this week.

Portland is surrounded by two rivers; i.e., the Columbia to our north and another right over there that cuts through the city and shares a name with the large valley on this side of the state. It is pronounced Will - am - it (rhymes with dammit), not Will - A - Met. The most entertaining mispronunciation, however, is that second word on the screen, which is a stunning river in Central Oregon, as well as a great beer. It is not De - shoot - ees or Des - cuts, but Duh - shoots.

Moving on, I realize most of you flew to Portland for these meetings, an option not quite available for those adventurous enough to travel here in the 1800s on one of our most famous bits of history, the Oregon Trail. The trail stretched for more than 2,000 miles from Independence, MO, through what we now call Kansas, Nebraska,

Wyoming, and Idaho before ending in Oregon City, which is just outside Portland. About 400,000 people used the trail to come West until it started to go out of use after the first intercontinental railroad was completed in 1869. You can still see wagon wheel grooves left in parts of the trail, which of course was not without many dangers, as history books and old video games taught us very well.

Oregon's cultural relevance is of course greater than just a classic computer game. We even have a long and illustrious history with the big screen. Some blockbuster movies filmed here include "Kindergarten Cop," which featured Commissioner Ricardo Lara's former governor. "Twilight" also had scenes filmed here; although, it is more popularly known for its location in Commissioner Mike Kreidler's state of Washington. Two of my personal favorite movies were filmed in Oregon as well, both in Astoria, which is on the coast—"Short Circuit" and, of course, "Goonies."

Oregon plays a prominent role on the small screen as well, with many TV shows based here. Many of you probably know the comedy "Portlandia," but the most famous show based on Oregon is most certainly "The Simpsons." That is right, while there may be more than 30 Springfields across the U.S., and the one in Director Chlora Lindley-Meyers' state of Missouri likely being more populous, none are more famous than Springfield, OR. Matt Gray grew up right here in Portland, and many characters are named after Portland streets, like Flanders, Burnside, Lovejoy, and Quimby.

Keep an eye out as you walk around and you are sure to notice. As you walk around Portland, you may also notice signs reading "Keep Portland Weird," which is our unofficial motto. There is another city with the same saying—Austin, TX—and I can admit we copied Austin, but sorry, Commissioner Cassie Brown, I think we are a little better at being weird.

One way we are a little weird, like our friends from New Jersey, is that you cannot pump your own gas in Oregon. I am sure Commissioner Marlene Caride would agree that it is awfully nice not having to get out of your car in bad weather to fill your tank; although, it has led to me sitting in my car in Washington wondering where the heck the attendant is.

I will end by sharing a few more things that make Oregon, Oregon. First, with all due respect to Commissioner Nathan Houdek and his fellow cheese heads, I am not sure you can find better cheese than here in Oregon. From large dairies like Tillamook made out on the coast to small shops like Rogue Creamery, which was the first and only U.S. cheese to win the top prize at the World Cheese Awards, you will not be disappointed.

Cheese is not our only industry. We are proud to be the home of many well-known companies including Nike, Columbia Sportswear, Hydro Flask, Gerber Gear, and Dutch Bros Coffee.

We also have a lot of words and phrases unique to Oregon. Stumptown is not just a great coffee you may have seen around town, it is also a nickname for Portland, which in the mid-19th century was dotted with the stumps of all the trees they left while busily clearing out the land.

Thanks to Phil Knight and his little shoe company, Eugene, OR, is the home of the best track and field facility in the world, where they just hosted the 2022 World Track Championships.

Marionberries are a unique, sweet, and slightly tangy berry developed at Oregon State University that is definitely worth a try. If there are any filbert fans out there, you are in the right place. Oregon grows 99% of the filberts, or hazelnuts as you non-nut aficionados may call them, in the country.

We may be better-known, however, as the Christmas tree capitol of the U.S. We have over 1,000 farms that sell more than 5 million trees a year, with more than 90% being sent out of the region.

Finally, I will end with an interesting little story about how Portland got its name. In 1845, two New Englanders—Asa Lovejoy, who hailed from Boston, MA, and Francis Pettygrove, who came from Portland, ME—flipped a coin to decide the name of this town. Pettygrove won two out of the three coin flips, giving Portland its name and preventing Commissioner Gary D. Anderson from flying to and from the same city for this meeting.

In closing, let me thank you again for coming to Oregon and the beautiful Willamette Valley and wish us all a great week of meetings. As Gov. Kate Brown (D-OR) mentioned, we believe so strongly in collaboration and finding a common path forward that we call the Oregon Way. I have always seen these same principles embodied in the NAIC, where we have proven time and again that we can overcome disagreements through our shared commitment to public interest and public service, and I look forward to seeing more of that this week. Thank you.

PRESIDENTIAL ADDRESS

Dean L. Cameron, NAIC President

Before I begin, I want to take a moment to recognize several of our colleagues who have faced severe natural disasters over the past few months. Sharon P. Clark from Kentucky, Russell Toal from New Mexico, Troy Downing from Montana, and certainly Chlora Lindley-Meyers from Missouri and Ricardo Lara from California have all faced difficult situations as they try to protect and work with consumers and be there for them. Handling natural disasters is an important part of the work that we do in protecting consumers. Thank you for your efforts, for helping your constituents, and for the fellow state insurance regulators who have stepped up to help you.

It feels like yesterday that I took office as president. Honestly, my head can hardly comprehend how fast the first eight months have gone. What I can digest is three things: 1) how much we have accomplished; 2) how grateful I am to each of you for your contributions; and 3) how much more we need to accomplish in four short months.

Speaking of what has been accomplished, I would like to call out a few efforts. I will tell you that every time I go through the list, I think of other efforts, so there are some that I will add as we go. We have made great strides in our *State Connected* strategic plan. One of our main goals was a strategic and successful launch of the Innovation, Cybersecurity, and Technology (H) Committee. We have been successful in that, thanks to the efforts of many of you, but particularly Maryland Commissioner Kathleen A. Birrane. We just held our first-ever Collaboration Forum, and it focused on artificial intelligence (AI) and algorithmic bias.

We have stronger relationships with our legislators; although, improvement is still needed. Improvement of our relationships with stakeholders is also needed. We have advanced discussion, as Commissioner Andrew R. Stolfi mentioned, in a non-partisan way, difficult and complicated issues. Issues like climate and resiliency; diversity, equity, and inclusion (DE&I); long-term care (LTC); and private equity (PE).

We have successfully defended the state-based system and have provided leadership on a host of issues, either by writing thoughtful, insightful letters to members of the U.S. Congress (Congress) and our federal partners or by advocating in person on issues such as:

- Curtailing rating agency overreach.
- Promoting the elimination of the family glitch.
- Advocating for reasonable approaches to the end of the public health emergency (PHE), which has been extended, and federal subsidies.
- Opining on PE and our appropriate role.
- Reminding the Federal Insurance Office (FIO) of our continued work on climate and resiliency.

We held our successful, in-person International Forum, where we delivered a firm message to our international friends that then yielded improved communication and needed concessions. We did a media tour with 24 news

outlets, which culminated in over 18 million views. We have submitted the request for our NAIC Foundation to the Internal Revenue Service (IRS) to be approved.

I am incredibly grateful for each of you. Your support and kindness to this not-so-talented potato head has been really remarkable. Thank you for your support, even when you did not get everything that you asked for; your leadership in difficult times, despite criticisms and obstacles; your professionalism as you navigated sometimes conflicting perspectives but looked for understanding; and your inspirational defense of our state-based system and the benefit of allowing states to protect their citizens in the way that best fits them. I am truly humbled to serve with you and honored to collaborate with you.

Now, we have plenty to do, and our citizens need our perseverance. We have barriers to discuss and either eliminate or mitigate. We can still streamline and eliminate antiquated systems and regulations, and we have improved oversight and accountability. But we are not done yet. We have lots of work to do around items like financial education and literacy.

We are going to do another media tour to warn against inappropriate marketing practices related to open enrollment and Medicare. Four months, three weeks, and five days—who is counting—seems too short. Maybe Chlora is counting; I do not know. I know some of the efforts we have started will continue under her excellent leadership. However, my hope is to encourage you that we continue with our best efforts through the end of the year.

As I contemplated the inspiration to complete our goals, I thought of several great men and women who have seemingly accomplished the impossible. There are no shortages of inspirational stories. In fact, it was more difficult to narrow the stories down than it was to find them or think about them. I am sure you can and will think of other stories, but I have chosen three I want to share with you today. You have heard them; you will identify with them. Each of them defied obstacles. Each of them changed lives. Each of them accomplished great things despite criticism, doubt, and barriers, each of which we can learn from.

In 1946, there were 16 teams with 400 players in Major League Baseball, all of them white. Branch Rickey, owner of the Brooklyn Dodgers, decided to help break that barrier, while helping his own team. After scouring the Negro League, Mr. Rickey found his player.

In 1947, there was one African American professional baseball player, an American hero. Jackie Robinson busted racial bias as he became the first African American to play in Major League Baseball in the modern era. That one player and that owner had to stand against scorn and ridicule to break that barrier. Jackie Robinson's number, 42, is the only number retired by all of baseball.

So, what do we learn from Jackie? What do we learn from Jackie and Mr. Rickey? We learn perseverance. We learn following our dreams. We learn turning the other cheek. We learn self-control and rising above some of the obstacles. We learn that greatness is a matter of internal character and not a matter of appearance.

In September 1849, Harriet Tubman, another American hero, escaped a Maryland plantation. With the help of God, she navigated the treacherous 90-mile trip to freedom. She could have stopped there. Harriet Tubman decided to return for her family, after having a dream to do so. For over 10 years, she stood against all odds to free her family and other slaves.

It is believed that she assisted in freeing 70 men and women from slavery via the underground railroad, but she went beyond that. She broke barriers one slave at a time. Even her supporters urged her to stop. They told her it could not be done. They pleaded with her not to go back. They feared she would be captured. She feared God.

She later led 150 soldiers in the Combahee Ferry Raid, which freed 750 slaves. Harriet remains one of the few women in U.S. history to lead an armed expedition.

Later, Harriet dedicated her life to helping those freed slaves, helping the elderly, and aiding the Women's Suffrage movement. She passed away at the age of 91 surrounded by her loved ones on March 10, 1913. Her last words were, and I quote, "I go to prepare a place for you."

Harriet not only faced bias and other criticisms, but she faced barriers and difficulty from within her own race and perhaps because she was a woman. We learn from Harriet courage, determination, reliance on prayer, selfless service, willingness to put herself in danger, and risking being recaptured to save another. There is no greater love than that of serving another.

Another hero that I chose to mention today is David from the Old Testament; yes, David that slew Goliath. Many of you know the story, but, just in case you have forgotten, or like Commissioner Gary D. Anderson, it has been a while since you have been to Sunday School. Let me recount a bit. Sorry, Gary. Israel was under attack from the Philistines. Leading their army was Goliath, who was 9 feet tall—i.e., two feet taller than Commissioner Jon Godfread—and David was probably shorter than Commissioner David Altmaier. I am not drawing too many parallels.

David had brothers who were supposed to be fighting in the battle. So, David's parents sent him to the front line to bring his brothers food. David found his brothers and all of the army hiding while Goliath was challenging someone to fight him. Goliath was insulting not only their country, their family, and their heritage, but also their relationship with their God. Troubled by this, David saw an issue that needed addressing. David went to the king. He spoke to the king, and he volunteered to go fight Goliath. I am sure the king had to question how this 14-year-old boy—I do not remember if he was 14 but in that age range—could do this.

The king was obviously trying to figure out what to do, but David was certain of his abilities, having slayed a lion and a bear before. He shared that with the king, and the king then agreed. They loaded him up with armor—I am told 150 pounds of armor—which David removed, realizing it would slow him down. Instead, he carefully selected stones from a stream.

As David came forth to fight Goliath, Goliath laughed and again mocked Israel and his opponent. Of course, we know David was deadly with his aim, as he sank a stone into the forehead of Goliath and then beheaded Goliath and displayed it for all the Philistines to see.

What can we learn from David? Of course, we learn courage; i.e., the willingness to stand when needed and to recognize a cause for which we need to fight for. We can learn confidence in our own abilities, for which we have been trained and practiced. We can learn to trust in the Lord. We can learn the importance of the right tools, carefully choosing our stones, and not being weighed down with unnecessary armor.

As we tackle the challenges of the next four months, may we have the courage of David and Harriet; the perseverance of Jackie and Branch; the confidence and faith of David; the self-control of Jackie; the serving heart and strength of Harriet; the valor of David as we defend our honor and our role and our responsibility to regulate the industry; and the foresight and vision of Harriet, Branch, Jackie, and David, who saw a cause and took action for a better future.

My fellow colleagues, our cause is clear. We have the privilege to regulate an industry that provides hope, security, and opportunity. Let us create a better future for all of us by building on our successes. I look forward to working with you over the next four months to protect that privilege that we have to regulate. Thank you.

ADJOURNMENT*Dean L. Cameron, NAIC President*

Thank you. I look forward to meeting with state insurance regulators, industry leaders, and interested parties as we discuss the work being done at the NAIC. With that, I officially conclude this opening session of the 235th meeting of the NAIC.

Draft: 1/11/2023

**Synopsis of the NAIC Committee, Subcommittee, and Task Force Meetings
2022 Summer National Meeting
August 9–13, 2022**

TO: Members of the NAIC and Interested Parties

FROM: The Staff of the NAIC

Committee Action

NAIC staff have reviewed the committee, subcommittee, and task force reports and highlighted the actions taken by the committee groups during the 2022 Summer National Meeting. The purpose of this report is to provide NAIC members, state insurance regulators, and interested parties with a summary of these meeting reports.

EXECUTIVE (EX) COMMITTEE AND PLENARY (Joint Session)

Aug. 13, 2022

1. Received the Aug. 11 report of the Executive (EX) Committee. See the Committee listing for details.
2. Adopted by consent the committee, subcommittee, and task force minutes of the Spring National Meeting.
3. Received the report of the Life Insurance and Annuities (A) Committee. See the Committee listing for details.
4. Received the report of the Health Insurance and Managed Care (B) Committee. See the Committee listing for details.
5. Received the report of the Property and Casualty Insurance (C) Committee. See the Committee listing for details.
6. Received the report of the Market Regulation and Consumer Affairs (D) Committee. See the Committee listing for details.
7. Received the report of the Financial Condition (E) Committee. See the Committee listing for details.
8. Received the report of the Financial Regulation Standards and Accreditation (F) Committee. See the Committee listing for details.
9. Received the report of the International Insurance Relations (G) Committee. See the Committee listing for details.
10. Received the report of the Innovation, Cybersecurity, and Technology (H) Committee. See the Committee listing for details.
11. Adopted the amendments to the *Valuation Manual*.
12. Adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53).
13. Adopted the Pet Insurance Model Act.
14. Adopted several Market Conduct Annual Statement (MCAS) items: 1) the “other health” MCAS data call and definitions; 2) revised Homeowners MCAS Addition of Digital Claims Interrogatories and revised lawsuit definition; 3) revised Private Passenger Auto (PPA) MCAS Addition of Digital Claims Interrogatories and revised lawsuit definition; and 4) Life MCAS Addition of Accelerated Underwriting (AU) Data, Definitions, and Interrogatories.
15. Adopted the *Regulatory Considerations Applicable to (But Not Exclusive to) Private Equity (PE) Insurers*.
16. Adopted the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*.
17. Received a status report on the state implementation of NAIC-adopted model laws and regulations.

EXECUTIVE (EX) COMMITTEE

Aug. 11, 2022

1. Adopted the report of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee, which met Aug. 10 and took the following action:
 - A. Adopted its June 21 and Spring National Meeting minutes.

- B. Received a May year-to-date (YTD) financial update and overview of the preliminary 2023 budget.
 - C. Discussed the use of NAIC designations by foreign jurisdictions.
 - D. Approved the Catastrophe Modeling Center of Excellence (COE) fiscal.
 - E. Approved the Variable Annuity (VA) Model Office fiscal.
 - F. Approved moving forward with the Robert Wood Johnson Foundation (RWJF) discovery phase request.
 - G. Heard an update on the enterprise resource planning (ERP) project.
 - H. Adopted the Committee's April 13 minutes.
 - I. Adopted the report of the Audit Committee, including its Aug. 3 and May 16 minutes. During these meetings, the Committee took the following action:
 - i. Discussed potential revenue changes for the 2023 budget.
 - ii. Received the June 30 financial update.
 - iii. Selected a new financial audit firm.
 - iv. Discussed grant and zone financials, including potential changes for 2023 member grant and zone funding.
 - v. Heard an update on the ERP project.
 - vi. Affirmed the 2023 Audit Committee charter.
 - vii. Heard an update on the 2023 budget calendar.
 - viii. Received the 2021/2022 Service Organization Control (SOC) 1 and SOC 2 Audit reports.
 - ix. Approved the Target Reserve Policy.
 - J. Adopted the report of the Internal Administration (EX1) Subcommittee, including its July 7 minutes. During this meeting, the Subcommittee took the following action:
 - i. Received the March 31 Long-Term Investment Portfolio report.
 - ii. Received the March 31 Defined Benefit Portfolio report.
 - K. Approved the Member Services Staffing fiscal.
 - L. Approved the ERP fiscal.
 - M. Heard the Chief Executive Officer/Chief Operating Officer (CEO/COO) report.
 - N. Heard an update on the *State Connected* strategic plan.
 - O. Received an update on the proposed 2023 NAIC budget.
 - P. Heard an update on the use of NAIC designations by foreign jurisdictions.
 - Q. Heard a cybersecurity report.
 - R. Heard a diversity, equity, and inclusion (DE&I) report.
2. Adopted the report of the Executive (EX) Committee, which met June 21 and took the following action:
 - A. Received an update on the NAIC's 2022 financials and an overview of preliminary work on the 2023 budget.
 - B. Approved the Catastrophe Modeling COE fiscal.
 - C. Approved the VA Model Office fiscal.
 - D. Received an update on the ERP project.
 3. Adopted the report of the Climate and Resiliency (EX) Task Force. See the Task Force listing for details.
 4. Adopted the report of the Government Relations (EX) Leadership Council. See the Task Force listing for details.
 5. Adopted the report of the Long-Term Care Insurance (EX) Task Force. See the Task Force listing for details.
 6. Adopted the report of the Special (EX) Committee on Race and Insurance. See the Committee listing for details.
 7. Adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540).
 8. Adopted a Request for NAIC Model Law Development to draft the new Insurance Consumer Privacy Protection Model Law.
 9. Adopted the revisions to the NAIC Consumer Participation Plan of Operation.
 10. Received a status report on the NAIC *State Ahead* strategic plan implementation.

11. Received a status report on model law development efforts for amendments to: 1) the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171); 2) the *Mortgage Guaranty Insurance Model Act* (#630); 3) the *Nonadmitted Insurance Model Act* (#870); and 4) the new Pet Insurance Model Act.
12. Heard reports from the National Insurance Producer Registry (NIPR) and the Interstate Insurance Product Regulation Commission (Compact).

Climate and Resiliency (EX) Task Force

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Received reports from its workstreams: Climate Risk Disclosure; Solvency; Innovation; Technology; and Pre-Disaster Mitigation.
3. Heard a presentation on wildfire mitigation from the California Department of Insurance (CDI), United Policyholders (UP), the Insurance Institute for Business and Home Safety (IBHS), and the American Property Casualty Insurance Association (APCIA).
4. Heard a presentation from Ceres on its work to assist insurers required to report a Financial Stability Board (FSB) Task Force on Climate-Related Financial Disclosures (TCFD)-aligned climate risk disclosure in 2022.
5. Heard a federal update.

Government Relations (EX) Leadership Council

The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting.

Long-Term Care Insurance (EX) Task Force

Aug. 12, 2022

1. Adopted its Spring National Meeting minutes.
2. Received a report on the implementation plans for the Long-Term Care Insurance Multistate Rate Review Framework (LTCI MSA Framework). The LTCI MSA Framework is on track to be implemented as anticipated. An NAIC web page with instructions and contacts will be available in September.
3. Received an update on industry trends that could have an impact on the solvency of long-term care insurance (LTCI) companies and reserves. The Task Force will continue to monitor the impacts of cost-of-care inflation and other factors.
4. Received an update on the development of the Multistate Actuarial (MSA) Associate Program. The program has several state insurance department regulator volunteers who have discussed analyzing reserves and risks. Future meetings will be scheduled. State insurance actuaries or other staff who are interested in joining may contact NAIC support staff.
5. Heard a presentation on a Center for Insurance Policy and Research (CIPR) project on LTCI reduced benefit options (RBO). The project involved collecting feedback from financial planners on consumers' experiences with notices of rate increases and RBOs. The Task Force encourages states to use the adopted guidance and checklists in their RBO and consumer notice reviews. The Task Force discussed additional related research that the CIPR may consider in the future.

Special (EX) Committee on Race and Insurance

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Received a status report from the following workstreams:
 - A. Workstream One: Research/analyze the level of diversity and inclusion within the insurance industry.
 - B. Workstream Two: Research/analyze the level of diversity and inclusion within the NAIC and state insurance regulator community.

- C. Workstream Three: Examine and determine which practices or barriers exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups in the property/casualty (P/C) line of business.
 - D. Workstream Four: Examine and determine which practices or barriers exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups in the life insurance and annuities line of business.
 - E. Workstream Five: Examine and determine which practices or barriers exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups in the health insurance line of business.
3. Heard an update on the State Diversity Leaders Forum.
 4. Heard a presentation on diversity initiatives from the District of Columbia Department of Insurance, Securities, and Banking (DISB).

INTERNAL ADMINISTRATION (EX1) SUBCOMMITTEE

See the Executive (EX) Committee listing for details.

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Aug. 11, 2022

1. Adopted its July 20 minutes, which included the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted nine *Valuation Manual* amendments.
 - C. Adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53).
 - D. Heard a presentation on life insurance updates to the NAIC website.
 - E. Received an update on the survey into the use of artificial intelligence (AI) and machine learning (ML) in life insurance that the Big Data and Artificial Intelligence (H) Working Group is developing.
2. Received an update from the Accelerated Underwriting (A) Working Group. The Working Group continues to collaborate with other NAIC groups as it works on developing regulatory guidance for state insurance regulators related to accelerated underwriting (AU) in life insurance, and it plans to meet in October to continue work on its goals.
3. Adopted the report of the Annuity Suitability (A) Working Group, including its July 25 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its May 26 minutes, which included the following action:
 - i. Discussed comments received on the draft frequently asked questions (FAQ) on the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275), which added a best interest standard of conduct for insurers and producers.
 - B. Adopted its May 3 minutes, which included the following action:
 - i. Agreed to draft new FAQ on the safe harbor/comparable standards provision in the revised Model #275.
 - C. Discussed the draft FAQ on the safe harbor/comparable standards provision in the revised Model #275.
4. Adopted the report of the Life Actuarial (A) Task Force. See the Task Force listing for details.
5. Discussed and agreed to have the Life Insurance Online Guide (A) Working Group focus on updating life insurance information on the NAIC website. State insurance regulators interested in participating in the Working Group should contact Jennifer Cook (NAIC).
6. Received an update from Workstream Four of the Special (EX) Committee on Race and Insurance. The Workstream plans to schedule future presentations to hear about marketing and distribution in underserved communities from the agent perspective.

Life Actuarial (A) Task ForceAug. 9, 2022

1. Adopted its July 21, July 7, June 30, June 23, June 16, June 9, June 2, May 26, May 19, May 12, May 5, and April 14 minutes. During these meetings, the Task Force took the following action:
 - A. Exposed economic scenario generator (ESG) files for field testing.
 - B. Exposed an NAIC staff recommendation for transitioning from the London Interbank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) for the remainder of 2022.
 - C. Exposed the joint American Academy of Actuaries (Academy) Life Experience Committee and Society of Actuaries (SOA) Preferred Mortality Project Oversight Group (POG) recommendation for historical mortality improvement (HMI) and future mortality improvement (FMI).
 - D. Adopted its Spring National Meeting minutes.
 - E. Adopted amendment proposal 2020-12.
 - F. Adopted amendment proposal 2022-04.
 - G. Adopted amendment proposal 2022-05.
 - H. Adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53).
2. Adopted the report of the Experience Reporting (A) Subgroup, which has not met since the Spring National Meeting.
3. Adopted the report of the Index-Linked Variable Annuity (A) Subgroup, including its July 13, May 18, and May 17 minutes. During these meetings, the Subgroup took the following action:
 - A. Discussed comments on the proposed index-linked variable annuity (ILVA) actuarial guideline.
 - B. Heard a presentation on interim nonforfeiture values.
4. Adopted the report of the Indexed Universal Life (IUL) Illustration (A) Subgroup, including its July 18 minutes. During this meeting, the Subgroup took the following action:
 - A. Exposed options for revising *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold on or After December 14, 2020* (AG 49-A) for an eight-day public comment period ending July 26.
5. Adopted the report of the Valuation Manual (VM)-22 (A) Subgroup, including its July 19, July 13, June 29, June 14, June 1, May 11, April 27, and April 13 minutes. During these meetings, the Subgroup took the following action:
 - A. Reviewed the VM-22 project timeline. The target effective date is January 2025.
 - B. Discussed tier three comments on the proposed VM-22 framework.
 - C. Reviewed the updated VM-22 documents.
 - D. Discussed the allocation of excess reserves.
 - E. Discussed working reserve for contracts with no cash surrender value.
 - F. Discussed reserve categorization upon depletion of fund value.
 - G. Exposed the Longevity Reinsurance Proposal for a 60-day public comment period ending Aug. 14.
 - H. Discussed the stochastic exclusion ratio test.
 - I. Discussed tier two comments on the proposed VM-22 framework.
 - J. Discussed tier one comments on the proposed VM-22 framework.
 - K. Heard an update on revisions to VM-22.
6. Adopted the report of the Variable Annuities Capital and Reserve (E/A) Subgroup, which has not met since the Spring National Meeting.
7. Discussed AG 53 asset adequacy testing (AAT) templates that were previously exposed for a public comment period ending Aug. 19.
8. Discussed the Academy framework for developing, evaluating, and implementing ESGs.
9. Discussed the status of the current ESG field test initiated in June.
10. Exposed the Generally Recognized Expense Tables (GRETs) for a 21-day public comment period ending Aug. 29.
11. Heard an update from the SOA on research and education.

12. Heard an update from the joint Academy and SOA POG on the recommendation for HMI and FMI.
13. Heard an update on the SOA and Life Insurance Marketing and Research Association (LIMRA) experience studies partnership.
14. Heard an update on the activities of the Academy Life Practice Council.
15. Heard from the Academy on ESG stylized facts for the equity model.
16. Heard an update from the Academy Council on Professionalism and Education.

HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted the report of the Consumer Information (B) Subgroup, which has not met as a group since March 22. However, the Subgroup chair and a few Subgroup members:
 - A. In June, decided to conduct focus groups with a small number of states to gather information on consumer engagement strategies they have used and which ones they find effective. The first focus group completed its work June 13, and the second focus group completed its work July 8.
 - B. Are working to prepare summaries of the focus groups. They expect to identify themes from the focus groups and share them with the full Subgroup and interested parties within the next few months.
3. Adopted the report of the Health Innovations (B) Working Group, which met Aug. 10 and took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Heard a presentation on the Colorado Option Section 1332 waiver.
 - C. Heard presentations from health plans on programs to improve access for historically underserved communities as part of its charge from the Special (EX) Committee on Race and Insurance to evaluate mechanisms to resolve disparities through improving access to care.
 - D. Heard a presentation from the federal Centers for Medicare & Medicaid Services (CMS) on programs to improve access.
 - E. Discussed a draft memorandum to the Special (EX) Committee on Race and Insurance related to the work the Working Group has completed to date for two of the charges received from the Special Committee.
4. Adopted the report of the Health Actuarial (B) Task Force. See the Task Force listing for details.
5. Adopted the report of the Regulatory Framework (B) Task Force. See the Task Force listing for details.
6. Adopted the report of the Senior Issues (B) Task Force. See the Task Force listing for details.
7. Heard a panel presentation on efforts to create state-based health insurance exchanges and why states should establish them.
8. Heard a discussion on Medicaid redeterminations following the end of the COVID-19 public health emergency (PHE). The presentation provided an overview of the PHE, including the authorities at play in the COVID-19 pandemic at the federal and state level. The presentation also highlighted important dates state insurance regulators need to keep in mind related to the end of the PHE. The presentation discussed 10 fundamental actions for states to prepare for the unwinding at the end of the PHE, including creating a comprehensive state unwinding operational plan and coordinating with partners, including state, tribal, and state and federal government partners.
9. Heard an update from the federal Center for Consumer Information and Insurance Oversight (CCIIO) on recent activities of interest to the Committee. The update focused on what the CCIIO is doing to prepare for the eventual end of the COVID-19 PHE and the Medicaid redetermination process.
10. Heard a federal legislative and regulatory update, including an update on federal No Surprises Act (NSA) implementation.
11. Received an update on the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup's work.
12. Received an update on the work of Special (EX) Committee on Race and Insurance Workstream Five.

Health Actuarial (B) Task ForceAug. 1, 2022 (in lieu of the Summer National Meeting)

1. Adopted its June 30 and May 16 minutes, which included the following action:
 - A. Heard a Society of Actuaries (SOA) Research Institute 2022 Individual Life Waiver of Premium (ILWOP) Experience Study presentation.
 - B. Heard an update on the American Academy of Actuaries (Academy) and SOA Research Institute Group Life Waiver of Premium Valuation Table (GLWPVT) Work Group efforts towards developing valuation tables to replace the 2005 Group Term Life Waiver Mortality and Recovery Tables in *Actuarial Guideline XLIV—Group Term Life Waiver of Premium Disabled Life Reserves* (AG 44).
2. Adopted the report of the Long-Term Care Actuarial (B) Working Group, including its June 24 minutes. During this meeting, the Working Group took the following action:
 - A. Discussed the Academy and SOA Research Institute’s final *Long-Term Care Insurance Mortality and Lapse Study*.
3. Heard an update on the SOA Research Institute/Life Insurance Marketing and Research Association (LIMRA) experience studies partnership.
4. Heard an update from the Academy Health Practice Council.
5. Heard an Academy update on professionalism.
6. Discussed an Academy and SOA Research Institute GLWPVT Work Group Valuation Tables proposal that is exposed for a public comment period ending Aug. 11.

Regulatory Framework (B) Task ForceAug. 10, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted the report of the Accident and Sickness Insurance Minimum Standards (B) Subgroup, including its July 11, June 13, June 6, May 9, and April 18 minutes. During these meetings, the Subgroup took the following action:
 - A. Discussed the comments received on Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171) and its drafting note to clarify what is and is not “fixed indemnity coverage.”
 - B. Developed a chair draft of proposed revisions to Section 8B based on the comments received and discussion.
 - C. Discussed the chair draft of proposed revisions to Section 8B and agreed on preliminary revisions to Section 8B for inclusion in the draft of revisions to Model #171.
 - D. Discussed the comments received on the NAIC consumer representatives’ initial comments on Section 8C—Disability Income Protection Coverage and agreed on preliminary revisions to Section 8C for inclusion in the draft of revisions to Model #171.
3. Adopted the report of the Employee Retirement Income Security Act (ERISA) (B) Working Group, which met Aug. 10 and took the following action:
 - A. Adopted its May 24 minutes, which included the following action:
 - i. Adopted a summary of the *Rutledge v. Pharmaceutical Care Management Association (PCMA)* case for inclusion in the *Health and Welfare Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation* (ERISA Handbook).
 - B. Heard an update from the U.S. Department of Labor (DOL).
 - C. Discussed updating the NAIC Chart on Multiple Employer Welfare Arrangement (MEWA)/Multiple Employer Trust (MET) and Association Plans.
 - D. Discussed whether the ERISA Handbook needs to be reviewed for outdated information.
 - E. Adjourned into regulator-to-regulator session, pursuant to paragraph 2 (pending investigations), paragraph 3 (specific companies, entities, or individuals) and paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings.

4. Adopted the report of the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group. The Working Group met Aug. 11 and took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Heard an expert presentation on parity issues.
 - C. Heard presentations from providers on parity issues.
 - D. Adjourned into regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings.
5. Adopted the report of the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup, which met Aug. 9 and took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted its July 29, June 15, and April 25 minutes. During these meetings, the Subgroup took the following action:
 - i. Heard presentations from various stakeholders on issues from their perspective on the Subgroup’s 2022 charge to develop a white paper to: 1) analyze and assess the role pharmacy benefit managers (PBMs), pharmacy services administrative organizations (PSAOs), and other supply chain entities play in the provision of prescription drug benefits; 2) identify, examine, and describe current and emerging state regulatory approaches to PBM business practices, such as price transparency and reporting requirements; rebating; and spread pricing, including the implications of the *Rutledge vs. PCMA* decision on such business practices; and 3) discuss any challenges, if any, the states have encountered in implementing such laws and/or regulations.
 - C. Heard a presentation from the PCMA.
 - D. Heard a presentation from the Pharmaceutical Research and Manufacturers of America (PhRMA).
 - E. Heard a presentation from the Oregon Primary Care Association (OPCA).
6. Heard an update from the Center on Health Insurance Reforms (CHIR) on its work on various projects of interest to the Task Force. The CHIR is researching public option plans and recently published an in-depth analysis of Colorado’s federal Affordable Care Act (ACA) Section 1332 waiver for a public option-style plan. The CHIR recently published a brief on the efforts California’s state-based insurance marketplace is trying to reduce the number of uninsured and underinsured. The CHIR also recently published a brief on actions state insurance regulators can take to prepare for the post-public health emergency (PHE) Medicaid unwinding. Another issue the CHIR is analyzing is abortion and contraceptive coverage after the recent U.S. Supreme Court ruling in *Dobbs v. Jackson Women’s Health Organization*. The CHIR is continuing to monitor and analyze state action related to health equity. It recently published a report titled, “Improving Race and Ethnicity Data Collection: A First Step to Furthering Health Equity Through SBMs.” The CHIR is also continuing its work related to the implementation of the federal No Surprises Act (NSA). The CHIR plans to release a study on state laws related to surprise billing enacted since the enactment of the NSA. The CHIR recently completed a study comparing the federal and state network adequacy standards governing Medicaid and ACA marketplace plans in six states. The CHIR’s future work includes: 1) publishing an issue brief on state efforts to enforce the MHPAEA; and 2) a 50-state research project on medical debt consumer protections.
7. Heard a presentation from the Association for Accessible Medicines (AAM) on the usage of the term “interchangeable biosimilar product” in the *Health Carrier Prescription Drug Benefit Management Model Act* (#22) and its effect on prescription drug substitutions. The Task Force decided to form an ad hoc group consisting of a few Task Force members to study this issue and report back to the Task Force at or prior to the Fall National Meeting regarding next steps.
8. Heard an update on the implementation of the federal network adequacy standards for qualified health plans (QHPs) in the federally facilitated health insurance exchanges.

Senior Issues (B) Task Force

Aug. 10, 2022

1. Adopted its Spring National Meeting minutes.

2. Adopted its June 7 and May 11 minutes. During these meetings, the Task Force took the following action:
 - A. Adopted a letter asking the federal Centers for Medicare & Medicaid Services (CMS) to: 1) ensure there will be coordination between the CMS and the U.S. Social Security Administration (SSA) should the proposed rule to simplify Medicare enrollment and expand access be made final and implemented; and 2) work with state insurance regulators to minimize any possible gaps in coverage for beneficiaries.
 - B. Discussed the CMS' proposed rule on Medicare enrollment.
3. Discussed Medicare Part D beneficiaries being "crosswalked" from one Medicare Prescription Drug Plan (PDP) to another. The Task Force agreed to reach out to the CMS.
4. Discussed a conflict between Medicare and the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) rules that has led to some confusion about which set of rules governs eligibility for coverage, and how the responsibility for payment of health care benefits for eligible individuals is determined. The Task Force agreed to hold a meeting solely on this issue with invited stakeholders.
5. Discussed the status and future of the Long-Term Care Insurance Model Update (B) Subgroup, and the Task Force agreed to disband the Subgroup.
6. Heard an update from the Task Force chair that she had received a response the previous night from the CMS to the Task Force regarding a letter sent on March 17 regarding durable medical equipment (DME) suppliers. She informed the Task Force that the CMS response has been posted on the Task Force web page and sent to Task Force members, interested state insurance regulators, and interested parties.

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

Aug. 12, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its Aug. 1 minutes. During this meeting, the Committee took the following action:
 - A. Adopted the Pet Insurance Model Act.
3. Adopted the report of the Casualty Actuarial and Statistical (C) Task Force. See the Task Force listing for details.
4. Adopted the report of the Surplus Lines (C) Task Force. See the Task Force listing for details.
5. Adopted the report of the Title Insurance (C) Task Force. See the Task Force listing for details.
6. Adopted the report of the Workers' Compensation (C) Task Force. See the Task Force listing for details.
7. Adopted the report of the Cannabis Insurance (C) Working Group, including its July 12 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Received a status report on the drafting of the *Understanding the Market for Cannabis Insurance 2.0* white paper.
 - C. Heard a presentation on how insurers are dealing with state legalization of minor cannabinoids.
8. Adopted the report of the Catastrophe Insurance (C) Working Group, which met Aug. 9 in joint session with the NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group and took the following action:
 - A. Adopted the Working Group's and Advisory Group's Spring National Meeting Minutes.
 - B. Heard an update on federal legislation.
 - C. Discussed updates to the *Catastrophe Computer Modeling Handbook*. The drafting group decided to make the *Catastrophe Computer Modeling Handbook* into a primer, which will focus on providing departments of insurance (DOIs) with the information needed to address the basics of catastrophe modeling and serve as a resource available to inform new and non-expert staff about the basics of catastrophe modeling. The Center for Insurance Policy and Research (CIPR) Catastrophe Modeling Center of Excellence (COE) has been approved by the NAIC membership, and the primer will serve as a transition to the COE, which will provide more technical training beyond the scope of this primer.
 - D. Heard an update from the Alabama Department of Insurance regarding its private flood insurance initiatives.
 - E. Heard an update from NAIC staff on private flood insurance data.
 - F. Heard an update from the New Mexico Office of the Superintendent of Insurance on recent wildfires.
 - G. Heard an update from the Northeast Zone on its catastrophe team.

- H. Heard an update from the Washington Office of the Commissioner of Insurance on the Cascadia Subduction Zone Earthquake Exercise (Cascadia Rising 2022).
 - I. Heard an update on the NAIC/FEMA Region 6 event. Five states from FEMA Region 6 met with FEMA headquarters and FEMA Region 6 colleagues in a hybrid event that the Oklahoma Insurance Department hosted. In addition to hearing an overview of recent catastrophic events in the region, the following items were discussed: 1) information regarding FEMA Region 6 stakeholder roundtables; 2) how states are organized and plan for disaster; 3) NAIC capabilities to assist states; 4) FEMA headquarters operations, including the flood response playbook; 5) claims information; 6) communication and messaging; and 7) how states interact with FEMA at disaster recovery centers (DRCs).
9. Adopted the report of the Pet Insurance (C) Working Group, including its Aug. 4 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its July 21 minutes. During this meeting the Working Group took the following action:
 - i. Adopted its June 7 minutes. During this meeting the Working Group took the following action:
 - a. Discussed proposed changes to the Pet Insurance Model Act.
 - ii. Adopted the Pet Insurance Model Act.
 10. Adopted the report of the Terrorism Insurance Implementation (C) Working Group, which has not met since the Spring National Meeting.
 11. Adopted the report of the Transparency and Readability of Consumer Information (C) Working Group, including its Aug. 2 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its June 9 minutes. During this meeting, the Working Group took the following action:
 - i. Discussed and exposed its draft *Best Practices for Insurance Rate Disclosures* for a 14-day public comment period ending June 24.
 12. Heard a report on cyber insurance data contained within the Cybersecurity and Identity Theft Supplement. The Committee will release a written report that contains alien surplus lines data later this year.
 13. Heard a federal update.
 14. Received an update on the NAIC Collaboration Forum on algorithmic bias.
 15. Heard an overview of the member visit to the Insurance Institute for Business and Home Safety (IBHS). IBHS research and messaging materials are available for use by state insurance regulators.
 16. Discussed its charge related to parametric insurance. The Committee will hear future presentations and begin to gather research to create an outline for a white paper.

Casualty Actuarial and Statistical (C) Task Force

Aug. 10, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its July 12 and June 14 minutes. During these meetings, the Task Force took the following action:
 - A. Adopted the report of the Statistical Data (C) Working Group.
 - B. Discussed the NAIC's loss cost multiplier (LCM) form. The drafting group will produce an instructions document to be considered for adoption as a package with the proposed LCM form.
 - C. Exposed draft guidance on the regulatory review of tree-based models for a 25-day public comment period ending Aug. 5.
 - D. Adopted the report of the Actuarial Opinion (C) Working Group, which met in regulator-to-regulator session to discuss individual Statements of Actuarial Opinion (SAOs). It also received a referral from the Financial Analysis (E) Working Group.
 - E. Heard comments on the draft LCM form, which had been exposed for a 40-day public comment period ending June 7.
 - F. Discussed the creation of a *Rate Review Support Services Handbook*.

3. Adopted the report of the Actuarial Opinion (C) Working Group, including its Aug. 2 minutes. During this meeting, the Working Group took the following action:
 - A. Reported that it met June 3 and May 26 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss the individual companies' SAOs.
 - B. Discussed a Financial Analysis (E) Working Group referral on predictive analytics in a reserve setting.
 - C. Discussed potential changes to the qualification documentation requirements and disclosures.
 - D. Discussed potential changes to the Regulatory Guidance and Annual Statement Instructions.
4. Adopted the report of the Statistical Data (C) Working Group, including its Aug. 4 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its July 20 minutes. During this meeting, the Working Group took the following action:
 - i. Adopted its June 15 minutes. During this meeting, the Working Group took the following action:
 - a. Adopted its May 18 minutes. During this meeting, the Working Group took the following action:
 1. Adopted its April 14 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Discussed the timeline of data collection for the *Auto Insurance Database Report* (Auto Report).
 - C. Discussed updating the *Statistical Handbook of Data Available to Insurance Regulators*.
 2. Heard a presentation from the Center for Economic Justice (CEJ) on statistical data collection—specifically, modernizing statistical data reporting for personal lines insurance.
 - b. Adopted an accelerated timeline for auto premium and exposure data collection. The Working Group agreed to move up the reporting timeline for auto premium and exposure data to Dec. 1 following the end of the data year.
 - c. Discussed proposed changes to the *Competition Database Report* (Competition Report) and the *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative United Owners Insurance* (Homeowners Report).
 - ii. Discussed proposed changes to the Auto Report and the *Report on Profitability by Line by State* (Profitability Report).
5. Exposed the draft LCM form and associated memorandum for a 45-day public comment period ending Sept. 23.
6. Adopted guidance on the regulatory review of all tree-based models to replace previous guidance applicable to only random forest models.
7. Heard a presentation on the openIDL initiative.
8. Heard presentations from professional actuarial associations.

Surplus Lines (C) Task Force

The Surplus Lines (C) Task Force did not meet at the Summer National Meeting

Title Insurance (C) Task Force

Aug. 11, 2022

1. Held an educational roundtable discussion on the various approaches states use to regulate rates. Ohio and Louisiana require prior approval of title insurers' rates and forms and use statistical agents. The Ohio Title Insurance Rating Bureau (OTIRB) is the statistical agent for Ohio. The Louisiana Title Statistical Services Organization is the statistical agent for Louisiana. Texas employs an extensive body of rules, forms, and a promulgated rate that is set at a hearing approximately every five years. Title insurance rates in Texas include costs associated with the title search and transaction, but not the escrow fees. Kansas uses a file-and-approve system. While the Kansas Insurance Department reviews filings for compliance, it does not regulate title insurance rates.

2. Heard a presentation on new title insurance-like alternatives that use attorney opinion letters backed by an errors and omissions policy through the surplus lines market. These products protect the lender, but there are limited closing protections for the consumer.

Workers' Compensation (C) Task Force

Aug. 2, 2022 (in lieu of the Summer National Meeting)

1. Discussed presumptions and whether they are creating inequity in the workers' compensation system. Most states have let their COVID-19 presumptions expire. There are, however, a handful of states that have extended the presumptions. There has been activity for presumptions regarding post-traumatic stress disorder, as well as in the areas of hazardous waste exposure.
2. Discussed the future of work and how the hybrid work force is affecting claims frequency. Items affecting the future workforce include remote work arrangements, job shifting, gig work, and automation. Twenty-five percent of the workforce works remotely on a full- or part-time basis. Thirty-one percent of gig workers hold gig work as their main job.
3. Discussed how the states are recruiting and training with the departments of insurance (DOIs). Several DOIs allow remote work, which has helped them to hire and retain employees. The DOIs are also having good results with recruiting new employees from local colleges and universities.

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

Aug. 12, 2022

1. Adopted its July 15 minutes. During this meeting, the Committee took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted a revised charge to delete a reference to the System for Electronic Rates & Forms Filing (SERFF) Advisory Board (SAB) since the SAB was disbanded at the Spring National Meeting.
 - C. Adopted a revised charge of the Producer Licensing (D) Task Force to appoint a new Adjuster Licensing (D) Working Group to review adjuster licensing reciprocity and uniformity issues rather than the Producer Licensing (D) Task Force.
 - D. Adopted a new "other health" Market Conduct Annual Statement (MCAS) data call and definitions.
 - E. Adopted revisions to the homeowners MCAS to add digital claim interrogatories and lawsuit data elements and definitions.
 - F. Adopted revisions to the auto MCAS to add digital claim interrogatories and lawsuit data elements and definitions.
 - G. Adopted revisions to the life MCAS to add accelerated underwriting (AU) data elements, interrogatories, and definitions.
2. Adopted revisions to the *Market Regulation Handbook*. These edits included: 1) revisions to Chapter 1 to encourage market regulators to coordinate with a company's domestic financial regulator to obtain information related to the company's group capital calculations (GCCs), liquidity stress test (LST) results, corporate governance, and Own Risk and Solvency Assessment (ORSA); 2) revisions to Exam Standard 1 of marketing and sales in Chapter 20 to add the *Insurance Holding Company System Regulatory Act (#440)* to the list of NAIC models to reference for guidance; and 3) revisions to Chapter 21 to include references to the *Real Property Lender-Placed Insurance Model Act (#631)*.
3. Adopted a new Mental Health Parity chapter to the *Market Regulation Handbook*. This chapter will provide updated examination guidelines in response to the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) compliance analysis requirements for non-quantitative treatment limitations (NQTLs), which were amended at the federal level in 2021.
4. Adopted the "Recommendations for the Incorporation of Artificial Intelligence in the NAIC Market Information Systems." The report recommends that artificial intelligence (AI) should be contemplated in the context of a long-range plan, beginning with repairing known issues with existing data and employing more rigorous traditional statistical techniques to assess predictive accuracy of analytical tools. Subsequently, state insurance regulators can consider the potential collection of data appropriate to AI.

5. Adopted the “Guidelines for Amending the NAIC Uniform Applications.” These guidelines will be used for the review and adoption of substantive changes to the NAIC’s uniform licensing applications in support of the NAIC and National Insurance Producer Registry (NIPR) mission of maintaining stable and consistent NAIC uniform applications for producer licensing.
6. Adopted the Antifraud Plan Repository Workflow. This workflow will serve as the template for the creation of a centralized filing system for insurers to report their antifraud plans to state insurance departments and eliminate the need for multiple state filings of the same plan.
7. Adopted the report of the Antifraud (D) Task Force. See the Task Force listing for details.
8. Adopted the report of the Market Information Systems (D) Task Force. See the Task Force listing for details.
9. Adopted the report of the Producer Licensing (D) Task Force. See the Task Force listing for details.
10. Adopted the report of the Market Analysis Procedures (D) Working Group, including its July 13 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its June 8 minutes. During this meeting, the Working Group took the following action:
 - i. Adopted its Spring National Meeting minutes.
 - ii. Adopted standard ratios for the travel and short-term, limited-duration (STLD) MCAS lines of business.
 - iii. Discussed the addition of outstanding MCAS lines of business in the Market Analysis Review System (MARS). Comments were requested by July 11.
 - iv. Discussed adding new lines of business to the MCAS. Comments were requested by July 11.
 - B. Discussed adding new lines of business to the MCAS—specifically, pet insurance, title insurance, and business owners’ insurance. Comments were requested by Aug. 12.
 - C. Discussed the addition of outstanding MCAS lines of business in the MARS. The Working Group agreed to revise its Uniform System Enhancement Request (USER) form to forward to the Market Information Systems Research and Development (D) Working Group requesting an expansion of the lines of business options in the MARS and adding the outstanding MCAS data lines.
 - D. Discussed adding the travel insurance loss ratio to the standard MCAS ratios for travel insurance. Comments were requested by Aug. 12.
11. Adopted the report of the Market Conduct Annual Statement Blanks (D) Working Group, including its July 21 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its May 26 minutes. During this meeting, the Working Group took the following action:
 - i. Adopted its April 28 minutes. During this meeting, the Working Group took the following action:
 - a. Adopted its Spring National Meeting minutes.
 - b. Received an update on the life MCAS draft edits for AU.
 - c. Received an update on the Other Health Drafting Group.
 - d. Discussed possible edits to the lawsuit definition for all MCAS lines of business that contain lawsuit reporting.
 - e. Adopted the proposed lawsuit definition and placement of the lawsuit data elements for the homeowners and auto MCAS.
 - ii. Adopted the life MCAS edits for AU.
 - iii. Adopted the “other health” MCAS data call and definitions.
 - iv. Adopted edits to the lawsuit definition for the homeowners and auto MCAS.
 - v. Reviewed its charges and process for submitting requests for edits to the MCAS data call and definitions.
 - B. Heard a presentation from America’s Health Insurance Plans (AHIP) and the Blue Cross Blue Shield Association (BCBSA) on a filing deadline proposal for the health MCAS. The organizations requested an extended deadline of June 30 to submit health MCAS filings. The proposal was exposed for a public comment period ending Aug. 19.
 - C. Reviewed the travel data element addition proposed by the Market Analysis Procedures (D) Working Group. Specifically, the Working Group requested to have the “policies in force during the reporting period” added to the travel underwriting activity section of reporting within the travel MCAS blank. The proposal was exposed for a public comment period ending Aug. 19.

- D. Reviewed the STLD data element addition that the Market Analysis Procedures (D) Working Group proposed. Specifically, the Working Group requested the addition of a data element for “dollar amount of claims paid during the reporting period” within the claims section of the STLD MCAS blank. The proposal was exposed for a public comment period ending Aug. 19.
12. Adopted the report of the Market Conduct Examination Guidelines (D) Working Group, including its July 14 minutes. During this meeting, the Working Group took the following action:
- A. Adopted its June 9 minutes. During this meeting, the Working Group took the following action:
- i. Adopted its April 21 minutes. During this meeting, the Working Group took the following action:
 - a. Adopted revisions to the April 19 draft Chapter 21—Conducting the Property and Casualty Examination of the *Market Regulation Handbook* (Handbook).
 - b. Discussed proposed revisions to Chapter 24B—Conducting the Mental Health Parity and Addiction Equity Act (MHPAEA)-Related Examination of the Handbook to update the chapter to align more closely with federal guidance on compliance analysis requirements for NQTLs.
 - c. Discussed proposed revisions to Chapter 23—Conducting the Life and Annuity Examination of the Handbook, which correspond with the February 2020 revisions to the *Suitability in Annuity Transactions Model Regulation* (#275) that the NAIC adopted.
 - d. Discussed proposed revisions to Chapter 20—General Examination Standards of the Handbook regarding Model #440.
 - ii. Discussed proposed new Chapter 24B of the Handbook. The Working Group received numerous comments from state insurance regulators and interested parties.
 - iii. Discussed proposed revisions to Chapter 23 of the Handbook. The Working Group received numerous comments from state insurance regulators and interested parties.
 - iv. Discussed proposed revisions to Chapter 20 of the Handbook.
- B. Adopted revisions to the July 6 draft Chapter 20 of the Handbook.
- C. Adopted revisions to the July 6 draft Chapter 1 of the Handbook.
- D. Adopted an updated Chapter 24B, July 11 draft, of the Handbook.
13. Adopted the report of the Market Regulation Certification (D) Working Group, including its July 13 minutes. During this meeting, the Working Group took the following action:
- A. Adopted its June 1 minutes. During this meeting, the Working Group took the following action:
- i. Adopted its Spring National Meeting minutes.
 - ii. Adopted the Voluntary Market Regulation Certification Program scoring matrix.
 - iii. Reviewed the certification program implementation plan. Comments were requested by June 30.
 - iv. Reviewed the pilot state suggestions to the certification program. Comments were requested by June 30.
- B. Reviewed the certification program implementation plan. Comments were requested by July 29.
- C. Reviewed the pilot state suggestions to the certification program. An ad hoc group was formed to review the recommendations on each requirement and report back to the Working Group.
14. Adopted the report of the Speed to Market (D) Working Group, including its July 12 minutes. During this meeting, the Working Group took the following action:
- A. Adopted its April 20 minutes. During this meeting, the Working Group took the following action:
- i. Adopted its 2021 Fall National Meeting minutes.
 - ii. Received an update on the SERFF Modernization Project by NAIC staff. Attendees on the call were invited to join and attend SERFF Product Steering Committee (PSC) meetings if interested.
 - iii. Received an update on edits to the *Product Filing Review Handbook*. The nonsubstantive edits—such as formatting edits, corrections to the names of working groups or task forces, eliminating outdated or obsolete information or references, incorporating a plain writing approach, and updating current uniform resource locators (URLs)—will not be brought before the Working Group, but any substantive changes will be brought to the Working Group for review and consideration.

- iv. Discussed the annual review of the product coding matrix (PCM) and uniform transmittal document (UTD). Suggestions were requested by May 31 to be able to discuss during the next Working Group meeting and allow time for adopted changes to be implemented in January 2023.
 - B. Discussed and considered all suggestions received on the PCM and UTD. No changes to the PCM were adopted. One suggestion to the UTD was adopted; i.e., to amend the life and health UTD to include an option for “withdrawn” as a status option. This change will be effective Jan. 1, 2023.
15. Heard a presentation on dark patterns on websites, which are website designs that are designed to intentionally mislead consumers into making unintended choices.

Antifraud (D) Task Force

June 30, 2022 (in lieu of the Summer National Meeting)

1. Adopted the Antifraud Plan Repository Workflow.

Market Information Systems (D) Task Force

June 16, 2022 (in lieu of the Summer National Meeting)

1. Adopted its 2021 Fall National Meeting minutes.
2. Adopted its Dec. 3, 2021, minutes, which included the following action:
 - A. Revised its 2022 proposed charges to continue work on developing recommendations for the incorporation of artificial intelligence (AI) abilities in the NAIC Market Information Systems (MIS).
3. Considered the Market Information Systems Research and Development (D) Working Group recommendations regarding the incorporation of AI in the NAIC MIS.
4. Adopted the report of the Market Information Systems Research and Development (D) Working Group, which met March 16 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) and paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings, and took the following action:
 - A. Accepted a request to create or enhance a Market Conduct Annual Statement (MCAS) Personalized Information Capture System (PICS) event to notify subscribers on a recurring basis of outstanding waiver and extension requests.
 - B. Accepted a request to add a new Complaints Database System (CDS) coverage type code for telehealth.
 - C. Completed its review of the 2020 MIS data analysis metrics results.
5. Heard a report on outstanding Uniform System Enhancement Request (USER) forms.
6. Adopted the Market Information Systems Research and Development (D) Working Group’s MIS data analysis metrics and recommendations. Detailed reports were sent to each jurisdiction’s market analysis chief (MAC).

Producer Licensing (D) Task Force

May 5, 2022 (in lieu of the Summer National Meeting)

1. Adopted its 2021 Fall National Meeting minutes.
2. Appointed the Adjuster Licensing (D) Working Group.
3. Adopted the *Guidelines for Amending the Uniform Licensing Applications*.
4. Received a report from the NIPR Board of Directors.
5. Discussed the status of the draft Pet Insurance Model Act.
6. Discussed the industry’s request and potential next steps regarding simplification of the 1033 waiver process.

FINANCIAL CONDITION (E) COMMITTEE

Aug. 12, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its July 21 and May 20 minutes. During these meetings, the Committee took the following action:
 - A. Adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540).

- B. Adopted the *Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers*.
 - C. Adopted the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*.
 - D. Received an update on related party disclosures. The Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group recently unanimously adopted new disclosures for related party reporting on the detail investment schedules.
 - E. Received an update on the bond proposal project. State insurance regulators and key industry representatives have been working on this project as a top priority to improve accounting and reporting and ensure that regulators have transparency to the investment risks held by insurers.
 - F. Adopted a memorandum of support for certain work performed related to various workstreams created because of the low interest rate environment and ongoing pressure from certain assets.
3. Adopted the report of the Accounting Practices and Procedures (E) Task Force. See the Task Force listing for details.
 4. Adopted the report of the Capital Adequacy (E) Task Force. See the Task Force listing for details.
 5. Adopted the report of the Examination Oversight (E) Task Force. See the Task Force listing for details.
 6. Adopted the report of the Financial Stability (E) Task Force. See the Task Force listing for details.
 7. Adopted the report of the Receivership and Insolvency (E) Task Force. See the Task Force listing for details.
 8. Adopted the report of the Reinsurance (E) Task Force. See the Task Force listing for details.
 9. Adopted the report of the Risk Retention Group (E) Task Force. See the Task Force listing for details.
 10. Adopted the report of the Valuation of Securities (E) Task Force. See the Task Force listing for details.
 11. Adopted the report of the Group Capital Calculation (E) Working Group, including its May 2 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted the 2022 group capital calculation (GCC) template and instructions.
 12. Adopted the report of the Group Solvency Issues (E) Working Group, including its Aug. 11 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its June 6 minutes. During this meeting, the Working Group took the following action:
 - i. Discussed proposed revisions to the *Financial Condition Examiners Handbook*.
 - ii. Discussed proposed revisions to the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* (ORSA Guidance Manual). The proposed revisions were exposed for a 30-day public comment period ending July 8.
 - iii. Received an update on International Association of Insurance Supervisors (IAIS) activities.
 - B. Adopted proposed revisions to the ORSA Guidance Manual.
 - C. Discussed comments received on proposed revisions to the *Financial Condition Examiners Handbook*. The proposed revisions, including a friendly amendment proposed by Ohio, were referred to the Financial Examiners Handbook (E) Technical Group for consideration of adoption.
 - D. Discussed comments received on proposed revisions to the *Financial Analysis Handbook*. The proposed revisions were referred to the Financial Analysis Solvency Tools (E) Working Group for consideration of adoption.
 - E. Discussed a referral from the from the Macroprudential (E) Working Group on private equity (PE) issues. The Working Group plans to schedule meetings as needed in the coming months to address the issues raised in the referral.
 13. Adopted the report of the Mutual Recognition of Jurisdictions (E) Working Group, including its June 29 minutes. During this meeting, the Working Group took the following action:
 - A. Reported that the Working Group met May 19 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members) and paragraph 8 (considerations of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss the draft *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*. The draft document was exposed for a 30-day public comment period, and no comments were received.
 - B. Adopted the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*.

14. Adopted the report of the National Treatment and Coordination (E) Working Group, including its June 13 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted proposal 2022-1 (Biographical Affidavit Addendum Pages).
 - B. Adopted a motion to request that the Form A Ad Hoc Group incorporate the requests of a referral from the Chief Financial Regulator Forum.
 - C. Adopted a motion to keep a referral from the Financial Analysis (E) Working Group at the National Treatment and Coordination (E) Working Group level for further development.
 - D. Exposed proposal 2022-02 (Primary and Redomestication Form Revisions) for a 45-day public comment period ending July 29.
 - E. Discussed letters of good standing.
15. Adopted agenda item 2021-21: Related Party Reporting, with an effective date of Dec. 31. This agenda item incorporates new reporting requirements for investment transactions with related parties and includes clarifications to *Statement of Statutory Accounting Principles (SSAP) No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R—Loan-Backed and Structured Securities* to make clear that the existing affiliate definition applies to all types of entities, including securitizations.
16. Adopted agenda item 2021-22BWG with an effective date of Dec. 31. These revisions add a new reporting requirement in the investment schedules for investment transactions with related parties. For all investments, except those on Schedule A—Real Estate, reporting entities will report a code to identify the type of related party involvement. Investments that do not have any related party involvement will also be identified with a specific code.
17. Heard a presentation from the Federal Reserve Board (FRB) on its supervisory framework

Accounting Practices and Procedures (E) Task Force

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its 2023 proposed charges, which are unchanged from the prior year.
3. Adopted the report of the Statutory Accounting Principles (E) Working Group, which met Aug. 10 and took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted its July 18 and May 24 minutes. During these meetings, the Working Group took the following action:
 - i. During its July 18 meeting, the Working Group exposed agenda item 2019-21: Bond Proposal Reporting Revisions, which included proposed reporting changes to Schedule D, Part 1; a proposal for a new schedule to separate issuer obligations and asset-backed securities (ABS); and revised reporting lines and instructions for investment classification for a public comment period ending Oct. 7.
 - ii. During its May 24 meeting, the Working Group adopted the following statutory accounting principles (SAP) clarifications to statutory accounting guidance:
 - a. Blanks Proposal: Adoption expressed support for a blanks proposal (2022-10BWG) that included instructional changes to Schedule T, the State Page, and the Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments. The instructions clarify that all premium adjustments shall be allocated as premium in the respective jurisdiction. This agenda item did not result in statutory revisions. (Ref #2022-03)
 - b. *Interpretation (INT) 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates*: The interpretation clarified that an investment in a Freddie Mac “When Issued K-Deal” (WI) Program is in scope of *Statement of Statutory Accounting Principles (SSAP) No. 43R—Loan-Backed and Structured Securities* from acquisition. (Ref #2022-08)

- C. Adopted the following new SAP concepts for statutory accounting guidance:
- i. *SSAP No. 86—Derivatives*: Revisions adopt elements from Financial Accounting Standards Board (FASB) *Accounting Standards Update (ASU) 2017-12, Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities* for determining hedge effectiveness. The revisions also incorporate statutory-specific measurement methods for excluded components in hedging instruments with a Jan. 1, 2023, effective date and early adoption permitted. A blanks proposal will incorporate new electronic-only reporting fields for Schedule DB and note disclosures. (Ref #2021-20)
- D. Adopted the following clarifications to statutory accounting guidance:
- i. Revisions incorporate chapter references to the Preamble of the *Accounting Practices and Procedures Manual* (AP&P Manual) and updates from FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation* and FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*. Adopted *Issue Paper No. 166 – Definition of Assets* to document the SAP clarifications to the definition of an asset in *SSAP No. 4—Assets and Nonadmitted Assets*. (Ref #2022-01)
 - ii. Revisions rejecting:
 - a. *ASU 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities* for statutory accounting. (Ref #2022-05)
 - b. *ASU 2021-08, Business Combinations, Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* for statutory accounting. (Ref #2022-07)
 - iii. Revisions incorporate disclosures from *ASU 2021-10, Government Assistance, Disclosures by Business Entities about Government Assistance* into *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*. (Ref #2022-04)
 - iv. Revisions clarify that the U.S. tax basis equity audit permitted in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* shall occur at the investee level. (Ref #2022-02)
 - v. Revisions add a practical expedient in *SSAP No. 104R—Share-Based Payments* for the current price from *ASU 2021-07, Compensation – Stock Compensation (Topic 718), Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards*. (Ref #2022-06)
- E. Exposed the following new SAP concepts to statutory accounting guidance:
- i. Revisions incorporate concepts to principally define what is eligible for reporting as a bond on Schedule D, Part 1: Long-Term Bonds. Proposed revisions to *SSAP No. 26R—Bonds* and *SSAP No. 43R*, with an updated bond definition and issue paper. (Ref #2019-21)
- F. Exposed the following SAP clarifications to statutory accounting guidance until Oct. 7:
- i. Revisions incorporate *FASB Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements* to revise the definition of a liability in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets* and expose a related draft issue paper to detail these SAP clarifications. (Ref #2022-01)
 - ii. Revisions clarify that leasehold improvements shall be immediately expensed upon lease termination unless limited exclusions in *SSAP No. 73—Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities* are met. (Ref #2021-25)
 - iii. Revisions clarify that an asset pledged as collateral must qualify as an admitted invested asset before the collateral loan is admitted. (Ref #2022-11)
 - iv. Revisions identify foreign open-end investment funds as a fund in which ownership percentage is not deemed to reflect control unless the entity actually controls with the power to direct the underlying company. (Ref #2022-13)
 - v. Revisions propose to reject *ASU 2022-02, Troubled Debt Restructurings and Vintage Disclosures* for statutory accounting. (Ref #2022-10)
 - vi. Revisions incorporate derivative guidance from *ASU 2017-12* and *ASU 2022-01, Fair Value Hedging – Portfolio Layer* to include guidance for the portfolio layer method and partial-term hedges. (Ref #2022-09)

- vii. Exposure proposes to nullify *INT 03-02: Modification to an Existing Intercompany Pooling Arrangement*, as it is inconsistent with *SSAP No. 25—Affiliates and Other Related Parties*. (Ref #2022-12)
- G. Received an update on the following items:
 - i. Received an update on U.S. generally accepted accounted principles (GAAP) exposures, noting that pending items will be addressed during the normal maintenance process. In addition, NAIC staff are monitoring developments regarding the federal Inflation Reduction Act of 2022 for any items that may affect insurers.
 - ii. Received an update regarding amendments made to the *Valuation Manual* by the Life Actuarial (A) Task Force since the 2021 Summer National Meeting.
 - iii. Received a referral from the Macprudential (E) Working Group.
- 4. Adopted the report of the Blanks (E) Working Group, including an e-vote that concluded June 8 to adopt proposal 2022-13BWG, which modifies life blank five-year historical data question 68 and question 69 to reference group comprehensive and question 70 and question 71 to reflect the inclusion of all health lines of business other than group comprehensive. The crosschecks for these questions are being modified accordingly. Interested parties requested an annual 2022 effective date. The Working Group also met May 25. During this meeting, the Working Group took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted its editorial listing and the following proposals:
 - i. 2022-01BWG – Add new questions to General Interrogatories Part 1 asking if the reporting entity accepts cryptocurrency for payment of premiums, which cryptocurrencies are accepted, and whether they are held for investment or immediately converted to U.S. dollars (2021-24 SAPWG).
 - ii. 2022-02BWG – Add four new electronic-only columns to Schedule D, Part 6, Section 1, for Prior Year Book/Adjusted Carrying Value (BACV) (Column 16), Prior Year Nonadmitted Amount (Column 17), Prior Year Sub-2 Verified Value (Column 18), and Prior Year VISION Filing Number (Column 19) (2021-22 SAPWG).
 - iii. 2022-03BWG – Split Line 5 of the Quarterly Part 1 – Loss Experience and Part 2 – Direct Premiums Written into Line 5.1 – Commercial multiple peril (non-liability portion) and Line 5.2 – Commercial multiple peril (liability portion).
 - iv. 2022-04BWG – Add a new supplement to capture premium and loss data for Annual Statement Line 17.1, 17.2, and 17.3 of the Exhibit of Premiums and Losses (State Page) – Other Liability by more granular lines of business.
 - v. 2022-05BWG – Add line numbers to the status data points in the Life/Fraternal, Health, and Property/Casualty Schedule T footnote.
 - vi. 2022-06BWG – Revise the Health Annual Statement Test language in the annual statement instructions.
 - vii. 2022-07BWG – Modify the Health Actuarial Opinion Instructions. Add definitions of “actuarial asset” and “actuarial liability.” Modify Section 4—Identification, Section 5—Scope, and Section 7—Opinion to clarify that the actuary’s opinion covers actuarial assets, as well as actuarial liabilities. Modify Section 9 to clarify that the guidance related to the type of opinion rendered by an appointed actuary covers both actuarial assets and actuarial liabilities.
 - viii. 2022-08BWG – Modify the instructions in Section 1, Section 3, and Section 8 of the Property/Casualty Actuarial Opinion Instructions to reflect the changes adopted by the Actuarial Opinion (C) Working Group.
 - ix. 2022-09BWG – Changes to the Life/Fraternal VM-20, Requirements for Principle-Based Reserves for Life Products, Reserves Supplement blank.
 - x. 2022-10BWG – Add instructions to Schedule T, the State pages, and the AHPEE to clarify guidance for reporting premium adjustments by jurisdiction.

- xi. 2022-11BWG Modified – Update the life/fraternal blank asset valuation reserve (AVR) factors to correspond with the adopted risk-based capital (RBC) factors for the expanded bond designation categories.
- C. Deferred proposal 2021-18BWG – Modify the Life Insurance (State Page) to include the line of business detail reported on the Analysis of Operations by Lines of Business pages.
- D. Exposed two new proposals for a public comment period ending Oct. 25.
- E. Received a memorandum from the Property and Casualty Risk-Based Capital (E) Working Group regarding reinsurer designation equivalent rating factors.
- 5. Adopted the following accounting and reporting revisions from the working group reports regarding related parties by separate votes:
 - A. SSAP No. 25 and SSAP No. 43R: Revisions clarify application guidance for the existing affiliate definition and incorporate reporting codes within the investment schedules to identify investments that involve related parties. (Ref #2021-21) The Statutory Accounting Principles (E) Working Group adopted this item during its May 24 meeting.
 - B. 2021-22BWG – Add a new reporting requirement in the investment schedules for investment transactions with related parties. In addition to capturing direct loans in related parties, it will also capture information involving securitizations, or other similar investments, where the related party is a sponsor/originator, along with whether the underlying investment is in a related party. The Blanks (E) Working Group adopted this item during its May 25 meeting.

Capital Adequacy (E) Task Force

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its June 30 and April 28 minutes. During these meetings, the Task Force took the following action:
 - A. Adopted the following proposals: 1) 2022-02-P; 2) 2022-05-L; 3) 2022-06-L; 4) 2021-17-CR MOD; 5) 2022-01-P; 6) 2022-03-L; 7) 2021-18-H-MOD; 8) 2021-15-CR; and 9) 2021-14-P.
 - B. Discussed affiliated investments blanks and instructions.
3. Adopted the report of the Health Risk-Based Capital (E) Working Group, including its July 21 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its May 11, May 4, and April 20 minutes. During these meetings, the Working Group took the following action:
 - i. Adopted its Spring National Meeting minutes.
 - ii. Heard presentations from the American Academy of Actuaries (Academy) on the methodologies considered in the H2 – Underwriting Risk component and AM Best on Best’s Capital Adequacy Ratio (BCAR).
 - iii. Exposed the health affiliated investment instructions and blank for a 61-day public comment period ending July 5.
 - iv. Received an update on the Health Test Ad Hoc Group and the Excessive Growth Charge Ad Hoc Group.
 - B. Adopted its working agenda.
 - C. Adopted its 2022 newsletter.
 - D. Adopted its 2021 risk-based capital (RBC) statistics.
 - E. Referred the health affiliated investment instructions and blanks to the Task Force for discussion.
 - F. Exposed the Academy’s response letter on its recommendation and timeline for the H2 – Underwriting Risk review for a 31-day public comment period ending Aug. 22.
4. Adopted the report of the Life Risk-Based Capital (E) Working Group, including its July 27 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its Spring National Meeting minutes.

- B. Adopted its June 17, June 3, April 22, and April 7 minutes. During these meetings, the Working Group took the following action:
 - i. Adopted the structure and instructions for the Academy C2 Work Group recommendation on mortality.
 - ii. Adopted the instructional change for residual tranches.
- C. Adopted its 2022 newsletter.
- D. Discussed the life affiliated investments.
- E. Adopted its working agenda.
- 5. Adopted the report of the Property and Casualty Risk-Based Capital (E) Working Group, which met Aug. 9 and took the following action:
 - A. Adopted the Catastrophe Risk (E) Subgroup’s June 14 and April 19 minutes. During these meetings, the Subgroup took the following action:
 - i. Adopted its Spring National Meeting minutes.
 - ii. Exposed proposal 2022-04-CR for a 30-day public comment period ending July 13.
 - iii. Adopted proposal 2021-17-CR MOD.
 - iv. Discussed the independent model review instructions in the Rcat component.
 - v. Evaluated other catastrophe risk for possible inclusion in the Rcat component.
 - vi. Heard a presentation from the International Society of Catastrophe Managers (ISCM) on different programs to elevate the catastrophe risk profession that the ISCM offers.
 - B. Adopted its June 24, June 7, and April 26 minutes. During these meetings, the Working Group took the following action:
 - i. Adopted its Spring National Meeting minutes.
 - ii. Adopted the following proposals: 1) 2021-17-CR MOD; 2) 2022-01-P; and 3) 2022-02-P.
 - iii. Exposed the property/casualty (P/C) affiliated investment instructions and blank for a 60-day public comment period ending June 25.
 - iv. Forwarded the referral regarding the reinsurer designation equivalent rating factors to the Blanks (E) Working Group.
 - v. Heard updates on current P/C RBC projects from the Academy.
 - C. Referred the P/C affiliated investment instructions and blanks to the Task Force for discussion.
 - D. Adopted proposal 2022-04-CR, which includes the U.S. and non-U.S. lists of wildfire events between 2013 and 2021.
 - E. Adopted its 2022 newsletter for adopted proposals and editorial changes to the 2022 P/C RBC formula.
 - F. Exposed proposal 2022-07-P, which modified the PR035 lines of business categories to be consistent with the Annual Statement, Underwriting and Investment Exhibit, Part 1B categories for a 30-day public comment period ending Sept. 8.
 - G. Exposed proposal 2022-08-CR, which provides further clarification on the independent model review instructions for a 30-day public comment period ending Sept. 8.
 - H. Heard updates from the Academy regarding current P/C RBC projects.
 - I. Adopted the 2021 P/C RBC statistics.
 - J. Adopted its working agenda.
 - K. Discussed other catastrophe risks for possible inclusion in the Rcat component.
 - L. Heard a presentation from the National Oceanic and Atmospheric Administration (NOAA) on the forecasting and resilience of severe thunderstorms.
- 6. Adopted the report of the Risk-Based Capital Investment Risk and Evaluation (E) Working Group, which met Aug. 11 and took the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Adopted its working agenda.
 - C. Received updates from the Valuation of Securities (E) Task Force and the Statutory Accounting Principles (E) Working Group.
 - D. Discussed its next steps.

- E. Received a referral from the Macroprudential (E) Working Group.
- 6. Adopted proposal 2022-04-CR.
- 7. Discussed the affiliated investment instructions and blanks.
- 8. Adopted its working agenda.

Examination Oversight (E) Task Force

Aug. 11, 2022

- 1. Adopted its 2021 Fall National Meeting minutes.
- 2. Adopted the report of the Financial Examiners Coordination (E) Working Group, which met April 14 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings.
- 3. Adopted the report of the Financial Analysis Solvency Tools (E) Working Group, which met Aug. 1 and June 13 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings.
- 4. Adopted the report of the Electronic Workpaper (E) Working Group, which met July 20, May 23, April 18, Feb. 24, and Jan. 24 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.
- 5. Received an update on the status of the Solvency Workpaper Software Modernization project that the Electronic Workpaper (E) Working Group is leading.
- 6. Adopted the report of the Financial Examiners Handbook (E) Technical Group, including its April 18 minutes. During this meeting, the Working Group took the following action:
 - A. Discussed its 2022 project listing.
 - B. Received an update on related NAIC working group activities that will affect examination guidance.
- 7. Adopted the report of the Information Technology (IT) Examination (E) Working Group, including its May 2 minutes. During this meeting, the Working Group took the following action:
 - A. Discussed its 2022 project listing.

Financial Stability (E) Task Force

Aug. 12, 2022 (joint session with the Macroprudential (E) Working Group)

- 1. Adopted its Summer National Meeting minutes.
- 2. Adopted its June 27 minutes. During this meeting, the Task Force took the following action:
 - A. Received comments on the proposed state insurance regulator responses to the list of the Working Group's considerations.
 - B. Adopted the proposed state insurance regulator responses to the list of the Working Group's considerations.
 - C. Received an update on key initiatives.
- 3. Heard an update on Financial Stability Oversight Council (FSOC) developments.
- 4. Received an update from the Working Group. On June 27, the Task Force adopted a document detailing:
 - 1) a list of the Working Group's considerations, private equity (PE)-related and other;
 - 2) summaries of state insurance regulator discussions and interested party comments; and
 - 3) a recommended disposition for each consideration.
- 5. Heard an international update, which included an update on the International Association of Insurance Supervisors' (IAIS') global monitoring exercise.

Receivership and Insolvency (E) Task Force

Aug. 11, 2022

- 1. Adopted its June 2 minutes. During this meeting, the Task Force took the following action:
 - A. Adopted its Spring National Meeting minutes.

- B. Adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540).
- 2. Adopted the report of the Receiver’s Handbook (E) Subgroup, including its July 19 minutes. During this meeting, the Subgroup took the following action:
 - A. Adopted its Nov. 18, 2021, minutes.
 - B. Adopted revisions to Chapter 1 and Chapter 2 of the *Receiver’s Handbook for Insurance Company Insolvencies* (Receiver’s Handbook).
 - C. Exposed Chapter 3, Chapter 4, and Chapter 5 of the Receiver’s Handbook for a 30-day public comment period ending Aug. 19. The Subgroup’s drafting groups continue to make progress on the remaining chapters of the Receiver’s Handbook.
- 3. Adopted the report of the Receivership Law (E) Working Group, including its July 18 minutes. During this meeting, the Working Group took the following action:
 - A. Adopted its June 10 and May 12 minutes. During these meetings, the Working Group took the following action:
 - i. Discussed a draft memorandum of understanding between state insurance departments, receivers, and guaranty funds the states could consider using in the event of an unexpected liquidation to enhance preliquidation coordination and communication.
 - ii. Discussed proposals and options for enhancing preliquidation coordination and communication from the National Conference of Insurance Guaranty Funds (NCIGF)
 - B. Discussed options for improving pre-receivership communication and information sharing between receivers and guaranty funds, including possible amendments to NAIC model laws, a draft memorandum of understanding, and improved guidance for receivers. The Working Group agreed to pursue the memorandum and improved guidance.
 - C. Exposed a draft memorandum for a 45-day public comment period ending Sept. 1.
- 4. Adopted the report of the Receivership Financial Analysis (E) Working Group, which met Aug. 11 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership and related topics.
- 5. Adopted 2023 proposed charges for the Task Force and its working groups and subgroup.
- 6. Heard an update on international resolution activities. The International Association of Insurance Supervisors (IAIS) is developing an application paper on policyholder protection schemes. The U.S. recently completed its IAIS-targeted jurisdictional assessments regarding the holistic framework, which included an assessment of insurance resolution.

Reinsurance (E) Task Force

July 25, 2022 (in lieu of the Summer National Meeting)

- 1. Adopted its Spring National Meeting minutes.
- 2. Adopted its May 16 minutes. During this meeting, the Task Force took the following action:
 - A. Adopted revisions to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers*.
- 3. Adopted its 2023 proposed charges.
- 4. Adopted the report of the Reinsurance Financial Analysis (E) Working Group, which met May 18 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. During this meeting, the Working Group completed the reviews of certified reinsurers and reciprocal jurisdiction reinsurers.
- 5. Received a status report on the reinsurance activities of the Mutual Recognition of Jurisdictions (E) Working Group.
- 6. Received a status report on the states’ implementation of the 2019 revisions to the *Credit for Reinsurance Model Law* (#785), the *Credit for Reinsurance Model Regulation* (#786), and the implementation of the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787).

Risk Retention Group (E) Task Force

The Risk Retention Group (E) Task Force did not meet at the Summer National Meeting.

Valuation of Securities (E) Task Force

Aug. 11, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its June 9 minutes. During this meeting, the Task Force took the following action:
 - A. Received and discussed a memorandum of support from the Financial Condition (E) Committee for several interrelated initiatives focused on asset risk that the Task Force, as well as other NAIC groups, are working on.
 - B. Received and discussed comments on a proposed referral to the Blanks (E) Working Group to add fixed income analytical risk measures to investments reported on Schedule D, Part One. The proposal referral was exposed for a 45-day public comment period ending May 20.
 - C. Received a proposed amendment to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) to update the role of the Securities Valuation Office (SVO) regarding interpreting accounting and reporting. The proposed amendment was exposed for 30-day public comment period ending July 9.
 - D. Received a proposed amendment to the P&P Manual to update Part Four for NAIC designation category and additional price points. The proposed amendment was exposed for 30-day public comment period ending July 9.
 - E. Exposed an Investment Analysis Office (IAO) issue paper on the risk assessment of structured securities – collateralized loan obligations (CLOs) for a 36-day public comment period ending July 15.
 - F. Received a report from the Structured Securities Group (SSG) on modeling and scenarios for residential mortgage-backed securities (RMBS) and commercial mortgage-backed securities (CMBS).
 - G. Received an update from the credit rating provider (CRP) ad hoc group.
3. Adopted an amendment to the P&P Manual clarifying the role of the SVO regarding interpreting accounting and reporting. The amendment was exposed for a 30-day public comment period ending July 9.
4. Adopted an amendment to the P&P Manual updating Part Four for NAIC designation categories and additional price points. The amendment was exposed for a 30-day public comment period ending July 9.
5. Adopted an amendment to the P&P Manual to update the definition of principal protected securities (PPS). The amendment was exposed for a 30-day public comment period ending July 28.
6. Received and discussed a referral from the Statutory Accounting Principles (E) Working Group on the adoption of its related party reporting agenda item.
7. Received and discussed a referral from the Macroprudential (E) Working Group on its plan for the list of Macroprudential (E) Working Group considerations affecting the Task Force and supported by the Financial Condition (E) Committee.
8. Exposed its 2023 proposed charges for a 30-day public comment period ending Sept. 12.
9. Exposed an SVO memorandum on alternatives to add fixed income analytical risk measures to investments reported on Schedule D, Part One, for a 30-day public comment period ending Sept. 12.
10. Exposed a revised proposed amendment to the P&P Manual to update the definition of other non-payment risk assigned a subscript “S” for a 30-day public comment period ending Sept. 12.
11. Received comments and heard an SSG report on the IAO issue paper on the risk assessment of structured securities (i.e., CLOs) that was exposed for a 36-day public comment period ending July 15. Exposed a staff presentation answering questions received on comments for a 30-day public comments period ending Sept. 12.
12. Received staff reports on projects of the Statutory Accounting Principles (E) Working Group, an update on the Ad Hoc CRP Study Group, and an update from the SSG on modeling scenarios.

FINANCIAL REGULATION STANDARDS AND ACCREDITATION (F) COMMITTEEAug. 10, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted an update to the examination coordination guidelines that the Financial Examiners Handbook (E) Technical Group recommended. The update ensures consistency between the *Financial Condition Examiners Handbook* and the accreditation guidelines, which clarifies coordination for examinations that are part of a holding company group with insurers domiciled in multiple states.
3. Adopted the recommendation that the 2021 revisions to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) are acceptable for accreditation but not required. The revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership.
4. Adopted updates to the Preamble of the *Accreditation Program Manual* to reference VM-21, Requirements for Principle-Based Reserves for Variable Annuities. The revisions serve as a reference to how captives that reinsure variable annuity (VA) business are addressed in the accreditation standards.
5. Reported that it met Aug. 9 in regulator-to-regulator session, pursuant to paragraph 7 (consideration of individual state insurance department's compliance with NAIC financial regulation standards) of the NAIC Policy Statement on Open Meetings, to: 1) discuss state-specific accreditation issues; and 2) vote to award continued accreditation to the insurance departments of Alaska, Iowa, Minnesota, and Ohio.

INTERNATIONAL INSURANCE RELATIONS (G) COMMITTEEAug. 10, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted its July 21 minutes. During this meeting, the Committee took the following action:
 - i. Discussed the International Association of Insurance Supervisors' (IAIS') public consultation on the draft criteria that will be used to assess whether the aggregation method (AM) provides comparable outcomes to the insurance capital standard (ICS).
3. Heard a presentation on the Federal Reserve Board (FRB) Insurance Policy Advisory Committee (IPAC) paper on the ICS. The presentation described the analysis undertaken by the IPAC, the potential impact of the ICS and the IPAC's recommended revisions to the ICS, and its conclusions.
4. Heard an update on recent activities and priorities of the IAIS, including: 1) a review of recent committee meetings and the annual Global Seminar; 2) an update on the targeted jurisdictional assessments (TJAs) as part of the implementation of the holistic framework; 3) the comparability assessment process for the AM; and 4) upcoming activities underway related to climate; diversity, equity, and inclusion (DE&I); operational resilience; cyber; and liquidity metrics.
5. Heard an update on international activities, including: 1) recent and upcoming meetings, events, and speaking engagements with international regulators; 2) the upcoming Fall 2022 International Fellows Program; 3) upcoming meetings and participation in workstreams at the Organisation for Economic Co-operation and Development (OECD) Insurance and Private Pensions Committee; and 4) a review of recent working group meetings of the Sustainable Insurance Forum (SIF).

INNOVATION, CYBERSECURITY, AND TECHNOLOGY (H) COMMITTEEAug. 10, 2022

1. Adopted its Spring National Meeting minutes.
2. Adopted a Request for NAIC Model Law Development from the Privacy Protections (H) Working Group to replace the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) into a new model.

3. Adopted the report of the Big Data and Artificial Intelligence (H) Working Group, which met Aug. 10 and took the following action:
 - A. Adopted its July 14 minutes. During this meeting, the Working Group took the following action:
 - i. Adopted its Spring National Meeting minutes.
 - ii. Received a report from Workstream One, which is focusing on artificial intelligence (AI)/machine learning (ML) surveys.
 - iii. Received a report from Workstream Two, which is focusing on determining the appropriate regulatory evaluation of third-party data and model vendors.
 - iv. Received a report from Workstream Three, which is focusing on evaluating the tools and resources for monitoring the insurance industry's use of data and AI.
 - v. Received a report from Workstream Four, which is focusing on the regulatory framework and how best to implement the expectations outlined in the *NAIC Principles on Artificial Intelligence*, which include regulatory guidance such as model governance.
 - B. Heard a presentation from Faegre Drinker Biddle & Reath LLP on different perspectives on AI risk management and governance.
 - C. Heard a presentation Milliman on bias detection methods and tools.
 - D. Received a report from Workstream One.
 - E. Received a report from Workstream Two.
4. Adopted the report of the Cybersecurity (H) Working Group, including its July 14 minutes. During this meeting, the Working Group took the following action:
 - A. Received an update on its revised work plan, which includes: 1) developing a state insurance regulator cybersecurity survey; 2) considering the development of a cybersecurity response plan to aid state insurance regulators in situations where cybersecurity events take place within the insurance industry; 3) determining training that would be beneficial to state insurance regulators; and 4) monitoring state, federal, and international cybersecurity efforts.
 - B. Received an update on the implementation of the *Insurance Data Security Model Law* (#668). Model #668 has now been adopted by 21 states, representing more than 80% of the market by gross written premiums.
 - C. Received an update on federal activity related to cybersecurity.
 - D. Received an update on the NAIC's cybersecurity tabletop exercises.
 - E. Received an update on state insurance regulator cybersecurity tools. NAIC staff prepared a memorandum summarizing cybersecurity tools available to state insurance regulators as a resource for regulators.
5. Adopted the report of the E-Commerce (H) Working Group, which met May 26 and May 5 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.
6. Adopted the report of the Innovation in Technology and Regulation (H) Working Group, including its May 25 minutes. During this meeting, the Working Group took the following action:
 - A. Reviewed and discussed its charges.
 - B. Discussed different approaches insurance departments are taking related to encouraging innovation through technology in their states. It plans to hold another meeting on industry perspectives related to those approaches after the Summer National Meeting.
7. Adopted the report of the Privacy Protections (H) Working Group, which met Aug. 9 and took the following action:
 - A. Adopted its Aug. 2 minutes. During this meeting, the Working Group took the following action:
 - i. Adopted its June 15 minutes. During this meeting, the Working Group took the following action:
 - a. Adopted its Spring National Meeting minutes.
 - b. Heard updates on state and federal privacy legislation.
 - c. Discussed comments received on the exposure draft of its revisions to Section 1 through Section 3 of Model #670.

- ii. Adopted a Request for NAIC Model Law Development to replace Model #670 and Model #672 with one new model.
 - iii. Discussed its revised work plan.
 - B. Heard updates on state and federal privacy legislation.
 - C. Discussed next steps on the *Consumer Data Ownership and Use* white paper.
 - D. Discussed next steps for the drafting of the new privacy model and the Working Group’s final work plan.
8. Received an update on its projects, including the proposed ICT-Hub and the NAIC Collaboration Forum on algorithmic bias.
 9. Heard presentations on the following topic: “Approaches Companies Are or Can Implement to Manage and Mitigate the Risk of Unintended Bias and Illegal Discrimination When Developing and Using AI/ML.”

NAIC/CONSUMER LIAISON COMMITTEE

Aug. 12, 2022

1. Adopted its Spring National Meeting minutes.
2. Discussed recommendations for the enhancement of Liaison Committee and consumer liaison engagement in NAIC activities.
3. Heard an update on Section 1557 to help state insurance regulators prepare for helping companies comply with the new updates from the Disability Rights Education and Defense Fund (DREDF), the Whitman-Walker Institute, and Georgians for a Healthy Future (GHF).
4. Heard a presentation on the impact of recent federal court decisions on consumers from the National Women’s Law Center (NWLC), Out2Enroll, and Dialysis Patient Citizens (DPC).
5. Heard a presentation on social inflation from the California Western School of Law.
6. Heard a short update on the new rules for disaster claims in California, Colorado, and Oklahoma from United Policyholders (UP). The new rules are helping consumers cope with the increase in disasters.

NAIC/AMERICAN INDIAN AND ALASKA NATIVE LIAISON COMMITTEE

Aug. 11, 2022

1. Adopted its June 28 minutes, which included the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Heard a presentation on consumer outreach and education regarding fraud. This is valuable to industry, state insurance regulators, and consumers as fraud is increasing. Therefore, outreach and educational opportunities to each of these groups is invaluable.
 - C. Heard a presentation on “Maximizing Collaboration Between Health Insurers and Tribal Communities – What Blue Cross and Blue Shield of New Mexico and Blue Cross and Blue Shield of Oklahoma are Doing to Build Partnerships.” This is important because it allows industry success stories to be shared and used by state insurance regulators and consumers.
 - D. Heard a presentation on “New Mexico’s Health Insurance Exchange – American Indian Program.” This is an important presentation because it helps consumers, state insurance regulators, and industry to understand best practices found to be useful by this exchange.
2. Heard a presentation on the Sovereign Nations Health Consortium (SNHC) and Sovereign Nations Insurance (SNI). The SNHC is a consortium of three federally recognized Utah-based tribes: the Kanosh Band of Paiutes; the Confederated Tribes of the Goshute Reservation; and the Shivwits Band of Paiutes. The SNI operates under tribal code; is regulated under the SNHC tribal regulatory authority; is about one-year old; and is currently offering insurance products to both Indian and non-Indian members.
3. Discussed survey results of growing insurance markets by tribal nations and the SNI and its business model, which is important so state insurance regulators can think of ways they might be able to work with such entities going forward. The survey inquired on whether tribal insurance programs were operating in state jurisdictions as admitted carriers and whether there was knowledge of state-licensed agents selling tribal insurance products.

4. Received an update from its ad hoc drafting groups. Ad Hoc Group 1 will focus on cultural awareness and communication between tribal and non-tribal members. Ad Hoc Group 2 will produce a report on access to the federal Affordable Care Act (ACA), ACA navigation, and non-Individual Health Coverage (IHC) insurance products. This group will also report on “lessons learned” in Indian Country through the COVID-19 pandemic. There was also a solicitation for additional volunteers to join the ad hoc groups.

EXECUTIVE (EX) COMMITTEE AND PLENARY

Executive (EX) Committee and Plenary Aug. 13, 2022, Minutes..... 3-2

 Adopted Amendments to the *Valuation Manual* (Attachment One)..... 3-12

 Adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53) (Attachment Two)..... 3-13

 Adopted the Pet Insurance Model Act (Attachment Three)..... 3-22

 Adopted Revisions to the “Other Health” Market Conduct Annual Statement (MCAS) Data Call and Definitions (Attachment Four) 3-32

 Adopted the Homeowners MCAS Digital Claim Interrogatories and Lawsuit Data Elements and Definitions (Attachment Five) 3-42

 Adopted the Private Passenger Auto (PPA) MCAS Digital Claim Interrogatories and Lawsuit Data Elements and Definitions (Attachment Six) 3-58

 Adopted the Addition of Accelerated Underwriting (AU) Data Elements, Interrogatories, and Definitions into the Life MCAS (Attachment Seven) 3-75

 Adopted the *Regulatory Considerations Applicable to (But Not Exclusive to) Private Equity (PE) Insurers* (Attachment Eight) 3-89

 Adopted the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation (GCC)* (Attachment Nine)..... 3-99

 Report on States’ Implementation of NAIC-Adopted Model Laws and Regulations (Attachment Ten) 3-103

Draft: 8/25/22

Executive (EX) Committee and Plenary
Portland, Oregon
August 13, 2022

The Executive (EX) Committee and Plenary met in Portland, OR, Aug. 13, 2022. The following Committee and Plenary members participated: Dean L. Cameron, Chair (ID); Chlora Lindley-Myers, Vice Chair (MO); Andrew N. Mais, Vice President (CT); Jon Godfread, Secretary-Treasurer (ND); David Altmaier, Most Recent Past President (FL); Lori K. Wing-Heier (AK); Mark Fowler (AL); Alan McClain represented by Russ Galbraith (AR); Evan G. Daniels (AZ); Ricardo Lara (CA); Michael Conway (CO); Trinidad Navarro (DE); John F. King (GA); Colin M. Hayashida (HI); Doug Ommen (IA); Dana Popish Severinghaus (IL); Amy L. Beard represented by Victoria Hastings (IN); Vicki Schmidt (KS); Sharon P. Clark (KY); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Timothy N. Schott (ME); Anita G. Fox represented by Karin Gyger (MI); Grace Arnold (MN); Mike Chaney represented by David Browning (MS); Troy Downing (MT); Mike Causey represented by Jackie Obusek (NC); Eric Dunning (NE); Marlene Caride (NJ); Barbara D. Richardson (NV); Adrienne A. Harris represented by Sumit Sud (NY); Judith L. French (OH); Glen Mulready (OK); Andrew R. Stolfi (OR); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Michael Wise represented by Diane Cooper (SC); Larry D. Deiter (SD); Cassie Brown represented by Jamie Walker (TX); Jon Pike (UT); Scott A. White (VA); Kevin Gaffney (VT); Mike Kreidler represented by Molly Nollette (WA); Nathan Houdek (WI); Allan L. McVey represented by Erin K. Hunter (WV); and Jeff Rude (WY).

1. Received the Report of the Executive (EX) Committee

Director Cameron reported that the Executive (EX) Committee met Aug. 11 and adopted the Aug. 10 report of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee.

The Committee adopted its June 21 report, which included the following action: 1) received an update on the NAIC's 2022 financials and an overview of preliminary work on the 2023 budget; 2) approved the Catastrophe Modeling Center of Excellence (COE) Fiscal Impact Statement; 3) approved the Variable Annuity Model Office Fiscal Impact Statement; and 4) received an update on the Enterprise Resource Planning (ERP) project.

The Committee adopted the reports of its task forces: 1) the Climate and Resiliency (EX) Task Force; 2) the Government Relations (EX) Leadership Council; 3) the Long-Term Care Insurance (EX) Task Force; and 4) the Special (EX) Committee on Race and Insurance.

The Committee approved the Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540).

The Committee also approved the Request for NAIC Model Law Development to draft the new Insurance Consumer Privacy Protection Model Law.

The Committee adopted the revisions to the NAIC Consumer Participation Plan of Operation.

The Committee received a status report on the NAIC *State Ahead* strategic plan implementation.

The Committee received a status report on model law development efforts for amendments to: 1) the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171); 2) the *Mortgage Guaranty Insurance Model Act* (#630); 3) the *Nonadmitted Insurance Model Act* (#870); and 4) the new Pet Insurance Model Act.

The Committee heard reports from the National Insurance Producer Registry (NIPR) and the Interstate Insurance Product Regulation Commission (Compact).

2. Adopted by Consent the Committee, Subcommittee, and Task Force Minutes of the Spring National Meeting

Director Lindley-Myers made a motion, seconded by Commissioner Donelon, to adopt by consent the committee, subcommittee, and task force minutes of the Spring National Meeting. The motion passed unanimously.

3. Received the Report of the Life Insurance and Annuities (A) Committee

Director French reported that the Life Insurance and Annuities (A) Committee met Aug. 11. During this meeting, the Committee adopted its July 20 minutes, which included the following action: 1) adopted nine *Valuation Manual* amendments; and 2) adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53).

The Committee received an update from the Accelerated Underwriting (A) Working Group. The Working Group continues to collaborate with other NAIC groups as it works on developing regulatory guidance for state insurance regulators related to accelerated underwriting (AU) in life insurance, and it plans to meet in October to continue work on its goals.

The Committee adopted the report of the Annuity Suitability (A) Working Group, including its July 25 minutes. The Working Group continues to work on a frequently asked questions (FAQ) document about the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275), which added a best interest standard of conduct for insurers and producers.

The Committee adopted the report of the Life Actuarial (A) Task Force. In particular, the Task Force is considering limited, targeted revisions to the *Life Insurance Illustrations Model Regulation* (#582) to address the need for the Task Force to make continual changes to the indexed universal life (IUL) illustration actuarial guideline to address product features causing aggressive illustrations.

The Committee also agreed to have the Life Insurance Online Guide (A) Working Group focus on updating life insurance information on the NAIC website. State insurance regulators interested in participating in the Working Group can contact Jennifer Cook (NAIC).

The Committee received an update from Workstream Four of the Special (EX) Committee on Race and Insurance that it plans to schedule future presentations on marketing in underserved communities from the agent perspective.

4. Adopted the Amendments to the *Valuation Manual*

Director French reported on nine *Valuation Manual* amendments for consideration. The package of amendments was adopted by the Life Insurance and Annuities (A) Committee on July 20. The *Valuation Manual* amendments provide technical clarifications and guidance to existing requirements in the *Valuation Manual*.

Director French noted that amendment 2022-04 names the Secured Overnight Financing Rate (SOFR) as the official replacement to the London Interbank Offered Rate (LIBOR) for the calculation of swap spreads, and it establishes a methodology for the NAIC to set short-term and long-term swap spreads. LIBOR will cease to be published by mid-2023.

Director French made a motion, seconded by Commissioner Mulready, to adopt the amendments to the *Valuation Manual* (Attachment One). The motion was adopted by 46 jurisdictions, representing 93.84% of the applicable premiums written. Director Cameron confirmed that the vote satisfied the requirements to amend the *Valuation Manual*. The motion passed.

5. Adopted Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves (AG 53)

Director French reported that the new AG 53 is part of an NAIC effort regarding the oversight of the increase in private equity (PE) and complex assets in the life insurance industry.

AG 53 was adopted by the Life Actuarial (A) Task Force on June 16 and the Life Insurance and Annuities (A) Committee on July 20. Beginning April 2023, state insurance regulators will receive additional documentation and analysis related to PE and complex assets supporting life insurance business.

Director French made a motion, seconded by Commissioner Donelon, to adopt AG 53 (Attachment Two). The motion passed unanimously.

6. Received the Report of the Health Insurance and Managed Care (B) Committee

Commissioner Mulready reported that the Health Insurance and Managed Care (B) Committee met Aug. 11 and adopted its Spring National Meeting minutes.

The Committee adopted the report of the Consumer Information (B) Subgroup, which has not met since March 22. However, in June, the Subgroup chair and a few Subgroup members conducted focus groups with a small number of states to gather information on consumer engagement strategies they find effective. The first focus group completed its work June 13, and the second focus group completed its work July 8. They are preparing summaries of the focus groups and expect to share them with the full Subgroup and interested parties within the next few months.

The Committee adopted its subgroup, working group, and task force reports and their interim minutes.

The Committee heard a panel presentation on efforts to create state-based health insurance exchanges and why states should establish them.

The Committee heard discussion on Medicaid redeterminations following the end of the COVID-19 public health emergency (PHE). The presentation provided an overview of the PHE, including the authorities at play in the COVID-19 pandemic at the federal and state level. The presentation also highlighted important dates state insurance regulators need to keep in mind related to the end of the PHE. The presentation discussed 10 fundamental actions for states to prepare for the unwinding at the end of the PHE, including creating a comprehensive state unwinding operational plan and coordinating with state, tribal, and federal government partners.

The Committee heard an update from the federal Center for Consumer Information and Insurance Oversight (CCIIO) on recent activities of interest to the Committee, including the steps the CCIIO is taking to prepare for the eventual end of the COVID-19 PHE and the Medicaid redetermination process.

The Committee also: 1) heard a federal legislative and regulatory update, including an update on the implementation of the federal No Surprises Act (NSA); 2) received an update on the Pharmacy Benefit Manager

Regulatory Issues (B) Subgroup’s work; and 3) received an update on the Special (EX) Committee on Race and Insurance Workstream Five’s work.

7. Received the Report of the Property and Casualty Insurance (C) Committee

Mr. Galbraith reported that the Property and Casualty Insurance (C) Committee met Aug. 12. During this meeting, the Committee adopted its Aug. 1 and Spring National Meeting minutes, which included adoption of the Pet Insurance Model Act.

The Committee adopted the reports of its task forces and working groups: the Casualty Actuarial and Statistical (C) Task Force, the Surplus Lines (C) Task Force, the Title Insurance (C) Task Force, the Workers’ Compensation (C) Task Force, the Cannabis Insurance (C) Working Group, the Catastrophe Insurance (C) Working Group, the Terrorism Insurance Implementation (C) Working Group, and the Transparency and Readability of Consumer Information (C) Working Group.

The Committee also: 1) heard a report on cyber insurance data contained within the Cybersecurity and Identity Theft Supplement. The Committee will release a written report that contains alien surplus lines data later this year; 2) heard a federal update; 3) heard an update on the Collaboration Forum on Algorithmic Bias; 4) heard an overview of the member visit to the Insurance Institute for Business and Home Safety (IBHS). IBHS research and messaging materials are available for use by state insurance regulators; and 5) discussed its charge related to parametric insurance. The Committee will hear future presentations and begin to gather research to create an outline for a white paper.

8. Adopted the Pet Insurance Model Act

Mr. Galbraith reported that the Property and Casualty Insurance (C) Committee released the white paper, *A Regulator’s Guide to Pet Insurance* in April 2019. After its release, the Committee asked the Pet Insurance (C) Working Group to discuss the potential development of a model law that would address regulatory concerns in the pet insurance industry described in the white paper.

The Working Group was officially tasked with drafting a model in August 2019, and the Working Group has held 26 meetings since then with active participation from industry, consumer representatives, producers, and veterinarian groups.

The Pet Insurance Model Act covers required definitions and disclosures, as well as regulations for policy conditions, sales practices for wellness programs, and producer training.

The Working Group held comment periods and had extensive discussion on all the major issues. Of note, the Pet Insurance Model Act includes several consumer protections related to policy renewals, required disclosures of waiting periods, policy limits, conditions, and benefit schedules. The Pet Insurance Model Act requires disclosure language when a preexisting condition exists. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which the claim is being made. The Pet Insurance Model Act discusses wellness programs and prohibits a pet insurer from marketing a wellness program as pet insurance or requiring the purchase of a wellness program. Finally, while the Working Group decided that the Pet Insurance Model Act was not the appropriate place to decide the type of license required to sell pet insurance, state insurance regulators wanted to ensure producers are trained on the specific features of pet insurance products before selling those products.

The Pet Insurance Model Act was adopted by the Working Group and the Committee ahead of the 2021 Fall National Meeting, but there were concerns about language in the producer training section that could cause

unintended consequences to producer licensing and reciprocity, so it was sent back to the Working Group for revision. After discussions about those concerns, the Working Group adopted the Pet Insurance Model Act with revisions to the Producer Training section, including required training topics for pet insurance producers and language that allows training requirements to be satisfied by substantially similar requirements in another state.

Mr. Galbraith made a motion, seconded by Commissioner Schmidt, to adopt the Pet Insurance Model Act (Attachment Three). The motion passed with New York abstaining.

9. Received the Report of the Market Regulation and Consumer Affairs (D) Committee

Commissioner Pike reported that the Market Regulation and Consumer Affairs (D) Committee met Aug. 12. During this meeting, the Committee adopted its July 15 minutes, which included the following action: 1) adopted a revised charge to delete a reference to the System for Electronic Rates & Forms Filing (SERFF) Advisory Board (SAB) because it was disbanded at the Spring National Meeting; 2) adopted a revised charge of the Producer Licensing (D) Task Force to appoint a new Adjuster Licensing (D) Working Group to review adjuster licensing reciprocity and uniformity issues rather than the Task Force; 3) adopted a new “Other Health” Market Conduct Annual Statement (MCAS) Data Call and Definitions; 4) adopted revisions to the Homeowners MCAS to add digital claim interrogatories and lawsuit data elements and definitions; 5) adopted revisions to the Private Passenger Auto (PPA) MCAS to add digital claim interrogatories and lawsuit data elements and definitions; and 6) adopted revisions to the Life MCAS to add AU data elements, interrogatories, and definitions.

The Committee adopted revisions to the *Market Regulation Handbook*. These edits included: 1) revisions to Chapter 1 to encourage market regulators to coordinate with a company’s domestic financial regulator to obtain information related to the company’s group capital calculations (GCCs), liquidity stress test (LST) results, corporate governance, and Own Risk and Solvency Assessment (ORSA); 2) revisions to Exam Standard 1 of marketing and sales in Chapter 20 to add the *Insurance Holding Company System Regulatory Act (#440)* to the list of NAIC models to reference for guidance; and 3) revisions to Chapter 21 to include references to the *Real Property Lender-Placed Insurance Model Act (#631)*.

The Committee also adopted a new Mental Health Parity chapter to the *Market Regulation Handbook*. This chapter will provide updated examination guidelines in response to the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) compliance analysis requirements for non-quantitative treatment limitations (NQTLs), which were amended at the federal level in 2021.

The Committee adopted the “Recommendations for the Incorporation of Artificial Intelligence in the NAIC Market Information Systems.” The report recommends that artificial intelligence (AI) should be contemplated in the context of a long-range plan, beginning with repairing known issues with existing data and employing more rigorous traditional statistical techniques to assess the predictive accuracy of analytical tools. Subsequently, state insurance regulators can consider the potential collection of data appropriate to AI.

The Committee adopted the “Guidelines for Amending the NAIC Uniform Applications.” These guidelines will be used for the review and adoption of substantive changes to the NAIC’s Uniform Licensing Applications in support of the NAIC and NIPR mission of maintaining stable and consistent NAIC Uniform Applications for producer licensing.

The Committee adopted the Antifraud Plan Repository Workflow. This workflow will serve as the template for the creation of a centralized filing system for insurers to report their antifraud plans to state insurance departments and eliminate the need for multiple state filings of the same plan.

The Committee adopted the reports of its task forces and working groups: the Antifraud (D) Task Force, the Market Information Systems (D) Task Force, the Producer Licensing (D) Task Force, the Advisory Organization Examination

Oversight (D) Working Group, the Market Analysis Procedures (D) Working Group, the Market Conduct Annual Statement Blanks (D) Working Group, the Market Conduct Examination Guidelines (D) Working Group, the Market Regulation Certification (D) Working Group, and the Speed to Market (D) Working Group.

The Committee heard a presentation on dark patterns on websites, which are website designs created to intentionally mislead consumers into making unintended choices.

10. Adopted the Market Conduct Annual Statement (MCAS) Items

Commissioner Pike reported that on July 15, the Market Regulation and Consumer Affairs (D) Committee adopted a new MCAS blank and changes to three current MCAS blanks.

- “Other Health” MCAS Data Call and Definitions

First are revisions to the “Other Health” MCAS Data Call and Definitions. With the adoption of this blank, the MCAS now collects underwriting, claims, complaint, and marketing information on health plans not subject to the federal Affordable Care Act (ACA). Those health plans include: 1) accident only; 2) accidental death and dismemberment; 3) specified disease and critical illness; 4) hospital and other indemnity; and 5) hospital/surgical and other expense.

The data on these plans is divided into those sold directly to individuals, sold through associations, and sold through employer groups. Much like previous MCAS blanks, this blank is divided into five sections; i.e., Interrogatories, Underwriting, Claims, Consumer Complaints and Lawsuits, and Marketing. In combination with the Health MCAS blank, which collects data on plans subject to the ACA, and the Short-Term Limited-Duration (STLD) MCAS blank, most of the health insurance marketplace will now be subject to MCAS reporting.

- Revised HO and PPA MCAS Blanks

Commissioner Pike noted that that there was a typo in the PPA Data Call and Definitions that has been corrected. In the lawsuit definition, it referenced Homeowners instead of PPA.

The changes to the Homeowners Data Call and Definitions and the PPA Data Call and Definitions are identical.

Last year, the Market Regulation and Consumer Affairs (D) Committee adopted data elements to collect information on digital claims. This year, it added two interrogatories about digital claim handling, including asking companies to identify all the vendors that provide third-party data and algorithms used in digital claim handling.

Additionally, the Committee adopted changes for reporting lawsuits in the Homeowners and PPA Data Call and Definitions. Historically, only claims-related lawsuits were reported. An additional reporting category was created to capture non-claims-related lawsuits. This change required edits to the lawsuit definition.

- Revised Life MCAS Blank

The Life MCAS Data Call and Definitions was edited to include the reporting of AU data. A new section was added to the interrogatories to capture basic information related to the products subject to AU, as well as the types of data the company uses in its AU.

Schedule 1C includes data elements for which a company must provide both AU information and non-AU information. This reporting is required on individual life cash value products and individual life non-cash value products.

The addition of AU to the Life Insurance MCAS blank was completed after the Accelerated Underwriting (A) Working Group finished its work on its educational paper. However, the definition developed by the Working Group did not work for MCAS filing purposes. For this reason, the MCAS definition references the definition adopted by the Working Group and notes that the MCAS definition is a subset of the definition contained in the Working Group’s 2022 NAIC educational paper on the topic.

Commissioner Pike made a motion, seconded by Commissioner Clark, to adopt the revisions to the “Other Health” MCAS Data Call and Definitions (Attachment Four); the Homeowners MCAS digital claim interrogatories and lawsuit data elements and definitions (Attachment Five); the PPA MCAS digital claim interrogatories and lawsuit data elements and definitions (Attachment Six); and the addition of AU data elements, interrogatories, and definitions into the Life MCAS (Attachment Seven). The motion passed with New York abstaining.

11. Received the Report of the Financial Condition (E) Committee

Commissioner White reported that the Financial Condition (E) Committee met Aug. 12. During this meeting, the Committee: 1) adopted its July 21, May 23, and Spring National Meeting minutes, which included the following action: a) approved a Request for NAIC Model Law Development to amend Model #540; b) adopted the “Regulatory Considerations Applicable (But Not Exclusive) to PE Owned Insurers”; c) adopted the “List of Jurisdictions that Recognize and Accept the GCC”; and d) adopted a memorandum of support for work performed because of the low interest rate environment and ongoing pressure from certain assets.

The Committee adopted agenda item 2021-21: Related Party Reporting, with an effective date of Dec. 31. This item incorporates new reporting requirements for investment transactions with related parties and includes clarifications to *Statement of Statutory Accounting Principles (SSAP) No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R—Loan-Backed and Structured Securities* to make it clear that the existing affiliate definition applies to all types of entities, including securitizations.

The Committee adopted agenda item 2021-22BWG with an effective date of Dec. 31. These revisions add a new reporting requirement in the investment schedules for investment transactions with related parties. For all investments, except those on Schedule A—Real Estate, reporting entities will report a code to identify the type of related party involvement. Investments that do not have any related party involvement will also be identified with a specific code.

The Committee adopted the reports of the following task forces and working groups: the Accounting Practices and Procedures (E) Task Force, the Capital Adequacy (E) Task Force, the Examination Oversight (E) Task Force, the Financial Stability (E) Task Force, the Group Capital Calculation (E) Working Group, the Group Solvency Issues (E) Working Group, the Mutual Recognition of Jurisdictions (E) Working Group, the National Treatment and Coordination (E) Working Group, the Receivership and Insolvency (E) Task Force, the Reinsurance (E) Task Force, and the Valuation of Securities (E) Task Force.

The Committee heard a presentation from the Federal Reserve on its Supervisory Framework.

Note: Items adopted within the Financial Condition (E) Committee’s task force and working group reports that are considered technical, noncontroversial, and not significant by NAIC standards—i.e., they do not include model laws, model regulations, model guidelines, or items considered to be controversial—will be considered for adoption by the Executive (EX) Committee and Plenary through the Financial Condition (E) Committee’s technical changes report process. Pursuant to this process, which was adopted by the NAIC in 2009, a listing of the various technical changes will be sent to NAIC members shortly after completion of the National Meeting, and the members will have 10 days to comment with respect to those items. If no objections are received with respect to a particular item, the technical changes will be considered adopted by the NAIC membership and effective immediately.

12. Adopted the “Regulatory Considerations Applicable to (But Not Exclusive to) PE Owned Insurers”

Commissioner White reported that the Financial Stability (E) Task Force of the Financial Condition (E) Committee, charged the Macroprudential (E) Working Group with coordinating all NAIC efforts related to PE ownership of insurers.

The Working Group developed a list of 13 considerations that may result in changes to existing regulatory requirements. These 13 considerations relate to activities frequently, but not exclusively, attributed to PE firms. The list was adopted by the Task Force, and since then, the Working Group has proposed ways to address the 13 considerations. This includes specific referrals to various NAIC committee groups. This plan was adopted by the Task Force on June 27 and by the Committee on July 21.

Commissioner White made a motion, seconded by Commissioner Donelon, to adopt the “Regulatory Considerations Applicable to (But Not Exclusive to) PE Insurers” (Attachment Eight). The motion passed unanimously.

13. Adopted the “List of Jurisdictions that Recognize and Accept the GCC”

Commissioner White reported that on Dec. 9, 2020, the Executive (EX) Committee and Plenary adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450), which established the GCC framework.

The revisions specifically provide that the requirements to file the NAIC’s GCC apply to U.S.-based groups, while a group headquartered outside of the U.S. is exempt from the GCC (subject to limited exceptions) if its groupwide supervisor “recognizes and accepts” the GCC for U.S. groups doing business in that jurisdiction.

The “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (EU Covered Agreement) and the “Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance” (UK Covered Agreement) establish this mutual recognition process for European Union (EU) and United Kingdom (UK) groups, and the *Process for Evaluating Qualified and Reciprocal Jurisdictions* does this for groups in a handful of other jurisdictions.

After the GCC framework was adopted, the Mutual Recognition Jurisdictions (E) Working Group developed the “List of Jurisdictions that Recognize and Accept the GCC” to exempt groups within those jurisdictions from the GCC.

The list has been through public exposure, and there were no comments. It will be updated at least annually.

Commissioner White made a motion, seconded by Commissioner Altmaier, to adopt the “List of Jurisdictions that Recognize and Accept the GCC” (Attachment Nine). The motion passed unanimously.

14. Received the Report of the Financial Regulation Standards and Accreditation (F) Committee

Director Wing-Heier reported that the Financial Regulation Standards and Accreditation (F) Committee met Aug. 9 in regulator-to-regulator session, pursuant to paragraph 7 (consideration of individual state insurance department’s compliance with NAIC financial regulation standards) of the NAIC Policy Statement on Open Meetings, to: 1) discuss state-specific accreditation issues; and 2) vote to award continued accreditation to the insurance departments of Alaska, Iowa, Minnesota, and Ohio.

The Committee also met Aug. 10 in open session to adopt its Spring National Meeting minutes.

The Committee adopted an update to the examination coordination guidelines recommended by the Financial Examiners Handbook (E) Technical Group. The update ensures consistency between the *Financial Condition Examiners Handbook* and the accreditation guidelines and clarifies coordination for examinations that are part of a holding company group with insurers domiciled in multiple states.

The Committee adopted the recommendation that the 2021 revisions to Model #440 and Model #450 are acceptable for accreditation but not required. The revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership.

The Committee adopted updates to the Preamble of the *Accreditation Program Manual* to reference VM-21, Requirements for Principle-Based Reserves for Variable Annuities. The revisions reference how captives that reinsure variable annuity (VA) business are addressed in the accreditation standards.

15. Received the Report of the International Insurance Relations (G) Committee

Commissioner Anderson reported that the International Insurance Relations (G) Committee met Aug. 10 and adopted its July 21 and Spring National Meeting minutes.

The Committee heard a presentation on the Federal Reserve Board's (FRB's) Insurance Policy Advisory Committee (IPAC) paper on the insurance capital standard (ICS). The presentation described the analysis undertaken by the IPAC, the potential impact of the ICS and the IPAC's recommended revisions to the ICS, and its conclusions.

The Committee heard an update on recent activities and priorities of the International Association of Insurance Supervisors (IAIS), including: 1) a review of recent committee meetings and the annual Global Seminar; 2) an update on the targeted jurisdictional assessments (TJAs) as part of the implementation of the holistic framework; 3) the comparability assessment process for the aggregation method (AM); and 4) upcoming activities related to climate; diversity, equity, and inclusion (DE&I); operational resilience; cyber; and liquidity metrics.

The Committee heard an update on international activities, including: 1) recent and upcoming meetings, events, and speaking engagements with international regulators; 2) the upcoming Fall 2022 International Fellows Program; 3) upcoming meetings and participation in workstreams at the Organisation for Economic Co-operation and Development (OECD) Insurance and Private Pensions Committee; and 4) a review of recent working group meetings of the Sustainable Insurance Forum (SIF).

16. Received the Report of the Innovation, Cybersecurity, and Technology (H) Committee

Commissioner Birrane reported that the Innovation, Cybersecurity, and Technology (H) Committee met Aug. 10. During this meeting, the Committee adopted its Spring National Meeting minutes, which included the following action: 1) adopted structural and charge revisions; 2) adopted its working group reports; 3) received a report on the Casualty Actuarial and Statistical (C) Task Force predictive model review process; 4) discussed various committee-level projects, including: a) the creation of a new Collaboration Forum that will serve as a platform for multiple NAIC committees to work together to identify and address foundational issues and develop a common framework; b) the development of a portal or library of resources related to innovation, cybersecurity, data and consumer privacy, and technology; and c) the creation of a forum to facilitate the training and education of state insurance regulators on innovation and technology topics, SupTech issues, and potential ways data and technology might affect the insurance sector in the future; and 5) received an update on the implementation of the *Insurance Data Security Model Law* (#668) and *Unfair Trade Practices Act* (#880) revised language specific to rebating.

The Committee approved the Request for NAIC Model Law Development from the Privacy Protections (H) Working Group to draft a new model law with the proposed title, the Insurance Consumer Privacy Protection Model Law, to replace the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672).

The Committee adopted the reports of its task forces and working groups: the Big Data and Artificial Intelligence (H) Working Group, the Cybersecurity (H) Working Group, the E-Commerce (H) Working Group, the Innovation in Technology and Regulation (H) Working Group, and the Privacy Protections (H) Working Group.

The Committee received an update on its projects, including the proposed Innovations, Cybersecurity, and Technology (ICT)-Hub and Collaboration Forum on Algorithmic Bias Fly-In.

At the conclusion of the Committee meeting and as a part of the Collaboration Forum on Algorithmic Bias panel, the Committee members heard presentations entitled, “Approaches Companies Are or Can Implement to Manage and Mitigate the Risk of Unintended Bias and Illegal Discrimination When Developing and Using AI/ML” from Dale Hall, Managing Director of Research for the Society of Actuaries (SOA); Tulsee Doshi, Head of Product for Responsible AI & Human Centered Technology at Google and an Advisor of Lemonade; and Daniel Schwarcz, a professor at the University of Minnesota.

17. Received a Report on the States’ Implementation of NAIC-Adopted Model Laws and Regulations

Director Cameron referred attendees to the written report for updates on the states’ implementation of NAIC-adopted model laws and regulations (Attachment Ten).

Having no further business, the Executive (EX) Committee and Plenary adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/8-Plenary

LATF VM Amendment	Valuation Manual Reference	Valuation Manual Amendment Proposal Descriptions	LATF Adoption Date	Page Number
2020-12	VM-01, VM-20, VM-21, VM-31	Create consistency between CDHS determination in VM-20 and VM-21. Revise hedge modeling to only require CDHS if modeling future hedging reduces the reserves under VM-20 or TAR under VM-21.	6/9/22	3
2021-11	VM-21, section 12 and various others	Add a section for other assumptions requirement in VM-21 which covers general guidance and requirements for assumptions, and expense assumptions.	2/3/22	22
2021-12	VM-21 Section 6.B.3.a.v, VM-21 Section 6.C.4, VM-21 Section 6.C.10, VM-21 Section 6.C.11	Correct CSMP reference and clarify requirements for VA contracts with no minimum guaranteed benefits in Additional Standard Projection Amount in VM-21 Section 6.C. These three prescribed assumptions are Partial Withdrawal, Account Value Depletion, and Other Voluntary Contract Termination.	12/8/21	33
2021-13	VM-20 Sect. 9.C.6.e, VM-20 Sect. 9.C.7, VM-31 Sect. 3.D.3.o.	It has been observed that adding the prescribed mortality margins for some Life/LTC combination products cause modeled reserves to decrease rather than increase.	11/4/21	40
2022-01	VM-20 Section 8.C.18	Clarifying the Valuation Manual treatment of the per-reinsurance ceded reserve and the reserve credit for retrocessions	3/10/22	44
2022-02	VM-31	Revise language and add an explicit cross-reference to the VM-21 section since it has further details on how to demonstrate compliance	3/31/22	47
2022-03	VM-20, VM-21, VM-31	General cleanup, including updating cross-references, better consistency between VM-20 and VM-21, where reasonable, and making clarifying edits.	3/31/22	49
2022-04	VM-20 Section 9.F.8, App 2.F, App 2.G	LIBOR transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance to facilitate the LIBOR transition to SOFR.	6/30/22	55
2022-05	VM-51 App 1, App 4	Add dividend plan code & Covid-19 indicator; change field identifier; correct Appendix 1 reference.	5/12/22	61

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 1 Valuation Manual Chart.pdf

Actuarial Guideline LIII**APPLICATION OF THE VALUATION MANUAL FOR TESTING THE ADEQUACY OF LIFE INSURER RESERVES****Background**

The *NAIC Valuation Manual (VM-30)* contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis. Regulators have observed a lack of uniform practice in the implementation of asset adequacy analysis. The variety of practice in incorporating the risk of complex assets into testing does not provide regulators comfort as to reserve adequacy. Examples of complex assets are structured securities, including asset-backed securities and collateralized loan obligations, as well as assets originated by the company or affiliated or contracted entity. An initial increase of this activity has been noted in support of general account annuity blocks; however, recent activity was noted in other life insurer blocks.

This Guideline is intended to provide uniform guidance and clarification of requirements for the appropriate support of certain assumptions for asset adequacy analysis performed by life insurers. In particular, this Guideline:

- (1) Helps identify reserve adequacy and claims-paying ability in moderately adverse conditions, including conditions negatively impacting cash flows from complex assets;
- (2) Clarifies elements to consider in establishing margins on asset-related assumptions;
- (3) Ensures recognition that higher expected gross returns from assets are, to some extent, associated with higher risk, and that assumptions fit reasonably within the risk-return spectrum;
- (4) Requires sensitivity testing regarding complex assets supporting life insurer business;
- (5) Identifies expectations in practice regarding the valuation of complex assets within asset adequacy analysis;
- (6) Reflects that while complex assets tend to have higher uncertainty regarding timing and amount of cash flows than more traditional investments, because complex assets are difficult to classify, and the regulatory concern is regarding the projected net yields and cash flows from those assets, the focus of the analysis requirements will be on assets categorized as high-yielding; and
- (7) Requires additional documentation of investment fee income relationships with affiliated entities or entities close to the company.

Text

1. Effective Date

This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2022 Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

Guidance note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. Requirements in the Guideline will cease to apply to annual statutory financial statements when the corresponding or replacement VM-30 requirements become effective.

2. Scope

This Guideline shall apply to all life insurers with:

- A. Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets or
- B. Over \$100 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.F.

Actuarial reserve amounts are included in the amounts in A and B whether directly written or assumed through reinsurance and are determined before any reinsurance ceded credit.

The Guideline applies to assets supporting liabilities tested in the asset adequacy analysis except it does not apply to unitized separate account assets or policy/contract loans.

3. Definitions

- A. Equity-like Instruments. Assets that include the following:

- i. Any assets that, for purposes of risk-based capital C-1 reporting, are in the category of common stock, i.e., have a 30% or higher risk-based capital charge.
- ii. Any assets that are captured on Schedule A or Schedule BA of the Annual Statement.
- iii. Bond funds.

- B. Fair Value. The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, consistent with methodology of fair value, as reported in the Annual Statement.

- C. Net Market Spread. For each asset grouping, shall mean the spread over comparable Treasury bonds that equates the fair value as of the valuation date with modeled cash flows, less the default assumption used in asset adequacy analysis.

Market conventions and other approximations are acceptable for the purposes of this definition.

- D. Investment Grade Net Spread Benchmark. The applicable spread found in Appendix I using the weighted average life (WAL) of the associated non-Equity-like Instrument.
- E. Guideline Excess Spread. The net spread derived by subtracting the Investment Grade Net Spread Benchmark from the Net Market Spread for non-Equity-like Instruments. Investment expenses shall be excluded from this calculation.
- F. Projected High Net Yield Assets. Currently held or reinvestment assets that are either:
- i. An Equity-like Instrument assumed to have higher value at projection year 10 or later than under an assumption of annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after. Aggregation shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model, or
 - ii. Assets other than Equity-like Instruments where the assumed Guideline Excess Spread is higher than zero. In addition:
 - (a) Aggregation of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model.
 - (b) For applicable assets that do not have an explicit WAL or term to maturity, the Appointed Actuary shall disclose the method used to determine the appropriate WAL used for comparing to the Investment Grade Net Spread Benchmark.
 - (c) For purposes of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark, investment expenses shall be excluded.
 - iii. The following asset types can be excluded from the scope of requirements in sections 4.A.ii through 5:
 - (a) Cash or cash equivalents,
 - (b) Treasuries and agency bonds, and
 - (c) Public non-convertible, fixed-rate corporate bonds with no or immaterial callability.

4. Asset Adequacy Considerations and Documentation Expectations

A. Net return and risk documentation.

- i. For all assets, either currently held or in assumed reinvestments, provide:
 - (a) Identification of the assumed gross asset yield and the key components (for example, default and investment expenses) deducted to arrive at the assumed net asset yield.
 - (b) Explanation of any future reinvestment strategy assumptions that materially differ from current practices.
- ii. For Projected High Net Yield Assets, either currently held or in assumed reinvestments, provide:
 - (a) A detailed explanation describing the relationship between the expected gross returns from these assets and the risk. It shall also include, for the aspect of any higher expected gross returns not assumed to be associated with higher risk, an explanation of how overperforming assets with expected returns lying outside the risk-return spectrum can be assumed to persist and be available for reinvestments throughout the projection period in moderately adverse conditions.
 - (b) Commentary on how assumptions on assets with risk factors leading to substantial volatility of returns, as identified through sensitivity testing or other means, contain an appropriate margin to reflect the uncertainty in the timing and amounts of asset cash flows.
 - (c) Identification of the extent to which Projected High Net Yield Assets are supporting major product categories, e.g., individual fixed annuities and pension risk transfers.
 - (d) Explanation of rationale for materially changing or not changing complex-asset-based assumptions from the prior year's analysis.

B. Model rigor. Where significant risks associated with complex, Projected High Net Yield Assets are not adequately captured with traditional modeling techniques, more rigorous modeling of those risks should occur.

- i. Where necessary to adequately reflect the risk:
 - (a) Multi-scenario testing of those risks specific to complex assets should be performed. For example, investments that may provide a higher expected return in part due to limited information, niche skill sets, or other factors may require

unique scenarios (for instance to adequately capture credit or liquidity risk) to fully encompass potential sources of loss.

- (b) Asset cash flows should be appropriately projected to reflect anticipated liquidity under adverse conditions. If such model aspects are not developed, sufficient additional conservatism to reflect this risk shall be applied.
 - (c) To the extent that the process for modeling or otherwise evaluating the risks is complex, and the potential for disconnect between reality and modeling increases, an additional margin to assumption(s) should be applied. Any such margin shall be applied in the direction of asset adequacy analysis results being less favorable.
 - (d) The full distribution of risk associated with complex assets should be considered.
- ii. An Appointed Actuary may use simplifications, approximations, and modeling efficiency techniques if the Appointed Actuary can demonstrate that the use of such techniques does not make asset adequacy analysis results more favorable. These techniques may be less appropriate if the amount of complex, high-yielding assets becomes a higher percentage of total assets.

Guidance note: Actuarial Standards of Practice (ASOPs), including ASOP No. 7 and No. 56 contain additional guidance on the use of models in the analysis of cash flows.

- C. **Fair Value determination.** In asset adequacy analysis, when an asset is projected to be available for sale, a Fair Value of that asset is established, based on the projected market conditions. Fair Value should only be determined internally (by the insurance or investment management company) when the market-based value of the asset or similar asset cannot be obtained or expected to be obtained in a projected scenario.
- i. When the Fair Value of a material portion of supporting assets is determined internally, the actuarial memorandum shall contain a step-by-step description of the approach used to calculate the Fair Value of such assets.
 - ii. Provide the total Fair Value of assets that have values determined internally.
 - iii. When the Fair Value of a material portion of assets is determined internally, a sensitivity test should be performed (and the impact on asset adequacy analysis results presented) assuming a haircut to internally derived Fair Values that the Appointed Actuary deems reasonable given the commensurate level of anticipated uncertainty.
- D. **Non-publicly traded assets.** For non-publicly traded assets originated by the company, within the company's group, or within an entity closely tied to a company's group (inclusive of the company's investment manager), provide the following:
- i. Documentation of practices to help ensure accurate valuation of those assets.

- ii. The total Fair Value of such assets.
- iii. To the extent the contractual agreement affects the investment income revenue streams included in the asset adequacy analysis, disclose in detail applicable contractual agreements and revenue sharing, e.g., performance fees, between the entity responsible for providing investment or other types of services and the insurer.

Also, assumed net cash flows from assets should be net of all explicit or implicit fees or expenses, such as origination fees, as well as reflective of other asset-related risks including credit risk, illiquidity risk, and other market risks.

- E. **Investments expenses (fees).** Assumed investment expenses, whether paid to an external asset manager or to internal investment management staff, as well as additional expenses that are directly attributable to the specific investments, should be commensurate with the expected expenses in light of the complexity of the assets.
- F. **Reinsurance modeling.** Related to reinsurance, relevant communications and disclosures, for instance commentary on collectability and counterparty risk, should be presented in the memorandum.

Guidance note: Section 4.F is consistent with the standard laid out in ASOP No. 11 – Reinsurance Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports.

- G. **Borrowing.** Please identify if any borrowing is modeled besides to address very short-term liquidity needs. Also, verify borrowing and reinvestment rates to ensure that projections are not materially benefiting from arbitrage advantages.

5. Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets

A. Sensitivity testing

- i. Perform and disclose, separately for (a) and (b), the asset adequacy analysis results from the following sensitivity tests:

- (a) For reinvestment assets other than Equity-like Instruments, assume the Net Market Spreads (before deduction of investment expenses) for Projected High Net Yield Assets do not exceed the Investment Grade Net Spread Benchmark and apply the test to a baseline of a level Treasury rate scenario.

For the purposes of limiting the Net Market Spreads at the Investment Grade Net Spread Benchmark, Projected High Net Yield Assets may be aggregated together but shall not include any assets that are not Projected High Net Yield Assets.

- (b) For reinvestment assets that are Equity-like Instruments, assume annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after.

- ii. Strict technical compliance for each asset may not be practical for reasons such as model limitations. Professional judgment should be applied to produce sensitivity testing results that are consistent with the spirit of the test. A variety of alternative methods may be acceptable. Appropriate explanation and justification should be provided for the method that was employed.
 - iii. Sensitivity testing for the purpose of this Guideline does not reflect commentary on moderately adverse conditions, but the volatility and impact demonstrated from the testing should be contemplated in Section 4.A.ii.(b) considerations.
- B. For Projected High Net Yield Assets for non-Equity-like Instruments either currently held or in assumed reinvestments, perform and disclose the following attribution analysis steps at the asset type level associated with the templates in Section 6:
- i. State the assumed Guideline Excess Spread.
 - ii. Estimate the proportion of the Guideline Excess Spread attributable to the following factors:
 - (a) Credit risk
 - (b) Illiquidity risk
 - (c) Deviations of current spreads from long-term spreads defined in Appendix 1
 - (d) Volatility and other risks (identify and describe these risks in detail)
 - iii. Provide commentary on the results of Section 5.B.ii. Also, where judgment is applied, provide supporting rationale of how the expected return in excess of the Investment Grade Net Spread Benchmark is estimated.

Guidance note: a best-efforts approach is expected for the year-end 2022 attribution analysis

6. Reporting, Review, and Templates

Guidance note: The NAIC Valuation Analysis (E) Working Group (VAWG) shall serve as a resource in the targeted review of asset adequacy analysis related to modeling of business supported with Projected High Net Yield Assets. VAWG shall provide periodic reports identifying outliers and concerns regarding the analysis to help inform regulators on the effectiveness of the Guideline in meeting the seven objectives stated in the Background section.

- A. The documentation, sensitivity test results, and attribution analysis referenced above are to be incorporated as a separate, easily identifiable section of the actuarial memorandum required by VM-30 or as a standalone document, with a due date of April 1 following the applicable valuation date. The domiciliary commissioner may approve a later due date for companies seeking a hardship extension. The separate section or standalone document shall be available to other state insurance commissioners in

which the company is licensed upon request to the company. The confidentiality and information provisions in state adoptions of NAIC Model 820 regarding the actuarial memorandum are applicable to the separate section or standalone document required by this Guideline.

B. Sample templates (to be adopted by the Life Actuarial Task Force):

- i. Asset types – will be categorized when the templates are completed.
- ii. Template for the asset summary.
- iii. Template for components of net asset yield for various asset classes, with separate tables to be provided for initial assets and reinvestment assets.
- iv. Template for sensitivity test aspects for Projected High Net Yield Assets that are fixed-income.
- v. Template for sensitivity test results for Projected High Net Yield Assets.
- vi. Template for attribution analysis, with separate tables to be provided for initial assets and reinvestment assets for Projected High Net Yield Assets.

Appendix I – Investment Grade Net Spread Benchmark

WAL (Weighted Avg Life)	Investment Grade Net Spread Benchmark (in bps)
1-10	170
11-20	175
21-30	185

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REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: **New Model Law** or **Amendment to Existing Model**

1. Name of group to be responsible for drafting the model:

Pet Insurance (C) Working Group

2. NAIC staff support contact information:

Aaron Brandenburg
abrandenburg@naic.org
816 783 8271

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

Pet Insurance Model Law. This model would define a regulatory structure related to pet insurance, including issues such as producer licensing, policy terms, coverages, claims handling, premium taxes, disclosures, arbitration, and preexisting conditions.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why: Interested parties agree that there is ambiguity within regulation of the pet insurance market and having a more defined and consistent regulatory structure will improve the market and benefit consumers. The NAIC Paper, A Regulators' Guide to Pet Insurance, the Pet Insurance (C) Working Group and the Producer White Licensing (D) Task Force have previously discussed some of these ambiguities in the regulation of the market.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: The NAIC White Paper, "A Regulator's Guide to Pet Insurance" has provided the background for the Working Group to understand the issues and begin to draft a model.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

No

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No

PET INSURANCE MODEL LAW*New Model - Draft: 7/21/2022**Adopted by Pet Insurance (C) Working Group – 7/21/2022**Adopted by Property and Casualty Insurance (C) Committee – 8/1/2022***Table of Contents**

Section 1.	Short Title
Section 2.	Scope and Purpose
Section 3.	Definitions
Section 4.	Disclosures
Section 5.	Policy Conditions
Section 6.	Sales Practice for Wellness Programs
Section 7.	Insurance Producer Training
Section 8.	Regulations
Section 9.	Violations

Section 1. Short Title

This Act shall be known as the “Pet Insurance Act.”

Section 2. Scope and Purpose

- A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Pet Insurance may be sold in this state.
- B. The requirements of this Act shall apply to Pet Insurance policies that are issued to any resident of this state, and are sold, solicited, negotiated, or offered in this state, and policies or certificates that are delivered or issued for delivery in this state.
- C. All other applicable provisions of this state’s insurance laws shall continue to apply to Pet Insurance except that the specific provisions of this Act shall supersede any general provisions of law that would otherwise be applicable to Pet Insurance.

Section 3. Definitions

If a pet insurer uses any of the terms in this Act in a policy of pet insurance, the pet insurer shall use the definition of each of those terms as set forth herein and include the definition of the term(s) in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of the pet insurer or pet insurer’s program administrator’s website.

Nothing in this Act shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.

As used in this Act:

- A. “Chronic condition” means a condition that can be treated or managed, but not cured.
- B. “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.
- C. “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

- D. “Orthopedic” refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.
- E. “Pet insurance” means a property insurance policy that provides coverage for accidents and illnesses of pets.
- F. “Preexisting condition” means any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:
- (1) A veterinarian provided medical advice;
 - (2) The pet received previous treatment; or
 - (3) Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy.

- G. “Renewal” means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.
- H. “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which he or she practices.
- I. “Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.
- J. “Waiting period” means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. Waiting periods may not be applied to renewals of existing coverage.
- K. “Wellness program” means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or wellbeing of the pet. If any wellness program [insert language from state statute or regulation that defines the trigger for insurance contracts, which might include language such as: [undertakes to indemnify another], or [pays a specified amount upon determinable contingencies] or [provides coverage for a fortuitous event]], it is transacting in the business of insurance and is subject to the insurance code. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being “the business of insurance,” unless other indications of insurance also exist.

Section 4. Disclosures

- A. A pet insurer transacting pet insurance shall disclose the following to consumers:
- (1) If the policy excludes coverage due to any of the following:
 - (a) A preexisting condition;
 - (b) A hereditary disorder;
 - (c) A congenital anomaly or disorder; or
 - (d) A chronic condition.
 - (2) If the policy includes any other exclusions, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”

- (3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.
 - (4) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet or a change in the geographic location of the insured.
 - (5) If the underwriting company differs from the brand name used to market and sell the product.
- B. Right to Examine and Return the Policy.
- (1) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate or rider to the company or an agent/insurance producer of the company within fifteen (15) days of its receipt and to have the premium refunded if, after examination of the policy, certificate or rider, the applicant is not satisfied for any reason,
 - (2) Pet insurance policies, certificates and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free look statement or language substantially similar shall be included:

“You have 15 days from the day you receive this policy, certificate or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent/insurance producer that you bought it from as long as you have not filed a claim. You must return it within 15 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate or rider will be void as if it had never been issued.”
- C. A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy, prior to policy issuance and through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- D. A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:
- (1) Clearly disclose the applicable benefit schedule in the policy.
 - (2) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- E. A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:
- (1) Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments.
 - (2) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- F. If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

- G. Waiting periods and the requirements applicable to them, must be clearly and prominently disclosed to consumers prior to the policy purchase.
- H. The pet insurer shall include a summary of all policy provisions required in Subsections (A) through (G), inclusive, in a separate document titled “Insurer Disclosure of Important Policy Provisions.”
- I. The pet insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in Subsection (H) through a clear and conspicuous link on the main page of the pet insurer or pet insurer’s program administrator’s website.
- J. In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to Subsection (H) in at least 12-point type when it delivers the policy.
- K. At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:
 - (1) The [insert state insurance department]’s mailing address, toll-free telephone number and website address.
 - (2) The address and customer service telephone number of the pet insurer or the agent or broker of record.
 - (3) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.
- L. The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.

Section 5. Policy Conditions

- A. A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.
- B. A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.
 - (1) A pet insurer utilizing a waiting period permitted in Subsection 5B shall include a provision in its contract that allows the waiting periods to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.
 - (2)
 - (a) A medical examination under Subsection 5B(1) shall be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.
 - (b) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer’s ability to waive the waiting periods in Subsection 5B.
 - (3) Waiting periods, and the requirements applicable to them, must be clearly and prominently disclosed to consumers prior to the policy purchase.
- C. A pet insurer must not require a veterinary examination of the covered pet for the insured to have their policy renewed.

- D. If a pet insurer includes any prescriptive, wellness, or non-insurance benefits in the policy form, then it is made part of the policy contract and must follow all applicable laws and regulations in the insurance code.
- C. An insured's eligibility to purchase a pet insurance policy must not be based on participation, or lack of participation, in a separate wellness program.

Section 6. Sales Practices for Wellness Programs

- A. A pet insurer and/or producer shall not do the following:
 - (1) Market a wellness program as pet insurance;
 - (2) Market a wellness program during the sale, solicitation, or negotiation of pet insurance.
- B. If a wellness program is sold by a pet insurer and/or producer:
 - (1) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance.
 - (2) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer and/or producer.
 - (3) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer and/or producer.
 - (4) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy; and
 - (5) The advertising of the wellness program shall not be misleading and shall be in accordance with Subsection 6B of this Model.
 - (6) A pet insurer and/or producer shall clearly disclose the following to consumers, printed in 12-point boldface type:
 - (a) That wellness programs are not insurance.
 - (b) The address and customer service telephone number of the pet insurer or producer or broker of record.
 - (c) The [insert state insurance department]'s mailing address, toll-free telephone number, and website address.
- C. Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

Section 7. Insurance Producer Training

- A. An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in Subsection C of this Section.
- B. Insurers shall ensure that its producers are trained under Subsection C of this Section and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.
- C. The training required under this subsection shall include information on the following topics:
 - (1) Preexisting conditions and waiting periods;
 - (2) The differences between pet insurance and noninsurance wellness programs;
 - (3) Hereditary disorders, congenital anomalies or disorders and chronic conditions and how pet insurance policies interact with those conditions or disorders; and

(4) Rating, underwriting, renewal and other related administrative topics.

D. The satisfaction of the training requirements of another state that are substantially similar to the provisions of Subsection C shall be deemed to satisfy the training requirements in this state.

Section 8. Regulations

The commissioner may promulgate rules and regulations to administer this Act.

Section 9. Violations

Violations of this Act shall be subject to penalties pursuant to [insert state administrative code].

PROJECT HISTORY - 2022**PET INSURANCE MODEL LAW (#633)****1. Description of the Project, Issues Addressed, etc.**

Development of the Pet Insurance Act. This model addresses required disclosures, definitions, policy conditions, sales practices for wellness programs, and producer training requirements.

2. Name of Group Responsible for Drafting the Model and States Participating

Pet Insurance (C) Working Group

Participating states: Virginia, Chair; California, Co-Chair; Alaska; Arkansas; Connecticut; District of Columbia; Louisiana; Maryland; Massachusetts; Missouri; Pennsylvania; Rhode Island; Utah; Vermont; and Washington.

3. Project Authorized by What Charge and Date First Given to the Group

Authorized by a charge from the Property and Casualty Insurance (C) Committee on March 28, 2019. The Working Group adopted the Request for NAIC Model Law Development on June 27, 2019, and the Property and Casualty Insurance (C) Committee adopted it on July 18, 2019. The Executive (EX) Committee and Plenary adopted the Request for NAIC Model Law Development on Aug. 6, 2019.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

Drafted by the full membership of the Pet Insurance (C) Working Group. Also participating in the drafting process were: the American Property Casualty Insurance Association (APCIA); the American Veterinarian Medical Association (AVMA); the Center for Economic Justice (CEJ); the Center for Insurance Research (CIR); the Chubb Group, Companion Protect, Mars Veterinary Health; Nationwide Insurance Group; North American Pet Health Insurance Association (NAPHIA); Trupanion; and Unum Life Insurance Company.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

A draft model law was presented to the Working Group on Oct. 1, 2019. The Working Group exposed Sections 1–4 for a public comment period on Oct. 1, 2019. It met to discuss Sections 1–4 on Nov. 7, 2019; Dec. 19, 2019; Feb. 19, 2020; March 5, 2020; and July 16, 2020.

The Working Group exposed Sections 5–6 for a public comment period on July 16, 2020. It met to discuss Sections 5–6 on Sept. 30, 2020, and Oct. 21, 2020.

The Working Group exposed Sections 7–9 for a public comment period on Sept. 30, 2020. It met to discuss Sections 7–9 on Nov. 6, 2020; Nov. 24, 2020; and Feb. 18, 2021.

The Working Group met to discuss open issues in the model on March 4, 2021; March 26, 2021; April 29, 2021; May 19, 2021; June 10, 2021; June 24, 2021; July 8, 2021; July 22, 2021; and July 29, 2021. It adopted a draft model on Aug. 4, 2021. The Working Group held additional meetings to discuss issues in the model on Sept. 8, 2021, and Oct. 7, 2021. The Working Group adopted the revised draft model on Oct. 21, 2021. The Property and Casualty Insurance (C) Committee adopted the draft model on Nov. 10, 2021. Before its consideration at the Joint Meeting of Executive (C) Committee and Plenary during the Fall National Meeting, there were concerns about the producer training section. The model was sent back to the Working Group for review. The Working Group met June 7, 2022 and July 21, 2022 to revise the language in Section 7. The model was adopted by the Working Group on July 21, 2022. The model was adopted by the Property and Casualty Insurance (C) Committee on August 1, 2022.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

Free Look Period – There was discussion that a free look period would offer a better understanding for consumers with a newer product like pet insurance. Many state insurance regulators commented that the free look period was not necessary or actuarial sound. The inclusion of this free look period in the California pet insurance law was requested by industry and supported by many interested parties. State insurance regulators adopted language that insurers can implement a maximum 15-day free look period in which consumers can examine and return the policy for a full refund if no claim has been made on the policy.

Renewals – State insurance regulators wanted clear language added to the model that would not allow a condition that was covered under a policy to be considered a preexisting condition—and, therefore, excluded from coverage—on subsequent policy renewals. While industry did indicate that it would like the ability to issue one-year policies that do not offer a renewal and could then use a preexisting exclusion for a previously covered condition, state insurance regulators stated that these policies would not be considered a renewal and, therefore, the added language would not affect industry's ability to sell these types of policies.

Waiting Period – Some state insurance regulators took issue with the allowance of a waiting period for certain conditions as proposed by the industry. State insurance regulators adopted the allowance of a 30-day waiting period for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.

Wellness Plans – There was discussion about whether wellness plans should be considered insurance or if those plans should be allowed to cover services that could be covered in insurance plans. State insurance regulators adopted a new section of the model to outline sales practices for wellness plans that are sold by licensed insurance entities. Wellness plans that are not sold by licensed entities and do not provide insurance coverage are not regulated by insurance departments and are not addressed in this model.

Licensing – Several state insurance regulators questioned the inclusion of licensing requirements in the model. After discussion with the Producer Licensing (D) Task Force, the licensing section was removed from the model. The Working Group adopted guidelines for producer training requirements.

Producer Training – Regulators in several states wanted to ensure that the language around producer training did not infringe on the work of the Producer Licensing (D) Task Force. They also wanted to make sure the model appropriately addressed reciprocity in states that had different but substantially similar training requirements.

7. Any Other Important Information (e.g., amending an accreditation standard).

None.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 3 Pet Insurance Model.pdf

Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, July 15, 2022

**Other Health Insurance Market Conduct Annual Statement
Data Call & Definitions**

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Line of Business: Other Health Insurance

Reporting Period: January 1, 2023 through December 31, 2023

Filing Deadline: June 30, 2024

Contact Information

MCAS Administrator	The person responsible for assigning who may view and input company data.
MCAS Contact	The person most knowledgeable about the submitted MCAS data. This person can be the same as the MCAS Administrator.
MCAS Attestor	The person who attests to the completeness and accuracy of the MCAS data.

Schedule 1 - Interrogatories

1-01	Are you currently marketing these products in this jurisdiction?	Yes/No
1-02	Do the products you are reporting on in response to this blank include closed or frozen blocks of business?	Yes/No
1-03	If yes, list the closed or frozen blocks of business?	Comment
1-04	Number of Other Health products offered to residents in this state	Number
1-05	For products reported to this MCAS jurisdiction, list the states where your Other Health products are filed (provide SERFF tracking number, if applicable). If a company issues the product in a state that does not require a filing, please identify the product, and describe the basis for not filing.	Comment
1-06	For products reported to this MCAS jurisdiction, does the company issue these Other Health products through associations/trusts?	Yes/No
1-07	If yes, list the associations/trusts	Comment
1-08	If yes, do you have a contractual relationship with any association/trust?	Comment
1-09	If yes, please identify which associations/trusts	Comment
1-10	If yes, does the contract allow any association/trust to market the product?	Yes/No
1-11	If yes, please identify which associations/trusts	
1-12	If yes, does the contract allow any association/trust to collect policy or contract premiums?	Yes/No
1-13	If yes, does the contract allow any association/trust to collect and pay commissions?	Yes/No
1-14	If yes, please identify which associations/trusts	Comment
1-15	If yes, does the contract allow any association/trust to adjudicate claims?	Yes/No
1-16	if yes, please identify which associations/trusts	Comment

Other Health Insurance Market Conduct Annual Statement

Data Call & Definitions

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

1-17	Has the company filed the associations by-laws and articles of incorporation in their state of domicile?	Yes/No
1-18	Has the company filed the association by-laws and articles of incorporation and policy forms in the situs state of the association?	Yes/No
1-19	If yes please provide the state, and the SERFF tracking number, if applicable	Comment
1-20	Has the company filed the association by-laws and articles of incorporation in the filing state?	Yes/No
1-21	Has the company filed the certificate of insurance in the filing state, if applicable?	Yes/No
1-22	Does the company contract with third-party administrators for administrative services related to Other Health products?	Yes/No
1-23	If yes, does the company issue Other Health products through administrators/TPAs?	Yes/No
1-24	If yes, how many administrators/TPAs?	Number
1-25	If yes, list the TPAs and provide their respective National Producer Number (NPN), if required by the state	Comment
1-26	If yes, does your company contract claims services related to Other Health products?	Yes/No
1-27	If yes, does your company contract complaints-related services related to Other Health products?	Yes/No
1-28	If yes, does your company contract medical underwriting services related to Other Health products?	Yes/No
1-29	If yes, does your company contract pricing services related to Other Health products?	Yes/No
1-30	If yes, does your company contract producer appointment services related to Other Health products?	Yes/No
1-31	If yes, does your company contract marketing, advertisement, or lead generation, services related to Other Health products?	Yes/No
1-32	If yes, does your company contract policyholder services related to Other Health products?	Yes/No
1-33	If yes, does your company contract premium collection services related to Other Health products?	Yes/No
1-34	Does your company audit third parties to whom you have delegated responsibilities?	Yes/No
1-35	If yes, please provide frequency of audits	Comment
1-36	Does your company distribute its product through independent agents?	Yes/No
1-37	Does your company distribute its products through captive agents?	Yes/No
1-38	Does your company distribute its products through its employees?	Yes/No
1-39	Does the company use pre-existing condition exclusions?	Yes/No
1-40	If yes, identify which products	Comment

Other Health Insurance Market Conduct Annual Statement**Data Call & Definitions**

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

1-41	Does the company contract with producers to collect premium or bind coverage on behalf of the company?	Yes/No
1-42	For fees that are included in reported premium, identify what fees are charged to applicants and policyholders/certificate holders. Do not include commissions.	Comment
1-43	For fees not included in the reported premium, identify what fees are charged to applicants and policyholders/certificate holders. Do not include commissions.	Comment
1-44	Additional state specific comments (optional)	Comment

Products

Product Identifiers	Explanation of Product Identifiers
Individual H-AO	Accident Only. Purchased by an individual
Individual ADD	Accidental Death and Dismemberment. Purchased by an individual
Individual SD	Specified Disease-Limited Benefit/Critical Illness. Purchased by an individual
Individual H-H/OI	Hospital/Other Indemnity. Purchased by an individual
Individual H-HSME	Hospital/Surgical/Medical Expense. Purchased by an individual
Association H-AO	Accident Only. Purchased through an association/trust
Association ADD	Accidental Death and Dismemberment. Purchased through an association/trust
Association SD	Specified Disease-Limited Benefit/Critical Illness. Purchased through an association/trust
Association H-H/OI	Hospital/Other Indemnity. Purchased through an association/trust
Association H-HSME	Hospital/Surgical/Medical Expense. Purchased through an association/trust
Employer Group H-AO	Accident Only. Purchased through an employer group
Employer Group ADD	Accidental Death and Dismemberment. Purchased through an employer group
Employer Group SD	Specified Disease-Limited Benefit/Critical Illness. Purchased through an employer group
Employer Group H-H/OI	Hospital/Other Indemnity. Purchased through an employer group

Other Health Insurance Market Conduct Annual Statement

Data Call & Definitions

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Employer Group H-HSME	Hospital/Surgical/Medical Expense. Purchased through an employer group
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Schedule 2 – Policy/Certificate Administration

2-1	Net written premium
2-2	Earned premiums for reporting year
2-3	Number of policies/certificates in force at the beginning of the period
2-4	Number of covered lives on policies/certificates in force at the beginning of the period
2-5	Number of new policy/certificate applications/enrollments received during the period
2-6	Number of new policy/certificates issued during the period
2-7	Number of new policies/certificates denied during the period
2-8	Number of Covered Lives on New Policies/Certificates Issued During the Period
2-9	Number of policy/certificate terminations and cancellations initiated by the policyholder/certificate holder during the period
2-10	Number of covered lives on policies/certificates cancelled at the initiation of the policyholder/certificate holder during the period
2-11	Number of policies/certificates cancelled during the free look period
2-12	Number of covered lives on policies/certificates cancelled at the initiation of the policyholder/certificate holder during the free look period during the period
2-13	Number of policy/certificate terminations and cancellations due to non-payment of premium during the period
2-14	Number of covered lives on policies/certificates cancelled by the company due to non-payment of premium during the period
2-15	Number of policies/certificates cancelled by the company for any reason other than non-payment of premium during the period
2-16	Number of rescissions during the period
2-17	Number of covered lives impacted on terminations and cancellations initiated by the policyholder/certificate holder
2-18	Number of covered lives impacted on terminations and cancellations due to non-payment
2-19	Number of covered lives impacted by rescissions
2-20	Number of policies/certificates in force at the end of the period
2-21	Number of covered lives on policies/certificates in force at the end of the period

Other Health Insurance Market Conduct Annual Statement
Data Call & Definitions
(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Schedule 3 – Claims Administration (Including Pharmacy)

3-1	Number of claims pending at the beginning of the period
3-2	Number of claims received (include non-clean claims)
3-3	Total number of claims denied, rejected or returned
3-4	Number of denied, rejected, or returned as non-covered or maximum benefit exceeded
3-5	Number of denied, rejected, or returned as subject to pre-existing condition exclusion
3-6	Number denied, rejected, or returned due to failure to provide adequate documentation
3-7	Number denied, rejected, or returned due to being within the waiting period (do not answer for ADD products)
3-8	Number of denied, rejected, or returned (in whole or in part) because maximum \$ limit exceeded
3-9	Number of claims pending at end of the period
3-10	Median number of days from receipt of claim to decision for denied claims
3-11	Average number of days from receipt of claim to decision for denied claims
3-12	Median number of days from receipt of claim to decision for approved claims
3-13	Average number of days from receipt of claim to decision for approved claims
3-14	Number of claims paid
3-15	Aggregate dollar amount of paid claims during the period
3-16	Number of claims where the claims payment was reduced by premium owed
3-17	Dollar amount of claims payments applied to unpaid premiums.

Schedule 4 – Consumer Complaints and Lawsuits

4-1	Number of complaints received by Company (other than through the DOI)
4-2	Number of complaints received through DOI
4-3	Number of complaints resulting in claims reprocessing
4-4	Number of lawsuits open at beginning of the period
4-5	Number of lawsuits opened during the period
4-6	Number of lawsuits closed during the period
4-7	Number of lawsuits closed during the period with consideration for the consumer
4-8	Number of lawsuits open at end of the period

Other Health Insurance Market Conduct Annual Statement

Data Call & Definitions

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Schedule 5 – Marketing and Sales

5-1	Number of individual applications/enrollments pending at the beginning of the period
5-2	Number of individual applications/enrollments denied during the period for any reason
5-3	Number of individual applications/enrollments denied during the period - health status or condition
5-4	Number of individual applications/enrollments approved during the period
5-5	Number of individual applications/enrollments pending at the end of the period
5-6	Number of applications/enrollments received via phone (audio only) (only answer for individual products)
5-7	Number of applications/enrollments received in person or via video application (e.g., Zoom, WebEx) (only answer for individual products)
5-8	Number of applications/enrollments received online (electronically) (only answer for individual products)
5-9	Number of applications/enrollments received by mail during the period (only answer for individual products)
5-10	Number of applications/enrollments received by any other method during the period (only answer for individual products)
5-11	Commissions paid during reporting period (dollar amount of commissions incurred during the period)
5-12	Unearned commissions returned to company on policies/certificates sold during the period

Participation Requirements: All companies licensed and reporting at least \$50,000 of other health insurance premium for all coverages reportable in MCAS within any of the participating MCAS jurisdictions. (This threshold is subject to individual jurisdiction requirements.)

Report by Residency: This MCAS blank is designed to collect data from the perspective of individual insureds in each state that the form is marketed in. When reporting for forms issued to discretionary groups, associations, or trusts – data should be provided on each state of residence of the insureds, rather than only where the discretionary group, association or trust is situated.

Other Health Insurance Market Conduct Annual Statement
Data Call & Definitions

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

General Definitions:

Other Health - Health insurance forms that are not subject to the Affordable Care Act (ACA). For this MCAS blank, they are Health-Accident Only; Health - Accidental Death and Dismemberment; Health-Specified Disease-Limited Benefit/Critical Illness; Health - Hospital/Other Indemnity; and Health - Hospital/Surgical/Medical Expense

Health-Accident Only - An insurance contract that provides coverage, singly or in combination, for death, dismemberment, disability (not disability income), or hospital and medical care caused by or necessitated as a result of accident or specified kinds of accident

Health-Accidental Death and Dismemberment - An insurance contract that pays a stated benefit in the event of death and/or dismemberment caused by accident or specified kinds of accidents.

Health-Specified Disease-Limited Benefit/Critical Illness - An insurance contract that pays benefits for the diagnosis and/or treatment of a specifically named disease, diseases, or critical illness. Benefits can be paid as expense incurred, per diem, or a principle sum.

Health-Hospital/Other Indemnity - An insurance contract that pays a fixed dollar amount without regard to the actual expenses incurred.

Health-Hospital/Surgical/Medical Expense - An insurance contract that provides coverage to or reimburses the covered person for hospital, surgical, and/or medical expense incurred as a result of injury, sickness, and/or medical condition.

Association/Trust – For purposes of this MCAS blank, a non-employer group that offers benefits to its members (does not include banks or credit unions).

Individual Product - Policies marketed, sold, and issued to individual consumers, regardless of whether or not the policy forms have been filed with any State's department of insurance.

Group Product / Coverage - Policies issued to a trust, association, employer, or administrator for the purpose of marketing, selling, and issuing certificates to eligible members or employees, regardless of whether or not the policy forms have been filed with any State's department of insurance and regardless of where the association, trust, employer, or administrator is situated.

National Producer Number (NPN) - This is a specific number provided by National Insurance Producers Registry (NIPR) to individuals and most business entities that are listed in the NIPR's Producer Database (PDB).

Policies/Certificates - Refers to the coverage documents provided to individuals, families, or eligible members (i.e., state residents) who are enrolled in coverage (not the association/trust)

Other Health Insurance Market Conduct Annual Statement**Data Call & Definitions****(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)**

Policyholder/Certificate holder – Refers to the individual or member who is afforded benefits of the coverage according to the laws of the state in which they reside (i.e., not the association/trust)

Policyholder Service - A company's activities relating to servicing its policyholders which includes, but is not limited to, notice/billing, disclosures, premium refunds and coverage questions.

Schedule 2 Definitions (Policy/Certificate Administration):

Rescission – A rescission is a cancellation or discontinuance of coverage based on a misrepresentation that is retroactive to the issue date. (Does not include cancellations for non-payment.)

Free Look – A set number of days provided in an insurance policy/certificate that allows time for the purchaser to review the contract provisions with the right to return the policy/certificate for a full refund of all premium paid. Report the number of policies/certificates that were returned by the insured under the free look provision during the period, regardless of the original issuance date.

Schedule 3 Definitions (Claims Administration):

Claim – Provide the total number of claims received during the reporting period for individual policyholders and/or group certificate holders residing in the state for which reporting is being completed.

Claim Clarifications:

- Claims received, paid and denied should be reported according to the data year of the receipt, payment or denial.
- Duplicate claims should not be reported.

For the purposes of this Market Conduct Annual Statement, a "Claim" includes any such request or demand, even those with incomplete or inadequate documentation and those made by an individual not eligible or covered under the policy against which the claim is made.

Communications with an insurer that are not explicit claims as per the definition above should not be reported on this MCAS. Such communications could include general queries regarding policy provisions, potential coverage, events reported for "information only", or other communications for which a clear request or demand for payment has not been made.

Other Health Insurance Market Conduct Annual Statement**Data Call & Definitions****(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)**

If a claim is reopened, treat the reopened claim as a new and distinct claim apart from the original claim. For reopened claims, the claim determination time period is measured from the date the claim was re-opened to the date a benefit determination is made.

Claims Received - provide the total number of claims received during the reporting period for individual policyholders and/or group certificate holders residing in the state for which reporting is being completed

Claims Denied - provide the total number of claims denied during the reporting period for individual policyholders and/or group certificate holders residing in the state for which reporting is being completed; includes rejected and returned claims, whether in whole or in part

Claims Paid - provide the total number of claims paid during the reporting period for individual policyholders and/or group certificate holders residing in the state for which reporting is being completed

Waiting Period: Period of time a covered person who is entitled to receive benefits must wait before coverage is provided. This applies to waiting periods that are per policy or per condition.

Schedules 4 Definitions (Consumer Complaints and Lawsuits):

Complaint - any written communication that expresses dissatisfaction with a specific person or entity. An oral communication, which is subsequently converted to a written form in order to be analyzed and acted upon, will meet the definition of a complaint for this purpose. A complaint should be reported to the state where the policyholder resides.

Include:

- Any complaint regardless of the subject of the complaint (claims, underwriting, marketing, etc.).
- Complaints received from third parties.

Lawsuit—An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant.

For purposes of reporting lawsuits for Other Health Insurance products:

- Include only lawsuits brought by an applicant for insurance, a policyholder or a claimant/beneficiary as a plaintiff against the reporting insurer or its agent as a defendant;
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred;
- Do not include arbitrations of any sort;

Other Health Insurance Market Conduct Annual Statement**Data Call & Definitions****(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)**

- If one lawsuit seeks damages under two or more policies or contracts, count the number of policies or contracts involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies or contracts, count the action as three lawsuits;
- If one lawsuit has two or more complainants, report the number of complainants as the number of lawsuits. For example, if one lawsuit has two complainants, report two lawsuits. If the lawsuit is a class action, see instructions for treatment of class action lawsuits;
- Report a lawsuit in the jurisdiction in which the policy was issued with the exception of class action lawsuits;
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides. Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the applicant, policyholder, or beneficiary in an amount greater than offered by the reporting insurer before the lawsuit was brought.

Schedule 5 Definitions (Marketing and Sales)

Commissions - The total amount of compensation paid to any individual or entity for their consideration in marketing, selling, and attracting potential insureds, by whatever means this compensation is provided. Do not include monetary valuables paid to any individual or entity that is generally not able to be converted into actual money. NOTE: For products *not* related to the actual sale of a contract, do not include any amounts paid for the specific purpose of marketing, encouraging or promoting. Do not include any fees or other compensation paid for outsourced services.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 4 MCAS OtherHealth.pdf

*Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022
Adopted by the Market Regulation and Consumer Affairs (D) Committee, July 15, 2022*

Property & Casualty Market Conduct Annual Statement

Homeowner Data Call & Definitions

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Proposed Additions in Blue Text/Proposed Deletions in Red Text*

Line of Business: Homeowners

Reporting Period: January 1, 2023 through December 31, 2023

Filing Deadline: April 30, 2024

Contact Information

MCAS Administrator	The person responsible for assigning who may view and input company data.
MCAS Contact	The person most knowledgeable about the submitted MCAS data. This person can be the same as the MCAS Administrator.
MCAS Attestor	The person who attests to the completeness and accuracy of the MCAS data.

Schedule 1—Interrogatories

ID	Description	Comment
1-01	Were there policies in-force during the reporting period that provided Dwelling coverage?	Yes/No
1-02	Were there policies in-force during the reporting period that provided Personal Property coverage?	Yes/No
1-03	Were there policies in-force during the reporting period that provided Liability coverage?	Yes/No
1-04	Were there policies in-force during the reporting period that provided Medical Payments coverage?	Yes/No
1-05	Were there policies in-force during the reporting period that provided Loss of Use coverage?	Yes/No
1-06	Was the Company still actively writing policies in the state at year end?	Yes/No
1-07	Does the Company write in the non-standard market?	Yes/No
1-08	If yes, what percentage of your business is non-standard?	Comment
1-09	If yes, how is non-standard defined?	Comment
1-10	Has the company had a significant event/business strategy that would affect data for this reporting period? Yes/No	Yes/No
1-11	If yes, add additional comments	Comment
1-12	Has this block of business or part of this block of business been sold, closed or moved to another company during the reporting period?	Yes/No
1-13	If yes, add additional comments	Comment
1-14	How does company treat subsequent supplemental payments on previously closed claims (or additional payments on a previously reported claim)? Re-open original claim/open new claim	Comment
1-15	Does the company use Managing General Agents (MGAs)?	Yes/No

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1-16	If yes, list the names of the MGAs.	Comment
1-17	Does the company use Third Party Administrators (TPAs)?	Yes/No
1-18	If yes, list the names of the TPAs.	Comment
1-19	Does the company use digital claim settlement?	Yes/No
1-20	If yes, list the names of the vendors providing third-party data and algorithms used in the digital claim settlement process.	Comment
1-21	Claims Comments	Comment
1-22	Underwriting Comments	Comment

Coverages	Reported also at the Digital Claim Handling Process Level of Detail*
Dwelling (includes – Other Structures)	X
Personal Property	X
Liability	
Medical Payments	
Loss of Use	

***Includes Digital Claims, Hybrid Claims and Non-Digital Claims (Applies only to claims related data elements)
Additionally, an "All" breakout will be included for the reporting of Median Days to Final Payment**

Schedule 2—Homeowners Claims Activity, Counts Reported by Claimant and by Coverage

Report the number of reserves/lines/features opened for each coverage part per claim. For example, if one claim results in a reserve/line/feature opened for two liability claimants, two medical payment claims, one dwelling claim for the insured, and one personal property claim for the insured, you would report as follows: Dwelling – 1; Personal Property – 1; Liability – 2; Medical Payments – 2. The number of days to final payment (if payment is made) would be calculated separately for each claimant.

ID	Description
2-23	Number of claims open at the beginning of the period
2-24	Number of claims opened during the period
2-25	Number of claims closed during the period, with payment
2-26	Number of claims closed during the period, without payment
2-27	Number of claims open at the end of the period
2-28	Median days to final payment

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2-29	Number of claims closed with payment within 0-30 days
2-30	Number of claims closed with payment within 31-60 days
2-31	Number of claims closed with payment within 61-90 days
2-32	Number of claims closed with payment within 91-180 days
2-33	Number of claims closed with payment within 181-365 days
2-34	Number of claims closed with payment beyond 365 days
2-35	Number of claims closed without payment within 0-30 days
2-36	Number of claims closed without payment within 31-60 days
2-37	Number of claims closed without payment within 61-90 days
2-38	Number of claims closed without payment within 91-180 days
2-39	Number of claims closed without payment within 181-365 days
2-40	Number of claims closed without payment beyond 365 days
2-39	Number of lawsuits open at beginning of the period
2-40	Number of lawsuits opened during the period
2-41	Number of lawsuits closed during the period
2-42	Number of lawsuits open at end of period
2-43	Number of lawsuits closed with consideration for the consumer.

Schedule 3—Homeowners Underwriting Activity

ID	Description
3-41	Number of dwellings which have policies in-force at the end of the period
3-42	Number of dwelling fire policies in force at the end of the period.
3-43	Number of homeowner policies in force at the end of the period.
3-44	Number of tenant/renter/condo policies in force at the end of the period.
3-45	Number of all other residential property policies in force at the end of the period.
3-46	Number of new business policies written during the period
3-47	Dollar amount of direct premium written during the period
3-48	Number of Company-Initiated non-renewals during the period
3-49	Number of cancellations for non-pay or non-sufficient funds
3-50	Number of cancellations at the insured's request
3-51	Number of Company-Initiated cancellations that occur in the first 59 days after effective date, excluding rewrites to an affiliated company
3-52	Number of Company-Initiated cancellations that occur 60 to 90 days after effective date, excluding rewrites to an affiliated company

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3-53	Number of Company-Initiated cancellations that occur greater than 90 days after effective date, excluding rewrites to an affiliated company
3-54	Number Of Complaints Received Directly From Any Person or Entity Other than the DOI

Property & Casualty Market Conduct Annual Statement Homeowner Data Call & Definitions

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Schedule 4– Lawsuit Activity

Reporting Breakdown

Dwelling (includes – Other Structures)	Claim related lawsuits
Personal Property	
Liability	
Medical Payments	
Loss of Use	
Non-claim Related Lawsuits	Non-claim related lawsuits

ID	Description
4-55	Number of lawsuits open at beginning of the period
4-56	Number of lawsuits opened during the period
4-57	Number of lawsuits closed during the period
4-58	Number of lawsuits open at end of period
4-59	Number of lawsuits closed with consideration for the consumer

Schedule 4– Homeowners Attestation

By completing the attestation information, those named understand, agree and certify on behalf of the named company that:

1. They are authorized to submit the Market Conduct Annual Statement on behalf of the named company and to bind the company to the statements in this attestation;
2. They are knowledgeable of the information required to be provided in the Market Conduct Annual Statement filed by this company and have reviewed this filing;
3. To the best of their knowledge and belief, this filing represents a full and accurate statement of the information required to be provided in the Market Conduct Annual Statement pursuant to the applicable instructions; and
4. They are aware that the state insurance department(s) receiving the data may initiate regulatory action as authorized by law in a specific jurisdiction if the data submitted in the MCAS is inaccurate, incomplete, or found to be materially false, misleading or omissive.
5. They affirm that the company is able to accurately trace the data as reported to its source within the company and if necessary, recreate the MCAS results as reported in this filing.

NOTE: The company must provide the name for at least two individuals who are able to attest that the criteria listed above have been met, and attest to the overall accuracy of the MCAS filing. Both attestors should have participated in the review and validation of the filing. We

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Homeowner Data Call & Definitions**

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recommend that one person be the individual with operational responsibility for the source data such as a responsible individual from claims, underwriting or compliance. We recommend that the second person should be a responsible IT person that participated in the creation of the data in the filing.

ID	Description
4-60	First Attestor Information (First Name, Middle Name, Last Name, Suffix, Title)
4-61	Second Attestor Information (First Name, Middle Name, Last Name, Suffix, Title)
4-62	Overall Comments for the Period

Definitions:

In determining what business to report for a particular state, unless otherwise indicated in these instructions, all companies should follow the same methodology/definitions used to file the Financial Annual Statement (FAS) and its corresponding state pages. Exclude lender-placed or creditor-placed policies.

Please note: In the Underwriting Section there are questions asking for policies in-force by type of policy. These are asking for a count of the policies in-force that meet the specifications to be included on the MCAS. Please use the following as a guide to determine which policy types should be reported for each question:

- (3-45) Number of dwelling fire policies in force at the end of the period.
Include dwelling policies that meet the definition of a dwelling policy as defined within this document. This would typically include policies written on forms DP-1, DP-2 and DP-3.
- (3-46) Number of homeowner policies in force at the end of the period.
Include homeowner policies that meet the definition of a homeowner policy as defined within this document. This would typically include policies written on forms HO-1, HO-2, HO-3, HO-5, HO-7 and HO-8.
- (3-47) Number of tenant/renter/condo policies in force at the end of the period.
Include tenant/renter/condo policies that meet the definition of a tenant/renter/condo policy as defined within this document. This would typically include policies written on forms HO-4 and HO-6.
- (3-48) Number of all other residential property policies in force at the end of the period.
Include other policies that meet the specifics of MCAS reporting, but that do not fall into one of the categories requested in questions 3-45, 3-46 and 3-47. If your company only write policies that fall into the forms specified for questions 3-45, 3-46 and 3-47, this number will be 0.

Cancellations – Includes all cancellations of the policies where the cancellation effective date is during the reporting year. The number of cancellations should be reported on a policy basis regardless of the number of dwellings insured under the policy.

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Report cancellations separately for:

- Policies cancelled for non-payment of premium or non-sufficient funds.
 - These should be reported every time a policy cancels for the above reasons. (i.e., if a policy cancels for non-pay three times in a policy period, and is reinstated each time; each cancellation should be counted.)
- Policies cancelled at the insured's request.
- Policies cancelled for underwriting reasons.

Exclude:

- Policies cancelled for 're-write' purposes where there is no lapse in coverage.

Cancellations within the first 59 days – Company-initiated cancellations for new business where the notice of cancellation was issued within the first 59 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the 'underwriting' period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

Cancellations from 60 to 90 days – Company-initiated cancellations where the notice of cancellation was issued 60 to 90 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the 'underwriting' period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

Cancellations greater than 90 days – Company-initiated cancellations where the notice of cancellation was issued more than 90 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the 'underwriting' period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

Claim - A request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Each claimant/insured reporting a loss is counted separately.

Include:

- Both first and third party claims.

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Exclude:

- An event reported for “information only”.
- An inquiry of coverage if a claim has not actually been presented (opened) for payment.
- A potential claimant if that individual has not made a claim nor had a claim made on his or her behalf.

Claims Closed With Payment – Claims closed with payment where the claim was closed during the reporting period regardless of the date of loss or when the claim was received. The number of days to closure, however, should be measured as the difference between the date of the final payment and the date the claim was reported or between the date of the final payment and the date the request for supplemental payment was received. See also “Date of Final Payment”.

Exclude:

- Claims where payment was made for company loss adjustment expenses if no payment was made to an insured/claimant.
- Claims that are closed because the amount claimed is below the insured’s deductible.

Clarification:

- If a claim is reopened for the sole purpose of refunding the insured’s deductible, do not count it as a paid claim.
- For claims where the net payment is \$0 due to subrogation recoveries, report the number of claims in which any amount was paid to the insured; do not net the payment with subrogation recoveries when counting the number of paid claims

Calculation Clarification:

- For each coverage identifier, the sum of the claims closed with payment across each closing time interval should equal the total number of claims closed with payment during the reporting period.

Handling Additional Payment on Previously Reported Claim / Subsequent Supplemental Payment for claims closed with payment during the reporting period:

- If a claim is reopened for a subsequent supplemental payment, count the reopened claim as a new claim. Calculate a separate aging on that supplemental payment from the time the request for supplemental payment was received to the date of the final payment was made.

Claims Closed Without Payment – Claims closed with no payment made to an insured or third party. The number of days to closure is the difference between the date the claim was closed and the date the claim was reported and/or reopened. See also “Date of Final Payment”.

Include:

- All claims that were closed during the reporting period regardless of the date of loss or when the claim was received.

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- Claims where no payment was made to an insured/claimant even though payment was made for company loss adjustment expenses.
- A demand for payment for which it was determined that no relevant policy was in-force at the time of the loss if a claim file was set up and the loss was investigated.
- Claims that are closed because the amount claimed is below the insured's deductible.

Calculation Clarification:

- For each coverage identifier, the sum of the claims closed without payment across each closing time interval should equal the total number of claims closed without payment during the reporting period.

Complaint – any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral communication, which is subsequently converted to a written form in order to be analyzed and acted upon, will meet the definition of a complaint for this purpose.

Include:

- Any complaint regardless of the subject of the complaint (claims, underwriting, marketing, etc.)
- Complaints received from third parties.

Coverage - Dwelling (includes – Other Structures) – Coverage for dwellings under Homeowners Policies and Dwelling Fire and Dwelling Liability Policies. It includes coverage for Other Structures.

Coverage - Loss of Use – Loss of Use provided under Homeowners Policies.

Coverage - Personal Property – Personal Property provided under Homeowners Policies.

Coverage - Liability – Liability insurance provided under Homeowners Policies.

Coverage - Medical Payments – Medical Payments provided under Homeowners Policies.

Date of Final Payment – The date final payment was issued to the insured/claimant.

Calculation Clarification:

- If partial payments were made on the claim, the claim would be considered closed with payment if the final payment date was made during the reporting period regardless of the date of loss or when the claims was received.
- Report a claim as "closed with payment" or "closed without payment" if it is closed in the company's claims system during the reporting period (even if the final payment was issued in a prior reporting period).

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- If a claim remains open at the end of the reporting period (even though a final payment has been issued) it should be reported as open. Only when the claim is closed in the company's claims system, would you report the days to final payment.

Example:

- A claim is open on 11/1/00 and final payment is made on 12/1/00. The claim is left open until 2/1/01 to allow time for supplemental requests.
 - The claim would be reported as open in the "00" MCAS submission and closed in the "01" MCAS submission.
 - The number of days to final payment would be calculated as 30 days and reported in the "01" MCAS submission.

Date the Claim was Reported – The date an insured or claimant first reported his or her loss to either the company or insurance agent.

Digital Claim Handling Process Level of Detail Breakdown:

Digital Claim – A claim involving a claim settlement determination which was accepted by the insured/claimant without adjustment whereby the entire claim was handled without human intervention on the part of the insurance company in the loss appraisal process, settlement determination, and/or in the production of the initial loss settlement offer. Digital claims utilize only digital information to establish the extent of damage and to produce a loss settlement determination through the application of one or more automated loss algorithms applied to digital information. No human inspection or appraisal of the damaged property is conducted by the insurance company, independent adjuster, or other person relied upon by the insurance company during the life cycle of the claim.

Examples of digital claim information include, but are not limited to, photos taken by a claimant or insured, photos taken by a plane or drone, and/or data provided by in-vehicle or in-property sensors.

Hybrid Claim – A claim whereby the initial loss settlement determination began as a digital claim, however, at some point in the claim life cycle required the use of human resources in the loss appraisal process, settlement determination, and/or in the production of the initial or subsequent loss settlement offer.

Non-Digital Claim – means any claim other than a Digital Claim or Hybrid Claim.

Direct Written Premium - The total amount of direct written premium for all policies covered by the market conduct annual statement (new and renewal) written during the reporting period.

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Calculation Clarification:

- Premium amounts should be determined in the same manner as used for the financial annual statement.
- If premium is refunded or additional premium is written during the reporting period (regardless of the applicable policy effective date), the net effect should be reported.
- If there is a difference of 20% or more between the Direct Written Premium reported for market conduct annual statement and the Direct Written Premium reported on the financial annual statement, provide an explanation for the difference when filing the market conduct annual statement in order to avoid inquiries from the regulator receiving the market conduct annual statement filing.
- Reporting shall not include premiums received from or losses paid to other carriers on account of reinsurance assumed by the reporting carrier, nor, shall any deductions be made by the reporting carrier for premiums added to or for losses recovered from other carriers on account of reinsurance ceded.

Dwelling – A personally occupied residential dwelling.

Calculation Clarification:

- A 2 or 3 family home covered under one policy would be considered 1 dwelling.

Dwelling Fire Policies – Coverage for dwellings and their contents. It may also provide liability coverage and is usually written when a residential property does not qualify according to the minimum requirements of a homeowner's policy, or because of a requirement for the insured to select several different kinds of coverage and limits on this protection.

Include:

- Dwelling Fire and Dwelling Liability policies should be included ONLY IF the policies written under these programs are for personally occupied residential dwellings, not policies written under a commercial program and/or on a commercial lines policy form.

Homeowners Policies – Policies that combine liability insurance with one or more other types of insurance such as property damage, personal property damage, medical payments and additional living expenses.

Include:

- Mobile/Manufactured homes intended for use as a dwelling regardless of where [or what line] on the Statutory Annual Statement state page associated premium is reported.
- Renters insurance,-Policies covering log homes, land homes, and site built homes are included.
- Inland Marine or Personal Articles endorsements.
- Include policies written on the HO-1, HO-2, HO-3, HO-5, HO-7 and HO-8 policy forms.

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Homeowner Data Call & Definitions

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Proposed Additions in Blue Text/Proposed Deletions in Red Text

Exclude:

- Farmowners is not included as it is considered to be Commercial Lines for purposes of this project.
- Umbrella policies.
- Lender-placed or creditor-placed policies.

Inland Marine or Personal Articles Endorsements – Provides coverage via endorsement to a homeowners policy for direct physical loss to personal property as described in the endorsement.

Exclude:

- Stand-alone Inland Marine Policies.

Lawsuit – ~~A court proceeding to recover a right to a claim, including lawsuits for arbitration cases.~~ An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant.

Exclude:

- Subrogation claims where lawsuit is filed by the company against the tortfeasor.
- Non-lawsuit legal activity or litigation filed by an insurer, including, but not limited to: request to compel an independent medical examination, an examination under oath, **interpleader actions**, and declaratory judgment actions filed **or brought** by an insurer.
- **Arbitrations, mediation, appraisal, or any other form of dispute resolution not brought in a court of law.**

Calculation Clarification:

- ~~Lawsuits should be reported on the same basis as claims. One lawsuit should be reported for each / claimant / coverage combination, regardless of the number of actual suits filed.~~
- ~~One lawsuit with two claimants would be reported as two lawsuits as any awards/payments made would be made to the claimants individually.~~
- ~~One lawsuit filed seeking damages for multiple coverages should be reported as one lawsuit for each applicable coverage.~~
- ~~Lawsuits should be reported in the state in which the claim was reported on this statement.~~

For purposes of reporting lawsuits for Homeowner products:

- Include only lawsuits brought by an applicant for insurance, a policyholder or claimant as a plaintiff against the reporting insurer as a defendant.
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred.
- With the exception of class action lawsuits, report a lawsuit with two or more complainants as one lawsuit.

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- With the exception of class action lawsuits, report a lawsuit in the jurisdiction in which the policy was issued.
- Report claim related lawsuits broken out by coverage as outlined in the schedule.
- Report non-claim related lawsuits in aggregate as outlined in the schedule.

Treatment of Class Action Lawsuits:

- Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides.
- Include an explanatory note with your submission state the number of class action lawsuits included in the data and the general cause of the action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the claimant in an amount greater than offered by the reporting insurer before the lawsuit was brought.

Liability Insurance – Coverage for all sums that the insured becomes legally obligated to pay because of bodily injury or property damage, and sometimes other torts to which an insurance policy applies.

Loss Of Use – Coverage for additional living expenses incurred by the insured or fair rental value when the insured dwelling becomes uninhabitable as the result of an insured loss or when access to the dwelling is barred by civil authority.

Median Days to Final Payment – The median value for all claims closed with payment during the period.

Calculation for losses with one final payment date during the reporting period:

- Date the loss was reported to the company to the date of final payment.

Calculation for losses with multiple final payment dates during the reporting period:

- Date the request for supplemental payment received to the date of final payment (for each different final payment date.)

Exclude:

- Subrogation payments.

Calculation Clarification / Example:

- To determine the Median Days to Final Payment you must first determine the number of days it took to settle each claim. This is the difference between the date the loss was reported to the company, or the date the request for supplemental payment was received, to the date of final payment. The Median Days to Final Payment is the median value of the number of days it took to settle all claims closed with payment during the period.

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Median - A median is the middle value in a distribution arranged in numerical order (either lowest to highest or highest to lowest). If the distribution contains an odd number of elements, the median is the value above and below which lie an equal number of values. If the distribution contains an even number of elements, the median is the average of the two middle values. It is not the arithmetic mean (average) of all of the values.

Consider the following simple example of the number of days it took to settle each of the following seven claims:

Claim	Nbr 1	Nbr 2	Nbr 3	Nbr 4	Nbr 5	Nbr 6	Nbr 7
Days to Settle	2	4	4	5	6	8	20

In this situation, the Median Days to Final Payment would be 5 because it is the middle value. There are exactly 3 values below the median (2, 4, & 4) and 3 values above the median (6, 8, & 20). If the data set had included an even number of values, then the median would be the average of the two middle values as demonstrated below.

Claim	Nbr 1	Nbr 2	Nbr 3	Nbr 4	Nbr 5	Nbr 6
Days to Settle	2	4	5	6	8	20

$$\text{Median Days to Final Payment} = (5 + 6)/2 = 5.5$$

The median should be consistent with the paid claim counts reported in the closing time intervals.

Example: A carrier reports the following closing times for paid claims.

Closing Time # of Claims

< 30	22
31-60	13
61-90	18
91-180	11
181-365	12
>365	15

The sum of the claims reported across each closing time interval is 91, so that the median is the 46th claim. This claim falls into the closing time interval "61-90 days." Any reported median that falls outside of this range (i.e. less than 61 or greater than 90) will indicate a data error.

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Medical Payments Coverage – Provides coverage for medical expenses resulting from injuries sustained by a claimant regardless of liability.

NAIC Company Code – The five-digit code assigned by the NAIC to all U.S. domiciled companies which filed a Financial Annual Statement with the NAIC.

NAIC Group Code – The code assigned by the NAIC to identify those companies that are a part of a given holding company structure. A zero indicates that the company is not part of a holding company.

New Business Policy Written – A newly written agreement that puts insurance coverage into effect during the reporting period.

Exclude:

- 'Re-written' policies unless there was a lapse in coverage.

Non-Renewals – A policy for which the insurer elected not to renew the coverage for circumstances allowed under the "non-renewal" clause of the policy.

Include:

- All company-initiated non-renewals of the policies where the non-renewal effective date is during the reporting period.

Exclude:

- Policies where a renewal offer was made and the policyholder did not accept the offer.
- Instances where the policyholder requested that the policy not be renewed.

Calculation Clarification:

- The number of nonrenewals should be reported on a policy basis regardless of the number of dwellings insured under the policy.

Other Structures – Structures on the residence premises (1) separated from the dwelling by a clear space or (2) connect to the dwelling by a fence, wall, wire, or other form of connection but not otherwise attached.

Personal Property Damage Coverage – Provides coverage for damage to dwelling contents or other covered personal property caused by an insured peril.

Personally Occupied – A dwelling in which the person owning the policy personally occupies the dwelling and lives there.

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Property Damage Coverage – Provides coverage for damage to the dwelling and/or other insured structures caused by an insured peril.

Policy In-force – A policy in which the coverage is in effect as of the end of the reporting period.

Tenant/Renters/Condo Policies – Policies that provide coverage for the personal property of tenants, renters, condominium and cooperative unit owners. Include policies typically written on the HO-4 and HO-6 policy forms.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 5 MCAS HomeownerDataCallDefinitions.pdf

Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, July 15, 2022

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Line of Business: Private Passenger Auto

Reporting Period: January 1, 2023 through December 31, 2023

Filing Deadline: April 30, 2024

Contact Information

MCAS Administrator	The person responsible for assigning who may view and input company data.
MCAS Contact	The person most knowledgeable about the submitted MCAS data. This person can be the same as the MCAS Administrator.
MCAS Attestor	The person who attests to the completeness and accuracy of the MCAS data.

Schedule 1—Interrogatories

ID	Description	Comments
1-01	Were there policies in-force during the reporting period that provided Collision coverage?	Yes/No
1-02	Were there policies in-force during the reporting period that provided Comprehensive/Other Than Collision coverage?	Yes/No
1-03	Were there policies in-force during the reporting period that provided Bodily Injury coverage?	Yes/No
1-04	Were there policies in-force during the reporting period that provided Property Damage coverage?	Yes/No
1-05	Were there policies in-force during the reporting period that provided Uninsured Motorists and Underinsured Motorists (UMBI) coverage?	Yes/No
1-06	Were there policies in-force during the reporting period that provided Uninsured Motorists and Underinsured Motorists (UMPD) coverage?	Yes/No
1-07	Were there policies in-force during the reporting period that provided Medical Payments coverage?	Yes/No
1-08	Were there policies in-force during the reporting period that provided Combined Single Limits coverage?	Yes/No
1-09	Were there policies in-force during the reporting period that provided Personal Injury Protection coverage?	Yes/No
1-10	Was the Company still actively writing policies in the state at year end?	Yes/No
1-11	Does the Company write in the non-standard market?	Yes/No
1-12	If yes, what percentage of your business is non-standard?	Percentage
1-13	If yes, how is non-standard defined?	Comment

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1-14	Has the company had a significant event/business strategy that would affect data for this reporting period?	Yes/No
1-15	If yes, add additional comments	Comment
1-16	Has this block of business or part of this block of business been sold, closed or moved to another company during the reporting period?	Yes/No
1-17	If yes, add additional comments	Comment
1-18	How does company treat subsequent supplemental payments on previously closed claims (or additional payments on a previously reported claim)? Re-open original claim/open new claim	Comment
1-19	Does the company use Managing General Agents (MGAs)?	Yes/No
1-20	If yes, list the names of the MGAs.	Comment
1-21	Does the company use Third Party Administrators (TPAs)?	Yes/No
1-22	If yes, list the names of the TPAs.	Comment
1-23	Does the company use telematics or usage-based data?	Yes/No
1-24	Does the company use digital claim settlement?	Yes/No
1-25	If yes, list the names of the vendors providing third-party data and algorithms used in the digital claim settlement process.	Comment
1-26	Claims Comments	Comment
1-27	Underwriting Comments	Comment

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Coverages

Coverages	Reported also at the Digital Claim Handling Process Level of Detail*
Collision	X
Comprehensive/Other Than Collision	X
Bodily Injury	
Property Damage	X
Uninsured Motorists and Underinsured Motorists (UMBI)	
Uninsured Motorists and Underinsured Motorists (UMPD)	X
Medical Payments	
Combined Single Limits	
Personal Injury Protection	

*** Includes Digital Claims, Hybrid Claims and Non-Digital Claims (Applies only to claims related data elements)**

Additionally, an "All" breakout will be included for the reporting of Median Days to Final Payment.

Schedule 2—Private Passenger Auto Claims Activity, Counts Reported by Claimant, by Coverage

Report the number of reserves/lines/features opened for each coverage part per claim. For example, if one claim results in a reserve/line/feature opened for two bodily injury claimants (one property damage claimant, one collision claim for the insured, and one medical payment claim for the insured), it would be reported as follows: Collision – 1, Bodily Injury – 2; Property Damage – 1; and Medical Payments – 1. The number of days to final payment (if payment is made) would be calculated separately for each claimant.

ID	Description
2-28	Number of claims open at the beginning of the period
2-29	Number of claims opened during the period
2-30	Number of claims closed during the period, with payment
2-31	Number of claims closed during the period, without payment.
2-32	Number of claims closed during the period, without payment, because the amount claimed is below the insured's deductible.
2-33	Number of claims remaining open at the end of the period

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2-34	Median days to final payment
2-35	Number of claims closed with payment within 0-30 days
2-36	Number of claims closed with payment within 31-60 days
2-37	Number of claims closed with payment within 61-90 days
2-38	Number of claims closed with payment within 91-180 days
2-39	Number of claims closed with payment within 181-365 days
2-40	Number of claims closed with payment beyond 365 days
2-41	Number of claims closed without payment within 0-30 days
2-42	Number of claims closed without payment within 31-60 days
2-43	Number of claims closed without payment within 61-90 days
2-44	Number of claims closed without payment within 91-180 days
2-45	Number of claims closed without payment within 181-365 days
2-46	Number of claims closed without payment beyond 365 days
2-47	Number of lawsuits open at beginning of the period
2-48	Number of lawsuits opened during the period
2-49	Number of lawsuits closed during the period
2-50	Number of lawsuits open at end of period
2-51	Number of lawsuits closed with consideration for the consumer.

Schedule 3—Private Passenger Auto Underwriting

ID	Description
3-52	Number of autos which have policies in-force at the end of the period
3-53	Number of policies in-force at the end of the period
3-54	Number of new business policies written during the period
3-55	Dollar amount of direct premium written during the period
3-56	Number of Company-Initiated non-renewals during the period
3-57	Number of cancellations for non-pay or non-sufficient funds
3-58	Number of cancellations at the insured's request
3-59	Number of Company-Initiated cancellations that occur in the first 59 days after effective date, excluding rewrites to an affiliated company
3-60	Number of Company-Initiated cancellations that occur 60 to 90 days after effective date, excluding rewrites to an affiliated company

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3-61	Number of Company-Initiated cancellations that occur greater than 90 days after effective date, excluding rewrites to an affiliated company
3-62	Number of complaints received directly from any person or entity other than the DOI

Schedule 4—Private Passenger Auto Attestation

By completing the attestation information, those named understand, agree and certify on behalf of the named company that:

1. They are authorized to submit the Market Conduct Annual Statement on behalf of the named company and to bind the company to the statements in this attestation;
2. They are knowledgeable of the information required to be provided in the Market Conduct Annual Statement filed by this company and have reviewed this filing;
3. To the best of their knowledge and belief, this filing represents a full and accurate statement of the information required to be provided in the Market Conduct Annual Statement pursuant to the applicable instructions; and
4. They are aware that the state insurance department(s) receiving the data may initiate regulatory action as authorized by law in a specific jurisdiction if the data submitted in the MCAS is inaccurate, incomplete, or found to be materially false, misleading or omissive.
5. They affirm that the company is able to accurately trace the data as reported to its source within the company and if necessary, recreate the MCAS results as reported in this filing.

NOTE: The company must provide the name for at least two individuals who are able to attest that the criteria listed above have been met, and attest to the overall accuracy of the MCAS filing. Both attestors should have participated in the review and validation of the filing. We recommend that one person be the individual with operational responsibility for the source data such as a responsible individual from claims, underwriting or compliance. We recommend that the second person should be a responsible IT person that participated in the creation of the data in the filing.

ID	Description
4-63	First Attestor Information (First Name, Middle Name, Last Name, Suffix, Title)
4-64	Second Attestor Information (First Name, Middle Name, Last Name, Suffix, Title)
4-65	Overall Comments for the Period

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Definitions:

In determining what business to report for a particular state, unless otherwise indicated in these instructions, all companies should follow the same methodology/definitions used to file the Financial Annual Statement (FAS) and its corresponding state pages. Exclude lender-placed or creditor-placed policies.

Data should be reported for both private passenger automobiles and motorcycles. Exclude antique vehicles and primarily off-road vehicles such as dune buggies or three-wheel ATVs.

Cancellations – Includes all cancellations of the policies where the cancellation effective date is during the reporting year. The number of cancellations should be reported on a policy basis regardless of the number of automobiles insured under the policy.

Report cancellations separately for:

- Policies cancelled for non-payment of premium or non-sufficient funds
 - These should be reported every time a policy cancels for the above reasons (i.e., if a policy cancels for non-pay three times in a policy period, and is reinstated each time; each cancellation should be counted).
- Policies cancelled at the insured's request
- Policies cancelled for underwriting reasons.

Exclude:

- Policies cancelled for 're-write' purposes where there is no lapse in coverage.

Cancellations within the first 59 days – Company-initiated cancellations for new business where the notice of cancellation was issued within the first 59 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the 'underwriting' period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 6 MCAS DataCallPPADigitalClaimsLawsuits.pdf

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Cancellations from 60 to 90 days – Company-initiated cancellations where the notice of cancellation was issued 60 to 90 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the ‘underwriting’ period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

Cancellations greater than 90 days – Company-initiated cancellations where the notice of cancellation was issued more than 90 days after the original effective date of the policy.

- The calculation of the number of days is from the original inception date of the policy, not the renewal date.
- This time frame should be used regardless of individual state requirements related to the ‘underwriting’ period for new business.
- The notice of cancellation is the date the cancellation notice was mailed to the insured.

Claim - A request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Each claimant/insured reporting a loss is counted separately.

Include:

- Both first- and third-party claims.

Exclude:

- An event reported for “information only”.
- An inquiry of coverage if a claim has not actually been presented (opened) for payment.
- A potential claimant if that individual has not made a claim nor had a claim made on his or her behalf.

Claims Closed With Payment – Claims closed with payment where the claim was closed during the reporting period regardless of the date of loss or when the claim was received. The number of days to closure, however, should be measured as the

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difference between the date of the final payment and the date the claim was reported or between the date of the final payment and the date the request for supplemental payment was received. See also "Date of Final Payment".

Exclude:

- Claims where payment was made for company loss adjustment expenses if no payment was made to an insured/claimant.
- Claims that are closed because the amount claimed is below the insured's deductible.

Clarifications:

- If a claim is reopened for the sole purpose of refunding the insured's deductible, do not count it as a paid claim.
- For claims where the net payment is \$0 due to subrogation recoveries, report the number of claims in which any amount was paid to the insured; do not net the payment with subrogation recoveries when counting the number of paid claims.

Calculation Clarification:

- For each coverage identifier, the sum of the claims settled with payment across each closing time interval should equal the total number of claims closed with payment during the reporting period.

Handling Additional Payment on Previously Reported Claim/Subsequent Supplemental Payment for claims closed with payment during the reporting period:

- If a claim is reopened for a subsequent supplemental payment, count the reopened claim as a new claim. Calculate a separate aging on the supplemental payment from the time the request for supplemental payment was received to the date the final payment was made.

Claims Closed Without Payment – Claims closed with no payment made to an insured or third party. The number of days to closure is the difference between the date the claim was closed and the date the claim was reported and/or reopened. See also "Date of Final Payment".

Include:

- All claims that were closed during the reporting period regardless of the date of loss or when the claim was received.
- Claims where no payment was made to an insured/claimant even though payment was made for company loss adjustment expenses.

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- A demand for payment for which it was determined that no relevant policy was in-force at the time of the loss if a claim file was set up and the loss was investigated.
- Claims that are closed because the amount claimed is below the insured's deductible.

Complaint – any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral communication, which is subsequently converted to a written form in order to be analyzed and acted upon, will meet the definition of a complaint for this purpose.

Include:

- Any complaint regardless of the subject of the complaint (claims, underwriting, marketing, etc.)
- Complaints received from third parties.

Coverage - Collision Insurance – Coverage to provide protection against physical contact of an automobile with another inanimate object resulting in damage to the insured automobile.

Clarification:

- Rental/transportation/tow expenses which are paid as a result or part of a collision claim should not be counted as separate claims.

Coverage - Comprehensive/Other than Collision Insurance – Coverage providing protection in the event of physical damage (other than collision), including theft of the insured automobile.

Clarification:

- Rental/transportation/tow expenses which are paid as a result or part of a comprehensive/other than collision claim should not be counted as separate claims.

Coverage - Bodily Injury – Physical damage to one's person. The purpose of liability (casualty) insurance is to cover bodily injury to a third party resulting from the negligent acts and omissions of an insured.

Coverage - Property Damage Liability Insurance – Coverage in the event that the negligent acts or omissions of an insured result in damage or destruction to another's property.

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Include:

- 'Property Damage Rental' coverage (i.e. amounts paid for a third party claimant's rental car).

Coverage - UMBI – Includes both Uninsured Motorist Coverage and Underinsured Motorists Coverage for bodily injury claims.

- **Underinsured Motorist Coverage (UIM)** – Provides coverage for bodily injury sustained by an insured who is involved in an accident caused by an at-fault driver who does not have sufficient liability insurance to pay for the damages.
- **Uninsured Motorist Coverage (UM)** – Provides coverage for bodily injury sustained by an insured involved in an accident caused by an at-fault driver who does not have liability insurance.

Coverage - UMPD – Includes both Uninsured Motorist Property Damage Coverage and Underinsured Motorist Property Damage Coverage.

- **Underinsured Motorist Property Damage Coverage** – Provides coverage for property damage to covered property caused by an at-fault driver who does not have sufficient liability insurance to pay for the damages.
- **Uninsured Motorist Property Damage Coverage** – Provides coverage for property damage to covered property caused by an at-fault driver who does not have liability insurance.

Coverage - Medical Payments Coverage – First party coverage for injuries incurred in a motor vehicle accident.

Coverage - Combined Single Limit – Bodily injury liability and property damage liability expressed as a single sum of coverage.

Coverage - Personal Injury Protection (PIP) – A first party benefit. coverage to pay basic expenses for an insured and his/her family in states with no fault automobile insurance laws. No-fault laws generally require drivers to carry personal injury protection coverage to pay for basic medical needs of the insured, such as medical expenses, in the event of an accident. For the purposes of this project, all PIP coverages (wage, funeral, death, medical, etc) that would correspond to first party coverages in the applicable participating states should be included.

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Private Passenger Auto Data Call & Definitions

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Lawsuit & Digital Claims Interrogatory Edits Adopted by MCAS Blanks (D) Working Group May 26, 2022
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Proposed Additions in Blue Text/Proposed Deletions in Red Text*

Date of Final Payment – The date final payment was issued to the insured/claimant.

Calculation Clarification:

- If partial payments were made on the claim, the claim would be considered closed with payment if the final payment was made during the reporting period regardless of the date of loss or when the claims was received.
- Report a claim as “closed with payment” or “closed without payment” if it is closed in the company’s claims system during the reporting period (even if the final payment was issued in a prior reporting period.)
- If a claim remains open at the end of the reporting period (even though a final payment has been issued) it should be reported as open. Only when the claim is closed in the company’s claims system, would you report the days to final payment.

Example:

- A claim is open on 11/1/00 and final payment is made on 12/1/00. The claim is left open until 2/1/01 to allow time for supplemental requests.
 - The claim would be reported as open in the “00” MCAS submission and closed in the “01” MCAS submission.
 - The number of days to final payment would be calculated as 30 days and reported in the “01” MCAS submission.

Date the Claim was Reported – The date an insured or claimant first reported his or her loss to either the company or insurance agent.

Digital Claim Handling Process Level of Detail Breakdown:

Digital Claim – A claim involving a claim settlement determination which was accepted by the insured/claimant without adjustment whereby the entire claim was handled without human intervention on the part of the insurance company in the loss appraisal process, settlement determination, and/or in the production of the initial loss settlement offer. Digital claims utilize only digital information to establish the extent of damage and to produce a loss settlement determination through the application of one or more automated loss algorithms applied to digital information. No human inspection or appraisal of the damaged property is conducted by the insurance company, independent adjuster, or other person relied upon by the insurance company during the life cycle of the claim.

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Private Passenger Auto Data Call & Definitions

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Examples of digital claim information include, but are not limited to, photos taken by a claimant or insured, photos taken by a plane or drone, and/or data provided by in-vehicle or in-property sensors.

Hybrid Claim – A claim whereby the initial loss settlement determination began as a digital claim, however, at some point in the claim life cycle required the use of human resources in the loss appraisal process, settlement determination, and/or in the production of the initial or subsequent loss settlement offer.

Non-Digital Claim – means any claim other than a Digital Claim or Hybrid Claim.

Direct Written Premium - The total amount of direct written premium for all policies covered by the market conduct annual statement (new and renewal) written during the reporting period.

Calculation Clarification:

- Premium amounts should be determined in the same manner as used for the financial annual statement.
- If premium is refunded or additional premium is written during the reporting period (regardless of the applicable policy effective date), the net effect should be reported.
- If there is a difference of 20% or more between the Direct Written Premium reported for market conduct annual statement and the Direct Written Premium reported on the financial annual statement, provide an explanation for the difference when filing the market conduct annual statement in order to avoid inquiries from the regulator receiving the market conduct annual statement filing.
- Reporting shall not include premiums received from or losses paid to other carriers on account of reinsurance assumed by the reporting carrier, nor, shall any deductions be made by the reporting carrier for premiums added to or for losses recovered from other carriers on account of reinsurance ceded.

Lawsuit – ~~A court proceeding to recover a right to a claim, including lawsuits for arbitration cases.~~ An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant.

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Private Passenger Auto Data Call & Definitions

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Exclude:

- Subrogation claims where lawsuit is filed by the company against the tortfeasor.
- Non-lawsuit legal activity or litigation filed by an insurer, including, but not limited to: request to compel an independent medical examination, an examination under oath, **interpleader actions**, and declaratory judgment actions filed **or brought** by an insurer.

Calculation Clarification:

- ~~• Lawsuits should be reported on the same basis as claims. One lawsuit should be reported for each claimant / coverage combination, regardless of the number of actual lawsuits filed.~~
- ~~• One lawsuit with two claimants would be reported as two lawsuits as any awards/payments made would be made to the claimants individually.~~
- ~~• One lawsuit filed seeking damages for multiple coverages should be reported as one lawsuit for each applicable coverage. If the lawsuit is seeking damages for bodily injury and property damage, one lawsuit should be reported for each of the two coverages.~~
- ~~• Lawsuits should be reported in the state in which the claim is reported on this statement.~~

For purposes of reporting lawsuits for Private Passenger Auto products:

- Include only lawsuits brought by an applicant for insurance, a policyholder or claimant as a plaintiff against the reporting insurer as a defendant.
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred.
- With the exception of class action lawsuits, report a lawsuit with two or more complainants as one lawsuit.
- With the exception of class action lawsuits, report a lawsuit in the jurisdiction in which the policy was issued.
- Report claim related lawsuits broken out by coverage as outlined in the schedule.
- Report non-claim related lawsuits in aggregate as outlined in the schedule.

Treatment of class action lawsuits:

- Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides.
- Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or

Property & Casualty Market Conduct Annual Statement
Private Passenger Auto Data Call & Definitions

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settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the claimant in an amount greater than offered by the reporting insurer before the lawsuit was brought.

Median Days to Final Payment – The median value for all claims closed with payment during the period.

Calculation for losses with one final payment date during the reporting period:

- Date the loss was reported to the company to the date of final payment.

Calculation for losses with multiple final payment dates during the reporting period:

- Date the request for supplemental payment received to the date of final payment (for each different final payment date.)

Exclude:

- Subrogation payments should not be included.

Calculation Clarification / Example:

- To determine the Median Days to Final Payment you must first determine the number of days it took to settle each claim. This is the difference between the date the loss was reported to the company, or the date the request for supplemental payment was received, to the date of final payment. The Median Days to Final Payment is the median value of the number of days it took to settle all claims closed with payment during the period.

Median - A median is the middle value in a distribution arranged in numerical order (either lowest to highest or highest to lowest). If the distribution contains an odd number of elements, the median is the value above and below which lie an equal number of values. If the distribution contains an even number of elements, the median is the average of the two middle values. It is not the arithmetic mean (average) of all of the values.

- Consider the following simple example of the number of days it took to settle each of the following seven claims:

Claim	Nbr 1	Nbr 2	Nbr 3	Nbr 4	Nbr 5	Nbr 6	Nbr 7
Days to Settle	2	4	4	5	6	8	20

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Private Passenger Auto Data Call & Definitions

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In this situation, the Median Days to Final Payment would be 5 because it is the middle value. There are exactly 3 values below the median (2, 4, & 4) and 3 values above the median (6, 8, & 20). If the data set had included an even number of values, then the median would be the average of the two middle values as demonstrated below.

Claim	Nbr 1	Nbr 2	Nbr 3	Nbr 4	Nbr 5	Nbr 6
Days to Settle	2	4	5	6	8	20

$$\text{Median Days to Final Payment} = (5 + 6)/2 = 5.5$$

The median should be consistent with the paid claim counts reported in the closing time intervals.

Example: A carrier reports the following closing times for paid claims.

Closing Time	# of Claims
< 30	22
31-60	13
61-90	18
91-180	11
181-365	12
>365	15

The sum of the claims reported across each closing time interval is 91, so that the median is the 46th claim. This claim falls into the closing time interval "61-90 days." Any reported median that falls outside of this range (i.e., less than 61 or greater than 90) will indicate a data error.

NAIC Company Code – The five-digit code assigned by the NAIC to all U.S. domiciled companies which filed a Financial Annual Statement with the NAIC.

NAIC Group Code – The code assigned by the NAIC to identify those companies that are a part of a given holding company structure. A zero indicates that the company is not part of a holding company.

New Business Policy Written – A newly written agreement that puts insurance coverage into effect during the reporting period.

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Private Passenger Auto Data Call & Definitions

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Exclude:

- Renewals or 're-written' policies unless there was a lapse in coverage.

Non-Renewals – A policy for which the insurer elected not to renew the coverage for circumstances allowed under the "non-renewal" clause of the policy.

Include:

- All company-initiated non-renewals of the policies where the non-renewal effective date is during the reporting period.

Exclude:

- Policies where a renewal offer was made and the policyholder did not accept the offer.
- Instances where the policyholder requested that the policy not be renewed.

Calculation Clarification:

- The number of non-renewals should be reported on a policy basis regardless of the number of autos insured under the policy.

Policy In-force – A policy in which the coverage is in effect as of the end of the reporting period.

Private Passenger Auto Insurance – Those policies issued on automobiles owned or leased by an individual or by husband and wife resident in the same household that are reported on lines 19.1, 19.2, and 21.1 of the state page of the financial annual statement.

Include:

- This covers four-wheel vehicles including station wagons, vans, or pick-up trucks with a gross vehicle weight up to 10,000 pounds or less and not customarily used in the occupation, profession, or business of the insured.
- Vehicles as defined above that are reported on Lines 19.1, 19.2, and 21.1 of the state page of the financial annual statement which meet the definition of private passenger automobiles.
- Motorcycles
- Policies where the insured's vehicle is titled privately to the insured but is used by the insured for work should be included, unless the coverage is written on a commercial auto form.

Property & Casualty Market Conduct Annual Statement

Private Passenger Auto Data Call & Definitions

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- Policies written on a volunteer basis and those written through a residual market mechanism such as assigned risk pools should be included.
- Policies written on RV's and motor homes are included as they are licensed vehicles that fall under the various states' Motor Vehicle Responsibility laws.

Exclude:

- Policies written on antiques, collectibles, all-terrain vehicles, snowmobiles, trailers, dune buggies.
- Miscellaneous vehicles written on Inland Marine policies.
- Other vehicles classified by ISO as miscellaneous that do not fall under the various states' Motor Vehicle Responsibility laws.
- 'Fleet' policies are generally considered to be a commercial policy and would not be included unless the premium for these policies is being reported as 'private passenger auto' insurance on lines 19.1, 19.2 or 21.1 of the state page of the financial annual statement.
- Non-owned vehicle insurance policies.
- Lender-placed or creditor-placed policies.
- Mobile/Manufactured homes intended for use as a dwelling regardless of where [or what line] on the Statutory Annual Statement state page associated premium is reported.

Telematics and Usage-Based Data – Data which is collected through devices installed in a vehicle, through mobile applications, or other method. These devices then transmit the data in real time back to insurers. Examples of usage-based data collected via telematics includes - but is not limited to - miles driven, time of day, where the vehicle is driven (Global Positioning System or GPS), rapid acceleration, hard braking, hard cornering and air bag deployment.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 6 MCAS DataCallPPADigitalClaimsLawsuits.pdf

*Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022
Adopted by the Market Regulation and Consumers Affairs (D) Committee, July 15, 2022*

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions
(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

Lines of Business: Individual Life Cash Value Products
Individual Life Non-Cash Value Products
Individual Indexed Fixed Annuities
Individual Other Fixed Annuities
Individual Indexed Variable Annuities
Individual Other Variable Annuities

Reporting Period: January 1, 2023 through December 31, 2023

Filing Deadline: April 30, 2024

Contact Information

MCAS Administrator	The person responsible for assigning who may view and input company data.
MCAS Contact	The person most knowledgeable about the submitted MCAS data. This person can be the same as the MCAS Administrator.
MCAS Attestor	The person who attests to the completeness and accuracy of the MCAS data.

Life and Annuity Product Types

Product Identifiers	Explanation of Product Identifiers
ICVP	Individual Life Cash Value Products (Includes Variable Life, Universal Life, Variable Universal Life, Term Life with Cash Value, Whole Life, & Equity Index Life)
INCVP	Individual Life Non-Cash Value Products (Any life insurance policy that does not contain a cash value element)
IIFA	Individual Indexed Fixed Annuities
IOFA	Individual Other Fixed Annuities
IIVA	Individual Indexed Variable Annuities
IOVA	Individual Other Variable Annuities

In addition, some data elements are broken out by Accelerated Underwriting vs. Other than Accelerated Underwriting.

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions
(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

Schedule 1A—Life Interrogatories

ID	Description	Comments
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Interrogatories General

1A-01	Individual Life Cash Value – Does the company have data to report for this product type?	Yes/No
1A-02	Individual Life Non-Cash Value – Does the company have data to report for this product type?	Yes/No
1A-03	Is there a reason that the reported Individual Life Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming, selling or closing blocks of business; shifting market strategies; underwriting changes, etc.)	Yes/No
1A-04	If yes, add additional comments	Comment
1A-05	Is there a reason that the reported Individual Life Non-Cash Value information may identify the company as an outlier or be substantially different from previously reported data (such as assuming, selling or closing blocks of business; shifting market strategies; underwriting changes, etc.)	Yes/No
1A-06	If yes, add additional comments	Comment
1A-07	Does the company use third party administrators (TPAs) for purposes of supporting the individual life business being reported?	Yes/No
1A-08	If yes, provide the names and functions of each TPA.	Comment
1A-09	Did the company use MCAS accelerated underwriting during the reporting period? If yes, complete the MCAS Accelerated Underwriting interrogatories.	Yes/No

Interrogatories MCAS Accelerated Underwriting

1A-10	Did the company use MCAS accelerated underwriting for 1-Cash Value, 2-Non-Cash Value, or 3-Both Cash Value and Non-Cash Value products	1/2/3
1A-11	Did the company utilize Application Data as inputs in its MCAS accelerated underwriting algorithm (excluding application data used only for purposes of identifying a consumer to obtain third-party data) for 1-Cash Value, 2-Non-Cash Value, 3-Both Cash Value and Non-Cash Value products or 4-Not used?	1/2/3/4
1A-12	Did the company utilize Medical Data in its MCAS accelerated underwriting for 1-Cash Value, 2-Non-Cash Value, 3-Both Cash Value and Non-Cash Value products or 4-Not used?	1/2/3/4
1A-13	If 1, 2 or 3, list the data categories and sources of data	Comment

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions
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Proposed Additions in Blue Text

	<i>associated with Medical Data</i>	
1A-14	<i>Did the company utilize FCRA compliant non-medical third-party data in its MCAS accelerated underwriting for 1-Cash Value, 2-Non-Cash Value, 3-Both Cash Value and Non-Cash Value products or 4-Not used?</i>	<i>1/2/3/4</i>
1A-15	<i>If 1, 2 or 3, list the data categories and sources of data associated with FCRA compliant non-medical third-party data</i>	<i>Comment</i>
1A-16	<i>Did the company utilize other non-medical third-party data in its MCAS accelerated underwriting for 1-Cash Value, 2-Non-Cash Value, 3-Both Cash Value and Non-Cash Value products or 4-Not used?</i>	<i>1/2/3/4</i>
1A-17	<i>If 1, 2 or 3, list the data categories and sources of data associated with other non-medical third-party data</i>	<i>Comment</i>

Interrogatories Comments

1A-18	Individual Life Cash Value comments	Comment
1A-19	Individual Life Non-Cash Value comments	Comment

Schedule 1B—Individual Life Cash Value (ICVP) and Non-Cash Value (INCVP) Products

ID	Description
1B-20	Number of New Replacement Policies Issued During the Period (Include only the number of replacement insurance policies issued)
1B-21	Number of Internal Replacements Issued During the Period
1B-22	Number of External Replacements of Unaffiliated Company Policies Issued During the Period.
1B-23	Number of External Replacements of Affiliated Company Policies Issued During the Period.
1B-24	Number of Policies Replaced Where Age of Insured at Replacement was <65 (Only applies to ICVP)
1B-25	Number of Policies Replaced Where Age of Insured at Replacement was Age 65 and Over (Only applies to ICVP)
1B-26	Number of Policies Surrendered Under 2 Years from Policy Issue (Only applies to ICVP)
1B-27	Number of Policies Surrendered Between 2 Years and 5 Years of Policy Issue (Only applies to ICVP)
1B-28	Number of Policies Surrendered Between 6 Years and 10 Years of Policy Issue (Only applies to ICVP)
1B-29	Number of Policies Surrendered More Than 10 Years from Policy Issue (Only applies to ICVP)
1B-30	Total Number of Policies Surrendered During the Period (Only applies to ICVP)

**Market Conduct Annual Statement
Life & Annuities Data Call & Definitions**

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

1B-31	Number of Policies Surrendered with a Surrender Fee (Only applies to ICVP)
1B-32	Number of Policies Issued During the Period where age of insured at issue was <65 (Only applies to ICVP)
1B-33	Number of Policies Issued During the Period where age of insured at issue was Age 65 and over (Only applies to ICVP)
1B-34	Number of Complaints Received Directly from Any Person or Entity Other than the DOI
1B-35	Number of Death Claims Closed With Payment, During the Period, Within 30 Days From the Date the Claim was Received (Include claims where the final decision was payment in full, and full payment was made within 30 days from when the claim was received)
1B-36	Number of Death Claims Closed With Payment, During the Period, Within 31-60 Days From the Date the Claim was Received (Include claims where the final decision was payment in full, and full payment was made within 31-60 days from when the claim was received)
1B-37	Number of Death Claims Closed With Payment, During the Period, Beyond 60 Days From the Date the Claim was Received (Include claims where the final decision was payment in full, and full payment was NOT made within 60 days from when the claim was received)
1B-38	Number of Death Claims Closed With Payment, During the Period, Within 30 Days From the Date of Due Proof of Loss (Include claims where the final decision was payment in full, and full payment was made within 30 days from when the date of due proof of loss occurred)
1B-39	Number of Death Claims Closed With Payment, During the Period, Within 31-60 Days From the Date of Due Proof of Loss (Include claims where the final decision was payment in full, and full payment was made within 31-60 days from when the date of due proof of loss occurred)
1B-40	Number of Death Claims Closed With Payment, During the Period, Beyond 60 Days From the Date of Due Proof of Loss (Include claims where the final decision was payment in full, and full payment was NOT made within 60 days from when the date of due proof of loss occurred)
1B-41	Number of Death Claims Denied, Resisted or Compromised During the Period
1B-42	Number of Death Claims Closed with Payment During the Period, which Occurred within the Contestability Period
1B-43	Number of Death Claims Denied During the Period, which Occurred within the Contestability Period
1B-44	Total Number of Death Claims Received During the Period (Include any claim received during the period as determined by the first date the claim was opened on the company system)
1B-45	Number of Lawsuits Open at the Beginning of the Period
1B-46	Number of Lawsuits Opened During the Period
1B-47	Number of Lawsuits Closed During the Period

**Market Conduct Annual Statement
Life & Annuities Data Call & Definitions**

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

1B-48	Number of Lawsuits Closed During the Period with Consideration for the Customer
1B-49	Number of Lawsuits Open at the End of the Period

Schedule 1C—Individual Life Cash Value (ICVP) and Non-Cash Value (INCVP) Products with MCAS Accelerated Underwriting vs. Other Than MCAS Accelerated Underwriting Breakout

1C-50	Total Number of New Policies Issued by the Company During the Period
1C-51	Number of Policies Applied for During the Period
1C-52	Number of Free Looks During the Period
1C-53	Number of Policies In-Force at the End of the Period (The number of active policies that the company has outstanding at the end of the reporting period)
1C-54	Dollar Amount of Direct Premium During the Period
1C-55	Dollar Amount of Insurance Issued During the Period (Face Amount)
1C-56	Dollar Amount of Insurance In-Force at the End of the Period (Face Amount)

Schedule 2A—Annuity Interrogatories

ID	Description	Comments
2A-01	Individual Indexed Fixed Annuities – Does the company have data to report for this product type?	Yes/No
2A-02	Individual Other Fixed Annuities – Does the company have data to report for this product type?	Yes/No
2A-03	Individual Indexed Variable Annuities – Does the company have data to report for this product type?	Yes/No
2A-04	Individual Other Variable Annuities – Does the company have data to report for this product type?	Yes/No
2A-05	Is there a reason that the reported Individual (Indexed or Other) Fixed Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming, selling or closing blocks of business; shifting market strategies; underwriting changes, etc.)	Yes/No
2A-06	If yes, add additional comments	Comment
2A-07	Is there a reason that the reported Individual (Indexed or Other) Variable Annuities information may identify the company as an outlier or be substantially different from previously reported data (such as assuming, selling or closing blocks of business; shifting market strategies; underwriting changes, etc.)	Yes/No
2A-08	If yes, add additional comments	Comment
2A-09	Does the company use third party administrators (TPAs) for purposes of supporting the individual annuity business being reported?	Yes/No

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions
(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

2A-10	If yes, provide the names and functions of each TPA.	Comment
2A-11	Individual Fixed Annuities comments	Comment
2A-12	Individual Variable Annuities comments	Comment

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions

(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

Schedule 2B—Individual Indexed Fixed Annuities (IIFA), Individual Other Fixed Annuities (IOFA), Individual Indexed Variable Annuities (IIVA), and Individual Other Variable Annuities (IOVA)

ID	Description
2B-13	Number of New Replacement Contracts Issued During the Period (Include only the number of replacement annuity contracts issued)
2B-14	Number of Internal Replacement Contracts Issued During the Period
2B-15	Number of External Replacements of Unaffiliated Company Contracts Issued During the Period.
2B-16	Number of External Replacements of Affiliated Company Contracts Issued During the Period.
2B-17	Number of Contracts Replaced Where Age of Annuitant at Replacement was < 65
2B-18	Number of Contracts Replaced Where Age of Annuitant at Replacement was 65 to 80
2B-19	Number of Contracts Replaced Where Age of Annuitant at Replacement was > 80
2B-20	Number of New Immediate Contracts Issued During the Period
2B-21	Number of New Deferred Contracts Issued During the Period Where Age of Annuitant was < 65
2B-22	Number of New Deferred Contracts Issued During the Period Where Age of Annuitant was 65 to 80
2B-23	Number of New Deferred Contracts Issued During the Period Where Age of Annuitant was > 80
2B-24	Total Number of New Deferred Contracts Issued by the Company During the Period
2B-25	Number of Contracts Surrendered Under 2 Years from Issuance
2B-26	Number of Contracts Surrendered Between 2 Years and 5 Years of Issuance
2B-27	Number of Contracts Surrendered Between 6 years and 10 Years of Issuance
2B-28	Number of Contracts Surrendered Over 10 Years from Issuance
2B-29	Total Number of Contracts Surrendered During the Period
2B-30	Total Number of Contracts Surrendered with a Surrender Fee
2B-31	Number of Contracts Applied for During the Period
2B-32	Number of Free Looks During the Period
2B-33	Number of Contracts In-Force at the End of the Period (The number of active contracts that the company has outstanding at the end of the reporting period)
2B-34	Dollar Amount of Annuity Considerations During the Period
2B-35	Number of Complaints Received Directly From Any Person or Entity Other than the DOI
2B-36	Number of Lawsuits Open at the Beginning of the Period
2B-37	Number of Lawsuits Opened During the Period
2B-38	Number of Lawsuits Closed During the Period
2B-39	Number of Lawsuits Closed During the Period with Consideration for the Customer
2B-40	Number of Lawsuits Open at the End of the Period

Market Conduct Annual Statement
Life & Annuities Data Call & Definitions
(Adopted by the MCAS Blanks (D) Working Group 5/26/2022)

Proposed Additions in Blue Text

In determining what business to report for a particular state, all companies should follow the same methodology/definitions used to file the Financial Annual Statement (FAS) and its corresponding state pages and in accordance with each applicable state's regulations.

Definitions:

MCAS Accelerated Underwriting - For this MCAS, data should be reported as Accelerated Underwriting when artificial intelligence and/or machine learning which utilizes, in whole or in part, Other Non-medical Third-party Data and/or FCRA Compliant Non-medical Third-party Data in the underwriting of life insurance; including when used in combination with Application Data or Medical Data.

MCAS Accelerated Underwriting is a subset of Life insurance Accelerated Underwriting as defined in a 2022 NAIC educational paper on the topic. That broader definition is:

Accelerated Underwriting¹ - Accelerated underwriting is the use of big data, artificial intelligence, and machine learning to underwrite life insurance in an expedited manner. The process generally uses predictive models and machine learning algorithms to analyze applicant data, which may include the use of nontraditional, non-medical data, provided either by the applicant directly or obtained through external sources. The process is typically used to replace all or part of traditional underwriting in life insurance and to allow some applications to have certain medical requirements waived, such as paramedical exams and fluid collection.

Data utilized in accelerated underwriting algorithms:

- **Application data**: Information provided by or on behalf of the consumer in response to questions on the application for insurance, including any supplemental application forms, including medical information provided on the application.
- **Medical data**: Medical information related to the consumer and collected from third parties with the authorization of the consumer, such as but not limited to health records and prescription records.
- **FCRA Compliant non-medical third-party data**: Non-medical data related to the consumer that is provided by a consumer reporting agency in a consumer report that is subject to the Fair Credit Reporting Act (FCRA) requirements and protections. Examples – 1) category of data is a motor vehicle report, and the source of the data is a state department of motor vehicles or a third-party vendor, 2) category of data is consumer credit information and the source of the data is Experian or TransUnion.

¹ Source: Accelerated Underwriting (AU) Educational Report by the NAIC Accelerated Underwriting (A) Working Group, 2022

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- **Other non-medical third-party data:** Any non-medical data not reported in the three categories listed above. Examples – 1) category of non-medical third-party data is social media and the source of those data is Facebook or Carpe Data, 2) category is facial analytics and the source is a video interview application used by insurer.

Annuity – A contract under which an insurance company promises to make a series of periodic payments to a named individual in exchange for a premium or a series of premiums. Data is being requested for individual annuities only; data for group annuity contracts are not being requested.

Annuity Considerations – Funds deposited to or used to purchase annuity contracts issued by the company. For the purpose of this statement, annuity considerations should be determined in the same manner used for the state pages of the company's financial annual statement. Do not report "Other Considerations" or "Deposit-Type Contract" considerations. MCAS requires that you report only allocated considerations on contracts that have a mortality or morbidity risk.

Cash Value Product – A life insurance policy that generates a cash value element. Term life policies with cash value are considered cash value products.

Claim – A request or demand for payment of a loss that may be included within the terms of coverage of an insurance policy. Claims with multiple beneficiaries should be counted as one claim. If a single insured dies and has multiple policies (for individual life products), a claim should be reported for each of the insured's policies (for example, if an insured had 3 individual life policies (2 cash value products and one non-cash value product), 3 claims would be reported (2 claims under schedule 1B ICVP and 1 claim under schedule 1B INCVP.)

It does not include events that were reported for "information only" or an inquiry of coverage since a claim has not actually been presented (opened) for payment.

Claim Closed with Payment – A claim where the final decision was payment of the claim.

Complaint – any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the state's insurance laws. An oral communication, which is subsequently converted to a written form in order to be analyzed and acted upon, will meet the definition of a complaint for this purpose.

Include:

- Any complaint regardless of the subject of the complaint (claims, underwriting, marketing, etc.)
- Complaints received from third parties

Contestability Period – The period of time before a policy's incontestability clause becomes effective. During this period, a company may contest a claim based upon material

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misrepresentation or concealment during the policy application process. The contestability period is usually 2 years.

- Do not report claims on guaranteed issue life policies
- Do not report claims that are contested after the incontestability clause is in effect.

Conversion – The process by which a policyholder exercises his/her right under the policy contract to exchange a policy without submitting evidence of insurability. In most cases this involves exchanging a term policy for a permanent policy (e.g., whole life insurance, universal life, variable.)

Corporate Owned Life Insurance – Insurance on the life of an individual, paid for by the company, with the company being a beneficiary under the policy. Corporate Owned Life Insurance policies are included in the scope of this statement and should be reported in the applicable schedule.

Date Claim Received – The date the company, or a third party acting on the company's behalf, is notified of the claim.

Date of Due Proof of Loss – The date the company received the necessary proof of loss on which to base a claim determination.

Denied Claim - A claim where a demand for payment was made but payment was not made under the contract.

Direct Written Premium – The actual amount of direct premiums written during the reporting period and should be determined in the same manner used for the financial annual statement. Data for subject business reported by the company on the financial annual statement should be reported for the purposes of this project regardless of any 1) reinsurance agreements or 2) arrangements to administer the business that may exist with another insurer. (See also: "Life Insurance Premium" and "Annuity Considerations")

External Replacement - An external replacement is when the policy and/or annuity to be replaced was issued by another company.

External Replacement of Affiliated Company Policies – An external replacement of an affiliated company policy is when the policy and/or annuity to be replaced was issued by a company affiliated to the MCAS reporting company.

External Replacement of Unaffiliated Company Policies – An external replacement of an unaffiliated company policy is when the policy and/or annuity to be replaced was issued by a company not affiliated to the MCAS reporting company.

Face Amount – Sum of insurance provided by a policy at death or maturity. In determining the face amount to be reported, companies should follow the same methodology/definitions used to file the financial annual statement and its corresponding state pages. For example, the

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face amount would include the basic policy plus any riders or amounts for policies with increasing death benefits if these amounts in addition to the basic policy are reported on the company's financial annual statement.

Fixed Annuity – An annuity under which the insurer guarantees that at least a defined amount of monthly annuity benefit will be provided for each dollar applied to purchasing the annuity.

Free Look – A set number of days provided in an insurance or annuity contract that allows time for the purchaser to review the contract provisions with the right to return the contract for a full refund of all monies paid. Report the number of policies or contracts that were returned by the owner under the free look provision during the period, regardless of the original issuance date. Count any policy returned under the Free Look provision even if an alternative policy was ultimately purchased by the insured.

Immediate Annuity – An annuity (either fixed or variable) that begins its payment stream to the policyholder within 12 months after a single premium is paid. Immediate annuities are included within the scope of this statement and should be reported as a new immediate contract issued when issued during the reporting period. In addition, immediate annuities still in force at the end of the period should be included as well.

Individual Indexed Fixed Annuity – A fixed annuity whose accumulation or policy value is, in whole or in part, linked to an index or indices and offers principal protection. Indexed fixed annuities include equity indexed annuities or fixed indexed annuities that offer principal protection through a 0% floor feature.

Individual Indexed Variable Annuity – A variable annuity whose accumulation or policy value is, in whole or in part, linked to an index or indices and may offer some principal protection. Variable indexed annuities include buffer annuities or registered index-linked annuity that offer some principal protection but do not provide a guaranty against loss of principal.

Internal Replacement - An internal replacement is when the policy and/or annuity to be replaced was also issued by your company.

Issued During the Period - Report the number of policies that have an issue date within the reporting period.

- When reporting the policies/contracts that are broken out by the age of the insured or annuitant
 - for joint policies/contracts, use the age of the oldest insured or annuitant for determining the age category
- Internal and external replacements should be reported as new policies or contracts issued during the reporting period as well as reported in the number of internal and external replacements.

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Lawsuit—An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant.

For purposes of reporting lawsuits for Life & Annuities products:

- Include only lawsuits brought by an applicant for insurance, a policyholder or a beneficiary as a plaintiff against the reporting insurer or its agent as a defendant;
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred;
- Do not include arbitrations of any sort;
- If one lawsuit seeks damages under two or more policies or contracts, count the number of policies or contracts involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies or contracts, count the action as three lawsuits;
- If one lawsuit has two or more complainants, report the number of complainants as the number of lawsuits. For example, if one lawsuit has two complainants, report two lawsuits. If the lawsuit is a class action, see instructions for treatment of class action lawsuits;
- Report a lawsuit in the jurisdiction in which the policy or contract was issued with the exception of class action lawsuits;
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides.
- Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the applicant, policyholder, or beneficiary in an amount greater than offered by the reporting insurer before the lawsuit was brought.

Life Insurance Premiums – Funds used to purchase life insurance products issued by the company. Exclude Group Life and Credit Life premiums. For the purpose of this statement, life insurance premiums should be determined in the same manner used for the state pages of the company's financial annual statement.

NAIC Company Code – The five-digit code assigned by the NAIC to all U.S. domiciled companies which file a Financial Annual Statement with the NAIC.

NAIC Group Code – The code assigned by the NAIC to identify those companies that are a part of a given holding company structure. A zero indicates that the company is not part of an insurance holding company.

Non-Cash Value Product – A life insurance policy that does not contain a cash value element. Do not include life insurance covering only Accidental Death and Dismemberment (AD&D.)

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Policies/Contracts Applied For – Applications for life insurance or annuities that are submitted to the company which have or will result in a formal offer of an insurance or annuity contract or a formal declination of the application by the company. Applications that are declined by a broker-dealer or producer and never reviewed by the company are not included in this count.

Replacement Policy – A policy and/or annuity contract application received by your company that is intended to replace an existing policy and/or annuity contract according to each state's definition of a replacement. This may include both external and internal replacements according to each state's replacement law.

Include:

- loan purchases, if the original policy is surrendered,
- surrenders, if a replacement policy is issued in conjunction with the surrender
- 1035 exchanges

Do not include:

- policy conversions
- exchanges of a group policy for an individual policy

Resisted Claim – A claim is considered resisted when it is in dispute and not resolved on the financial statement date for the reporting period. Where the company is holding up payment for sufficient evidence or where a beneficiary has made a claim and then withdraws it, such items should be considered as in the course of settlement.

Surrendered Policy/Contract – A life insurance policy or annuity contract terminated at the request of the policy owner. It does not include life insurance policies or annuity contracts not taken or cancelled during the free look period. For annuities, systematic withdrawals (the withdrawal of a certain amount on a predetermined periodic basis for deferred annuities) and partial withdrawals should not be reported as "surrenders" for this statement.

Term Life Insurance – Life insurance that provides a death benefit if the insured dies during the specified period.

Universal Life Insurance – A form of whole life insurance that is characterized by flexible premiums, flexible face amounts and flexible death benefit amounts and its unbundling of the pricing factor.

Variable Annuity – An annuity under which the amount of the contract's accumulated value and the amount of the monthly annuity benefit payment fluctuate in accordance with the performance of a separate account.

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Variable Life Insurance – A form of whole life insurance under which the death benefit and the cash value of the policy fluctuate according to the investment performance of a separate account.

Variable Universal Life Insurance – A form of whole life insurance that combines the premium and death benefit flexibility of universal life insurance with the investment flexibility and risk of variable life insurance.

Withdrawal – For annuity contracts, see Surrendered Policy/Contract.

Whole Life Insurance – Life insurance that provides lifetime insurance coverage. Whole life insurance policies generally build cash value and cover a person for as long as he or she lives if premiums are paid as required. It would include life insurance policies that start accumulating cash value once the insured reaches a certain age as specified in the terms of the policy.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 7 MCAS LifeAnnuityAdditionAccelerated.pdf



Adopted by the Financial Condition (E) Committee July 21, 2022.

Adopted by the Financial Stability (E) Task Force and Macroeconomic (E) Working Group, June 27, 2022.

Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers

A summary of currently identified regulatory considerations follows with no consideration of priority or importance ([green underlined font](#) indicates current or completed work by another NAIC committee group). Most of these considerations are not limited to PE owned insurers and are applicable to any insurers demonstrating the respective activities. A summary of the regulatory process has been added to this document since it is being used by individuals less familiar with the state insurance regulatory system, and the [results of regulator discussions on how to move forward have been added to specific considerations in blue font](#). The proposed regulator responses are exposed for a 45-day comment period.

State insurance regulators monitor the solvency of each legal entity insurer, including assessing risks from the broader holding company when an insurer is part of a group, making use of routinely required disclosures, both public, such as the statutory financial statements, and confidential, such as the Risk-Based Capital (RBC) supplemental filing and Holding Company form filings. Regulators also use many analysis and examination tools and procedures for each insurer and/or insurance group. Regulatory responses to the analysis and examination work depend upon the results of those reviews. One specific area of solvency monitoring work focuses on potential acquisitions of a US legal entity insurer, involving a Form A filing. In 2013, guidance was added to the NAIC Financial Analysis Handbook for Form A reviews when a private equity owner was involved, although these considerations are not limited to PE acquisitions. The guidance provides examples of stipulations, both limited time and continuing, regulators could use when approving the acquisition to address solvency concerns, as well as for use in ongoing solvency monitoring. Examples follow:

Limited Time Stipulations:

- Requiring RBC to be maintained at a specified amount above company action level/trend test level. Because capital serves as a buffer that insurers use to absorb unexpected losses and financial shocks, this would better protect policyholders.
- Requiring quarterly RBC reports rather than annual reports as otherwise required by state law.
- Prohibiting any dividends, even ordinary.
- Requiring a capital maintenance agreement or prefunded trust account.
- Enhancing the scrutiny of operations, dividends, investments, and reinsurance by requiring material changes in plans of operation to be filed with the commissioner (including revised projections), which, at a minimum, would include affiliated/related party investments, dividends, or reinsurance transactions to be approved prior to such change.
- Requiring a plan to be submitted by the group that allows all affiliated agreements and affiliated investments to be reviewed, despite being below any materiality thresholds otherwise required by state law. A review of agreements between the insurer and affiliated entities may be particularly helpful to verify there are no cost-sharing agreements that are abusive to policyholder funds assessment.

Continuing Stipulations:

- Requiring prior commissioner approval of material arms-length, non-affiliated reinsurance treaties or risk-sharing agreements.

- Requiring notification within 30 days of any change in directors, executive officers or managers, or individuals in similar capacities of controlling entities, and biographical affidavits and such other information as shall reasonably be required by the commissioner.
- Requiring filing of additional information regarding the corporate structure, controlling individuals, and other operations of the company.
- Requiring the filing of any offering memoranda, private placement memoranda, any investor disclosure statements or any other investor solicitation materials that were used related to the acquisition of control or the funding of such acquisition.
- Requiring disclosure of equity holders (both economic and voting) in all intermediate holding companies from the insurance company up to the ultimate controlling person or individual but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of audit reports/financial statements of each equity holder of all intermediate holding companies but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of personal financial statements for each controlling person or entity of the insurance company and the intermediate holding companies up to the ultimate controlling person or company. Controlling person could include for example, a person who has a management agreement with an intermediate holding company.

Among many other concepts, regulators are considering the need for any additional stipulations, if there are some stipulations that should be required instead of used subjectively, and use of some stipulations beyond the Form A acquisition process (e.g., for insurers acquired in the past).

RRC Comments “In a Form A transaction” (7 bullet points) – Suggest including these in the referrals to the NAIC Group Solvency Issues (E) Working Group and the NAIC Risk-Focused Surveillance (E) Working Group for consideration when addressing Consideration numbers 1, 2, 4 and 5.

1. Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated/related party agreements impacting the insurer’s risks may be structured to avoid disclosure (for example, by not including the insurer as a party to the agreement).

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Items discussed:
 - o Instead of requiring for all Form A acquisitions to provide additional disclosures, structure an optional disclosure requirement that can be used when unresolved regulatory concerns exist with the acquisition. For example:
 - Disclosures to allow regulators to assess the goal of the potential owner in acquiring the insurer, how the potential owner will be paid and in what amounts, and the ability of the potential owner to provide capital support as needed.
 - Copies of disclosures provided to the potential owner’s investors.
 - o Provide training as needed to states with less experience reviewing complex Form A transactions and refer those states to more experienced states for live help.

- These options include highlighting the need to use external expertise for complex transactions, especially to understand non-U.S. affiliations and when assessing multiple complex Form A applications, and at the expense of the Form A applicant.

AIC Comment (recommended 2 items) – Suggest including this recommendation in the referral to the NAIC Group Solvency Issues (E) Working Group for its work on Consideration #1.

- Recommendation: The Working Group should assess, among other items: (i) the need to provide regulatory certainty *vis a vis* when and on what basis additional disclosures could be required; and (ii) whether the additional disclosures would extend approval timelines. We believe such items are critical to insurers being able to access the capital markets effectively and efficiently.
2. Control is presumed to exist where ownership is $\geq 10\%$, but control and conflict of interest considerations may exist with less than 10% ownership. For example, a party may exercise a controlling influence over an insurer through Board and management representation or contractual arrangements, including non-customary minority shareholder rights or covenants, investment management agreement (IMA) provisions such as onerous or costly IMA termination provisions, or excessive control or discretion given over the investment strategy and its implementation. Asset-management services may need to be distinguished from ownership when assessing and considering controls and conflicts.

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Regulators recognized the integral connection of the first two considerations. Items discussed:
 - o An emphasis on training and providing detailed examples to address the complexity and creativity involved in some of these Form A agreements and holding company structures.
 - o It is not practical to get copies of operating agreements from every entity in a group to assess control impacts to the insurers. Consider ways of better targeting the pertinent agreements to assess, including a potential list of questions about less than 10% owners for use when considering Form A applications and/or ongoing analysis.
 - o Consider if Form B (Insurance Holding Company System Annual Registration Statement) disclosure requirements should be modified to address these considerations.

AIC Comment (2 primary concerns) – Suggest asking the AIC to follow the work of the NAIC Group Solvency Issues (E) Working Group on Consideration #2 and make comments on specific recommendations if needed.

- Concerns: The 10% presumption of control needs to remain; and contractual terms contained in service agreements that are negotiated on an arm's length basis are not sufficient to convey the power to direct or cause the direction of an insurer, so long as they are subject to the ultimate supervision and control by the insurer.
3. The material terms of the IMA and whether they are arm's length or include conflicts of interest—including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.

Regulator discussion results:

- Refer this item to the NAIC Risk-Focused Surveillance (E) Working Group. Regulators recognized similar dynamics to the first two considerations, but this Working Group was selected because it is already currently focused on a project involving affiliated agreements and Form D filings. Items discussed:
 - o Consider training and examples, such as unique termination clauses and use of sub-advisors with the potential for additive fees, and strategies to address these.
 - This included addressing pushback on obtaining sub-advisor agreements as Form D disclosures and some optional disclosures for the Form A.
 - o Given the increasing prevalence of bespoke agreements, does it make sense to tie this work in to the work of the NAIC Valuation of Securities (E) Task Force and/or the NAIC Securities Valuation Office? If yes, how best to do so?
 - o Surplus Notes and appropriate interest rates given their special regulatory treatment, including whether floating rates are appropriate; follow any Statutory Accounting Principles (E) Working Group projects related to this topic and provide comments needed.

RRC Comments “With respect to an Investment Management Agreement (IMA)” (3 bullet points) - Suggest including these in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for Consideration #3.

AIC Comments on “Conflict of Interest, Fees, Termination” (3 individual comments) – Suggest including these comments in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for its work on Consideration #3.

4. Owners of insurers, regardless of type and structure, may be focused on short-term results which may not be in alignment with the long-term nature of liabilities in life products. For example, investment management fees, when not fair and reasonable, paid to an affiliate of the owner of an insurer may effectively act as a form of unauthorized dividend in addition to reducing the insurer’s overall investment returns. Similarly, owners of insurers may not be willing to transfer capital to a troubled insurer.
 - a. Life Actuarial (A) Task Force (LATF) work addresses this – helping to ensure the long-term life liabilities (reserves) and future fees to be paid out of the insurer are supported by appropriately modeled assets.

Regulator discussion results:

- In addition to LATF’s work, refer this item to the NAIC Risk-Focused Surveillance (E) Working Group, as it is already looking at some of this work related to affiliated agreements and fees. Items discussed:
 - o Capital maintenance agreements, suggesting guidance for the appropriate entities to provide them and considering ways to make them stronger.
5. Operational, governance and market conduct practices being impacted by the different priorities and level of insurance experience possessed by entrants into the insurance market without prior insurance experience, including, but not limited to, PE owners. For example, a reliance on TPAs due to the acquiring firm’s lack of expertise may not be sufficient to administer the business. Such practices could lead to lapse, early surrender, and/or exchanges of contracts with in-the-money guarantees and other important policyholder coverage and benefits.

- a. The NAIC Financial Analysis Handbook includes guidance specific to Form A consideration and post approval analysis processes regarding PE owners of insurers (developed previously by the Private Equity Issues (E) Working Group).

Regulator discussion results:

- Regulators considered referring this consideration to the NAIC Risk-Focused Surveillance (E) Working Group but opted to keep developing more specific suggestions for now. Items discussed:
 - o Consider optional Form A disclosures and guidance for less experienced states; review EU conduct of business language and consider if similar concepts would help target the optional use.
 - o Consider more detailed guidance for financial examinations.
 - o Besides just inexperience, the consideration also includes intentional actions that ignore known concerns to achieve owner's results; might need to consider Market Conduct group(s).
6. No uniform or widely accepted definition of PE and challenges in maintaining a complete list of insurers' material relationships with PE firms. (UCAA (National Treatment WG) dealt with some items related to PE.) This definition may not be required as the considerations included in this document are applicable across insurance ownership types.

Regulator discussion results:

- Regulators do not believe a PE definition is needed, as the considerations are activity based and apply beyond PE owners.
7. The lack of identification of related party-originated investments (including structured securities). This may create potential conflicts of interests and excessive and/or hidden fees in the portfolio structure, as assets created and managed by affiliates may include fees at different levels of the value chain. For example, a CLO which is managed or structured by a related party.
 - a. An agenda item and blanks proposal are being re-exposed by SAPWG. Desire for 2022 year-end reporting to include disclosures identifying related-party issuance/acquisition.

Regulator discussion results:

- Regulators are comfortable the SAPWG's work is sufficient as a first step since it involves code disclosures to identify various related party issues. They also recognize that existing and/or referred work at the Risk-Focused Surveillance (E) Working Group may address some items in this consideration. Once regulators work with these SAPWG disclosures and other regulatory enhancement, further regulatory guidance may be considered as needed.
8. Though the blanks include affiliated investment disclosures, it is not easy to identify underlying affiliated investments and/or collateral within structured security investments. Additionally, transactions may be excluded from affiliated reporting due to nuanced technicalities. Regulatory disclosures may be required to identify underlying related party investments and/or collateral within structured security investments. This would include, for example, loans in a CLO issued by a corporation owned by a related party.
 - a. An agenda item and blanks proposal are being re-exposed by SAPWG. The concept being used for investment schedule disclosures is the use of code indicators to identify the role of

the related party in the investment, e.g., a code to identify direct credit exposure as well as codes for relationships in securitizations or similar investments.

Regulator discussion results:

- Like the previous consideration, regulators are looking forward to using these code disclosures to help target areas for further review. However, specific to CLO/structured security considerations, regulators support a referral to the Examination Oversight (E) Task Force. Specific items discussed include:
 - o Since investors in CLOs obtain monthly collateral reports, regulators should consider asking for such reports when concerns exist regarding a company’s potential exposure to affiliated entities within their CLO holdings.
 - o Regulators would like to have more information regarding the underlying portfolio companies affiliated with a CLO manager to help quantify potential exposure between affiliates and related parties.
 - o Regulators request NAIC staff to consider their ability to provide tools and/or reports to help regulators target CLOs/structured securities to consider more closely.

RRC Comments on “collateralized loan obligations (CLOs)” (2 bullets) – Suggest including these in the referrals to the NAIC Examination Oversight (E) Task Force and the NAIC Risk-Focused Surveillance (E) Working Group for Consideration numbers 7, 8 and 9, but also sending to the NAIC Statutory Accounting Principles (E) Working Group for its existing work related to these Considerations.

9. Broader considerations exist around asset manager affiliates (not just PE owners) and disclaimers of affiliation avoiding current affiliate investment disclosures. A new Schedule Y, Pt 3, has been adopted and is in effect for year-end 2021. This schedule will identify all entities with greater than 10% ownership – regardless of any disclaimer of affiliation - and whether there is a disclaimer of control/disclaimer of affiliation. It will also identify the ultimate controlling party.
 - a. Additionally, SAPWG is developing a proposal to revamp Schedule D reporting, with primary concepts to use principles to determine what reflects a qualifying bond and to identify different types of investments more clearly. For example, D1 may include issuer credits and traditional ABS, while a sub-schedule of D1 could be used for additional disclosures for equity-based issues, balloon payment issues, etc. This is a much longer-term project, 2024 or beyond.

Regulator discussion results:

- Regulators recognize the new Schedule Y, Part 3, will give them more insights for owners of greater than 10%, but it does not provide insights for owners of less than 10%. However, regulators also recognize that existing and/or referral work of the Risk-Focused Surveillance (E) Working Group may help with some of this dynamic. Additionally, since the SAPWG 2022 code project and its longer-term Schedule D revamp project will help provide further disclosures that will assist with this consideration, regulators are comfortable waiting to see if further regulatory guidance is needed after using the resulting disclosures and other enhancements from these projects.
 - o Specific to owners of less than 10%, regulators discussed the April 19, 2022, Insurance Circular Letter No. 5 (2022) sent by the New York Department of Financial Services to all New York domiciled insurers and other interested parties. This letter highlights that avoiding the levels deemed presumption of control, e.g., greater than 10% ownership, does not create a safe harbor from a control determination and the related regulatory

requirements. The circular letter was distributed to all MWG members and interested regulators.

10. The material increases in privately structured securities (both by affiliated and non-affiliated asset managers), which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. (The NAIC Capital Markets Bureau continues to monitor this and issue regular reports, but much of the work is complex and time-intensive with a lot of manual research required. The NAIC Securities Valuation Office will begin receiving private rating rationale reports in 2022; these will offer some transparency into these private securities.)
 - a. LATF’s exposed AG includes disclosure requirements for these risks as well as how the insurer is modeling the risks.
 - b. SVO staff have proposed to VOSTF a blanks proposal to add market data fields (e.g., market yields) for private securities. If VOSTF approves, a referral will be made to the Blanks WG.

Regulator discussion results:

- Regulators focused on the need to assess whether the risks of these investments are adequately included in insurers’ results and whether the insurer has the appropriate governance and controls for these investments. Regulators discussed the potential need for analysis and examination guidance on these qualifications.
- To assist regulators in identifying concerns in these investments, regulators expressed support for the VOSTF proposal to obtain market yields to allow a comparison with the NAIC Designation. Once such data is available, regulators ask NAIC staff to develop a tool or report to automate this type of initial screening. Also, regulators again recognized the SAPWG Schedule D revamp work will help in identifying other items for initial screening.
- The regulators discussed LATF’s exposed AG, noting the Actuarial Memorandum disclosures that would be required for these privately structured securities along with the actuarial review work, and recognizing how those would be useful for analysts and examiners when reviewing these investments. Additionally, the Valuation and Analysis (E) Working Group would be able to serve as a resource for some of these insights for states without in house actuaries.
- As a result of the above discussions, regulators agreed to a referral to the Examination Oversight (E) Task Force to address the disclosures that will be available from LATF’s exposed AG. They agreed to wait for any further work or referral until they have an opportunity to work with the results of the VOSTF proposal and the SAPWG Schedule D revamp project.

RRC Comments on “privately structured securities” (2 bullets, 1 with 2 sub-bullets) – Suggest including these in the referral to the NAIC Examination Oversight (E) Task Force for Consideration #10 but also sending to the NAIC Valuation of Securities (E) Task Force for its existing work related to this Consideration.

AIC Comment on “Privately Structured Securities” (6 bullets) – Suggest asking the AIC to follow the work of the NAIC Examination Oversight (E) Task Force and the NAIC Valuation of Securities (E) Task Force and provide comments on specific recommendations if needed.

RRC Comment on the work by the NAIC Life Actuarial (A) Task Force (LATF) – Suggest adopting this recommendation as an addition to the Regulatory Discussion results and sending the referral.

- Recommendation: Since reserves are not intended to capture tail risk, refer this item to the NAIC RBC Investment Risk and Evaluation (E) Working Group and monitor the Working Group’s progress.

11. The level of reliance on rating agency ratings and their appropriateness for regulatory purposes (e.g., accuracy, consistency, comparability, applicability, interchangeability, and transparency).
- a. VOSTF has previously addressed and will continue to address this issue. A small ad hoc group is forming (key representatives from NAIC staff, regulators, and industry) to develop a framework for assessing rating agency reviews. This will be a multi-year project, will include discussions with rating agencies, and will include the inconsistent meanings of ratings and terms.

Regulator discussion results:

- Regulators agreed to monitor the work of the ad hoc group in lieu of any specific recommendations at this time. Recognizing this will likely be a multi-year project, regulators reserve the right to raise specific concerns that may arise as the various NAIC committee groups work to address this list of considerations.

12. The trend of life insurers in pension risk transfer (PRT) business and supporting such business with the more complex investments outlined above. ([Enhanced reporting in 2021 Separate Accounts blank](#) will specifically identify assets backing PRT liabilities.) Considerations have also been raised regarding the RBC treatment of PRT business.
- a. [LATF has exposed an Actuarial Guideline](#) to achieve a primary goal of ensuring claims-paying ability even if the complex assets (often private equity-related) did not perform as the company expects, and a secondary goal to require stress testing and best practices related to valuation of non-publicly traded assets (note – LATF’s considerations are not limited to PRT). [Comment period for the 2nd exposure draft ends on May 2.](#)

Regulator discussion results:

- Regulators focused on the need to have disclosures on the risks to the General Account from the Separate Account PRT business – for guarantees but also reporting/tracking when the Separate Account is not able to support its own liabilities. Regulators noted the need to address the differences between buy in PRT transactions and buy out.
 - Regulators are comfortable LATF is addressing the reserve considerations. To address the disclosure considerations, regulators support sending a referral to the Statutory Accounting Principles (E) Working Group since regulators suggested it be an item in the Notes to Financial Statements. (Regulators noted it might help to discuss such disclosure concepts with LATF’s Valuation Manual 22 (A) Working Group.)
 - While the exposed AG is not limited to PRT, and general disclosures may be helpful, regulators recognized additional and/or more specific disclosures may be needed for PRT business.
- b. Review applicability of Department of Labor protections resulting for pension beneficiaries in a PRT transaction.

Regulator discussion results:

- Regulators discussed concerns regarding potential differences between the pension benefit and the group annuity benefit in the PRT transaction.

- Regulators directed NAIC staff to further research this item for the MWG to address in the near future, including potential discussions with Department of Labor representatives.
- c. Review state guaranty associations' coverage for group annuity certificate holders (pension beneficiaries) in receivership compared to Pension Benefit Guaranty Corporation (PBGC) protection.
- i. NOLHGA provided 2016 study of state guaranty fund system vs. PBGC.

Regulator discussion results:

- Regulators recognized the difficulty in comparing the state guaranty system to the Pension Benefit Guarantee Corporation, as detailed in the NOLHGA study. However, they agreed policyholders should appreciate the benefit of having solvency regulators actively monitoring and working with the insurance companies in an attempt to prevent the need for any guaranty fund usage, as standard corporations holding pension liabilities have significantly less regulatory oversight.
 - Regulators found the NOLHGA study responsive to this consideration, thus they suggested no further action.
- d. "Considerations have also been raised regarding the RBC treatment of PRT business."
- Regulator discussion results:**
- Regulators recognized the work of the Longevity Risk Transfer (LRT) Subgroup of the Life Risk-Based Capital (E) Working Group covers PRT business. A new LRT charge was included in the 2021 Life Risk-Based Capital (LRBC) formula. Regulators agreed the results of this new charge should be monitored.
 - While regulators agreed to follow the work of the LRT Subgroup, they suggested no further action at this time.

13. Insurers' use of offshore reinsurers (including captives) and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk, and introduce complexities into the group structure.

- a. LATF's exposed AG was modified to require the company to provide commentary on reinsurance collectability and counterparty risk in the asset adequacy analysis memorandum. The original concept of requiring life insurers to model the business itself even if it uses these mechanisms to share/transfer risk was deferred to allow time to consider and address concerns over potential violations with EU/UK covered agreements and the 2019 revisions to NAIC Models 785 and 786.

Regulator discussion results:

- Regulators held candid conversations about the need to understand why insurers are using these types of offshore reinsurers. If there are problems in the U.S. regulatory system that are driving insurers to utilize offshore reinsurers (e.g., "excess" reserves), we should know of those problems so we can consider if there are appropriate changes to make.
- If there are other drivers, per the common theme in the regulators' review of this list of considerations, there isn't a presumption that the use of these transactions is categorically bad. Rather, there is a need to understand the economic realities of the transactions so the regulators can effectively perform their solvency monitoring responsibilities.

- Regulators discussed the potential concept of additional Holding Company Act requirements if these are affiliated reinsurers, disclosing the insurer benefits (reserves, capital, etc.).
- Regulators deferred specifying action on this item at this time, instead noting the desire to have meetings with industry representatives using these transactions and regulators from some of the offshore jurisdictions to gain more insights.

Northwestern Mutual Comment (2 cautions) – Suggest including these cautions as part of the MWG’s future discussions and work for this Consideration.

- Caution: Reinsurance transactions can and often do serve a valuable function by reallocating risk. However, offshore reinsurance can also result in lower total reserves and capital, reduced state regulatory oversight, and diminished stakeholder transparency from what would be required by the statutory accounting and risk-based capital requirements the NAIC has established to protect policyholders in the United States.
 - Caution: Without progress and action on the item pertaining to offshore reinsurance, the Working Group’s progress on other MWG Considerations could further incentivize even more utilization of offshore reinsurance transactions and undercut the NAIC’s efforts to close other solvency regulatory gaps domestically. In the long run, a system that encourages companies to transfer business to a related offshore entity in order to alter their reserves and capital from uniform standards diminishes the strength of reserve and capital regulation in the United States. If capital standards are deemed to be too conservative in the US, they should be addressed transparently and uniformly through the NAIC and not through the alternate means of offshore reinsurance.
- **Additional regulator discussion result:**
 - Similar to the result of discussions for the 13th consideration, regulators expressed a desire to meet with various industry representatives to discuss the incentives behind private equity ownership of insurers and conversely the concerns other industry members may have with such ownership. Regulators believe the insights from these conversations will benefit their ability to monitor and, when necessary, contribute to the work occurring in the various NAIC committee groups regarding these considerations.

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Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022

Adopted by the Financial Condition (E) Committee, July 21, 2022

Adopted by the Mutual Recognition of Jurisdictions (E) Working Group, June 29, 2022

NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation

Reciprocal Jurisdictions (Model #440, Section 4L(2)(c))

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
Member States of the European Union	Respective Member State Supervisory Authorities	January 1, 2022	
United Kingdom (UK)	Prudential Regulation Authority of the Bank of England (PRA)	January 1, 2022	
Bermuda	Bermuda Monetary Authority (BMA)	January 1, 2022	
Japan	Financial Services Agency (FSA)	January 1, 2022	
Switzerland	Financial Market Supervisory Authority (FINMA)	January 1, 2022	

Recognize and Accept Jurisdictions (Model #440, Section 4L(2)(d))

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
None currently			

Group Capital Calculation. On December 9, 2020, the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implement the Group Capital Calculation (GCC) filing requirements for insurance groups at the level of the ultimate controlling person for the purposes of evaluating solvency at the group level. The revisions specifically provide that the requirement to file the NAIC's GCC applies to U.S.-based groups, while a group headquartered outside the U.S. is exempt from the GCC (subject to limited exceptions detailed in the [Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation](#)) if its groupwide supervisor "recognizes and accepts" the GCC for U.S. groups doing business in that jurisdiction.

List of Jurisdictions that Recognize and Accept the GCC. The Mutual Recognition of Jurisdictions (E) Working Group will evaluate non-U.S. jurisdictions in accordance with the "Recognize and Accept" Process. A list of "Recognize and Accept" Jurisdictions is published through the NAIC committee process. Sections 21D and 21E of Model #450 provide a general framework for how the process to identify "Recognize and Accept" Jurisdictions will work and specifically contemplates the development of a list of such jurisdictions through the NAIC Committee Process.

NAIC Listing Process. Section 4L(2) of Model #440 provides two ways a non-U.S. jurisdiction may meet the standards for its insurance groups to be exempt from the GCC:

- (a) If the jurisdiction has been determined to be a Reciprocal Jurisdiction for purposes of credit for reinsurance, which includes a requirement that the jurisdiction "recognizes the U.S. state regulatory approach to group supervision and group capital" (Model #440, Section 4L(2)(c)); or
- (b) If the jurisdiction has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

Evaluation of Reciprocal Jurisdictions. Under Section 4L(2)(c) of Model #440, Reciprocal Jurisdictions that recognize the U.S. state regulatory approach to group supervision and group capital are exempt from the GCC. Because a "recognize and accept" evaluation by the Mutual Recognition of Jurisdictions (E) Working Group is already part of the Reciprocal Jurisdiction review process, all Reciprocal Jurisdictions designated by the NAIC through that review process are also automatically designated as "Recognize and Accept" Jurisdictions. Likewise, in view of the terms of the EU and UK Covered Agreements, all EU Member States and the UK are automatically designated "Recognize and Accept" Jurisdictions. If there is a material change to the terms of the U.S.-EU or U.S.-UK Covered Agreement, or if the United States enters into a new covered agreement with one or more non-U.S. jurisdictions, the Mutual Recognition of Jurisdictions (E) Working Group will consider, and will consult with FIO and USTR regarding, whether and how the applicability of the procedures in this document may apply.

Prudential Oversight and Solvency Monitoring. Section 4L(2)(e) of Model #440 directs a lead state commissioner to require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system based in a “Recognize and Accept” Jurisdiction if, after any necessary consultation with other supervisors or officials, the commissioner deems such a “subgroup” calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 provides that to assist with such a determination, the “Recognize and Accept” List will also identify whether a listed jurisdiction requires a group capital filing for any U.S. based insurance group’s operations in that jurisdiction. The NAIC will identify such jurisdictions on the “Recognize and Accept” List, and may include an explanatory note in cases where a simple “Yes” or “No” response does not adequately describe the jurisdiction’s requirements. States may rely on this List when making determinations under Section 4L(2)(e) of Model #440.

The specific details of the GCC Recognize and Accept process can be found in the [Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation.](#)

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Date: 07/29/22

State Implementation Reporting of NAIC-Adopted Model Laws and Regulations

Executive (EX) Committee

- Amendments to the *Unfair Trade Practices Act (#880)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2021 Spring National Meeting. Nine jurisdictions have enacted the revisions to this model.

Life Insurance and Annuities (A) Committee

- Amendments to the *Annuity Disclosure Model Regulation (#245)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2021 Summer National Meeting. NAIC staff are not aware of any activity regarding this model.
- Amendments to the *Suitability in Annuity Transactions Model Regulation (#275)*—These revisions were adopted by the Executive (EX) Committee and Plenary during the February 13, 2020, conference call. 27 jurisdictions have enacted the revisions to the model.
- Amendments to the *Standard Nonforfeiture Law for Individual Deferred Annuities (#805)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2020 Fall National Meeting. 16 jurisdictions have adopted the revisions to this model.

Health Insurance and Managed Care (B) Committee

- Amendments to the *Health Maintenance Organization Model Act (#430)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2020 Fall National Meeting. Five jurisdictions have enacted this model.
- Amendments to the *Insurance Holding Company System Regulatory Act (#440)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2020 Fall National Meeting. 22 jurisdictions have adopted the revisions to this model.
- Amendments to the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)*—These revisions were adopted by the Executive (EX) Committee and Plenary at the 2020 Fall National Meeting. Six jurisdictions have adopted the revisions to this model.

Property and Casualty Insurance (C) Committee

- Adoption of the *Real Property Lender-Placed Insurance Model Act (#631)*—This model was adopted by the Executive (EX) Committee and Plenary at the 2021 Spring National Meeting. NAIC staff are not aware of any activity regarding this model.

Financial Condition (E) Committee

- Amendments to the *Credit for Reinsurance Model Law (#785)*—These revisions were adopted by the Executive (EX) Committee and Plenary during the June 26, 2019, conference call. 52 jurisdictions have enacted this model.
- Amendments to the *Credit for Reinsurance Model Regulation (#786)*—These revisions were adopted by the Executive (EX) Committee and Plenary during its June 26, 2019, conference call. 48 jurisdictions have enacted this model.

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EXECUTIVE (EX) COMMITTEE

Executive (EX) Committee Aug. 11, 2022, Minutes..... 4-2

Executive (EX) Committee Interim Meeting Report (Attachment One) 4-6

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Adopted a Request for NAIC Model Law Development Regarding the *Property and Casualty Insurance Guaranty Association Model Act (#540)* (Attachment Three) 4-9

Adopted a Request for NAIC Model Law Development to Draft the New Insurance Consumer Privacy Protection Model Law (Attachment Four) 4-12

Adopted Revisions to the NAIC Consumer Participation Plan of Operation (Attachment Five) 4-14

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Draft: 8/24/22

Executive (EX) Committee
Portland, Oregon
August 11, 2022

The Executive (EX) Committee met in Portland, OR, Aug. 11, 2022. The following Committee members participated: Dean L. Cameron, Chair (ID); Chlora Lindley-Myers, Vice Chair (MO); Andrew N. Mais, Vice President (CT); Jon Godfread, Secretary-Treasurer (ND); David Altmaier, Most Recent Past President (FL); Lori K. Wing-Heier (AK); Michael Conway (CO); Trinidad Navarro (DE); Doug Ommen (IA); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Anita G. Fox (MI); Glen Mulready (OK); Andrew R. Stolfi (OR); Carter Lawrence (TN); and Scott A. White (VA).

1. Adopted the Aug. 10 Report of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee

Director Cameron reported the Executive (EX) Committee met Aug. 10 in joint sessions with the Internal Administration (EX1) Subcommittee. The meeting was held in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) and paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings.

During this meeting, the Committee and Subcommittee took the following action: 1) adopted its June 21 and Spring National Meeting minutes; and 2) the Committee's April 13 minutes.

The Committee and Subcommittee also: 1) adopted the report of the Audit Committee, which met Aug. 3 and May 16 and took the following action: a) discussed potential revenue changes for the 2023 budget; b) received the June 30 financial update; c) selected a new financial audit firm; d) discussed grant and zone financials, including potential changes for 2023 member grant and zone funding; e) heard an update on the ERP project; f) affirmed the 2023 Audit Committee charter; g) heard an update on the 2023 budget calendar; h) received the 2021/2022 Service Organization Control (SOC) 1 and SOC 2 audit reports; and i) approved the Target Reserve Policy.

The Committee and Subcommittee also: 1) adopted the report of the Internal Administration (EX1) Subcommittee, which met July 7 and took the following action: a) received the March 31 Long-Term Investment Portfolio report; and b) received the March 31 Defined Benefit Portfolio report.

The Committee and Subcommittee also: 1) approved the Member Services Staffing Fiscal; 2) approved the ERP Fiscal; 3) heard the chief executive officer/chief operating officer (CEO/COO) report; 4) heard an update on the *State Connected* strategic plan; 5) received an update on the proposed 2023 NAIC budget; 6) heard an update on the use of NAIC designations by foreign jurisdictions; 7) heard a cybersecurity report; and 8) heard a diversity, equity, and inclusion (DE&I) report.

Commissioner Altmaier made a motion, seconded by Commissioner Mais, to adopt the Aug. 10 report of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee. The motion passed unanimously.

2. Adopted its June 21 Interim Meeting Report

Commissioner Altmaier made a motion, seconded by Director Wing-Heier, to adopt the Executive (EX) Committee's June 21 interim meeting report (Attachment One). The motion passed unanimously.

3. Adopted the Reports of its Task Forces

Commissioner Altmaier made a motion, seconded by Commissioner Godfreed, to adopt the reports of the: 1) Climate and Resiliency (EX) Task Force; 2) Government Relations (EX) Leadership Council; 3) Long-Term Care Insurance (EX) Task Force; and 4) Special (EX) Committee on Race and Insurance (Attachment Two). The motion passed unanimously.

4. Adopted a Request for NAIC Model Law Development Regarding Model #540

Commissioner White reported that on July 21, the Financial Condition (E) Committee adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540). This request was originally proposed by the Restructuring Mechanisms (E) Working Group, which is charged with developing a white paper related to insurance business transfers (IBTs) and corporate divisions (CDs).

During that Working Group's discussion, it was identified that Model #540 needs to be amended with regard to how policyholders retain guaranty fund coverage for IBT and CD transactions. The Working Group forwarded the request to the Receivership and Insolvency (E) Task Force, which discussed the proposal and sent it to the Financial Condition (E) Committee for its consideration.

Commissioner White made a motion, seconded by Commissioner Donelon, to adopt the Request for NAIC Model Law Development to develop amendments to Model #540 (Attachment Three). The motion passed unanimously.

5. Adopted a Request for NAIC Model Law Development to Draft the New Insurance Consumer Privacy Protection Model Law

Commissioner Birrane reported that the Privacy Protections (H) Working Group adopted the Request for NAIC Model Law Development to replace the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) with one new model during its Aug. 2 meeting, with Nebraska opposing. The Innovation, Cybersecurity, and Technology (H) Committee adopted the request during its Aug. 10 meeting.

Commissioner Birrane made a motion, seconded by Commissioner Godfreed, to draft the new Insurance Consumer Privacy Protection Model Law (Attachment Four). The motion passed unanimously.

6. Adopted the Revisions to the NAIC Consumer Participation Plan of Operation

Commissioner Conway reported that the Consumer Board of Trustees adopted the Plan of Operation for the Consumer Participation Program during the Spring National Meeting. Revisions were made to Section 2.F. and Section 2.J.

The revisions to Section 2.F. would expand the pool of potential consumer board members to include unfunded consumer representatives. It would also require consumer board members to have served as a consumer representative for at least two years, rather than one year.

The revisions to Section 2.J. would allow no change to the Plan of Operation to be taken by the Board without prior disclosure to and opportunity for comment by current consumer representatives of the proposed changes.

Commissioner Conway made a motion, seconded by Director Wing-Heier, to adopt the revisions to the NAIC Consumer Participation Plan of Operation (Attachment Five). The motion passed unanimously.

7. Received a Status Report on the NAIC *State Ahead* Strategic Plan Implementation

Director Cameron provided an update on NAIC *State Ahead* implementation efforts. *State Ahead* is a three-year strategic plan for the organization intended to further advance the products, services, and support the NAIC provides to state insurance regulators in order to better meet the changing regulatory landscape. Overall, NAIC staff continue to make good progress on the many *State Ahead* projects (Attachment Six). Planning has begun at the member level for the next iteration of the strategic plan.

8. Received a Report of Model Law Development Efforts

Director Cameron presented a written report on the progress of ongoing model law development efforts (Attachment Seven).

9. Heard a Report from the NIPR Board of Directors

Superintendent Dwyer reported that the National Insurance Producer Registry (NIPR) Board of Directors met Aug. 9. NIPR has continued to have a strong financial performance for the first half of the year. Revenue at the end of June was 9.5% above budget.

NIPR continues to implement the Contact Change Request service for business entities, which allows industry to update – in one place through NIPR – email, telephone, and address changes required by states. To date, NIPR has 32 state insurance departments using the service. This service provides an electronic solution for the states and industry, reducing time and cost for industry and state insurance regulators.

NIPR will participate in the NAIC Insurance Summit held in Kansas City, MO. The Producer Licensing Track will include sessions on producer licensing education, an adjuster licensing roundtable, an update on NIPR initiatives, and a regulator/industry DE&I session relating to the distribution of insurance.

10. Heard a Report from the Compact

Commissioner Birrane reported that the Interstate Insurance Product Regulation Commission (Compact) will meet Aug. 12.

The Compact had a successful year in 2021, receiving more than 1,500 product filing submissions and collecting and remitting more than \$3.66 million in state filing fees. Throughout 2021, the Compact conducted a thorough form and actuarial review in an average of 27 days. The Compact ended 2021 with a positive net revenue of almost \$800,000.

For the first six months of 2022, the filing activity has not been as robust as companies implement the prior filings, although it is expected to pick up in the second half of the year.

Through the end of June, the Compact received more than 450 submissions and collected and remitted \$1.5 million in state filing fees, with an average review time of 25 days.

Commissioner Birrane reported that the Compact distributed a Value of Services to all Compacting states showing the value each state receives, not only in retaining all applicable state filing fees but, more importantly, the value of the operational services the organization performs for each state. For most states, the value of Compact membership is between \$1.5 million and \$2 million each year.

On July 13, the Compact officers hosted a roundtable session in New York City, NY, bringing together nearly 50 attendees, including 12 commissioners, three state legislators, a consumer representative, industry association representatives, and representatives from 12 companies. During the roundtable, participants shared perspectives on the Compact and discussed, in breakout groups, the strengths, challenges, and next bold ideas for the organization. The feedback was positive and the Compact is planning another roundtable in Omaha, NE, scheduled for Oct. 26.

Commissioner Birrane noted that during its Aug. 12 meeting, the Compact will consider adoption of Position Statement 1-2022, which addresses the 2020 Colorado Supreme Court ruling on a matter involving a provision in a Compact-approved insurance policy that was consistent with the Compact's Uniform Standards but conflicted with a state statute. By adopting the Position Statement, the Compact will have an official position that it received a form of congressional consent from Congress in 2006 when a federal law was enacted consenting to the District of Columbia joining the Compact and delegating the powers thereunder to the Compact.

Commissioner Birrane gave special recognition to the National Council of Insurance Legislators (NCOIL) and the National Conference of State Legislatures (NCSL), which both passed resolutions at their respective summer meetings reaffirming their support of the Compact. NAIC members worked closely with members of these legislative organizations in the development and implementation of the Compact, with both endorsing the legislation in 2004. As part of their respective resolutions, each organization indicated its support for adoption of the Position Statement by the Compact.

The Compact will continue discussions and pursue changes to its procedures to provide flexibility for states to raise specific concerns regarding a Uniform Standard and meaningful conflict with state law.

The Governance Committee will be recommending changes to the suicide exclusion provision in the life Uniform Standards to address the conflict that was the subject of the Colorado opinion.

The Audit Committee will vote to select the Compact's independent audit firm for the next three to five years.

The Compact will conduct a public hearing on rulemaking around expanding the use of Compact-approved products beyond employer-employee groups. The Rulemaking Committee has developed a framework and proposed operating procedure to ensure companies are following state laws with respect to the types of groups, including non-employer groups, that can sell group products approved by the Compact.

Having no further business, the Executive (EX) Committee adjourned.

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Draft: 8/3/22

EXECUTIVE (EX) COMMITTEE

June 21, 2022

Summary Report

The Executive (EX) Committee met June 21, 2022, in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings. During this meeting, the Committee:

1. Received an update on the NAIC's 2022 financials and an overview of preliminary work on the 2023 budget.
2. Approved the Catastrophe Modeling Center of Excellence (COE) Fiscal Impact Statement.
3. Approved the Variable Annuity Model Office Fiscal Impact Statement.
4. Received an update on the Enterprise Resource Planning (ERP) project.

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Draft: 8/10/22

REPORT OF THE EXECUTIVE (EX) COMMITTEE TASK FORCES

Climate and Resiliency (EX) Task Force—The Climate and Resiliency (EX) Task Force met Aug. 11 and took the following action: 1) adopted its March 21 minutes, which included the following action: a) adopted a proposal for the Center for Insurance Policy and Research (CIPR) to create a Catastrophe Model Center of Excellence (COE); and b) adopted the revised Climate Risk Disclosure Survey for states to use voluntarily at their discretion; 2) heard a presentation from Zurich North America and Resilient Cities Network on their partnership to improve community resilience; 3) heard a presentation from Munich Reinsurance America on solutions to improve community flood mitigation; and 4) heard a federal update.

Government Relations (EX) Leadership Council—The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting. The Leadership Council meets weekly in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss federal legislative and regulatory developments affecting insurance regulation.

Long-Term Care Insurance (EX) Task Force—The Long-Term Care Insurance (EX) Task Force will meet Aug. 12 and anticipates the following action: 1) adopting its Spring National Meeting minutes; 2) receiving a report on the implementation of the Long-Term Care Insurance Multistate Rate Review Framework (LTCI MSA Framework), which is expected to be implemented by September; 3) hearing a report on industry trends and factors affecting reserve levels; 4) hearing a report on the LTCI Multistate Actuarial (MSA) Associate Program; and 5) hearing a presentation on a CIPR research project on reduced benefit options (RBOs) and discussing potential future research in this area. At the Spring National Meeting, in addition to previously reported actions, the Task Force disbanded the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup.

Special (EX) Committee on Race and Insurance—The Special (EX) Committee on Race and Insurance will meet Aug. 11 and anticipates the following action: 1) adopting its Spring National Meeting minutes; and 2) receiving reports from its five workstream; 3) hearing an update on the State Diversity Leaders Forum; 4) hearing a presentation on diversity from the District of Columbia Department of Insurance, Banking and Securities, and 5) hearing an update on the Collaboration Forum on algorithmic bias.

- Workstream One of the Special Committee has been researching the level of diversity and inclusion within the insurance sector and developing recommendations on action steps state insurance regulators and companies can take. The Workstream met in regulator-to-regulator session in May to begin discussing draft recommendations that reflect discussions with stakeholders and state insurance regulators. The Workstream plans to meet after the Summer National Meeting to continue its work on completing these recommendations.
- Workstream Two of the Special Committee distributed the zone-level best practices survey responses during the Commissioners' Mid-Year Roundtable. Workstream Two's recent work continues to be facilitated by Evelyn Boswell, NAIC Director of Diversity, Equity & Inclusion (DE&I), through the Member Diversity, Equity & Inclusion Forum. The best practices survey responses have been made available to Forum members as they share best practices and discuss promoting diversity in their respective insurance departments. The Member Diversity, Equity & Inclusion Forum last met in July, where Philip Barlow, Associate Commissioner for Insurance at the District of Columbia Department of Insurance, Securities and Banking, shared how the Department is expanding DE&I outreach through various community partnerships.

- Workstream Three of the Special Committee is focused on property/casualty (P/C) insurance issues. The Workstream has been engaged with the Collaboration Forum addressing how bias within digital decisional systems and complex predictive models driven by artificial intelligence (AI)/machine learning (ML) can result in unfair discrimination. The Collaboration Forum serves as the platform in identifying and addressing foundational issues to develop a common framework that can inform the work product of Workstream Three. Leadership of Workstream Three has been actively involved with the Collaboration Forum and plans to leverage the foundational education related to algorithmic bias in order to consider regulatory approaches to addressing unfair discrimination in the P/C insurance market. The Workstream plans to first consider potential bias within the marketing of insurance products. The Workstream is planning a session at the NAIC's Insurance Summit in September to hear from insurers and experts on insurance marketing and advertising.
- Workstream Four of the Special Committee is focused on life insurance. The Workstream met June 10 and heard a presentation from the Financial Alliance for Racial Equity (FARE). The Workstream continues to focus on its charge to “continue research and analysis related to insurance access and affordability issues, including the marketing, distribution, and access to life insurance products in minority communities, including the role that financial literacy plays.” The Workstream plans to meet following the Summer National Meeting to hear additional presentations to inform its work.
- Workstream Five of the Special Committee has been meeting monthly since the Spring National Meeting. During these meetings, the Workstream has heard from various stakeholders, such as consumer groups, academics, and industry related to these issues with a focus on benefit design and consumer empowerment. The Workstream's next meeting is Aug. 23, during which it will hear from presenters on issues related to barriers to care with respect to plan benefit design.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 2 TF CombinedRpt.docx

Adopted by the Executive (EX) Committee, 8/11/22

Adopted by the Financial Condition (E) Committee, 7/21/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: **New Model Law** or **Amendment to Existing Model**

1. Name of group to be responsible for drafting the model:

Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force to complete the drafting. Referred by the Restructuring Mechanisms (E) Working Group.

2. NAIC staff support contact information:

Jane Koenigsman
jkoenigsman@naic.org
816-783-8145

Dan Daveline
ddaveline@naic.org
816-783-8134

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

- ***Property and Casualty Insurance Guaranty Association Model Act (#540)***

In 2019, the Financial Condition (E) Committee formed the Restructuring Mechanisms (E) Working Group who was charged with the following:

1. Evaluate and prepare a white paper that:
 - a. Addresses the perceived need for restructuring statutes and the issues those statutes are designed to remedy. Also, consider alternatives that insurers are currently employing to achieve similar results.
 - b. Summarizes the existing state restructuring statutes.
 - c. Addresses the legal issues posed by an order of a court (or approval by an insurance department) in one state affecting the policyholders of other states.
 - d. Considers the impact that a restructuring might have on guaranty associations and policyholders that had guaranty fund protection prior to the restructuring.
 - e. Identifies and addresses the legal issues associated with restructuring using a protected cell.

Background for Proposed Change

This proposed change is being precipitated by discussions within the NAICs Restructuring Mechanisms (E) Working Group initiative, which is focused on documenting in the form of a White Paper, the various issues related to insurance business transfers (IBT) and corporate division (CD) transactions. The number of states adopting laws that permit either of these transactions is still relatively low; however, one of the most significant issues that has been discussed during the meetings of the Working Group is the need for policyholders subject to such transactions to retain guaranty fund coverage. Representatives of the National Conference of Insurance Guaranty Funds (NCIGF) have suggested that an amendment to a state's guaranty fund act, or other related law, is necessary to address this issue. They have specifically suggested that the NAIC update the Property and Casualty Insurance Guaranty Association Model Act,

and they have developed specific language to address this issue. An amendment will better enable those states that have incorporated #540 into their laws to update their laws for this important issue, to ensure policyholders in all states retain their coverage. Because guaranty association coverage follows the state of licensure rather than the state of domicile, adequately addressing these concerns is necessary regardless of the type of transfer and regardless of how few states adopt changes to their laws to allow IBT and CD transactions.

Scope of the Proposed Revisions to Model 540

The scope of the request is limited to addressing the issue of continuity of guaranty fund coverage when a policy is transferred from one insurer to another. The request is therefore to the specific proposal to revise the definition of “Covered Claim” within #540, or other language determined to be appropriate to address the need for continuity of protection. The following is the additional language (underlined language) that has been proposed to be added to Section 5, Definitions, within #540.

H. “Covered claim” means the following:

- (a) The claimant or insured is a resident of this State at the time of the insured event, provided that for entities other than an individual, the residence of a claimant, insured or policyholder is the State in which its principal place of business is located at the time of the insured event; or
- (b) The claim is a first party claim for damage to property with a permanent location in this State.
- (c) Notwithstanding any other provision in this Act, an insurance policy issued by a member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of another insurer, pursuant to a state statute providing for the division of an insurance company or the statutory assumption or transfer of designated policies and under which there is no remaining obligation to the transferring entity (commonly known as “Division” or “Insurance Business Transfer” statutes), shall be considered to have been issued by a member insurer which is an Insolvent Insurer for the purposes of this Act in the event that the insurer to which the policy has been allocated, transferred, assumed or otherwise made the sole responsibility of is placed in liquidation.
- (d) An insurance policy that was issued by a non-member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of a member insurer under a state statute described in subsection (a) shall not be considered to have been issued by a member insurer for the purposes of this Act.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

This proposed change is needed to ensure policyholders in all states retain their guaranty fund coverage, which is necessary regardless of how few states adopted changes to their laws to allow IBT and CD transactions.

It should be noted that with respect to guaranty fund coverage for life and health insurance, the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is suggesting a different approach to address the same issue in the life and health context. NOLHGA’s proposal centers around the need for such transaction to require the assuming or resulting insurer to be licensed in all states where the issuing insurer was licensed or ever was licensed to retain the needed coverage for policyholders.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: See previous discussion.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple and because they have the potential to reduce expenses incurred by receivership estates, we believe such changes will be widely supported by all parties.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

Not referenced in Accreditation Standards.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.

Adopted by the Executive (EX) Committee – 8/11/22

Adopted by the Innovation, Cybersecurity, and Technology (H) Committee – 8/10/22

Adopted by the Privacy Protections (H) Working Group – 8/2/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective parent committee and the NAIC's Executive (EX) Committee is required. The NAIC's Executive (EX) Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail, as necessary, to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Privacy Protections (H) Working Group

2. NAIC staff support contact information:

Lois E. Alexander
Market Regulation Manager II lalexander@naic.org
816-783-8517

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form, and reference the section(s) proposed to be amended.

Proposed Title: *Insurance Consumer Privacy Protection Model Law*

The NAIC's models addressing data privacy—*NAIC Insurance Information and Privacy Protection Model Act* (#670) and *Privacy of Consumer Financial and Health Information Regulation* (#672)—were adopted several decades ago. After studying this issue over the past two years, the Privacy Protections (H) Working Group has determined that a new model law is necessary to enhance the consumer protections and the corresponding obligations of entities licensed by the insurance department to reflect the extensive innovations that have been made in communications and technology over these decades.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

Access to consumer data by insurance companies, insurance producers, and their third-party vendors has multiplied exponentially via the internet, telematics, and other data tracking technology. This, in turn, has increased the use of complex algorithms, including machine learning (ML) and artificial intelligence (AI). State insurance regulators applying current model law and regulation requirements to consumer privacy notifications have encountered questions about the extent of consumer ownership and control of the use of such consumer data by the insurance industry. Consumers are faced with opt-in/opt-out decisions that leave questions as to whether they may have given away their rights to control their personal data, much of which insure do not even need to determine insurability and risk.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive (EX) Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: The Privacy Protections (H) Working Group has a work plan in place that is posted on the Working Group’s web page and drafting groups committed to drafting and adopting revisions to Models #670 and Model #672 by the 2023 Summer National Meeting.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: NAIC members are aware of the need for a new model law to enhance consumer privacy protections via notifications and education to consumers regarding standards for licensees and their third-party vendors responsibilities regarding collection, use, and disclosure of consumers’ information.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

It is not.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

The federal Gramm-Leach-Bliley Act (GLBA), enacted in 1999, imposed privacy and security standards on financial institutions and directed state insurance commissioners to adopt certain data privacy and data security regulations. Model #672 is the regulation adopted in response to the GLBA. The new model will include GLBA data privacy standards and replace Model #672.



2021 Redline RevOne – May 28, 2021

**Reflects Edits Adopted by the NAIC/Consumer Board of Trustees on April 7, 2019
Adopted by NAIC/Executive (EX) Committee on June 25, 2019.**

**PLAN OF OPERATION
NAIC CONSUMER PARTICIPATION PROGRAM**

April 11, 2017

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost-effective manner, consistent with the wishes of its members:

*Protect the public interest;
Promote competitive markets;
Facilitate the fair and equitable treatment of insurance consumers;
Promote the reliability, solvency and financial solidity of insurance institutions; and
Support and improve state regulation of insurance.*

To promote consumer representation and participation in the NAIC, the Consumer Participation Program was established by the NAIC.

Section 1. Mission

The mission of the NAIC Consumer Participation Program is to assist the NAIC in its efforts to support state insurance regulation by providing consumer views on insurance regulatory issues.

Section 2. NAIC Consumer Participation Board of Trustees

- A. The NAIC Consumer Participation Board of Trustees (Board) shall consist of 12 members: six NAIC members and six funded consumer representative members.
- B. The current president of the NAIC, or his or her designee shall serve as Chairperson of the Board.
- C. The NAIC Executive Committee shall annually appoint the NAIC members of the Board at the beginning of each year.
- D. Board appointments of the six NAIC members shall be confirmed by the NAIC Executive Committee during the first quarter of the year.
- E. The term of service for the six NAIC members of the Board shall be one year, which shall begin on January 1 and conclude on December 31.
- F. Each December, the six NAIC members serving on the current Board shall appoint to the board six ~~funded~~ consumer representatives, chosen from those who will serve in the upcoming year ~~to serve on the Board in the following year~~. The consumer representatives selected to serve on the Board shall have served for at least one-two years as a NAIC-funded consumer representative.

- G. Consumer Members of the Board shall serve staggered, two-year terms with three different consumer members of the Board rotating on and off the Board annually; however, each must submit a recertification form for the second year of their term. NAIC members of the Board will review second-year recertification forms to determine if there is a reason a consumer representative should not continue to serve on the Board. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.
- H. Consumer representatives shall be asked to indicate their interest to serve on the Board when they apply to be funded consumer representatives.
- I. The Board may meet in person or via teleconference to conduct its business.
- J. Meetings of the Board are not public meetings and matters discussed are to be kept confidential unless publicly disclosed by the Chairperson of the Board. However, no change to the Plan of Operation may be taken by the Board without prior disclosure to and opportunity for comment by current consumer representatives of the proposed changes.
- K. A consumer representative Board member may be removed by a majority vote of the Board (four of the six NAIC members and four of the six consumer representative members) whenever, in their judgment, the best interests of the Board would be served thereby. Prior to the vote, the consumer representative Board member under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her Board seat and /or to answer any questions of the Board members.
- L. If a vacancy occurs on the Board prior to October 1 due to the resignation or removal of a Board member, a new Board member shall be appointed to serve out the remainder of the term. If the open position is that of an NAIC Member, a replacement shall be appointed by the NAIC Officers. If the open position is that of a funded Consumer Representative, a replacement shall be appointed by the NAIC Members of the Board. No replacement will be appointed for a vacancy on the Board that occurs on or after October 1.

Section 3. Duties of the Board

- A. The Board shall administer the Consumer Participation Program:
 - 1. By the end of the calendar year prior to the new term, the current Board shall select the NAIC funded and unfunded consumer representatives to serve in the next calendar year.
 - 2. The Board may also remove a designated consumer representative by a majority vote of the Board (four of the six NAIC members and four of the six consumer members) whenever the representative no longer meets the consumer representative qualifications; or, whenever in its judgment, the best interests of the Consumer Participation Program would be served, thereby. Prior to the vote, the designated consumer representative under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her designation and/or to answer any questions of the NAIC Board members.
 - 3. At the last national meeting of each year, the Chairperson of the NAIC Consumer Participation Board of Trustees shall provide the NAIC Executive (EX) Committee with an annual report summarizing the Board's activities for the year, as well as the consumer participation in the Program.

Section 4. Consumer Representatives

- A. Consumer representatives must possess a commitment to and experience with consumer advocacy regarding insurance regulatory issues.
- B. Applicants may apply to be designated funded or unfunded consumer representatives.

Section 5. Consumer Representative Application Process

- A. By August 31 of each year, a link for web access to the blank consumer representative applications shall be posted on the NAIC website along with: 1) a statement that the NAIC encourages those individuals and consumer advocacy groups with a commitment to and experience with consumer advocacy regarding insurance regulatory issues; 2) a statement describing the NAIC and its services to the state insurance departments; 3) a schedule of the NAIC meetings for the following year and their locations; 4) a list of the NAIC committees and their memberships; 5) an explanation that the role of the consumer representatives at NAIC meetings is to serve as a liaison to the consumer advocacy community and to offer the consumer perspective; and 6) the following statement:

The NAIC provides an equal opportunity for all applicants and does not discriminate based on: race, creed, color, sex, sexual orientation, gender identity or expression, religion, age, national origin or ancestry, handicap or disability, marital status, pregnancy, genetic information, veteran or military status or any other status protected by law.

- B. Prospective consumer representatives are required to submit fully completed applications to the NAIC by October 31. (Partial or late applications will not be considered.) To be considered a fully completed application, the applicant must:
1. Submit a copy of his or her organization's by-laws, if available, reflecting the organization's mission to represent consumer interests and promote consumer protection, if the applicant is applying as a representative of a consumer organization.
 2. Submit a completed and signed application with all required attachments.
 3. Submit a signed NAIC Conflict of Interest Statement to disclose conflicts, if any, and acknowledge the NAIC's expectation that he or she will notify the Board of any potential conflict of interest as soon as one arises during the year. The Board will determine if a conflict exists and what action may be required on a case-by-case basis.

Section 6. Consumer Representative Qualifications

- A. Applicants for the position of NAIC consumer representative shall:
1. Demonstrate a commitment to and experience with consumer advocacy regarding insurance regulatory issues;
 2. Demonstrate an expertise in insurance regulatory issues;
 3. Demonstrate an ability to effectively advocate for consumers in a collegial, respectful and professional manner;
 4. Commit to attending regular NAIC meetings absent exceptional circumstances, and commit to participating on NAIC conference calls, including calls among consumer representatives; and
 5. Only be considered for reappointment if he or she attends NAIC meetings and participates in NAIC meetings and NAIC calls.
- B. Applicants for a funded representative position must describe in detail the applicant's need for NAIC funding, including his or her current source of funding. If he or she is applying as a consumer representative of an organization, he or she must submit the organization's most current annual budget.
- C. At the completion of the selection process, successful applicants will be notified of his or her appointment as either a funded or unfunded consumer representative.
- D. The current Board will determine if unsuccessful applicants for funded positions may be considered for unfunded positions.

Section 7. Reimbursement of Expenses

NAIC funded consumers shall submit expense reports itemizing the costs of attending NAIC meetings according to the NAIC Funded Consumer Representative Guidelines for Reimbursement of Expenses located on the NAIC Consumer Participation web site.

Unfunded consumer representatives will not receive reimbursement for travel expenses from the NAIC but are eligible for other benefits, including waiver of the NAIC national meeting registration fees.

Section 8. Designated Consumer Representative Term

Designated consumer representatives are appointed by NAIC and consumer members of the Board and shall serve two-year terms; however, each must submit a recertification form for the second year of the term.

NAIC and consumer members of the Board will review recertification forms to determine if there is a reason a designated consumer representative should not continue to serve. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.

Section 9. Representatives Chosen to Represent an Organization

A consumer representative chosen to represent an organization will be expected to resign their position if the representative ceases to be affiliated with the organization or if the organization ceases to exist.

Such a representative may apply to be an individual, independent consumer representative during the next annual application period.

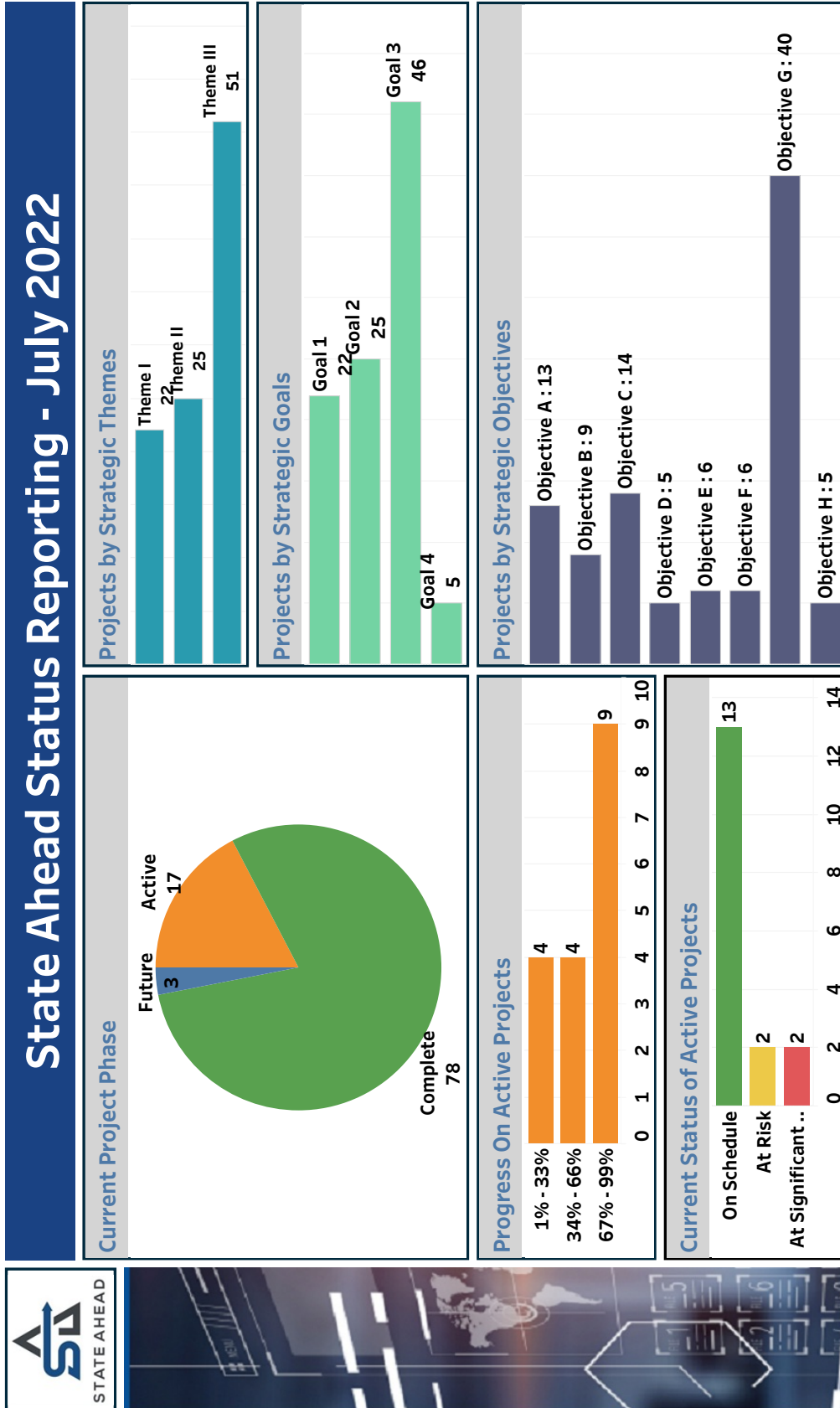
Section 10. Further Information

Information about the NAIC Consumer Participation Program (application deadline, selection criteria, etc.) and complete listings of the current NAIC Funded and Unfunded Consumer Representatives can be found on the NAIC website.

Section 11. NAIC/Consumer Liaison Committee

- A. The purpose of the NAIC Consumer Liaison Committee is to assist the NAIC in its mission to support state insurance regulation by providing consumer views on insurance regulatory issues. The Liaison Committee provides a forum for ongoing dialogue between NAIC members and NAIC consumer representatives.
- B. To promote participation at NAIC meetings, the agenda of the NAIC Consumer Liaison Committee shall be set and distributed no later than 21 days prior to the next NAIC national meeting by the Chairperson of the NAIC Consumer Liaison Committee in consultation with one of the six consumer members of the Consumer Participation Board of Trustees. Any amendments made to this agenda are subject to the approval of the Chairperson of the NAIC Consumer Liaison Committee.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 5 CBOT Plan of Operation.docx





Draft: 8/3/22

Model Law Development Report

Amendments to the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)*—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA). Therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee. At the 2015 Fall National Meeting, the Regulatory Framework (B) Task Force discussed the proposed revisions to this model. The Task Force met Feb. 11, 2016, and appointed the Accident and Sickness Insurance Minimum Standards (B) Subgroup to work on revisions to this model. The Subgroup has been meeting on a regular basis since the 2016 Spring National Meeting, and it plans to continue meeting until it completes its work. During its meetings, the Subgroup has discussed several issues, including its approach for revising the model's disability income insurance coverage provisions, and it decided preliminarily to review the Interstate Insurance Product Regulation Commission's (Compact's) approach.

After pausing its work due to the ACA's potential repeal, replacement, or modification—and the possible impact on the provisions of this model, as well as the Subgroup's preliminary proposed revisions to the model—the Subgroup began meeting again in May 2018. Revisions to the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)* were adopted by the full NAIC membership at the 2019 Spring National Meeting. The Subgroup has been meeting to consider revisions to Model #171 for consistency with the revised Model #170 since the 2019 Summer National Meeting discussion on comments received on Sections 1–5 of Model #171. In December 2019, the Subgroup set a public comment period ending Feb. 7, 2020, to receive comments on Sections 6–7 of Model #171. Due to the COVID-19 health emergency, the Subgroup has not scheduled any meetings. Any future meetings will depend on when a new co-chair is appointed and the duration of the COVID-19 health emergency. As requested, the Subgroup received comments from stakeholders on Sections 6–7 of Model #171. A new Subgroup co-chair has been appointed. The Subgroup met June 7, 2021, to discuss the status of the proposed revisions to Model #171 and its next steps. The Subgroup decided to establish a new public comment period ending July 2, 2021, to receive comments on Sections 1–7 of Model #171. The Subgroup did not meet at the 2021 Fall National Meeting. Since the 2021 Summer National Meeting, the Subgroup has been meeting to discuss possible revisions to Model #171 based on the comments received by the July 2, 2021, public comment deadline. The Subgroup recently finished its work on revisions in Section 7 of Model #171 related to indemnity products and disability income protection products. Over the next few months, the Subgroup plans to meet to continue its discussions of revisions to provisions in Section 7 of Model #171.

Amendments to the *Mortgage Guaranty Insurance Model Act (#630)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #630 at the 2013 Summer National Meeting. The Mortgage Guaranty Insurance (E) Working Group has developed proposed changes to the model, which have been exposed for comment, and subsequent changes have been made to address the comments. However, for some time, the Working Group was focused on the development of a capital model, which is currently incorporated as a requirement in the model, but further changes are expected to be made to that model before adoption can occur. The Working Group received an extension from the Financial Condition (E) Committee until the 2023 Spring National Meeting.

Amendments to the *Nonadmitted Insurance Model Act (#870)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #870 at the 2021 Spring National Meeting. The amendments will modernize the model and bring it into alignment with the federal Nonadmitted and Reinsurance Reform Act (NRRRA). The Surplus Lines (C) Task Force met Aug. 5, 2021, and appointed a drafting group to work on the revisions to Model #870. The drafting group met four times in 2021: Sept. 28, Oct. 20, Nov. 4, and

Dec. 1. The drafting group also met in regulator-to-regulator session on Jan. 10, 2022, and May 3, 2022, to discuss a couple of specific issues and administrative tasks. The Surplus Lines (C) Task Force exposed Model #870 on May 23, 2022, for a 60-day public comment period that ended on July 21, 2022. The drafting group reconvened the week of July 31, 2022, to discuss the comments received.

New Model: Pet Insurance Model Act—The Executive (EX) Committee approved a Request for NAIC Model Law Development at the 2019 Summer National Meeting. The Pet Insurance (C) Working Group held numerous meetings to draft the model law to define a regulatory structure for pet insurance and address issues such as producer licensing, policy terms, coverages, claims handling, premium taxes, disclosures, arbitration, and preexisting conditions. The Working Group adopted the Pet Insurance Model Act on July 21, 2022, and the Property and Casualty Insurance (C) Committee adopted the Model on Aug. 1, 2022. The Pet Insurance Model Act will be considered by the Executive (EX) Committee and Plenary at the 2022 Summer National Meeting.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Att 7 MLD Report.docx

CLIMATE AND RESILIENCY (EX) TASK FORCE

Climate and Resiliency (EX) Task Force Aug. 11, 2022, Minutes 4-22

 Climate and Resiliency (EX) Task Force Solvency Workstream Referral to the Financial Analysis
 Solvency Tools (E) Working Group (Attachment One) 4-27

 Climate and Resiliency (EX) Task Force Solvency Workstream Referral to the Financial Examiners
 Handbook (E) Technical Group (Attachment Two) 4-28

 Climate and Resiliency (EX) Task Force Solvency Workstream Referral to the Own Risk and Solvency
 Assessment (ORSA) Implementation (E) Subgroup (Attachment Three) 4-29

Draft: 8/17/22

Climate and Resiliency (EX) Task Force
Portland, Oregon
August 11, 2022

The Climate and Resiliency (EX) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Ricardo Lara, Co-Chair, Mike Peterson, and Bryant Henley (CA); David Altmaier, Co-Chair, and Christina Huff (FL); Colin M. Hayashida, Co-Vice Chair, represented by Martha Im (HI); James J. Donelon, Co-Vice Chair, and Tom Travis, (LA); Kathleen A. Birrane, Co-Vice Chair, and Alex Barowsky (MD); Barbara D. Richardson, Co-Vice Chair (NV); Andrew R. Stolfi, Co-Vice Chair, represented by Aeron Teverbaugh and Brian Fordham (OR); Elizabeth Kelleher Dwyer, Co-Vice Chair, and Beth Vollucci (RI); Lori K. Wing-Heier represented by Sian Ng-Ashcraft (AK); Mark Fowler and Brian Powell (AL); Alan McClain (AR); Michael Conway represented by Peg Brown (CO); Andrew N. Mais, Wanchin Chou, and George Bradner (CT); Karima M. Woods represented by Sharon Shipp (DC); Doug Ommen represented by Travis Grassel (IA); Dana Popish Severinghaus and C.J. Metcalf (IL); Sharon P. Clark (KY); Timothy N. Schott represented by Sandra Darby (ME); Anita G. Fox represented by Chad Arnold (MI); Grace Arnold represented by Peter Brickwedde (MN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Edward M. Deleon Guerrero (MP); Mike Chaney and Andy Case (MS); Troy Downing represented by Bob Biskupiak (MT); Mike Causey represented by Tracy Biehn and Angela Hatchell (NC); Jon Godfread represented by Chris Aufenthie and John Arnold (ND); Eric Dunning and Connie Van Slyke (NE); Adrienne A. Harris represented by Harriette Resnick (NY); Judith L. French, Tom Botsko and Lori Barron (OH); Michael Humphreys represented by Melissa Greiner (PA); Alexander S. Adams Vega (PR); Michael Wise (SC); Carter Lawrence represented by Bill Huddleston and Stephanie Cope (TN); Scott A. White (VA); Tregenza A. Roach represented by Cheryl Charleswell and Glendina Matthews (VI); Kevin Gaffney and Rosemary Raszka (VT); Mike Kreidler (WA); Nathan Houdek (WI); and Jeff Rude (WY). Also participating were: Weston Trexler (ID); Anna Krylova (NM); Tracy Klausmeier (UT); and Tomasz Serbinowski (UT).

1. Adopted its Spring National Meeting Minutes

Commissioner Donelon made a motion, seconded by Ms. Clark, to adopt the Task Force’s April 6 minutes (see *NAIC Proceedings – Spring 2022, Climate and Resiliency (EX) Task Force*). The motion passed unanimously.

2. Received Reports from its Workstreams

a. Solvency Workstream

Commissioner Birrane said the Solvency Workstream developed three referrals. The referrals—to the Financial Analysis Solvency Tools (E) Working Group (Attachment One), the Financial Examiners Handbook (E) Technical Group (Attachment Two), and the Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup (Attachment Three)—provide high-level principles for the groups to consider and develop as appropriate for inclusion in relevant financial solvency regulation manuals. The referrals will be taken up by the groups following the Summer National Meeting, where they will be discussed by the members before determining how to implement any revisions.

b. Innovation Workstream

Commissioner Altmaier said the Innovation Workstream met May 16 to hear from Zurich North America regarding a commercial builder’s risk policy that includes a weather-based parametric feature.

The Workstream also met July 27 to hear a presentation from representatives with AXA; Guy Carpenter; and Raincoat, the parametric technology solution provider. Presenters described the Mexican Tripartite Project, created through a public-private partnership including the Insurance Development Forum to design a parametric insurance solution for climate-vulnerable farmers in Mexico, supported by investments in long-term risk finance and insurance market development.

c. Technology Workstream

Commissioner Donelon said the Technology Workstream met June 9 to hear a presentation from Harold Brooks (National Oceanic and Atmospheric Administration—NOAA) on how the NOAA uses predictive software to identify upcoming weather events, particularly severe convective storms. He also shared the results of the NOAA's research and findings regarding early warning systems used to warn people ahead of storms so they have adequate time to take shelter.

d. Pre-Disaster Mitigation Workstream

Commissioner Richardson said the Pre-Disaster Mitigation Workstream has met several times since the Spring National Meeting. During its meeting in May, which is wildfire awareness month, Lenya Quinn-Davidson (Northern California Prescribed Fire Council) spoke about vegetation management through prescribed fire, including opportunities, challenges, and regional differences with implementation throughout the country.

Commissioner Richardson said the Workstream met again on June 3 to hear a presentation from the U.S. Forest Service (USFS). The State and Private Forestry (S&PF) organization of the U.S. Department of Agriculture (USDA) works with states, tribes, communities, and non-industrial private landowners to provide technical and financial assistance to landowners and resource managers. Federal funding and resources are available to support fuel reduction and prescribed fire. She said the Workstream co-hosted a trip with the Center for Insurance Policy and Research (CIPR) to Richburg, SC, to tour the Insurance Institute for Business & Home Safety (IBHS). Ms. Richardson said Roy Wright (IBHS) and his team showed the state insurance regulators the great work at the IBHS facility to study mitigation science. The state insurance regulators in attendance spent a day and a half going between the lab and the classroom, where they discussed how fraud and misconceptions about property insurance are the two leading causes of consumer complaints after catastrophic events. They discussed opportunities to work collaboratively to address consumer complaints through outreach and education. State departments produce consumer information to combat fraud, increase consumers' understanding of insurance coverage, and incentivize risk mitigation. State insurance regulators will continue to collaborate with the IBHS to share a consistent message with consumers and promote awareness to a broader audience.

e. Climate Risk Disclosure Workstream

Superintendent Dwyer said the Climate Risk Disclosure Workstream has not met since the Spring National Meeting. However, it hosted two events to assist insurers required to submit the new climate risk disclosure survey. The Principles for Responsible Investment (PRI) presented the first session on June 9. Ceres and the United Nations Environment Programme Finance Initiative (UNEP FI) presented the second event on July 27. Ceres will conduct four additional events on the topic leading up to the Nov. 30 submission deadline.

3. Heard a Panel Presentation Regarding Wildfire Mitigation

Mr. Wright (IBHS) said IBHS has a full-scale testing facility in Richburg, SC, allowing IBHS staff to test the impact of various perils on the built environment. He said the environment needs wildfire, but when it intrudes on the built environment, it becomes a disaster.

At IBHS, engineers and staff are testing the impact of ember accumulation, length of flame, and radiant heat on building materials and landscape design to determine methods for reducing the risk of future loss. Ninety percent of emissions are from embers landing on a building; a much smaller proportion of fires begin due to radiant heat. Through the research at IBHS, it has identified multiple actions property owners can take to lower the risk of loss and make the property more resilient to wildfire. All actions should be done in tandem, including using a Class A fire-rated roof, adding mesh to vents, and clearing away all combustible materials within 5 feet of the property. These actions done in tandem ensure that fire breaks are sufficient to reduce conflagration of the fire. Mr. Wright said that in California, 99.2% of homes already have a Class A fire-rated roof. These actions are the integral components of reducing fire risk, but there are additional actions property owners can take to further reduce the risk of loss. These include using combustible siding; enclosing eaves and under bay windows; using fire-resistant decking materials, windows, and doors; covering gutters; and moving outbuildings at least 30 feet from the main building.

With other perils such as tornadoes, floods, and hail, property damage occurs individually. However, in the case of wildfire, the resilience of neighboring structures and the community matters. Wildfires are unique due to the conflagration of loss; if one structure burns, the risk of loss for adjacent structures increases exponentially. If there are natural firebreaks around the perimeter of the community, if communities work together to reduce the brush and eliminate fuels to stop fire from spreading, they have better odds of limiting the path of destruction. If 80% to 90% of the homes in the neighborhood meet the standards outlined in the IBHS Wildfire Prepared Home program, it will improve the community's likelihood of avoiding devastation from wildfire.

Amy Bach (United Policyholders—UP) said UP has been guiding consumers to help them understand their insurance policies and advocating for fair sales and claims practices for 31 years. She said after seeing market disruptions take place following deadly wildfires in several western states, UP began working on its Roadmap to Recovery. The Roadmap to Recovery program was designed to work with consumers and state insurance regulators to resolve insurance coverage and claim issues. The Roadmap to Preparedness program is designed to encourage consumers to be prepared for disasters by mitigating risks where possible, insuring properties to value, shopping for coverage, and maintaining an inventory of belongings. Ms. Bach said that extreme weather events are affecting the property/casualty (P/C) market by increasing claims and losses and reducing the availability and affordability of coverage. She said that while knowledge is critical to resolving some of the coverage issues, there are concerns that more knowledge may also have negative effects on existing properties deemed to be higher risk than others. Mitigation is critical, and understanding the components of risk reduction is essential to reducing the risk and improving the affordability and availability of insurance.

Ms. Bach said UP formed the Wildfire Risk Reduction and Asset Protection Project (WRAP) to convene a group of public and private stakeholders around a central purpose of reducing wildfire risk and restoring the insurance market in California. She said her organization is focused on building incentives to reward mitigation action through premium discounts, better risk scores, non-renewal protection, and safer homes and communities. This is all happening through grant programs and regulatory action taken by state insurance departments. These collaborative efforts have resulted in significant increases in funding for wildfire risk reduction, new resources to promote mitigation and preparedness, research on wildfire risk reduction methodologies, and insurer incentives for risk reduction—including mitigation discounts and protection from non-renewals and cancelled policies.

Mr. Peterson said in 2019, Commissioner Lara began hosting town hall meetings to speak with local constituents about the impact of wildfire for state residents. He said the primary question from consumers was: How do we make sure this never happens to us again? The California Department of Insurance (DOI) went to work developing relationships with the state agencies responsible for fire protection and suppression. The California DOI formed a partnership with Gov. Gavin Newsom's administration, including the Governor's Office of Emergency Services (CalOES), the California Department of Forestry and Fire Protection (CAL FIRE), the Office of Planning and Research, and the California Public Utilities Commission (CPUC). The groups convened on a regular basis for a year

and then launched their Safer from Wildfires framework in February 2022. Over that time, the organizations evaluated methodologies found in multiple research studies, including the *Application of Wildfire Mitigation to Insured Property Exposure* developed by the CIPR, among others. They compared the wildfire risk reduction methodologies among the various research and compiled a list of key actions to reduce the risk of wildfire: 1) having a Class A-rated roof; 2) providing 5 feet of defensible hardscape around the perimeter of the home; 3) having 6 inches of noncombustible material at the base of the home; 4) upgrading windows and vents to prevent embers from entering any openings; 5) closing the eaves; 6) choosing noncombustible gutters and downspouts; 7) clear and maintain underdeck area and enclose low-elevation decks; 8) maintain yard clear of debris; and 9) replace combustible fencing within 5 feet of the home. The partnership with other state agencies coalesced around three pillars: collecting data, communicating with the public and continuing to work collaboratively.

Karen Collins (American Property Casualty Insurance Association—APCIA) said California has experienced multiple years of heavy losses due to wildfire. Since 2017, insured losses have totaled more than \$40 billion, the majority due to losses from wildfire in California, which had eight of the 10 costliest wildfire events worldwide during that same period. According to a study from Milliman, wildfire losses incurred in 2017 and 2018 cost the insurance industry 20 years of accumulated profit and remains unprofitable today. The risk in the market continues to grow as land-use policies allow properties to be built in the wildland urban interface, drought conditions worsen, and the heat continues to deteriorate the arid environment.

Ms. Collins said insurers are also facing legislative and regulatory pressure, which is increasing their cost to do business in the state and restricting their ability to limit or reduce exposure. She said insurers have been focused on mitigation as the only way to meaningfully reduce future losses and improve market conditions. The industry fully supports the IBHS Wildfire Prepared Home and community programs. They are advocating at the state and federal level for mitigation resources, including better building codes, mapping and modeling for early fire detection, and active communication and suppression of wildfires. Ms. Collins said ACIA's CEO, David Sampson, was recently appointed to the federal Wildland Fire Mitigation and Management Commission, which was established as a result of the federal Infrastructure Investment and Jobs Act. She said the APCIA is focused on promoting consumer risk awareness and collaboration with other stakeholders to amplify the message of mitigation and preparedness. Ms. Collins said rate adequacy is a top concern for insurers, and she requested flexibility from state insurance regulators as insurers continue to encounter challenges with catastrophic losses, a difficult reinsurance market, and increasing inflationary pressures driving up costs.

Mr. Brickwedde asked Mr. Wright about IBHS research to study parallels between wildfire and wind damage due to severe convective storm, as Minnesota is a state with risk from both perils. Mr. Wright said the physics of how wind and fire interact with structures is fundamentally the same. Both move in a circular pattern fatiguing the building as it hits the structure. The mitigation features, however, vary by peril. When wind hits a structure, it dissipates, but when fire hits a structure, it amplifies.

Mr. Brickwedde asked the APCIA how insurers can share claims data with regulatory agencies so they can build the information necessary to develop a mitigation campaign in the most cost-effective way. Dave Snyder (APCIA) said insurers are still concerned about data privacy and protection, but through the work of the newly established Catastrophe Modeling Center of Excellence (COE) may be the best path forward to make progress in this area.

Mr. Chou asked how the research conducted by IBHS would be reflected in future building codes. Mr. Wright said following Hurricane Andrew, Florida led the way in advancing building codes, which was imperative for reducing the risk of future loss. He said California code is heading in a similar direction, and IBHS is working on studies to determine measures to be implemented into new construction to reduce the risk of wildfire.

Commissioner Kreidler asked the APCIA how the industry could collaborate with the NAIC and state insurance regulators to develop the data around disaster-related losses and opportunities for future mitigation. Mr. Snyder

said the COE would be a good place to start and invited a follow-up discussion on data needs and capacity building. He said to build on that mitigation work and spread the message, the type of collaboration highlighted today is critical to develop a streamlined, consistent message and work across local communities, agencies, and organizations.

Commissioner Lara said additional components of mitigation include funding and land-use planning. He said we need to understand the risks from natural hazards and use insurance as a tool to drive people to make better, safer decisions about where and how to build.

4. Heard a Presentation Regarding Ceres' Work on Climate Risk Disclosures

Steven Rothstein (Ceres) said Ceres held a virtual presentation on July 27, hosted by the NAIC, to assist insurers required to submit a climate risk disclosure survey to the 15 participating states. This was the first of a series of webinars that will be hosted leading up to the Nov. 30 filing deadline. The next session will be held on Sept. 14 and will be a 90-minute presentation followed by 30 minutes for questions. Ceres will also have three peer support sessions for insurers to ask questions and interact with California DOI staff regarding the survey response submission process. Mr. Rothstein said the Financial Stability Board (FSB) has developed multiple resources to support the Taskforce on Climate-Related Financial Disclosure (TCFD) framework, and because the state climate risk disclosure survey aligns to the TCFD, those resources could be used by insurers filling it out this year.

Mr. Rothstein said Ceres is preparing two reports with the Wharton Risk Management and Decision Processes Center on the impact of severe climate events on low- and moderate-income families, as well as policy and product recommendations to reduce the impact. Ceres is also conducting an analysis of the 28 TCFD reports received in 2021 through the climate risk disclosure survey requirement. Ceres has contracted with a company to use artificial intelligence (AI) to pull out content from the insurer reports and begin to develop a list of common industry practices regarding climate risk management, governance, strategy, and metrics and targets. Mr. Rothstein said Ceres is working with the California DOI to analyze the investment portfolios of its licensed insurers and that Ceres welcomes additional suggestions for projects of interest to state insurance departments.

5. Heard a Federal Update

Brooke Stringer (NAIC) said the U.S. House of Representatives recently passed the Wildfire Response and Drought Resiliency Act (H.R. 5118), which was introduced by Rep. Maxine Waters (D-CA). The bill requires the Federal Emergency Management Agency (FEMA) and the Government Accountability Office (GAO) to conduct studies assessing the danger that wildfires pose to communities and how the homeowners insurance market is responding to the growing threat. The report would also assess the state insurance regulatory response to wildfire loss events and subsequent market reaction. She said even if the bill does not pass the Senate and become law, Rep. Waters can request that the GAO study these issues anyway. Ms. Stringer said the Senate recently passed the Inflation Reduction Act (H.R. 5376), which includes significant climate investment and is slated to pass the House of Representatives on Aug. 12. While the Act does not include insurance-specific provisions, it does have significant climate-related impacts, including implications for clean energy and resiliency funding.

Having no further business, the Climate and Resiliency (EX) Task Force adjourned.

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MEMORANDUM

TO: Judy Weaver, Chair of the Financial Analysis Solvency Tools (E) Working Group
 FROM: Commissioner Birrane, Co-Chair of the Climate Resiliency (EX) Task Force leading the Solvency Workstream
 DATE: May 23, 2022
 RE: Referral on Proposed Climate Risk Enhancements

The NAIC’s Climate Resiliency (EX) Task Force is charged with evaluating financial regulatory approaches to climate risk and resiliency in coordination with other relevant committees, task forces and working groups, including those under the Financial Condition (E) Committee. As part of its efforts to address this charge, the Task Force designated a Solvency Workstream to explore potential enhancements to existing solvency monitoring processes in this area.

During 2021, the Solvency Workstream held a series of public panels on various climate solvency related topics which included among other things, a high-level summary of existing regulatory tools in the space. Near the end of 2021, the Solvency Workstream released a series of questions intended to solicit input on potential enhancements to the existing regulatory tools. As a result of comments received, and general support for enhancements to the NAIC’s Financial Analysis Handbook, the workstream suggests the Working Group consider modifications to incorporate particular concepts as it pertains to climate risk. Specifically, the Workstream suggests the Working Group consider modifications to incorporate procedures for utilizing the Property Casualty RBC Cat reporting data, any investment stress scenario results available from the NAIC Capital Markets Bureau, and Climate Risk Exposure Survey results (if available) in conducting ongoing financial analysis.

The proposed enhancements are presented as high-level principles for the Technical Group to consider and develop as appropriate for inclusion in the Handbook. If there are any questions regarding the proposed referral, please feel free to contact me or NAIC staff (Dan Daveline at ddaveline@naic.org) for clarification. Thank you for your consideration of this request.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/EX%20CMTE/CRTF/2022_Summer/Climate%20Referral%20to%20FASTWG.docx

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MEMORANDUM

TO: Susan Bernard, Chair of the Financial Examiners Handbook (E) Technical Group

FROM: Commissioner Birrane, Co-Chair of the Climate Resiliency (EX) Task Force leading the Solvency Workstream

DATE: May 23, 2022

RE: Referral on Proposed Climate Risk Enhancements

The NAIC's Climate Resiliency (EX) Task Force is charged with evaluating financial regulatory approaches to climate risk and resiliency in coordination with other relevant committees, task forces and working groups, including those under the Financial Condition (E) Committee. As part of its efforts to address this charge, the Task Force designated a Solvency Workstream to explore potential enhancements to existing solvency monitoring processes in this area.

During 2021, the Solvency Workstream held a series of public panels on various climate solvency related topics which included among other things, a high-level summary of existing regulatory tools in the space. Near the end of 2021, the Solvency Workstream released a series of questions intended to solicit input on potential enhancements to the existing regulatory tools. As a result of comments received, and a general support for enhancements to the NAIC's *Financial Condition Examiners Handbook*, the following list of proposed enhancements to the NAIC's *Financial Condition Examiners Handbook* is being referred to the Technical Group to consider.

Financial Condition Examiners Handbook

Planning Phase of the Examination:

- Exhibit B – Exam Planning Questionnaire: Consider updating the information requested at the onset of an exam to gain an understanding of the insurer's exposure to and management of climate change risks
- Exhibit Y – Examination Interviews: Consider additional sample interview questions related to climate change risks for the various "C-Level" executive and board member positions
- Implement a means to ensure that climate-related risks are considered as part of every financial condition examination, which may be achieved through the addition of "Climate Change" as a new critical risk category in Exhibit DD

Fieldwork Phase of the Examination:

- Investments Repository: Consider enhancements to repository risks to encourage consideration of both energy transition and physical risks on an insurer's investment portfolio and strategy (generally related to all lines of insurance)
- Underwriting Repository: Consider enhancements to existing repository risks to encourage consideration of both energy transition and physical risks in underwriting processes, as well as a new risk focused on the medium and longer-term impacts of climate change on the insurer's prospective underwriting and business strategy (generally related to Property and Casualty lines of insurance)
- Reinsurance Assuming Repository (Only Applicable to Assuming Reinsurers): Consider enhancements to repository risks to address the extent to which reinsurers are measuring and monitoring their exposure to climate change risks and using that information to set risk exposure limits and make retrocession decisions
- Reinsurance Ceding Repository: Consider enhancements to repository risks to address how the insurer has integrated climate change assumptions into its catastrophic modelling processes and how the results of modelling are used in making reinsurance coverage decisions

The proposed enhancements are presented as high-level principles for the Technical Group to consider and develop as appropriate for inclusion in the Handbook. In addition to these high-level principles, attached are comments received from the New York Department of Financial Services, American Property Casualty Insurance Association, American Council of Life Insurers and Public Citizen. If there are any questions regarding the proposed referral, please feel free to contact me or NAIC staff (Dan Daveline at ddaveline@naic.org) for clarification. Thank you for your consideration of this request.

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MEMORANDUM

TO: Kathy Belfi and Mike Yanacheak, Co-Chairs of the ORSA Implementation (E) Subgroup

FROM: Commissioner Birrane, Co-Chair of the Climate Resiliency (EX) Task Force leading the Solvency Workstream

DATE: May 23, 2022

RE: Referral on Proposed Climate Risk Enhancements

The NAIC's Climate Resiliency (EX) Task Force is charged with evaluating financial regulatory approaches to climate risk and resiliency in coordination with other relevant committees, task forces and working groups, including those under the Financial Condition (E) Committee. As part of its efforts to address this charge, the Task Force designated a Solvency Workstream to explore potential enhancements to existing solvency monitoring processes in this area.

During 2021, the Solvency Workstream held a series of public panels on various climate solvency related topics which included among other things, a high-level summary of existing regulatory tools in the space. Near the end of 2021, the Solvency Workstream released a series of questions intended to solicit input on potential enhancements to the existing regulatory tools. As a result of comments received, and a general support for enhancements to the NAIC's *ORSA Guidance Manual*, the following list of proposed enhancements to the existing guidance is being referred to the Subgroup to consider.

ORSA Guidance Manual

- Provide guidance indicating that the insurer should include a description of how climate change risk is addressed through the risk management framework (e.g., driver for credit, market, underwriting risks)
- Provide guidance indicating that if climate change has the potential to materially impact the insurer's asset portfolio, the exposure of assets to transition/physical risks should be presented, discussed, and assessed in a quantitative and qualitative manner, noting that a qualitative assessment may be appropriate if quantitative methods are not well established
- Provide guidance indicating that if climate change has the potential to materially impact the insurer's insurance liabilities, the exposure of liabilities to transition/physical risks should be presented, discussed, and assessed in a quantitative and qualitative manner, noting that a qualitative assessment may be appropriate if quantitative methods are not well established
 - Clarify that the assessment of the impact to the insurer's near-term asset portfolio and insurance liabilities should be performed over the time horizon covered in the ORSA (i.e., current business plan)
- Provide guidance encouraging qualitative discussion of the material medium and long-term impacts of climate change risk on the company's near-term risk appetite, asset management, underwriting, and business strategy, as well as efforts to limit the impact on near-term solvency (e.g., diversification efforts, use of enhanced modelling in ratemaking and underwriting, increased incentives for policyholder mitigation efforts)

The proposed enhancements are presented as high-level principles for the Subgroup to consider and develop as appropriate for inclusion in the Guidance Manual. In so doing, the Subgroup might consider whether additional guidance or considerations regarding ORSA materiality concepts are necessary. If there are any questions regarding the proposed referral, please feel free to contact me or NAIC staff (Dan Daveline at ddaveline@naic.org) for clarification. Thank you for your consideration of this request.

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GOVERNMENT RELATIONS (EX) LEADERSHIP COUNCIL

The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting.

LONG-TERM CARE INSURANCE (EX) TASK FORCE

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Draft: 8/29/22

Long-Term Care Insurance (EX) Task Force
Portland, Oregon
August 12, 2022

The Long-Term Care Insurance (EX) Task Force met in Portland, OR, Aug. 12, 2022. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier (AK); Mark Fowler (AL); Evan G. Daniels represented by Erin Klug (AZ); Ricardo Lara represented by Susan Bernard (CA); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro (DE); David Altmaier represented by John Reilly (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dean L. Cameron (ID); Amy L. Beard represented by Scott Shover (IN); Vicki Schmidt (KS); Sharon P. Clark (KY); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane represented by Brad Bovin (MD); Timothy N. Schott (ME); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold and Fred Andersen (MN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Mike Chaney represented by Bob Willams (MS); Troy Downing (MT); Mike Causey represented by Jackie Obusek (NC); Eric Dunning (NE); Marlene Caride (NJ); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready (OK); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Michael Wise (SC); Larry D. Deiter represented (SD); Carter Lawrence represented by Brian Hoffmeister (TN); Cassie Brown represented by Chris Herrick (TX); Jon Pike (UT); Kevin Gaffney (VT); Mike Kreidler (WA); Nathan Houdek (WI); Allan L. McVey (WV); and Jeff Rude (WY).

1. Adopted its Spring National Meeting Minutes

Commissioner Conway made a motion, seconded by Commissioner Rude, to adopt the Task Force's April 6 minutes (see *NAIC Proceedings – Spring 2022, Long-Term Care Insurance (EX) Task Force*). The motion passed unanimously.

2. Received a Report on Implementation Plans for the LTCI MSA Framework

Commissioner Conway said the implementation of the long-term care insurance (LTCI) multistate actuarial (MSA) process has been focused on staff-level tasks that are important for making the MSA available for insurers and states to participate in. NAIC staff have nearly finalized the filing instructions for insurers who are interested in using the MSA process. A website will be available in September that will house items from the Long-Term Care Insurance Multistate Rate Review Framework (LTCI MSA Framework), including the insurer certification, the information checklist, and other directions for submitting a rate request and contact information for starting an MSA submission. He said the MSA process will use the NAIC's System for Electronic Rates & Forms Filing (SERFF) application. MSA rate requests will be separated within SERFF by the assigned filing number. He said the Interstate Insurance Product Regulation Commission (Compact) staff will be assisting in an administrative role, like their role during the Pilot Project. They will be a point of contact for insurers that are submitting an MSA rate request and will assist in administrating the request within SERFF. He said process instructions and procedures for the MSA Team and the Compact staff focusing on the intake of rate requests are also being developed to aid MSA Team members. This documentation will be further developed over time as the MSA Team gains more experience with MSA reviews.

Commissioner Conway said the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup and the Task Force will need to continue considering how to promote the MSA process to both insurers and state insurance regulators to encourage participation in the program. This participation will be critical to the future success of this program and to achieving the goals of this Task Force. Commissioner White said he will continue to have dialogue with Task Force members to participate in the MSA process when filings are received.

3. Heard an Update on LTCI Industry Trends

Mr. Andersen said the Valuation Analysis (E) Working Group has an ongoing project to reviews insurers' *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51) filings to focus on reserves and solvency. The Working Group is monitoring the following key factors:

- Cost-of-care inflation trends, especially in blocks of policies with 5% inflation protected benefits, where it becomes a source of uncertainty and vulnerability for the insurance company.
- Attitudes toward different statuses of care that may affect per-day insurance claim costs going forward.
- The impact of COVID-19 trends going into the future.
- General morbidity, including uncertainty of frequency of claims and length of claims.
- Ensuring consistency between an insurer's assumptions in reserves and assumption in rates.
- Private equity and complex assets of life insurers with LTCI blocks.

Commissioner White asked if rising interest rates are helping insurers after the impacts of the low interest rate environment. Mr. Andersen said he estimates on average that 10% of life insurers' assets turn over each year. If interest rates continue to increase and one assumes for this year probably 90% of the insurers' assets were purchased during the low interest rate environment and 10% in the improved environment, and one assumes if the same trend continues, then in three to five years, one would see a significant helpful impact.

4. Received a Report on the MSA Associate Program

Mr. Andersen said the MSA Associate Program was developed in recognition of the need to increase overall regulatory expertise related to long-term care (LTC) financial risks. He said there are more than a dozen members in the program. The program members are analyzing risks that affect both reserves and rates. As submissions to the MSA process are received, several program members have offered to be involved in the review process to be an immediate resource and to train them on the more complex activities. He said he anticipates the program members will meet again in the upcoming quarter.

Commissioner Donelon asked how many states were on the MSA Team and if the MSA Associate Program is intended to replenish that workforce. Mr. Andersen said the MSA Team is currently comprised of Connecticut, Minnesota, Texas, and Utah. Mr. Andersen said there are multiple purposes that are included in the MSA Framework, including mentorship and the sharing of ideas and expertise.

Commissioner Donelon asked how many submissions were reviewed as part of the pilot program and if states had to agree to receive it. Mr. Andersen said there were four submissions, and all states had access to it. He said during the pilot, the addition of a webinar with state insurance departments was an improvement to the process that allowed for more communication with all states and gives states the opportunity to review the draft recommendation and offer feedback before the recommendation was finalized. Commissioner White the webinars will continue.

Commissioner Donelon asked of the four pilot program submissions, if the MSA recommendation was submitted to the state. Mr. Andersen said because the legal view on the report evolved during the pilot program, only the last two participating insurers received a copy of the MSA Advisory Report. Currently, the company will receive a copy of the MSA Advisory Report. This will give the company flexibility to highlight that its rate request was reviewed by the MSA and to possibly adjust the amount of the requested rate increase.

Commissioner Donelon asked about the take-up of state participation and acceptance of the MSA recommendation. Commissioner Conway said this has been an evolutionary process both in its development through the pilot program and from the standpoint of states' use of the recommendation. He said he is continuing

to see the evolution of this and want to encourage as much participation amongst the states as possible. He encouraged state insurance regulators to share any issues with states' willingness to participate in the program. He said he has seen more states understand the process and use the MSA recommendation.

Commissioner Donelon said he is open to the MSA process. He asked what is meant by participation, i.e., using the recommendation, being in the MSA Associate Program, or being part of the review. Commissioner Conway said participation refers to the use of the MSA recommendation, although this is part of the evolution. States use the recommendation in different ways. State insurance departments will always have the authority for the final approval. He said states will each go through their process as they deem appropriate, but the MSA recommendation is helping to inform the review of the state insurance department.

Commissioner White said to the extent it is desired that all states on the Task Force participate in a discussion about a recommendation, that is not occurring yet. However, he said that is not the states' fault with the pilot program. In one case, some states did not participate due to the timing of past approvals and the ineligibility for a rate increase at the time the MSA review was completed. Commissioner White said some insurers have said it does not make sense to submit a rate proposal to the MSA process if states are not going to participate. He said insurers have been asked what "participation" means. Insurers are not sure and would like to engage on this question. Commissioner White said states are not bound by the MSA recommendation but asked Task Force members to think about what their state insurance department would be comfortable with in terms of participation. He said further discussion will be held, likely in the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup.

5. Heard a Presentation on CIPR Research

Commissioner White said the NAIC Center for Insurance Policy and Research (CIPR) conducted a research project With the help of two of the NAIC's consumer representatives, Brenda J. Cude (University of Georgia) and Bonnie Burns (California Health Advocates—CHA). The research included interviews of financial planners who had been asked by their LTCI consumers to help them understand and make decisions when they receive rate increase notices that included reduced benefit options (RBOs).

Ms. Cude and Ms. Burns presented the slides on the CIPR research (Attachment One) and their summary information (Attachment Two and Attachment Three). In addition to presenting the information as stated in the summary attachment, Ms. Cude and Ms. Burns added the following comments during their presentation:

- Ms. Cude said by way of background, many LTCI policyholders, especially those who have had policies for quite some time, have experienced significant rate increase and often multiple rate increases, which typically come with the opportunity to choose one or more RBOs. Ms. Crude said the product of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup that is most relevant is the RBO Consumer Notices Checklist for state insurance regulators to use in reviewing premium increase communication to consumers.
- Ms. Cude explained that they interviewed financial planners, not consumers. She explained that in addition to the limitations of the CIPR research included Attachment One and Attachment Two, the research is not representative of all LTCI policyholders as financial planner clients likely have more resources than other consumers in general. She said the research could not establish cause and effect, so they could not determine if states that have used the RBO Consumer Notices Checklist had any influence on what the financial planners saw in their work with their clients.
- Commissioner Donelon asked for an explanation of the average policyholder age of 75 in the study, which differs from, for example, the Senior Health Insurance Company of Pennsylvania, whose average age of

premium paying policyholders is 86. Ms. Cude said the age of 75 in the presentation was from a report that indicated 75 was the average age of the most rate increase block, and it was not specific to the CIPR research.

- Ms. Cude said that policyholders had paid the same premium for years while other bills increased, which reinforced their expectation that these premiums were not going to change, and then they did change.
- Ms. Burns said she has personally counseled more than 200 people on RBOs, and what the financial planners reported as the reaction of policyholder is consistent with the reactions she saw regardless of age or the period they held the policy. She said consumer notices are often 13 pages long with only one page grid with the options listed. Consumers are confused about what the options are and how to deal with the choice, and that the options presented are the only options available to reduce the premium cost.
- Ms. Burns said consumer services numbers are not presented to the consumer in a way that is not related to the fact that consumers can call the company and talk about other ways to reduce their premium. The language in the consumer notice needs to be simplified and specific so consumers understand they can call the company about how to make other choices.
- Ms. Burns said with regard to states' Senior Health Insurance Program (SHIP) agencies, two-thirds of SHIPs are not housed in the department of insurance (DOI) and do not have a relationship with the DOI, and they have little information about LTCL. She said that through her training and development of resources for the SHIP Resource Center, they have deficient information about LTCL and need a better relationship with DOIs and cross-training.
- Ms. Burns gave an example with regard to the use of smart disclosures designed for policyholders that help policyholders figure out which option is better based on consideration of individual aspects such as their gender, marital status, age, and financial condition. For example, she said it would not be appropriate for a younger policyholder to drop inflation protection. She said a married couple with identical coverage may determine they do not need identical coverage based on their age and gender. They may need less coverage for the male and more coverage for the female, to balance the premium for both.

Ms. Cude said there will be a CIPR research report on this project. She said that she and Ms. Burns have some thoughts on revisions to the RBO Consumer Notices Checklist that they will share with the Task Force. She said they hoped to also do research directly with consumers.

Commissioner White said the research indicated financial planners routinely advise clients not to accept the RBO because the benefits are such a great value in terms of the premium they are paying. For policyholders who have the inflation protection or benefits of, for example, \$800,000, they may or may not need that benefit. He said some insurers are asking for the third or fourth round of increases, and these may be significant. He said the rate of policyholders taking the RBO is increasing.

Commissioner White reminded state insurance regulators of the work of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup. The three work products focused on RBOs are intended to help states with their regulatory review of RBOs and consumer notices. These include the RBO Principles Document, which is focused on guidance for state insurance regulators in evaluating RBO offerings and to products focused on RBO Consumer Notices, the RBO Consumer Notices Principles Document, and the RBO Consumer Notices Checklist. All are available on the Task Force's web page. Some of the issues consumers are facing could be benefited from state insurance departments' use of this guidance and the checklist. Commissioner White encouraged state insurance regulators to incorporate the checklist and the guidance into their review of consumer notices.

Commissioner White said a key question in how the Task Force moves forward is if there is more that state insurance departments can do to help the communication flow between insurers and the LTCI policyholder who receives rate and RBO notices. The goal of any further research is to gather information that can help this Task Force make decisions on whether the work that has been accomplished so far is making a difference, and if not, what more can be done. This could start with getting feedback from the state insurance regulators. NAIC staff could conduct a survey to states to ask about their use of the RBO guidance and checklists, whether they are seeing any improvements in the notices that they are reviewing within their departments, and what kind of feedback they are giving to their insurers that improve these communications.

Commissioner White said that feedback may help inform more focused research conducted by the CIPR that reaches out directly to consumers to get some quantitative feedback on how certain recommended changes in consumer communications would impact consumer responses.

Jeff Czajkowski (NAIC) gave an example of additional research. He said the RBO Consumer Notices Checklist has different components, and it is uncertain how effective any one of those would be in consumer decisions. He suggested an experimental setting where a certain number of respondents could be provided information, something from the checklist, while other respondents are not provided the same information. Then the CIPR tests how the respondents' choices differed. As the CIPR moves through testing different components, it can see which components work and which ones do not. Mr. Czajkowski said this is a type of test used in behavioral economics. He said it would be helpful to hear from the Task Force what components to test.

Commissioner White said the timing of this research is long-term and requires resources. At the earliest, it could possibly start in 2023 and since research takes time to complete, ultimately it could be completed over a couple years. The first step would be for NAIC staff to give some consideration to what would be included in a survey and when an appropriate time would be to send that survey, given states may just be starting to use the RBO checklist and guidance.

Commissioner Wing-Heier asked for an explanation of the two-year timeline and how relevant would it be after two years. Mr. Czajkowski said the testing would be a series of tests. Assuming staff resources are available, an individual experiment could be researched in a three- to six-month time frame. The research would be an iterative process. He said the CIPR can only test so much at one point in time to be careful of treatment vs. controls. The two-year time frame is a series of experiments.

Birny Birnbaum (Center for Economic Justice—CEJ) said one piece of research should be to determine why consumers are taking an RBO, e.g., because it is a better deal for that consumer. If most consumers are saying it is a better deal, that has different implications than if 95% of consumers say they cannot afford the rate increase under any circumstance. He said that while the research described is relevant, important, and may be useful, the age of the policyholders and how long they have held their policy has a dramatic impact on the responses, the decision making and the ability to make decisions. He said as the Task Force thinks about different studies, consider whether that that can be expanded and inferred to any population or whether it is unique to the sample being tested. Mr. Czajkowski said that because the experiment would be a hypothetical situation, the CIPR can place people in any one of those settings that the Task Force wants to test. the CIPR would include in the introduction to the experiment the context in which they are making the decision. For example, the CIPR would tell them they are an 86-year-old person in a certain income and living situation. There are drawbacks to hypothetical situations, but because it is hypothetical, the CIPR can include controls. This is standard practice in behavioral economics.

Having no further business, the Long-Term Care Insurance (EX) Task Force adjourned.

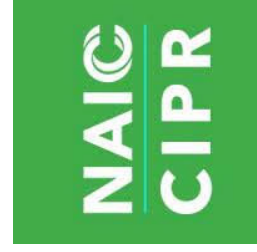
Long-Term Care Insurance Rate Increases and Reduced Benefit Options: Insights from Interviews with Financial Planners

An NAIC Center for Insurance Research and Policy Research Project

Brenda J. Cude, NAIC Consumer Representative

Bonnie Burns, NAIC Consumer Representative

(Significant contributions to research design, data collection and analysis by Lisa Groshong)
August 2022



Introduction

- Project of the Center for Insurance Policy and Research
- Goal to increase understanding of long-term care insurance (LTCI) policyholders' experience with rate increases and reduced benefit options (RBOs)
- Motivated by lack of understanding about how consumers perceive and make these choices

NAIC’s Reduced Benefit Options Subgroup

- Charge: To identify options to provide consumers with choices regarding modifications to LTCI contract benefits where policies are no longer affordable due to rate increases
- Created resources for state insurance regulators
 - Reduced Benefit Options Principles and Communication Principles documents
 - Checklist for Premium Increase Communication
 - Issues Related to LTC Wellness Benefits

What We Did

- Interviews in October and December 2021 and January 2022 with 14 financial planners
 - All had worked with clients with LTCI policies who had been notified of a rate increase
 - Recruited through the Financial Planning Association
 - Most were Certified Financial Planners with 20 or more years of experience in financial planning
 - Represented diverse geographic locations and both urban and rural settings

The Research

- Focus was on standalone long-term care insurance products, not hybrid policies or partnership policies
- Qualitative research so results do not represent all financial planners

Primary Findings

- LTCI policyholders experiencing rate increases were:
 - Middle-class consumers of modest means when they bought policies
 - Have less education and income than today's purchasers
 - Average age is about 75
 - Like many Americans, are less financially literate than they should be

Primary Findings

- The planners described their clients' reactions to a rate increase as typically emotional – frustration and anger
 - Have paid the same premium for years
 - Have little recall of policy benefits

Primary Findings

- Financial planners' reactions to rate increases
- Companies should have absorbed more of cost
- Regulators should have done more
- Rate increases were to be expected as the product was underpriced

Primary Findings

- Some financial planners were concerned the rate increase notices
 - Created a false sense of urgency
 - Used wording that was an enticement to opt-out of the policy
 - Presented RBOs as though those were the only options to reduce premiums, not examples
 - Wondered if the options presented were in the company's best interest or the client's best interest

Primary Findings

- All financial planners interviewed:
- Acknowledged the importance of analyzing decisions in view of client’s unique personal situation
- Recommended clients pay the higher premium and not change the policy
- *But* many policyholders don’t have the income to pay a higher premium. Financial planners’ clients have higher incomes and wealth than others

Primary Findings

- If a financial planner recommends an RBO, it usually is to:
 - Drop inflation protection (especially if the client is older)
 - or
 - Reduce the daily benefit

Major Takeaways

- LTCI policyholders' reactions are emotional and policyholders are confused
 - Without counsel, an emotional decision or one based on confusion is unlikely to be a good one – and the policyholder might not even make a decision
- RBOs are often presented as the consumers' only choices instead of as examples of ways they might change their coverage

Major Takeaways

- Sources of expert help are limited
- Typically the insurance agent who sold the policy isn't available, and
- Other professionals can't get policyholder information from the insurance company

Solutions

- Rate increase letters that provide a clear **example** of an option and how premium is affected. For instance: *You have options to reduce your new premium. Here is one example.*

If you're comfortable changing your benefits from lifetime coverage to six years of benefits your new premium will be lower. The rest of your benefits will stay the same.	
Your premium today for unlimited benefits	Your premium for 6 years of benefits
\$9,000 annually	\$7,000 annually

Solutions

- Here is another example....
- *You can call customer service at 800-000-0000 to ask about other changes you can make to reduce the new premium.*

Solutions

- **Expand the scope of advisors to help consumers who receive LTCI increase notices**
 - **Require insurers to allow consumers to authorize release of policy-specific information to their chosen advisor**
- **Consider ways for Departments of Insurance to establish relationships and lines of communication with Senior Health Insurance Program (SHIP) agencies**
 - **Partner to provide training and standby technical assistance to SHIP counselors**

Solutions

- Consider a smart disclosure that, with inputs, could tailor the range of options to those most relevant to the individual's situation

Next Steps

- Completion of a CIPR report on the project
- Research to seek input directly from consumers

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**August 2022 Presentation to NAIC's Long-Term Care Insurance (LTCI) (EX) Task Force
Long-Term Care Insurance Rate Increases and Reduced Benefit Options: Insights from
Interviews with Financial Planners**

An NAIC Center for Insurance Research and Policy Research Project¹

Brenda J. Cude, NAIC Consumer Representative
Bonnie Burns, NAIC Consumer Representative

- **Introduction**
 - Project of NAIC's Center for Insurance Policy and Research
 - Goal to increase understanding of long-term care insurance (LTCI) policyholders' experience with rate increases and reduced benefit options (RBOs)
 - Sought to fill a research gap as there is very little understanding about how consumers perceive and make these choices
- **NAIC's Reduced Benefit Options Subgroup**
 - Charge: To identify options to provide consumers with choices regarding modifications to LTCI contract benefits where policies are no longer affordable due to rate increases
 - Produced [resources](#) for state insurance regulators
 - Reduced Benefit Options Principles document
 - Reduced Benefit Options Communication Principles document
 - Checklist for Premium Increase Communication
 - Issues Related to LTC Wellness Benefits
- **Background**
 - Many owners of traditional LTCI policies have received rate increase notices, and sometimes more than one. The rate increases often are substantial
 - Policyholders usually can change one or more of the policy benefits to offset the rate increase, at least in part
- **What We Did**
 - 14 interviews with financial planners who have worked with clients who had LTCI policies and had been notified of a rate increase; interviews conducted in October and December 2021 and January 2022
 - Recruited through the Financial Planning Association
 - Most were Certified Financial Planners with 20 or more years of experience in financial planning
 - Represented diverse geographic locations and both urban and rural settings
 - Reviewed transcripts of interviews to identify major themes (primary findings)

¹ Significant contributions to research design, data collection and analysis by Lisa Groshong, formerly CIPR Communication Research Scientist.



- Qualitative research, so not a representative sample of financial planners and cannot generalize findings to all financial planners
- Focus was on standalone long-term care insurance products, not hybrid policies or partnership policies
- **Primary Findings**
 - LTCI policyholders experiencing rate increases were:
 - Middle-class consumers of modest means when they bought policies
 - Have less education and income than today's purchasers.
 - Average age is about 75
 - The planners described their clients' reactions to a rate increase as typically emotional – frustration and anger
 - Have paid the same premium for years
 - Have little recall of policy benefits
 - Like many Americans, are less financially literate than they should be
 - Financial planners' reactions to rate increases
 - Companies should have absorbed more of the cost
 - Regulators should have done more
 - Rate increases were to be expected as the product was underpriced
 - Some financial planners were concerned the rate increase notices
 - Created a false sense of urgency
 - Used wording that was an enticement to opt-out of the policy
 - Presented RBOs as though those were the only options to reduce premiums, not examples
 - Wondered if the options presented were in the company's best interest *or* the client's best interest
 - All financial planners interviewed
 - Acknowledged the importance of analyzing the decisions in view of the client's unique personal situation
 - Recommended their clients pay the higher premium and not change the policy
 - *But* many policyholders don't have the income to pay a higher premium. Financial planners' clients have higher incomes and wealth than others
 - If a financial planner recommends a RBO, it usually is to drop inflation protection (especially if the client is older) or reduce the daily benefit
- **Major Takeaways**
 - LTCI policyholders' reactions are emotional and policyholders are confused. Without counsel, an emotional decision or one based on confusion is unlikely to be a good one – and they might not even make a decision.
 - RBOs are often presented as the consumers' only choices instead of as examples of ways they might change their coverage.
 - Sources of expert help are limited. Typically the insurance agent who sold the policy isn't available and other professionals can't get information from the insurance company.



- **Solutions**

- Rate increase letters that provide a clear example of an option and how premium is affected. For instance: *You have options to reduce your new premium. Here is one example.*

<i>If you're comfortable changing your benefits from lifetime coverage to six years of benefits your new premium will be lower. The rest of your benefits will stay the same.</i>	
<i>Your premium today for unlimited benefits</i>	<i>Your premium for 6 years of benefits</i>
<i>\$9,000 annually</i>	<i>\$7,000 annually</i>

Here is another example.....

You can call customer service at 800-000-0000 to ask about other changes you can make to reduce the new premium.

- Expand the scope of advisors to help consumers who receive LTCI increase notices
 - ✓ Require insurers to allow consumers to authorize release of policy-specific information to their chosen advisor
 - ✓ Consider ways Departments of Insurance can establish relationships and lines of communication with Senior Health Insurance Program (SHIP) agencies. Partner to provide training and standby technical assistance to SHIP counselors
 - ✓ Consider a smart disclosure that, with inputs, could tailor the range of options to those most relevant to the individual's situation

- **Next steps**

- Publication of a CIPR report about project
- Research to seek input directly from consumers

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The [Center for Insurance Policy and Research](#) provides data and education to drive discussion and advance understanding of insurance issues among policymakers, insurance commissioners and other regulators, industry leaders, and academia. It conducts research and provides analysis on important insurance issues. Through this work, the Center drives dialogue and action on today's insurance issues.

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Counseling Policyholders on Options to Reduce Premium Increases

Policyholders of long-term care insurance policies may receive a notice from their insurance company when the company will be imposing a premium increase. That notice may include a number of options that can offset some or all of the premium increase by reducing some of the policy benefits. Some notices with offers to reduce benefits may be triggered by the settlement of a class action lawsuit that also includes a change in premium, others may be triggered when an insurance company becomes insolvent and a state guaranty association takes over administration of the failed company.

Each option offered needs to be carefully considered by each policyholder based on their specific needs, their age, their marital status, their current health, the cost of care in their area, and their financial circumstances. Most policyholders, or their families, are likely to need help determining the value and the impact of one or more of the offered options. Policyholders may be given only a couple of options to choose from while others may have as many as 4 or 5 options to consider. Occasionally an option may include a cash benefit. It's possible that a policyholder might combine two or more of the options offered to them to achieve the greatest premium reduction, but a careful review of each option and its consequences should be made first.

When assisting a policyholder or a family member with decisions about reducing benefits to lower premiums it's important to consider their age, gender, marital status, financial situation, their future care needs and local costs of care, and whether additional premium increases are likely in the future. Some notices contain information about future premium increases while others don't.

For spouses it's important to consider the impact of these options later if one spouse dies and the other spouse will live on a reduced income insufficient to maintain coverage. In some cases one spouse may need to maintain more benefits than the other because one spouse is older than the other or is in worse health than the other spouse. It's important to remember that spouses may need different amounts of coverage depending on age, health, and future risk of needing care.

For Partnership products it's important to know any state minimum benefit requirements to ensure that the daily benefit amount, the policy maximum benefit amount or years of coverage, and any inflation protection are not reduced below the levels required to maintain Partnership status to qualify for asset protection in that state. A notice may include a warning about choosing to reduce benefits or inflation protection below Partnership requirements, but if that warning is not included policyholders should check with the state Partnership program before making any benefit or inflation protection changes to their coverage.

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Common Benefit Reduction Options

Reduce Or Eliminate Inflation Protection: In this option a policyholder is given the choice to reduce their inflation protection benefit, or to eliminate it entirely, in return for a reduction in the premium. (An inflation protection benefit increases the policy's daily benefit amount to protect against increases in the cost of care.) While it may make sense at some older ages to reduce or eliminate an inflation protection benefit, it's important to know **if** the daily benefit amount will revert to the dollar amount at the time the policy was purchased. If a policyholder opts to reduce the inflation protection benefit, they might lose all the inflation adjustments that have accrued since they bought the policy. The option to reduce or eliminate inflation protection should only be chosen when the daily benefit amount remains at the current inflated amount.

Reduce The Daily Benefit Amount: A policyholder is offered the option to reduce the dollar amount of their daily benefit in return for some reduction in the new premium. Careful consideration must be given to the amount of the reduced daily benefit relative to the current cost of care. It's also important to consider that reducing the daily benefit might limit the ability to make any additional reductions in the future. For instance, a policyholder may not be able to offset future premium increases by reducing the daily benefit again if that benefit is already lower than the current cost of care.

Reduce The Duration Of Benefits: A policyholder is offered the right to reduce the number of years that the policy will pay benefits. A policyholder with only 2 or 3 years of coverage may not be able to reduce their coverage any further. Reducing the benefit from lifetime coverage to a fixed number of years may substantially reduce the premium for younger policyholders but the reduction may be much less for those who are older. Policyholders will need to weigh the consequences of fewer years of benefits and the total dollar amount of benefits against any reduction in premium that they are offered

Paid-Up Policy: A policyholder may be offered a paid-up policy with no need to make any future premium payments. This option keeps the policy in force, but limits the total dollar amount of benefits to the amount of premiums that have already been paid since the policy was purchased, or to an amount stipulated in the notice. The amount of care that can be provided by the paid-up dollar amount should be weighed against the ability of a policyholder to maintain coverage and continue to pay the subsequent premium. A paid up policy means that only the amount of total benefits is changed. The contractual terms of the policy don't change; if the benefits are used they will operate under the terms of the policy.

Cash Benefit: A policyholder may be offered a specific cash amount for their benefits. A cash benefit may be offered in return for surrendering the policy and all its benefits or it might be offered along with a reduction of existing benefits and conversion to a paid-up policy. Cash benefits may be thousands of dollars and be very attractive to a policyholder.

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While the prospect of a large cash payment may be momentarily attractive, the policyholder may be giving up all future benefits for long-term care. Or a policyholder might be choosing a cash benefit in addition to reduced paid-up coverage with no future premium payments required. If a person is currently eligible for public benefits, or might soon be eligible, the receipt of a large cash payment could affect eligibility for those public benefits. A policyholder should seek advice from a trusted financial advisor to fully understand any potential tax implications of choosing cash benefit. Some notices may contain a warning about seeking tax advice others may not.

Policyholders can always contact their company to ask questions about any offered options, and to seek other changes that might be more beneficial. For instance a policyholder offered a lower premium to drop a 5% inflation protection benefit might be able to afford the premium for a 3% inflation benefit even though it might cost more than dropping the benefit completely. Someone with lifetime benefits might be able to afford a premium for 4 years of coverage instead of the 3 year benefit offered to reduce a premium increase.

It's important to remember that any offers to reduce premium increases, or to make any other changes to their long-term care contracts should always be supported in writing. Any documents sent to policyholders should be retained and attached to their existing policy. And every policyholder should have a designated third party to be notified if premiums are late or not paid. A designated third party can be added to a policy at any time by contacting the company and making that addition.

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SPECIAL (EX) COMMITTEE ON RACE AND INSURANCE

Special (EX) Committee on Race and Insurance Aug. 11, 2022, Minutes 4-62

Draft: 8/25/22

Special (EX) Committee on Race and Insurance
Portland, Oregon
August 11, 2022

The Special (EX) Committee on Race and Insurance met in Portland, OR, Aug. 11, 2022. The following Special Committee members participated: Dean L. Cameron, Co-Chair (ID); Chlora Lindley-Myers, Co-Chair (MO); Andrew N. Mais, Co-Vice Chair (CT); Jon Godfread, Co-Vice Chair (ND); Lori K. Wing-Heier (AK); Mark Fowler (AL); Alan McClain (AR); Peni Itula Sapini Teo (AS); Evan G. Daniels (AZ); Ricardo Lara (CA); Michael Conway (CO); Karima M. Woods (DC); Trinidad Navarro (DE); David Altmaier (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dana Popish Severinghaus (IL); Vicki Schmidt (KS); Sharon P. Clark (KY); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Timothy N. Schott (ME); Anita G. Fox (MI); Grace Arnold (MN); Edward M. Deleon Guerrero (MP); Troy Downing (MT); Mike Causey (NC); Eric Dunning (NE); Marlene Caride (NJ); Barbara D. Richardson (NV); Adrienne A. Harris (NY); Judith L. French (OH); Glen Mulready (OK); Andrew R. Stolfi (OR); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Michael Wise (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Cassie Brown (TX); Jon Pike (UT); Scott A. White (VA); Tregenza A. Roach (VI); Kevin Gaffney (VT); Mike Kreidler (WA); Nathan Houdek (WI); Allan L. McVey (WV); and Jeff Rude (WY). Also participating was: Philip Barlow (DC).

1. Adopted its Spring National Meeting Minutes

Director Wing-Heier made a motion, seconded by Commissioner Mais, to adopt the Special Committee's April 6 minutes (see *NAIC Proceedings – Spring 2022, Special (EX) Committee on Race and Insurance*). The motion passed unanimously.

2. Received a Status Report on Workstream One

Director Lindley-Myers began by highlighting the continued work being done to identify barriers to access to insurance careers and insurance products and the challenging efforts towards identifying and removing any unfair discrimination.

Commissioner Ommen welcomed Commissioner Woods as the new Workstream One co-chair. He reported that the Workstream has been researching the level of diversity and inclusion within the industry and developing recommendations on action steps state insurance regulators and companies can take.

The Workstream met in May in regulator-to-regulator session to begin discussing draft recommendations that reflect discussions with stakeholders and state insurance regulators over the past two years. The Workstream's focus is on producing recommendations that reflect a broad consensus among its members.

The Workstream also acknowledges and supports the commitment and initiatives by industry to increase diversity, equity, and inclusion (DE&I) in their organizations, and looks forward to continued engagement as it finalizes its recommendations.

The Workstream is planning to meet after the Summer National Meeting to work on completing these recommendations to fulfill its mission of providing some deliverables and action items to be taken.

3. Received a Status Report on Workstream Two

Commissioner Mulready reported that Workstream Two is focused on DE&I within the NAIC and state insurance departments. During the Commissioners' Mid-Year Roundtable, the zone level best practices survey was

distributed to NAIC members and made available to state insurance regulators through the Member Diversity Leaders Forum. The Forum is facilitated by Evelyn Boswell (NAIC), Director of Diversity, Equity, and Inclusion.

Ms. Boswell reported that the Member Diversity Leaders Forum designed by the recommendations of the Workstream has a mission to create a communication forum for best practices in DE&I in which each state insurance department: 1) has access to education, guidance, and collaboration with stakeholders; 2) can share and learn ideas to incorporate in their organizations; 3) offer feedback for regulatory training coursework that will be provided by the NAIC; and 4) enable the NAIC and its regulated entities to fulfill their missions to the fullest extent.

Ms. Boswell reported that the Member Diversity Leaders Forum meets quarterly where members can share best practices from their insurance departments with the group. The NAIC launched the Member Diversity Leaders SharePoint site in the second quarter, and the member diversity leaders are reviewing DE&I coursework designed for state insurance regulators to be ready to share by the fourth quarter. Member diversity leaders were invited to the N.A.I.C.U. Exchange in February in recognition of Black History Month to model how the NAIC does lunch and learns. Member diversity leaders were invited to come to Kansas City for the NAIC's 2nd DE&I Conference held in June 2022. Twenty-three state insurance regulators and five commissioners attended for a full day of DE&I training.

Ms. Boswell also noted that a member diversity leader is selected each quarter to share accomplishments from their department. In April, Ron Henderson (LA) shared the duties of the Division of Diversity & Opportunity and their assistance to minority groups in obtaining opportunities in the insurance industry, the development of programs that seek to address the needs and concerns of women and minority producers, and the establishment in cooperation with insurance companies of educational and informational services to foster greater awareness and preparation for opportunities available in the insurance industry. He shared how the InVest Program was implemented at Southern University, and every semester, there is a Careers in Insurance Seminar where Commissioner Donelon has been the speaker on several occasions.

Ms. Boswell reported that the District of Columbia's Department of Insurance, Securities, and Banking presented to the Member Diversity Leaders Forum on July 25. Mr. Barlow shared about the District of Columbia Department's Gallaudet University Department of Risk Management & Insurance internship program, the Financial Services Academy, and Mayor Marion S. Barry Summer Youth Employment Program Insurance Cohort. Starting in 2016, there have been a total of nine Gallaudet interns accepted through the program. Each year when Gallaudet interns are brought on, the Department hosts a deaf awareness workshop for staff to learn about realistic attitudes toward and expectations of deaf and hard of hearing people, learn about accommodations for deaf and hard of hearing individuals, and discuss communication strategies and skills for integrating deaf and hard of hearing employees into the workplace. Interns shadow Department staff and develop an insurance-related project that involves research and presentation. The Department will expand the program by offering internships to Gallaudet students through the Financial Services Academy.

Mr. Barlow talked more about the Department's Financial Services Academy, which is a broad program consisting of five programs, including the Summer Youth Employment Program. The Financial Services Academy is a public-private partnership designed as a year-round program for underrepresented students in high school, college, and post-graduate programs to train for careers in the financial services industry. Commissioner Woods added that several staff employed by the Department started through the Mayor Marion S. Barry Summer Youth Employment Program.

Commissioner Woods reported on the Department's efforts looking into the use of certain underwriting factors, such as credit scores, education, and occupation in personal lines. The Department engaged O'Neil Risk Consulting & Algorithmic Auditing (ORCAA) to assist with the Department's review. A public hearing was held on June 29

followed by a commissioner's request for comment on the proposed areas of review for unintentional bias with a deadline of Aug. 22. The work is ongoing; therefore, the Department, along with ORCAA, is working on a data call to collect information to be analyzed by ORCAA with the results to be presented to the Department for their determination if there is, in fact, unintentional bias.

4. Received a Status Report on Workstream Three

Director Wing-Heier reported that Workstream Three is focused on property/casualty (P/C) issues. Though the Workstream has not met since the Spring National Meeting, the Workstream has decided to focus its time and resources on being actively involved with the work of the Collaboration Forum on Algorithmic Bias. The Workstream believes this work will be critical to meeting a couple of the Special Committee's most important charges: 1) "coordinating with other groups in looking at predictive modeling, price algorithms, and artificial intelligence" (Charge B of the Special Committee); and 2) "researching and analyzing insurance, legal and regulatory approaches to addressing unfair discrimination, disparate treatment, proxy discrimination and disparate impact" (Charge F of the Special Committee).

In leading the Workstream, state insurance regulators have struggled to understand artificial intelligence (AI)/machine learning (ML) and how it has been used to possibly create bias in algorithms. State insurance regulators need the education and expertise to understand these issues before policies can be implemented that protect consumers. The Collaboration Forum will help provide the education and framework needed for the Workstream to look more deeply at issues of unfair discrimination, particularly as it relates to algorithms and AI/ML. The Workstream will take this foundation and use it to look at potential algorithmic bias in marketing, underwriting, rating, and claims processing. The Workstream will look at marketing first as the Special Committee looks at how to evaluate complex models and identify and mitigate bias. To begin that work, the Workstream is planning a session at the NAIC Insurance Summit in September, where a panel of insurance experts and state insurance regulators will discuss the use of marketing and advertising in personal lines insurance and how it relates to access for diverse populations.

5. Received a Status Report on Workstream Four

Commissioner Caride reported that Workstream Four, which focuses on life insurance, held an open meeting on June 10. The Workstream heard a presentation from the Financial Alliance for Racial Equity (FARE). The Workstream will hold another open meeting sometime in September or early October to hear additional presentations focusing on life insurance access and affordability issues in minority communities.

The Workstream hopes to hear more from the agent community, and it is interested in learning more about their experiences and steps they may be taking around the issues of access and affordability in minority communities. The Workstream members would like to hear of other organizations they should be talking to and any success stories or progress being made.

6. Received a Status Report on Workstream Five

Commissioner Arnold provided the report for Workstream Five, which focused on health insurance, and highlighted the Workstream's work to date and plans for the next few months.

The Workstream has held the first two meetings in a series of four meetings it plans to hold this year. The first meeting on June 30 focused on provider network composition and the following questions: 1) what are the most common deficiencies in provider networks for plan enrollees of color; and 2) what can state insurance regulators do to improve that.

The Workstream heard from two NAIC consumer representatives who discussed cultural competency in provider networks. Their presentations focused on what it means for a network to have sufficient cultural competency, why it matters, common provider network deficiencies, and the implications of not having sufficient cultural competency in a network.

During this meeting, the Workstream also heard from the Colorado Department of Insurance (DOI) on its work through the Colorado Option to improve racial health equity for consumers purchasing health insurance in the individual and small group markets. The presentation addressed three key questions: 1) why did Colorado pursue regulations on culturally responsive provider networks; 2) what information did Colorado consider in the development of its regulations; and 3) what additional state agencies or entities should state insurance regulators partner with to coordinate and develop this work.

The presentation also described how Colorado plans to achieve its goal of improving racial health equity by establishing standardized health benefit plans; designing these plans to improve racial health equity; and requiring these plans to have a provider network that is culturally responsive and, to the extent possible, reflects the diversity of the community that it serves in terms of race, ethnicity, gender identity, and sexual orientation. The presentation discussed next steps Colorado plans to take to assess its progress towards achieving its goal, including: 1) robust data analysis to determine carrier compliance and opportunities for improvements; and 2) exploring existing structures that could be leveraged such as the National Committee for Quality Assurance's (NCQA's) Health Equity Accreditation.

The Workstream's second meeting on July 26 focused on barriers to care with respect to providers and the following questions: 1) what problems do plan enrollees encounter in attempting to access in-network benefits; and 2) what can state insurance regulators do to correct that.

The Workstream heard a presentation from Quest Analytics on emerging ideas and approaches state insurance regulators might consider to close the health equity gap when developing plan network adequacy requirements. Instead of a more traditional approach to determining network adequacy, such as time and distance standards based on population density and county type, the presenter suggested that states might want to look at time and distance standards based on provider characteristic types critical to meet health equity needs. As another way to close the health equity gap, the presenter suggested that state insurance regulators consider requiring plans to demonstrate that the network is not unduly burdensome to consumers in terms of travel time and distance based on provider characteristic types and not provider types, which is the current approach.

The Workstream also heard a presentation from an NAIC consumer representative discussing barriers people of color and other historically underrepresented populations encounter when trying to obtain treatment from network providers, particularly for those who have plans with narrow networks. The American Medical Association (AMA) presented on the work it is doing with respect to provider directories and the associated challenges, including the accuracy of such directories. The AMA also discussed the collaborative work it is doing around the collection, maintenance, and use of race and ethnicity data. Lastly, the AMA talked about issues and challenges associated with the inclusion of race and ethnicity information in provider directories. The Blue Cross and Blue Shield Association (BCBSA) and one of its member plans discussed challenges and efforts to mitigate race-based barriers to insurance. The AMA also discussed ways state insurance regulators can increase access to culturally competent care.

The Workstream's next meeting is Aug. 23. It will focus on barriers to care related to benefit design. Speakers have been asked to discuss in what ways the structure of available benefits sometimes uniquely disadvantages communities of color and what actions state insurance regulators can take to remedy such benefit designs.

Mila Kofman (DC Health Link) will discuss how the DC Health Link has identified barriers to care for communities of color and how state insurance regulators can promote the use of benefit plan design to reduce such barriers to high-value care. A representative from the American Academy of Actuaries' (Academy's) Health Equity Work Group plans to update the Workstream on its work examining how benefit design features that control access to providers disproportionately disadvantage communities of color and how state insurance regulators can take action.

The Workstream's last meeting focusing on benefit design is Sept. 20. During this meeting, the Workstream will focus on innovations in benefit design and hear from speakers on what new benefits could be added to health plans or modifications made to existing benefits that could improve access to care and health outcomes for communities of color and what state insurance regulators can do to promote them.

Following these meetings, the Workstream plans to hold a series of meetings focusing on effective consumer education and engagement, as well as mechanisms to understand barriers at the community level. The Workstream is currently in the process of finalizing those meeting agendas.

Having no further business, the Special (EX) Committee on Race and Insurance adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/8-RaceIns

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

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Draft: 8/18/22

Life Insurance and Annuities (A) Committee
Portland, Oregon
August 11, 2022

The Life Insurance and Annuities (A) Committee met in Portland, OR, Aug. 11, 2022. The following Committee members participated: Judith L. French, Chair (OH); Carter Lawrence, Vice Chair (TN); Mark Fowler (AL); Karima M. Woods represented by Philip Barlow (DC); Colin M Hayashida represented by Patrick P. Lo (HI); Doug Ommen (IA); Vicki Schmidt (KS); James J. Donelon (LA); Marlene Caride (NJ); Barbara D. Richardson (NV); Cassie Brown represented by Chris Herrick and Mike Boerner (TX); Scott A. White (VA); and Nathan Houdek and Richard Wicka (WI). Also participating was: Grace Arnold and Fred Andersen (MN).

1. Adopted its July 20 Minutes

Director French said the Committee met July 20 and took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted nine *Valuation Manual* amendments; 3) adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53); 4) heard a presentation on life insurance updates to the NAIC website; and 5) received an update on the survey into the use of artificial intelligence (AI) and machine learning (ML) in life insurance being developed by the Big Data and Artificial Intelligence (H) Working Group.

Commissioner Lawrence made a motion, seconded by Commissioner Ommen, to adopt the Committee's July 20 minutes (Attachment One). The motion passed unanimously.

2. Received an Update from the Accelerated Underwriting (A) Working Group

Commissioner Arnold gave an update on the Accelerated Underwriting (A) Working Group. She reminded the Working Group that the Committee adopted the Working Group's educational report on accelerated underwriting (AU) in life insurance at the Spring National Meeting. She said one of the realizations to come out of the educational report was the need for specific guidance for state insurance regulators with respect to AU in life insurance. She said since the Spring National Meeting, an ad hoc group of six or so state insurance regulators has been meeting bi-weekly to discuss, plan, and put pen to paper on regulatory guidance for state insurance regulators.

Commissioner Arnold explained that the ad hoc group has identified market conduct as one of the areas where additional guidance for state insurance regulators about AU in life insurance would be helpful. She said the ad hoc group quickly realized that collaboration with other NAIC groups is going to be critical. She said the Working Group plans to coordinate with the Market Conduct Examination Guidelines (D) Working Group, which oversees the *Market Regulation Handbook*, as well as with the Innovation, Cybersecurity, and Technology (H) Committee and the Big Data and Artificial Intelligence (H) Working Group and its workstreams. She Arnold said the Accelerated Underwriting (A) Working Group recognizes that market conduct is not the only area where regulatory guidance will be helpful, and it remains committed to considering additional guidance and working with NAIC groups in other areas in the future.

Commissioner Arnold said the Working Group hopes to hold an open call in late September or early October.

Birny Birnbaum (Center for Economic Justice—CEJ) said the AU educational paper identified several potential consumer protection issues. He said he would like to highlight a few of those issues that he hopes the Working Group will address in the regulatory guidance it is working on. He raised the issue of the filing of predictive models,

like is done with credit-based property/casualty (P/C) models. He said he hoped that the Working Group would develop a model for life predictive models, and he reminded the Life Insurance and Annuities (A) Committee of a presentation made in January 2020 to the Working Group anticipating that an NAIC model on life predictive models would be coming soon.

Mr. Birnbaum made a number of suggestions for the Working Group to consider when it is developing its recommended regulatory guidance: 1) explore and test whether the use of consumer credit information in AU is reliable and fair in terms of both the actuarial and protected class bases for unfair discrimination; and 2) explore and test whether the use of consumer biometric information, including facial and body analytics, is reliable and fair in terms of the actuarial and protected class bases for unfair discrimination.

Mr. Birnbaum suggested that the regulatory guidance should require AU applications that utilize consumer credit information to follow the same state laws and regulations governing other uses or prohibitions of consumer credit information. He said the regulatory guidance should require life insurers using AU models to follow basic consumer protections, including: 1) obtaining consent to collect, use, and disclose a consumer's information; 2) limiting the use of a consumer's information to specified and relevant purposes; 3) providing notice to consumers of any and all unfavorable actions, including access to the information relied upon in making any unfavorable decision; and 4) providing consumers with the opportunity to correct incorrect information and have any unfavorable action reconsidered.

Commissioner Arnold said she appreciates Mr. Birnbaum's suggestions, and she explained that many of these important issues Mr. Birnbaum raises are being addressed in other NAIC groups, including the Innovation, Cybersecurity, and Technology (H) Committee and the Big Data and Artificial Intelligence (H) Working Group and its workstreams. Mr. Birnbaum said he appreciates the need for the various NAIC groups looking at this issue to collaborate, and he said a list of the groups and related activities would be helpful.

3. Adopted the Report of the Annuity Suitability (A) Working Group

Commissioner Ommen said the Annuity Suitability (A) Working Group met July 25. He said during this meeting, the Working Group adopted its May 26 and May 3 minutes. He explained that earlier this year, the Working Group received some proposed frequently asked questions (FAQ) on the safe harbor provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275). He said the Working Group agreed to include additional FAQ on the safe harbor provision in the FAQ document the Working Group adopted last May, and the Life Insurance and Annuities (A) Committee adopted it last July.

Commissioner Ommen said the Working Group discussed the proposed FAQ, and the comments received on them during its May 3 and May 26 meetings. During its May 26 meeting, the Working Group decided to form an ad hoc small drafting group to review the suggested FAQ in more detail and consider potential revisions. He said the ad hoc small drafting group met twice. During these meetings, they discussed the proposed FAQ and developed comments on them for discussion during the Working Group's July 25 meeting.

Commissioner Ommen said the Working Group walked through the ad hoc small drafting group's comments question-by-question during the July 25 meeting. He said after discussion and receiving comments from stakeholders, the Working Group decided to move forward with redrafting and restructuring the FAQ based on its discussion. He said the ad hoc small drafting group plans to take the lead on this work.

Commissioner Ommen said 27 states have adopted the revisions to Model #275, and there are six more states currently considering them. He said consistency and uniformity across the market is important, and he encouraged states who have not adopted the revisions to consider doing so. He said there is a lot of assistance available from the NAIC and other states.

Commissioner Donelon made a motion, seconded by Commissioner Caride, to adopt the report of the Annuity Suitability (A) Working Group, including its July 25 minutes (Attachment Two). The motion passed unanimously.

4. Adopted the Report of the Life Actuarial (A) Task Force

Pat Allison (NAIC) gave the Life Actuarial (A) Task Force report. She said the Task Force met Aug. 8–9, 2022. She said there are a few items she wants to highlight for the Committee. She said the Task Force adopted amendment proposal 2020-12, which revises hedge modeling when future hedging strategies are not clearly defined. She said this amendment established a consistent definition of clearly defined hedging strategy for use in both VM-20, Requirements for Principle-Based Reserved for Life Products, and VM-21, Requirements for Principle-Based Reserves for Variable Annuities. She said it also added some definitions to VM-01, Definitions for Terms in Requirements, to define future hedging strategy and hedging transactions. She explained that it also includes a provision that the companies reflect all future hedging strategies in their modeling. She said there are also changes to VM-31, PBR Actuarial Report Requirements for Business Subject to a Principle-Based Valuation, regarding these new terms and requirements for additional disclosures from companies.

Ms. Allison also gave an update on the transition from the London Interbank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) in the procedure for setting swap spreads. She reminded the Committee that the Task Force adopted amendment proposal 2022-04, which addresses the LIBOR transition to the SOFR for 2023 and later. She said work addressing the transition for the remainder of 2022 is progressing, and the NAIC anticipates having three vendors in place to publish SOFR swap spreads on the NAIC website by the end of September.

Mr. Andersen gave an update on the Indexed Universal Life (IUL) Illustration (A) Subgroup. He said there have been issues with IUL illustrations over the past eight years. He reminded the Committee of the adoption of *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold On or After December 14, 2020* (AG 49-A), which was a revision to *Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest* (AG 49) in response to certain activity to ensure that the illustrations were accurate and not too misleading or optimistic.

Mr. Andersen said new issues have arisen, and the Task Force is considering how to address them. They are considering whether additional modifications should be made to the actuarial guidelines to address these newer concerns. He said there is an exposure period for feedback on four possible ways to address the issues that have come up, ranging from doing nothing to taking drastic action. One of the options gaining Task Force member support involves making a more immediate fix to the actuarial guidelines, but in recognition of the fact that issues are likely to continue necessitating future changes, perhaps limited, targeted revisions to the *Life Insurance Illustrations Model Regulation* (#582) should be considered. Mr. Andersen said the Task Force extended the exposure regarding options to address the current illustration concerns and included a request for comment regarding such limited, targeted revisions to Model #582 that may help to reduce or eliminate the need for addressing issues through an actuarial guideline. He said he expects comments to be submitted over the next few weeks; then, there is likely to be a more formal communication to the Committee about any recommendations. Commissioner Ommen said he would support an effort to look at Model #582.

Mr. Birnbaum said most stakeholders endorsed a fix to AG 49A to address the latest actions by insurers to game the guideline, but there was also broad recognition by many of the need to address illustration issues more broadly. He said the fundamental problem is a flawed illustration infrastructure that drives insurers towards so-called innovations after each iteration of AG 49. He said without addressing the problems with the illustration framework—projecting future returns using constant annual crediting rates, loan arbitrage, data-mined indices with made up histories, no sequence of return risk, etc.—the state insurance regulators will be coming back again and again as insurers game each new iteration of the actuarial guideline. He said none of this even addresses the

disparities between illustration guidelines between indexed annuities and indexed life insurance, despite the similarities in product features nor the disparities in illustration guidelines across life insurance products.

Mr. Birnbaum said the actuaries are limited in two important ways: 1) they are limited by Model #582 because it was designed 30 years ago before indexed products existed, and it is woefully out of date; and 2) actuaries are not experts in consumer financial disclosures. He said illustrations are a consumer disclosure, and the technical expertise needed is not that of an actuary but of experts in consumer financial disclosure. He said asking the actuaries to fix problems with IUL illustrations would be like asking the Life Insurance Online Guide (A) Working Group to develop reserving requirements for indexed life insurance. He said he urges the Committee to establish a charge to examine and re-engineer life insurance and annuity illustrations for effective consumer disclosure and consistency of principles across similar products.

Commissioner White made a motion, seconded by Acting Commissioner Fowler, to adopt the report of the Life Actuarial (A) Task Force. The motion passed unanimously.

5. Discussed the Life Insurance Online Guide (A) Working Group

Director French reminded the Committee that during its July 20 call, it heard a presentation from NAIC Communications Director, Laura Kane, about the updates the Communications Division made to the life insurance material on the NAIC website. She said that Ms. Kane identified some content, based on a review of other insurance department websites, that might make sense to add to the NAIC website, including a comparison chart from the Texas Department of Insurance (DOI) website and information about common riders. She also mentioned that the Communications Division is planning to translate the buyer's guides on the website into Spanish.

Director French reminded the Committee that Ms. Kane said the Communications Division would need assistance from subject matter experts (SMEs) to assist with these recommended revisions. She said this work is consistent with the Life Insurance Online Guide (A) Working Group's charge to "Develop an online resource on life insurance, including the evaluation of existing content on the NAIC website, to be published digitally for the benefit of the public."

Mr. Herrick said he would be happy to assist with the development of content for the website based on the chart on the Texas DOI website. Commissioner Schmidt also agreed to help. Director French said any other states willing to volunteer should reach out to Jennifer Cook (NAIC).

6. Discussed Enhanced Cash Value Products

Director French reminded attendees that she mentioned the enhanced cash surrender value offer issue during the Committee's July 20 call. She explained that the National Council of Insurance Legislators (NCOIL) has raised the issue of enhanced cash surrender value offers being made on universal life insurance policies and the application of the "smoothness" requirement in the *Standard Nonforfeiture Law for Life Insurance* (#808). She said NCOIL issued a resolution during its last meeting, and the American Council of Life Insurers (ACLI) wrote a letter in opposition to that resolution.

Director French said to properly discuss this issue in the Committee, it is important to gather as much information as possible about this issue. She said the NAIC Legal team has agreed to look into the history of universal life and its application to Model #808. She said a survey of state insurance departments is also planned to get a better understanding of the prevalence of these enhanced cash surrender value offers, what they look like, and to whom they apply. She said the plan is to have information to share on this issue and have a discussion in September.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.

Draft: 8/2/22

Life Insurance and Annuities (A) Committee
Virtual Meeting
July 20, 2022

The Life Insurance and Annuities (A) Committee met July 20, 2022. The following Committee members participated: Judith L. French, Chair (OH); Carter Lawrence, Vice Chair (TN); Mark Fowler (AL); Karima M. Woods represented by Philip Barlow (DC); Doug Ommen represented by Matthew Cunningham and Kim Cross (IA); Vicki Schmidt (KS); James L. Donelon (LA); Marlene Caride (NJ); Adrienne A. Harris represented by Bill Carmello and Mark McLeod (NY); Cassie Brown represented by Mike Boerner (TX); and Scott A. White (VA). Also participating were: Fred Andersen (MN); and Kevin Gaffney (VT).

1. Adopted its Spring National Meeting Minutes

Commissioner Donelon made a motion, seconded by Commissioner Schmidt, to adopt the Committee's April 7 minutes (see *NAIC Proceedings – Spring 2022, Life Insurance and Annuities (A) Committee*). The motion passed unanimously.

2. Adopted 2023 Valuation Manual Amendments

Mr. Boerner explained that there are nine *Valuation Manual* amendments for consideration by the Committee. He explained that the amendments are largely technical and range from clarifications to more substantive technical amendments like amendment proposal form (APF) 2020-12 related to hedging. Mr. Boerner said he wants to spend a little more time on APF 2022-04, which was recently adopted by the Life Actuarial (A) Task Force and addresses the transition from the London Interbank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) in the procedure for setting swap spreads.

Pat Allison (NAIC) explained that LIBOR will cease to be published by mid-2023. She said the *Valuation Manual* currently has a specific reference to LIBOR swap spreads, and a table of LIBOR swap spreads is currently published on the NAIC website. Those swap spreads are prescribed in VM-20, Requirements for Principle-Based Reserves for Life Products. She said APF 2022-04 accomplished several things: 1) it names SOFR as the official replacement for LIBOR; and 2) it provides the methodology that NAIC staff will use to set both short-term and long-term swap spreads. The approach requires NAIC staff to gather SOFR data from at least two nationally recognized sources and average them together. The NAIC is currently working with three different data providers to get the data. There will be some contract work with those data providers that should be completed within the next couple of months. The APF 2022-04 handles 2023 and future years since it would go into effect in the 2023 *Valuation Manual*. There is the consideration of how to handle the transition to SOFR for the remainder of 2022. There is language in the *Valuation Manual* that states that once the NAIC determines that LIBOR is no longer effective, it will recommend a replacement, which will become effective upon adoption by Life Actuarial (A) Task Force; adoption by the Life Insurance and Annuities (A) Committee is not required. She explained that the use of SOFR is becoming quite widespread, and NAIC staff have drafted a memorandum to the Task Force recommending the move to SOFR in 2022. All that remains to put that in place is to complete the contract work with the data providers. Then the date of transition can be added to the memorandum and brought to the Task Force for adoption. Ms. Allison said that everything should be in place to make the transition in the next couple of months from LIBOR to SOFR.

Mr. Boerner made a motion, seconded by Commissioner White, to adopt the 2023 *Valuation Manual* amendments (see *NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment One*). The motion passed unanimously.

3. Adopted the AAT Guideline

Mr. Andersen explained that the asset adequacy testing (AAT) guideline was adopted by the Life Actuarial (A) Task Force on June 16 and is part of a coordinated NAIC effort regarding the oversight of the increase in private equity and complex assets in the life insurance industry. He explained that this guideline was developed and adopted by the Life Actuarial (A) Task Force on June 16 and focuses on aspects related to reserve adequacy. The purpose of this guideline is to help ensure life insurers involved in complex assets will be able to pay claims even if those assets do not perform as expected.

Mr. Andersen explained that once the guideline is adopted by the NAIC, beginning next April, state insurance regulators will receive additional documentation and analysis related to private equity and complex assets supporting business including annuities, pension risk transfers (PRTs), and other life insurer business. He said the additional information will include: 1) analysis of the risks of the complex assets; 2) details underlying the assumptions on how those assets will perform; 3) expectations on the sophistication of the company models matching the complexity of the assets; and 4) assurance that any counterparty risks related to reinsurance are considered and documented. He said the Valuation Analysis (E) Working Group will act as a resource to assist states in the reviews of the filings associated with the guideline.

Commissioner White said that this is an important part of the work being done by groups at the NAIC reporting to both the Life Insurance and Annuities (A) Committee and the Financial Condition (E) Committee. He said they are looking at not only private equity, but also activity-based regulatory considerations, capital charges in the reporting, and potential under-reserving issues.

Commissioner Schmidt made a motion, seconded by Mr. Boerner to adopt the AAT guideline (see *NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Two*). The motion passed unanimously.

4. Heard a Presentation on NAIC Website Updates

Laura Kane (NAIC) reviewed several life insurance updates that have been made to the NAIC website. She explained that the title of the page was updated to include both life insurance and annuities, and the corresponding landing page was also updated to include information on annuities. She said additional information was added to provide greater context around the purpose of these products. She said some new frequently asked questions (FAQ) were added, and an overview of life settlements based on an NAIC approved guide was also added. In addition to linking to the *Life Insurance Buyer's Guide*, there are also links to the buyer's guides for deferred annuities and fixed deferred annuities. She said the Communications team worked with NAIC funded consumer representative and readability expert Brenda J. Cude (University of Georgia) to improve the readability level and increase the accessibility of the insurance pages.

Ms. Kane discussed information on other states' websites that might be good to include on the NAIC website. One example is a chart from the Texas Department of Insurance's (DOI's) website. The Texas chart compares term life insurance, whole life insurance and universal life insurance by premium, how long the policy lasts, what the policy pays, and advantages and disadvantages of each policy type. She also said that other state insurance departments include information about commonly seen riders. She said the Communications team would need some assistance

to create this content on the website. Director French asked whether this is something the Life Insurance Online Guide (A) Working Group might be able to assist with. She asked for any state insurance regulators who might be interested in assisting with this project to contact Jennifer Cook (NAIC). Commissioner Gaffney said that there is a Vermont chart that may be useful in this effort.

Ms. Kane also said another update that the Communications team is working on is translating the consumer guides into Spanish. They have been relying on the Puerto Rico Insurance Department staff to check the translation but would welcome assistance from additional states. Director French asked for state insurance regulators to contact Ms. Cook if they have anyone on staff who could help with reviewing publications for accuracy after they have been translated into Spanish.

Birny Birnbaum (Center for Economic Justice—CEJ) asked Ms. Kane if the NAIC website has been consumer tested to see how effective the information is in educating consumers. Ms. Kane said that the website has not been consumer tested, but she thinks that consumer testing may be part of a more comprehensive overhaul of the entire website. Director French agreed that making sure that things are accessible to consumers is important.

5. Heard an Update on the Survey into the Use of AI and ML in Life Insurance

Commissioner Gaffney explained that there are four workstreams under the Big Data and Artificial Intelligence (H) Working Group, chaired by Superintendent Elizabeth Kelleher Dwyer. He explained that he is leading up Workstream One, which is the group working on a survey looking into the use of artificial intelligence (AI) and machine learning (ML) in life insurance.

Commissioner Gaffney explained that 13 states (Colorado, Connecticut, Illinois, Iowa, Louisiana, Minnesota, Nebraska, North Dakota, Oregon, Pennsylvania, Rhode Island, Virginia, and Wisconsin) are collaborating to develop and administer the survey to life insurance companies meeting certain criteria. He said there four criteria for including companies in the survey: 1) companies must have written more than \$250 in premium on all individual policies in 2021; 2) term writers must have issued policies on more than 10,000 lives; 3) a state market share analysis must show that the 13 states are adequately represented by the selected companies; and 4) there must be representation by InsurTech in the selected companies. InsurTech companies are not required to meet the \$250 million premium threshold.

Commissioner Gaffney explained that the goal of the survey is to understand how life insurance companies are deploying AI and ML technologies in the following operational areas: pricing and underwriting, marketing, and loss prevention. He said the survey also seeks to understand the design of governance structures companies have in place to ensure they are using AI/ML ethically, that governance structure mitigates harm to insureds, and that there are sufficient controls in place to protect the models from inappropriate intrusions. He said the survey also attempts to understand the minimum and maximum face amount thresholds at which companies deploy AI/ML technologies.

Commissioner Gaffney said the general design of the survey is to: 1) understand whether life companies are using AI/ML in certain functions, or plan to be in the future, as discussed below; 2) have companies identify the AI/ML models they are using in certain operational areas; 3) have companies disclose whether their AI/ML models are developed internally, externally, or hybrid development; 4) have companies disclose what data elements, internal or third-party, the company is leveraging in their AI/ML models; and 5) understand the accuracy and predictive value of the AI/ML data in respect of mortality and morbidity.

Commissioner Gaffney reviewed the goals of each section of the survey. He explained that the pricing and underwriting section of the survey focuses on AI/ML being deployed in the following 11 areas: 1) setting

assumptions; 2) speed and accuracy; 3) specialty products for certain conditions, such as diabetes; 4) automated premium rates; 5) automated approval; 6) automated denial; 7) underwriting tier determination; 8) company placement; 9) input into non-automated approval decision; 10) input into non-automated denial decision; and 11) automate processing through the agency channels. He explained that the survey allows for up to three specialty diseases and considers automated approval and denial of policies to fall in the category of accelerated underwriting. The survey also allows companies to elaborate on other underwriting-related functions.

Commissioner Gaffney explained that the marketing section of the survey focuses on AI/ML being deployed in seven areas: 1) geographic marketing; 2) targeted online advertising; 3) identification of recipients of mail or phone advertising; 4) provision of offers to existing customers; 5) identification of potential customer groups; 6) demand modeling; and 7) direct online sales. The survey also allows companies to elaborate on other marketing-related functions.

Commissioner Gaffney said that the loss prevention section of the survey focuses on AI/ML being deployed in the following six areas: 1) wearable devices; 2) wellness initiatives; 3) discount medical programs; 4) smoking and accelerated underwriting; 5) wellness programs; and 6) disease detection. He said the survey also allows companies to elaborate on other loss prevention-related functions.

Commissioner Gaffney said that the survey reflects 10 data element categories: 1) credit-based insurance score; 2) financial credit score; 3) other type of non-credit “score”; 4) public records; 5) demographic; 6) telematics type data; 7) driving behavior; 8) biometrics; 9) medical; and 10) online media. He said the survey also allows companies to elaborate on other nontraditional data elements and to provide examples. Each data element category is defined in the survey instructions with supporting examples.

Commissioner Gaffney explained that the governance section of the survey attempts to understand the governance framework companies have in place to ensure their AI/ML model is being used ethically and not causing harm to consumers. Among the governance concerns the survey attempts to address are: 1) restrictions imposed by third parties would prevent insurers from disclosing data or AI/ML materials to state insurance regulators; 2) company compliance with the NAIC AI Principles, including: a) fairness and ethics considerations; b) accountability for data algorithms’ compliance with laws, as well as intended and unintended impacts; c) appropriate resources and knowledge involved to ensure compliance with laws, including those related to unfair discrimination; d) ensure transparency with appropriate disclosures, including notice to consumers specific to data being used and methods for appeal and recourse related to inaccurate data; and e) AI systems are secure, safe and robust, including decision traceability and security and privacy risk protections; 3) adoption of an existing standard or guidance regarding a governance framework, either developed internally or by a third party. If by a third party, the survey requests companies to disclose the third party; 4) consumer awareness and disclosure of the use of third-party data and algorithms in pricing, underwriting, marketing, and loss prevention. Commissioner Gaffney said the survey asks whether companies disclose any adverse findings of the consumer uncovered by the AI or ML model to the consumer; and 5) monitoring of the results of AI or ML models and the amount of human intelligence influencing the AI/ML results.

Commissioner Gaffney said that initial kick-off calls have been conducted to describe the purpose and design of the survey with specific companies, and feedback has already started coming in. He said the survey will be modified based on the feedback. He said the hope was to send the survey out by mid-August, but given resource issues and other ongoing surveys, the timeline may get pushed back. Director French said she looks forward to the information gleaned from the survey and asked Commissioner Gaffney to keep the Committee updated as things progress.

6. Discussed Other Matters

Director French raised the issue of enhanced cash surrender options that has come up in National Conference of Insurance Legislators (NCOIL) meetings over the past several months. She explained that the issue involves the offers of enhanced cash surrender for certain universal life policies and the application of the *Standard Nonforfeiture Law for Life Insurance* (#808). She said NCOIL issued a resolution, and the American Council of Life Insurers (ACLI) issued a letter in opposition to the NCOIL resolution. She said there would be additional discussion of this issue at the Life Insurance and Annuities (A) Committee in the future. She said to contact Ms. Cook for additional information on this topic.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Committee Support/ACmte/Summer National Meeting/ACmtemin 7-20-22 min final.docx

Draft: 8/1/22

Annuity Suitability (A) Working Group
Virtual Meeting
July 25, 2022

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met July 25, 2022. The following Working Group members participated: Doug Ommen, Chair (IA); Tate Flott, Vice Chair (KS); Jimmy Gunn (AL); Jodi Lerner (CA); Jessica Luff (DE); Karl Fromm (ID); Renee Campbell (MI); Denise Lamy (NH); Daniel Bradford (OH); Matt Gendron (RI); Brian Hoffmeister (TN); and Richard Wicka (WI).

1. Adopted its May 26 and May 3 Minutes

The Working Group met May 26 and May 3. During these meetings, the Working Group took the following action: 1) discussed adding new frequently asked questions (FAQ) on the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation (#275)* to the adopted FAQ guidance document; and 2) discussed comments received on these potential new FAQs.

Mr. Gendron made a motion, seconded by Mr. Hoffmeister, to adopt the Working Group's May 26 (Attachment Two-A) and May 3 (Attachment Two-B) minutes. The motion passed unanimously.

2. Discussed Draft Safe Harbor/Comparable Standards Provision FAQ

Commissioner Ommen said that as discussed during the Working Group's May 26 meeting, following that meeting, an ad hoc small drafting group consisting of a few Working Group members met twice to review the draft frequently asked questions (FAQ) on the safe harbor/comparable standards provision in the revised Model #275, which added a best interest standard of conduct for insurers and producers. As a result of those meetings, NAIC staff prepared a comment chart (Attachment Two-C) reflecting the comments received on the draft FAQ, including the ad hoc small drafting group's comments. He said the purpose of this meeting is for the Working Group to walk through the comment chart question-by-question focusing on the ad hoc small drafting group's comments.

Beginning with the first question, Commissioner Ommen explained the ad hoc small drafting group's comments about the necessity of this FAQ. Jason Berkowitz (Insured Retirement Institute—IRI) said the Joint Trades' approach for this FAQ and some of the subsequent FAQ was to provide the states looking to adopt the revised model background and basic information about the safe harbor provision—what it is and how it works. The Working Group discussed its concerns with this approach, including providing FAQ answers mirroring the language in the revised model. The Working Group also discussed the complexity of determining whether a comparable standard meets the revised model's requirements and the importance of understanding the requirements of that comparable standard. Mr. Berkowitz discussed potential new approaches to restructuring the FAQ and answers to address the ad hoc small drafting group's concerns. He acknowledged that the first question and some of the subsequent FAQ were not critical from the Joint Trades' perspective. He reiterated that these FAQ were intended to provide background information to those states looking to adopt the revised model that might not have been involved in the drafting process to understand the purpose of the safe harbor provision. He said some of the later FAQ are more critical because they are intended to provide some clarity and clear up any possible confusion concerning some aspects of the safe harbor provision.

Birny Birnbaum (Center for Economic Justice—CEJ) said the CEJ believes the FAQ should serve as either an educational tool for those states looking to adopt the revised model or, particularly for the safe harbor provision, as interpretive guidance for those states that have adopted the revised model because the safe harbor provision

seems to be more ambiguous than other provisions in the revised model. He suggested the FAQ should be simple and clear. He provided examples of FAQ the CEJ believes would be useful.

The Working Group discussed whether it should restructure the FAQ and what should be in the FAQ, particularly whether the safe harbor provision applies to non-variable annuities and what is expected of a financial professional and entities supervising such professionals seeking to use the safe harbor provision. The Working Group continued walking through the draft FAQ and discussing the ad hoc small drafting group's comments.

Wes Bissett (Independent Insurance Agents and Brokers of America—IIABA) expressed support for the Working Group's plan to restructure the FAQ. He suggested that in restructuring the FAQ and answers, the Working Group should focus on the actual text of the revised model and not intent. Mr. Birnbaum suggested that it could be important for the Working Group to include in the FAQ guidance and clarity on whether the comparable standard must in fact be a comparable standard for purposes of the safe harbor provision given the issue of whether federal laws and regulations, and the comparable standards derived from such federal laws and regulations, apply to recommendations and sales of non-variable annuities.

After it completed its review, with the ad hoc small drafting group taking the lead, the Working Group decided to move forward with redrafting and restructuring the FAQ based on its discussion.

Having no further business, the Annuity Suitability (A) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/A Cmte/Annuity Suitability WG/ASWG 7-25-22min.docx

Draft: 7/5/22

Annuity Suitability (A) Working Group
Virtual Meeting
May 26, 2022

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met May 26, 2022. The following Working Group members participated: Doug Ommen, Chair (IA); Tate Flott, Vice Chair (KS); Yada Horace (AL); Jodi Lerner (CA); Jessica Luff (DE); Karl Fromm (ID); Renee Campbell (MI); Maureen Belanger (NH); Daniel Bradford and Michelle Brugh Rafeld (OH); Matt Gendron (RI); Stephanie Cope (TN); and Richard Wicka (WI).

1. Discussed Comments Received on Chair Draft Safe Harbor/Comparable Standards Provision FAQ

Commissioner Ommen said the purpose of this meeting is for the Working Group to discuss the comments received by the May 23 public comment deadline on the chair's draft frequently asked questions (FAQ) on the safe harbor/comparable standards provision in the revised *Suitability in Annuity Transactions Model Regulation* (#275), which added a best interest standard of conduct for insurers and producers. He said the Working Group received comments from the XY Planning Network and the Independent Insurance Agents & Brokers of America (IIABA). He said the Working Group also would discuss the Joint Trades' comments submitted earlier.

The Working Group walked through the chair draft FAQ question-by-question (Attachment Two-A1). Commissioner Ommen asked for any comments in addition to the written comments received on the first FAQ, which concerns the application of the safe harbor to certain types of recommendations or sales. Birny Birnbaum (Center for Economic Justice—CEJ) asked for clarification on what is meant by “types of recommendations and sales” in the first draft FAQ. He said that based on the question's wording, it seems to imply that there is a difference in the types of recommendations and sales the safe harbor applies to as opposed to the types of recommendations and sales Model #275 applies to. He suggested that the Working Group might want to leave the question out as it is currently written or rewrite it to make it clear on what distinguishes the safe harbor provision from the other provisions of Model #275. Commissioner Ommen noted that the Joint Trades provided a short answer mirroring the language in Section 6E. He said the XY Planning Network suggests a more extensive answer, including discussing the comparable standards.

Commissioner Ommen asked for additional comments on the second FAQ, which asks when a producer would be considered as acting as a financial professional for purposes of the safe harbor provision. Wes Bissett (IIABA) said the IIABA did not comment on this question. He said that the Joint Trades suggested the FAQ answer repeats what is in Model #275, which he is not sure is helpful. He said a possible answer to this FAQ could be to clarify that the safe harbor applies to a financial professional licensed and acting in that capacity for that annuity transaction. Duane Thompson (XY Planning Network) discussed the XY Planning Network's suggested answer to the FAQ. The Working Group discussed the FAQ question and potential answers to it, particularly with respect to when a producer who is licensed as a broker-dealer or investment advisor could also be subject to a fiduciary duty with respect to a particular annuity transaction. Commissioner Ommen asked Mr. Bissett to submit additional comments on this FAQ, including a suggested answer reflecting his comments.

The Working Group discussed the next FAQ on what comparable standards meet the criteria for the safe harbor. Commissioner Ommen pointed out the comments from the Joint Trades and XY Planning Network. Mr. Bissett said the IIABA would be concerned if the Working Group included the last sentence of the Joint Trades' suggested answer to the FAQ because it suggests a representative of a broker-dealer who complies with the U.S. Securities and Exchange Commission's (SEC) Regulation Best Interest (Reg BI) in recommending a fixed or fixed-indexed

annuity could be covered under the safe harbor. The IIABA does not believe that is the case. Commissioner Ommen asked Mr. Bissett to provide language to the Working Group in support of his comments.

The Working Group discussed the next FAQ concerning any additional requirements in Model #275 a financial professional would have to satisfy if the financial provision has made a sale or recommendation of an annuity in full compliance with a comparable standard. Commissioner Ommen asked if there were any comments in addition to the Joint Trades and the XY Planning Network comments on this FAQ. There were no additional comments.

The Working Group discussed the next FAQ asking if there are specific conditions an insurer must meet for the safe harbor to apply. Commissioner Ommen asked if there were any additional comments on the FAQ in addition to the Joint Trades and the XY Planning Network comments. Mr. Bissett suggested clarifying the FAQ. He also suggested that the Working Group consider adding another FAQ, which the IIABA had included in comments it submitted previously: “Does the safe harbor exempt insurers from any of the supervisory or other requirements established under the model?” The Working Group discussed the intent of the FAQ and whether the answer to the FAQ is intended to solicit what an insurer needs to do to be able to use the safe harbor. After additional discussion, Commissioner Ommen asked interested parties to re-review this FAQ and their suggested answers to it to determine if the FAQ needs restructuring to provide more context or, as Mr. Bissett suggests, adding another FAQ to clarify its intent.

The Working Group discussed the next FAQ on whether insurers have any other obligations under Model #275 with respect to producers relying on the safe harbor. Commissioner Ommen said the IIABA, the Joint Trades, and the XY Planning Network submitted comments. Mr. Bissett said the IIABA would like clarification on what is meant by “other” obligations and whether the FAQ was referencing other obligations outside of the Model #275 requirements. Commissioner Ommen suggested that this question might be redundant and as such, the Working Group might consider striking it.

The Working Group discussed the next FAQ on whether insurers must obtain documentation from a financial professional or the entity supervising the financial professional to determine if the professional’s or the entity’s policies and procedures support a comparable standard for purposes of the safe harbor provision. Commissioner Ommen said the XY Planning Network had submitted a suggested response to this FAQ. He asked for additional comments. There were no additional comments.

The Working Group discussed the next FAQ concerning requirements for insurers to conduct regular audits or otherwise verify that the financial professional or entity supervising the financial professional is complying with the comparable standard. Commissioner Ommen said the XY Planning Network had submitted a suggested response to this FAQ. He asked for additional comments. There were no additional comments.

The next proposed FAQ concerns whether an insurer must require a financial professional or an entity supervising the financial professional to use the insurer’s specific suitability form. The Working Group discussed the FAQ. Commissioner Ommen asked if the Joint Trades expected to submit a suggested answer to this FAQ. Jim Szostek (American Council of Life Insurers—ACLI) said he anticipates the Joint Trades would discuss the FAQ and submit a suggested answer to it.

The Working Group discussed the next suggested FAQ, which asks whether Section 6E(2) of the model allows an insurer without supporting documentation to rely on a financial professional’s statement, or the statement from an entity supervising the financial professional, that an annuity recommendation complies with a comparable standard. Commissioner Ommen said this is something the Iowa Department of Insurance (DOI) has seen over the years with an insurer receiving a certification of compliance and given this, he would suggest the answer to the FAQ would be “no.” He said the Working Group would like to receive comments from interested parties on what

an insurer would expect a financial professional or an entity supervising a financial professional to submit to support the financial professional's or the entity's assertion that the annuity recommendation complies with the applicable comparable standard.

The Working Group discussed the last proposed FAQ, which asks whether the record-keeping obligations under the revised model apply when the safe harbor is invoked. The Working Group discussed the application of the comparable standard when the comparable standard does not have a similar requirement, such as the revised model's record-keeping and document requirement. Commissioner Ommen said he believes that this FAQ is another FAQ that relates to the scope and reach of the safe harbor and touches on previous questions as to what is a "comparable standard" if the comparable standard does not include requirements in the revised model, such as its documentation requirements. He said the Working Group would like to receive comments from interested parties on any potential answer to this FAQ, particularly on the safe harbor provision's reach. For example, does the safe harbor provision apply only to the revised model's Section 6 provisions, or does it extend to the training and/or recordkeeping requirements? Mr. Bissett pointed out the IIBA's previous comments on this issue.

The Working Group discussed its next steps. After discussion, the Working Group decided to form an ad hoc drafting group to redraft the suggested FAQs to reflect its discussion during this meeting.

Having no further business, the Annuity Suitability (A) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/A Cmte/Annuity Suitability WG/ASWG 5-26-22min.docx

CHAIR DRAFT OF PROPOSED SAFE HARBOR PROVISION FAQs

Draft: 5/12/22

Comments are being requested on this document on or before Monday, May 23. Comments should be sent to Jolie Matthews by email only to jmatthews@naic.org.

SAFE HARBOR/COMPARABLE STANDARDS PROVISION

QXX. What types of recommendations or sales does the safe harbor provision (contained in Section 6E of the revised model) apply to?

AXX.

QXX. When would a producer be considered to be acting as a financial professional for purposes of the safe harbor provision?

AXX.

QXX. What comparable standards meet the criteria for the safe harbor?

AXX.

QXX. If a financial professional makes a recommendation or sale of an annuity in full compliance with a comparable standard, does the financial professional also have to satisfy all of the specific requirements of the revised model?

AXX.

QXX. Are there specific conditions an insurer must meet for the safe harbor to apply?

AXX.

QXX. Do insurers have any other obligations under the revised model with respect to producers seeking to rely on the safe harbor?

AXX.

QXX. Are insurers required to obtain documentation from the financial professional or entity supervising the financial professional to determine that the professional's or entity's policies and procedures support a comparable standard?

AXX.

QXX. Are insurers required to conduct regular audits, or otherwise verify, that the financial professional or entity supervising the financial professional is complying with the comparable standard?

AXX.

QXX. Do insurers have to require a financial professional or the entity supervising the financial professional to utilize the specific insurer's suitability form?

AXX.

QXX. Does Section 6E(2) allow an insurer to simply rely upon a statement by the financial professional or entity supervising the financial statement that the annuity recommendation complies with a comparable standard?

AXX.

QXX. Do the record-keeping obligations of the revised model apply when the safe harbor provision is invoked? Is the insurer required to maintain a copy of the consumer's financial information and annuity application or may it rely upon the entity supervising the financial professional?

AXX.

SharePoint/NAIC Support Staff Hub/Member Meetings/A Cmte/Annuity Suitability WG/Safe Harbor Chair Draft FAQs 5-12-22.docx

Draft: 5/23/22

Annuity Suitability (A) Working Group
Virtual Meeting
May 3, 2022

The Annuity Suitability (A) Working Group of the Life Insurance and Annuities (A) Committee met May 3, 2022. The following Working Group members participated: Doug Ommen, Chair (IA); Tate Flott, Vice Chair (KS); Jimmy Gunn (AL); Jodi Lerner (CA); Jessica Luff (DE); Karl Fromm (ID); Renee Campbell (MI); Derek Wallman (NE); Denise Lamy (NH); Daniel Bradford and Michelle Brugh Rafeld (OH); Matt Gendron (RI); Brian Hoffmeister (TN); and Richard Wicka (WI).

1. Discussed Adding New FAQ on the Safe Harbor/Comparable Standards Provision

Commissioner Ommen said the purpose of this meeting is for the Working Group to discuss whether to add new frequently asked questions (FAQ) on the safe harbor/comparable standards provisions in the revised *Suitability in Annuity Transactions Model Regulation* (#275), which added a best interest standard of conduct for insurers and producers. He said included in the notice for today's meeting were comments the Working Group received from the Joint Trades suggesting new FAQ on the safe harbor/comparable standards provision in Model #275 and additional guidance on the producer training provisions.

Commissioner Ommen asked for comments on moving forward with adding new FAQ on the safe harbor/comparable standards provision and including additional guidance on the producer training provisions. He also suggested using the Joint Trades' suggested safe harbor/comparable standards provision FAQ as a starting point. The Working Group members expressed support for moving forward on those topics.

Commissioner Ommen discussed the possibility of creating ad hoc drafting groups to work on the new safe harbor/comparable standards provision FAQ and revisions to the current FAQ on producer training and have the Working Group use the drafts created by these ad hoc drafting groups to begin its discussions.

Wes Bissett (Independent Insurance Agents & Brokers of America—IIABA) said the IIABA supports adding new FAQ to the FAQ guidance document on the safe harbor/comparable standards provision. He said the IIABA had submitted suggested FAQ on that provision last year during the Working Group's discussions on the FAQ guidance document. He offered to resubmit those comments to the Working Group for its consideration. Mr. Bissett also said the IIABA would be concerned with the Working Group using the Joint Trades' suggested safe harbor/comparable standards provision FAQ as a basis for beginning its work before any discussion of or public comments were received on them. He said this suggests the Working Group supports the FAQ, particularly the FAQ answers on which the IIABA has concerns.

Commissioner Ommen assured Mr. Bissett that in suggesting the Working Group use the Joint Trades' FAQ as a starting point, it was not his intention to lead anyone into thinking the Working Group supported it prior to any discussion or receiving comments on it. He said he anticipates the Working Group thoroughly discussing the Joint Trades' FAQ and other comments received during its May 26 meeting. He also asked Mr. Bissett to resubmit the IIABA's earlier comments on this topic. Jason Berkowitz (Insured Retirement Institute—IRI), speaking on behalf of the Joint Trades, said the Joint Trades FAQ reflect their interpretation of the safe harbor/comparable standards provision in Model #275. He also reminded the Working Group about its deliberative process in developing the 2020 revisions during which not all stakeholder suggested revisions were accepted. In revising the FAQ document, he urged the Working Group not to permit the discussion to devolve into rehashing those issues again. He said

the Joint Trades would like the Working Group to focus on the NAIC's interpretation of the safe harbor/comparable standards provision and how it should be applied.

Mr. Berkowitz also pointed out that as part of the Joint Trades' suggested FAQs, the Joint Trades included a one-page chart clarifying the producer training provisions. The chart outlines common scenarios with respect to when a producer would need to complete the four-hour training or the one-hour training. Mr. Bissett suggested from a regulatory perspective, the Working Group revisit FAQ #4 in the current FAQ document to specifically clarify whether the four obligations outlined in Section 6A are the only elements a producer or insurer needs to satisfy to meet the best interest standard of care. He said such clarity is essential for a court to determine what duty a producer may owe to a client. He cited a Massachusetts case, which centered on whether a producer has a fiduciary duty to a client, as evidence of why such clarification is needed. Commissioner Ommen asked Mr. Bissett to submit any case citations he may have to support his suggestion.

Commissioner Ommen said that based on the discussion, he would prepare a chair draft of suggested safe harbor/comparable standards FAQ. NAIC staff will circulate the draft for public comment. He encouraged stakeholders to submit comments, including additional suggested FAQ and answers to those FAQ. He said the Working Group would discuss any comments received during its May 26 meeting. Without objection, the Working Group also agreed to include the Joint Trades' producer training chart in the revised FAQ for future discussion.

Having no further business, the Annuity Suitability (A) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/A CMTE/Annuity Suitability WG/ASWG 5-3-22min.docx

Comments on Chair Draft Safe Harbor/Comparable Standards Provision FAQs

<p>Q1. What types of recommendations or sales does the safe harbor provision (contained in Section 6E of the revised model) apply to?</p>	
<p>Small Drafting Group Comments</p>	<p><i>What is the purpose of this question and the Joint Trades’ answer repeating what is in the model regulation? Drop the question because it is unnecessary? Should a question be added at the end of the FAQs to reflect the XY Planning Network answer to this FAQ, such as “Does compliance with this regulation meet all the requirements for a fiduciary?”</i></p>
<p>Joint Trades</p>	<p>QXX. What types of recommendations or sales does the safe harbor provision (contained in Section 6E of the revised model) apply to?</p> <p>AXX. The safe harbor provision applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation.</p>
<p>XY Planning Network</p>	<p>QXX. What types of recommendations or sales does the safe harbor provision (contained in Section 6E of the revised model) apply to?</p> <p>AXX. The safe harbor provision in Section 6E of the revised model would allow a producer licensed under other applicable federal or state laws to rely on the safe harbor in making a recommendation or executing an annuities transaction. If the producer is also licensed as an investment adviser representative (IAR) and the consumer in question is an existing financial planning or advisory client, the producer should be aware of recent guidance by the U.S. Securities and Exchange Commission (SEC) that their fiduciary relationship with the client applies to the entire client relationship. Thus the fiduciary duty under the Investment Advisers Act of 1940 (and similar state adviser statutes) would apply to an annuity transaction sold outside of the advisory account because the producer’s fiduciary capacity would extend to all areas of the client relationship including product transactions. The safe harbor would be available if the producer/IAR fully complied with all rules and regulations of the federal or state adviser statute.</p> <p>Similarly, the Section 6E safe harbor would be available to the producer if the recommendation involved a retirement account subject to ERISA or the Internal Revenue Code and the producer was deemed to be a Sec. 3(21) fiduciary to the account holder.</p> <p>A producer who is also affiliated with a broker-dealer should be aware that a fiduciary relationship may also apply under the common law in certain states, notwithstanding that this regulation disclaims fiduciary capacity for purposes of meeting the rule’s compliance requirements. As such, if a court holds that a relationship of trust and confidence exists between the</p>

	<p>producer/broker and the customer, or case law holds that a securities broker is a fiduciary, then the producer/broker may be subject to fiduciary accountability for any annuity recommendations or transactions.</p> <p>A producer who is also affiliated with both a broker-dealer AND a registered investment adviser (RIA) should be aware that, as mentioned above with respect to SEC guidance, the fiduciary duty of the IAR would apply to all areas of the client relationship. The IAR’s capacity as a fiduciary under state law may also extend to other services provided, such as the sale of annuities.</p>
	<p>Q2. When would a producer be considered to be acting as a financial professional for purposes of the safe harbor provision?</p>
<p><i>Small Drafting Group Comments</i></p>	<p><i>What is the purpose of this question and the Joint Trades’ answer repeating what is in the model regulation? Drop the question because unnecessary or reword the question? Is this question really asking: “When does the safe harbor provision apply or not apply?” or is it asking: “For financial professionals, what would constitute compliance with business rules controls and procedures for purposes of the safe harbor provision?”</i></p>
<p>Joint Trades</p>	<p>QXX. When would a producer be considered to be acting as a financial professional for purposes of the safe harbor provision?</p> <p>AXX. A producer would be considered a financial professional for purposes of the safe harbor provision if they are acting as:</p> <ol style="list-style-type: none"> 1) A broker-dealer registered under federal [or state] securities laws or a registered representative of a broker-dealer; 2) An investment adviser registered under federal [or state] securities laws or an investment adviser representative associated with the federal [or state] registered investment adviser; or 3) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.
<p>XY Planning Network</p>	<p>QXX. When would a producer be considered to be acting as a financial professional for purposes of the safe harbor provision?</p> <p>AXX. The producer would be considered acting as a ‘financial professional’ under Sec. 6E(4) of the revised model rule and thereby subject to the other comparable standard (i.e., applicable law) at the time the recommendation was made.</p>
	<p>Q3. What comparable standards meet the criteria for the safe harbor?</p>
<p><i>Small Drafting Group Comments</i></p>	<p><i>What is the purpose of this question? Should this question be redrafted to describe the provisions (business rules) that must be in a comparable standard to satisfy the best interest requirements under the revised model?</i></p>

<p>Joint Trades</p>	<p>QXX. What comparable standards meet the criteria for the safe harbor?</p> <p>AXX. The NAIC considers conduct standards adopted by federal regulators under federal securities laws, ERISA, and the IRC to be comparable standards to Model #275. The revised model includes a drafting note indicating states may wish to consider state securities laws as a comparable standard as well. The revised model also makes clear that the safe harbor will apply even if the comparable standard would not otherwise apply to the product or recommendation at issue. For example, a registered representative of a broker-dealer who complies with the requirements of the SEC’s Regulation Best Interest when recommending a fixed or fixed indexed annuity (which are not securities under federal securities laws) would be covered by the safe harbor even though Regulation Best Interest does not directly apply to those products.</p>
<p>XY Planning Network</p>	<p>QXX. What comparable standards meet the criteria for the safe harbor?</p> <p>AXX. The comparable standards in the safe harbor are Regulation Best Interest (and any subsequent amendments) as promulgated by the U.S. Securities and Exchange Commission; under the antifraud provisions of Section 206 of the Investment Advisers Act of 1940, similar state statutes (including states that have adopted NASAA’s Unethical Business Practices of Investment Advisers <i>et al.</i>, as amended), and the applicable fiduciary duty obligations thereto; and with prohibited transaction exemptions (PTEs) and applicable fiduciary duties under ERISA and the Internal Revenue Code.</p>
<p>Q4. If a financial professional makes a recommendation or sale of an annuity in full compliance with a comparable standard, does the financial professional also have to satisfy all of the specific requirements of the revised model?</p>	<p>QXX. If a financial professional makes a recommendation or sale of an annuity in full compliance with a comparable standard, does the financial professional also have to satisfy all of the specific requirements of the revised model?</p>
<p>Small Drafting Group Comments</p>	<p><i>What does “full compliance” mean? Suggest rewriting the question to refer to business rules, such as: “If a financial professional falls under the safe harbor provision by complying with a comparable standard, does the financial professional have to comply with other provisions of the revised model, such as the one-hour and four-hour training requirements and product-specific training requirements? To determine whether a financial professional meets the requirements of the safe harbor provision through compliance with a comparable standard depends on the business rules in the comparable standard that meet the intent of the best interest standard in the revised model.”</i></p>
<p>Joint Trades</p>	<p>QXX. If a financial professional makes a recommendation or sale of an annuity in full compliance with a comparable standard, does the financial professional also have to satisfy all of the specific requirements of the revised model?</p> <p>AXX. No, a financial professional who fully satisfies the requirements of a comparable standard is considered to have met their obligations under the revised model, and does not need to also comply with any additional obligations imposed by the revised model. However, actual compliance with the applicable comparable standard is required; state insurance departments retain the authority to examine and investigate the conduct of a financial professional who is relying on the safe harbor to ensure</p>

	<p>compliance with the applicable comparable standard and can take enforcement action against a producer who fails to fully comply with that comparable standard when recommending or selling an annuity.</p>
XY Planning Network	<p>QXX. If a financial professional makes a recommendation or sale of an annuity in full compliance with a comparable standard, does the financial professional also have to satisfy all of the specific requirements of the revised model?</p> <p>AXX. If a consumer complaint is brought to the attention of the state insurance commissioner, depending on the facts and circumstances of the disputed transaction the commissioner may investigate and enforce the provisions of this regulation.</p>
Q5. Are there specific conditions an insurer must meet for the safe harbor to apply?	
Small Drafting Group Comments	<p><i>Suggest combining this question with the question below (Q6.), such as “Are there specific conditions and obligations an insurer must meet with respect to dually licensed producers seeking to rely on the safe harbor?” Also, suggest combining the answers from the two questions. Also, the Joint Trades suggested answer needs to be clarified on what “relevant” conduct is being contemplated. Is “relevant” conduct intended to mean conduct “to ensure compliance with the business rules developed for compliance with the revised model”?</i></p>
Joint Trades	<p>QXX. Are there specific conditions an insurer must meet for the safe harbor to apply?</p> <p>AXX. Yes, a financial professional will only be able to rely on the safe harbor if the insurer whose product is being recommended or sold:</p> <ol style="list-style-type: none"> 1) Monitors the relevant conduct of the financial professional or the entity responsible for supervising the financial professional; and 2) Provides the entity responsible for supervising the financial professional with information and reports that will assist that entity with its supervision efforts.
XY Planning Network	<p>QXX. Are there specific conditions an insurer must meet for the safe harbor to apply?</p> <p>AXX. As noted in Sec. 6C(2)(i) of the regulation, the insurer shall provide a written report to senior management that details a review, with appropriate testing, to determine the effectiveness of the insurer’s policies and procedures with respect to annuity recommendations and transactions. By extension, these conditions would necessarily require that the producers under its supervision furnish documentation demonstrating compliance with the comparable standard, including a written determination why the annuity recommendation was in the best interest of the consumer.</p>

	<p>Q6. Do insurers have any other obligations under the revised model with respect to producers seeking to rely on the safe harbor?</p>
<p>Small Drafting Group Comments</p>	<p><i>This question seems to be very similar to Q5. Suggest deleting it and combining it with Q5.</i></p> <p>IIABA</p> <p>QXX. Do insurers have any other obligations under the revised model with respect to producers seeking to rely on the safe harbor?</p> <p><i>Recommended Answer</i> – Yes. The safe harbor expressly applies to the recommendations and sales activities of certain producers, and, regardless of whether one of its producers relies on the safe harbor, insurers remain responsible for complying with the supervisory requirements of Section 6(C), the prohibitions of Section 6(D), the enforcement provisions of Section 8, and the recordkeeping obligations of Section 9. While insurers are ultimately responsible for a producer’s actions and compliance with the regulation, they are permitted by Section 6(C)(3) to enter into arrangements and contracts with other parties for the performance of supervisory functions.</p>
<p>Joint Trades</p>	<p>QXX. Do insurers have any other obligations under the revised model with respect to producers seeking to rely on the safe harbor?</p> <p>AXX. Yes, insurers remain subject to the obligation under Section 6C(1) to “not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer’s financial situation, insurance needs and financial objectives based on the consumer’s consumer profile information.” However, insurers may base their analysis on information received from either the financial professional or the entity supervising the financial professional and are not otherwise required to also perform all of the specific supervisory functions outlined in Section 6C(2) as long as the financial professional’s conduct is being supervised (whether by the insurer or by another entity with responsibility for supervision of the financial professional) in accordance with the relevant comparable standard.</p>
<p>XY Planning Network</p>	<p>QXX. Do insurers have any other obligations under the revised model with respect to producers seeking to rely on the safe harbor?</p> <p>This question is redundant to the one immediately above and unnecessary.</p>
	<p>Q7. Are insurers required to obtain documentation from the financial professional or entity supervising the financial professional to determine that the professional’s or entity’s policies and procedures support a comparable standard?</p>

<p>Small Drafting Group Comments</p>	<p>Is the XY Planning Network answer to this question appropriate for one of the previous questions?</p> <p>Should this question and Questions 8-11 be redrafted to outline an insurer's responsibilities under the safe harbor provision based on the insurer's transactional obligation and the insurer's supervision obligation? Should there be a list of what an insurer should be doing with respect to the safe harbor as part of its monitoring obligation?</p>
<p>XY Planning Network</p>	<p>QXX. Are insurers required to obtain documentation from the financial professional or entity supervising the financial professional to determine that the professional's or entity's policies and procedures support a comparable standard?</p> <p>AXX. Yes. Unlike the regulation, which doesn't require analysis or consideration of products or investment strategies outside the authority or license of the producer, Regulation Best Interest, certain PTEs under ERISA or the federal tax code, and under an IAR's fiduciary duty, generally require documentation of reasonable alternatives considered by the agent in addition to the final recommendation. Consistent with the supervisory requirements of the Section 6E safe harbor, the insurer should establish policies and procedures that are appropriate in maintaining oversight of annuity transactions under this regulation. As such, written documentation confirming that a reasonable alternative(s) was considered under the comparable standard, and that the final recommendation was in the best interest of the client should be available to the insurer upon request.</p>
<p>Q8. Are insurers required to conduct regular audits, or otherwise verify, that the financial professional or entity supervising the financial professional is complying with the comparable standard?</p>	<p>QXX. Are insurers required to conduct regular audits, or otherwise verify, that the financial professional or entity supervising the financial professional is complying with the comparable standard?</p> <p>AXX. Under Section 6C(2)(i) of the regulation, insurers are required to conduct periodic audits by random sampling of annuity transactions of producers subject to the insurer's supervisory authority.</p>
<p>Q9. Do insurers have to require a financial professional or the entity supervising the financial professional to utilize the specific insurer's suitability form?</p>	<p>QXX. Do insurers have to require a financial professional or the entity supervising the financial professional to utilize the specific insurer's suitability form?</p>

	<p>AXX. Insurers may require a financial professional to utilize the specific insurer’s suitability form as necessary and in addition to any requirements under the comparable standard subject to the Section 6E safe harbor.</p>
<p>Q10. Does Section 6E(2) allow an insurer to simply rely upon a statement by the financial professional or entity supervising the financial statement that the annuity recommendation complies with a comparable standard?</p>	<p>QXX. Does Section 6E(2) allow an insurer to simply rely upon a statement by the financial professional or entity supervising the financial statement that the annuity recommendation complies with a comparable standard?</p> <p>A. No. As discussed in QXX (regarding the Sec. 6C(2)(i) requirement to provide a written report to senior management with respect to compliance), the insurer should obtain documentation from the financial professional demonstrating compliance with the comparable standard. For example, if the producer is also an IAR relying on the Advisers Act safe harbor, the insurer could ask for random copies of disclosures and analyses related to the annuity recommendation. A statement alone by the financial professional that he or she complied with the comparable standard would not satisfy the supervisory obligations of the insurer.</p>
<p>Q11. Do the record-keeping obligations of the revised model apply when the safe harbor provision is invoked? Is the insurer required to maintain a copy of the consumer’s financial information and annuity application or may it rely upon the entity supervising the financial professional?</p>	<p>QXX. Do the record-keeping obligations of the revised model apply when the safe harbor provision is invoked?</p> <p><i>Recommended Answer</i> – Yes. The safe harbor creates an exemption from certain of the model’s affirmative requirements, but it does not affect the application of the recordkeeping, training, enforcement, and similar provisions.</p>
<p>IIABA</p>	<p>QXX. Do the record-keeping obligations of the revised model apply when the safe harbor provision is invoked? Is the insurer required to maintain a copy of the consumer’s financial information and annuity application or may it rely upon the entity supervising the financial professional?</p> <p>AXX. An insurer is not required to maintain a copy of the consumer’s personally identifiable financial information inasmuch as a financial professional who is a fiduciary under federal or state securities laws may violate his or her confidentiality obligations to the client. This prohibition on access to certain client data is especially significant since the IAR’s fiduciary duty applies to the entire client relationship. However, the insurer should obtain any general suitability information as needed</p>
<p>XY Planning Network</p>	<p>QXX. Do the record-keeping obligations of the revised model apply when the safe harbor provision is invoked? Is the insurer required to maintain a copy of the consumer’s financial information and annuity application or may it rely upon the entity supervising the financial professional?</p> <p>AXX. An insurer is not required to maintain a copy of the consumer’s personally identifiable financial information inasmuch as a financial professional who is a fiduciary under federal or state securities laws may violate his or her confidentiality obligations to the client. This prohibition on access to certain client data is especially significant since the IAR’s fiduciary duty applies to the entire client relationship. However, the insurer should obtain any general suitability information as needed</p>

	<p>(such as the client’s age, investment experience, time horizon, and specific financial goals related to the annuity recommendation) in order to evaluate compliance with the safe harbor under Section 6E of this regulation.</p>
<p>Suggested Additional FAQs</p>	
<p>IIABA</p>	<p>Q__ Must producers that qualify for and rely on the safe harbor comply with the “requirements” that are established by the model?</p> <p>A__ No. There are differences and distinctions between the obligations established under the model and the duties imposed by the “comparable standards” identified in Section 6(E)(5). The model may in some ways apply more robust consumer protections upon producers that recommend annuities than the “comparable standards.” States that are concerned with establishing uniformity in annuity transactions (and the market conduct regulatory implications of not doing so) and applying consistent obligations on producers who make such recommendations may wish to consider narrowing the scope of the safe harbor and/or expressly applying certain elements of the model to those producers who seek to rely on it.</p> <p>Q__ Does the safe harbor provision relieve a producer or insurer from any applicable duty imposed by Section 6(D) (related to prohibited practices), Section 8) (related to regulatory enforcement authority and penalties), and Section 9 (related to recordkeeping).</p> <p>A__ No. The safe harbor creates an exemption from certain of the model’s affirmative “requirements,” but it does not affect the application of these provisions.</p> <p>Q__ When may a broker-dealer or registered representative rely on the safe harbor?</p> <p>A__ The definition of “comparable standards” in Section 6(E)(5) provides that broker-dealers and registered representatives may only rely on the safe harbor when they comply with “applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales” (emphasis added). In other words, broker-dealers and registered representatives may only take advantage of the safe harbor when a SEC or FINRA rule <i>applies</i> on its own to a particular annuity recommendation. The safe harbor is not limited to investment advisors and plan fiduciaries or fiduciaries in the same way.</p> <p>Q__ Does the safe harbor exempt insurers from any of the supervisory or other requirements established by the model?</p> <p>A__ No. The safe harbor expressly applies to the recommendations and sales activities of certain producers, and, regardless of whether one of its producers relies on the safe harbor, insurers remain responsible for complying with the supervisory requirements of Section 6(C), the prohibitions of Section 6(D), the enforcement provisions of Section 8, and the recordkeeping obligations of Section 9. While insurers are ultimately responsible for a producer’s actions and compliance with the regulation, they are permitted to enter into arrangements and contracts with other parties for the performance of supervisory functions.</p>

	<p>Q__. Does the safe harbor provision have any effect on licensing or other regulatory requirements?</p> <p>A__. No. Any person selling, soliciting, or negotiating annuities, including any financial professional relying or intending to rely on the safe harbor, must be licensed as an insurance producer. The safe harbor only affects requirements established by the model itself and has no effect on the application of other requirements and obligations.</p>
<p>Suggested Revisions to Existing FAQs</p>	
<p><u>BEST INTEREST STANDARD OF CONDUCT</u></p>	
	<p>Q4. What is the best interest standard of conduct and how would a producer or insurer satisfy it?</p> <p>A4. To satisfy the best interest obligation, a producer or an insurer must satisfy four obligations: 1) care; 2) disclosure; 3) conflict of interest; and 4) documentation.</p> <p>To satisfy the four obligations, when making a recommendation, producers must:</p> <ul style="list-style-type: none"> • Know the consumer’s financial situation, insurance needs and financial objectives; • Understand the available recommendation options; • Have a reasonable basis to believe the recommended option effectively addresses the consumer’s financial situation, insurance needs and financial objectives; • Communicate the basis of the recommendation to the consumer; • Disclose their role in the transaction, their compensation, and any material conflicts of interest; and • Document, in writing, any recommendation and the justification for such recommendation.
<p>IIABA</p>	<p>Q4. What is the best interest standard of conduct and how would a producer or insurer satisfy it?</p> <p>A4. The best interest obligation is comprised of four separate obligations: 1) care; 2) disclosure; 3) conflict of interest; and 4) documentation.</p> <p>To satisfy the four obligations, when making a recommendation, producers must:</p> <ul style="list-style-type: none"> • Know the consumer’s financial situation, insurance needs and financial objectives; • Understand the available recommendation options;

<ul style="list-style-type: none">• Have a reasonable basis to believe the recommended option effectively addresses the consumer’s financial situation, insurance needs and financial objectives;• Communicate the basis of the recommendation to the consumer;• Disclose their role in the transaction, their compensation, and any material conflicts of interest; and• Document, in writing, any recommendation and the justification for such recommendation.	
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Portland, Oregon
August 8–9, 2022

The Life Actuarial (A) Task Force met Aug. 8–9, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner and Rachel Hemphill (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Bruce Sartain and Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Michael Muldoon (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Adopted its July 21, July 7, June 30, June 23, June 16, June 9, June 2, May 26, May 19, May 12, May 5, and April 14 Minutes, and the Report of the Variable Annuities Capital and Reserve (E/A) Subgroup

The Task Force met July 21, July 7, June 30, June 23, June 16, June 9, June 2, May 26, May 19, May 12, May 5, and April 14. During these meetings the Task Force took the following action: 1) exposed economic scenario generator (ESG) files for field testing; 2) exposed an NAIC staff recommendation for transitioning from the London Interbank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) for the remainder of 2022; 3) exposed the joint American Academy of Actuaries (Academy) Life Experience Committee and Society of Actuaries (SOA) Preferred Mortality Project Oversight Group (POG) recommendation for historical mortality improvement (HMI) and future mortality improvement (FMI); 4) adopted its Spring National Meeting minutes; 5) adopted amendment proposal 2020-12, which revises hedge modeling when future hedging strategies are not clearly defined; 6) adopted amendment proposal 2022-04, which proposes updates to the VM-20, Requirements for Principle-Based Reserves for Life Products, that prescribes swap spreads guidance considering the LIBOR transition to the SOFR for 2023 and later; 7) adopted amendment proposal 2022-05, which modifies VM-51, Experience Reporting Formats, by adding a dividend plan code and a COVID-19 indicator and changing a field identifier; 8) adopted *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53).

The Task Force reviewed the report of the Variable Annuities Capital and Reserve (E/A) Subgroup.

Mr. Yanacheak made a motion, seconded by Mr. Chou, to adopt the Task Force’s July 21 (Attachment One), July 7 (Attachment Two), June 30 (Attachment Three), June 23 (Attachment Four), June 16 (Attachment Five), June 9 (Attachment Six), June 2 (Attachment Seven), May 26 (Attachment Eight), May 19 (Attachment Nine), May 12 (Attachment Ten), May 5 (Attachment Eleven), and April 14 (Attachment Twelve) minutes, and the report of the Variable Annuities Capital and Reserve (E/A) Subgroup (Attachment Thirteen). The motion passed unanimously.

2. Adopted the Report of the Experience Reporting (A) Subgroup

Mr. Andersen said the Subgroup is charged with exploring the need for mandatory experience reporting requirements. He said the Subgroup has established criteria for determining whether mandatory reporting of experience makes sense. He said VM-50, Experience Reporting Requirements, and VM-51 currently mandate the reporting of life insurance mortality data. He said the Subgroup is considering collecting policyholder behavior for

variable annuity guarantees and dynamic lapse data for fixed deferred annuities. Mr. Andersen questioned whether the rise in short-term interest rates may lead to an increase in disintermediation risk. He encouraged companies to track their dynamic lapse experience.

Mr. Andersen made a motion, seconded by Mr. Weber, to adopt the verbal report of the Experience Reporting (A) Subgroup. The motion passed unanimously.

3. Adopted the Report of the Index-Linked Variable Annuity (A) Subgroup

Mr. Weber presented a slide deck (Attachment Fourteen) that provided an overview of the market need for index-linked variable annuities (ILVAs) and updated the Task Force on the status of the Subgroup's exposed ILVA actuarial guideline. He said the guideline is intended to provide guidance on how an ILVA product can be designed such that it can be considered a variable product. He said the public comment period for the guideline ends on Aug. 23.

Mr. Weber made a motion, seconded by Mr. Serbinowski, to adopt the report of the Index-Linked Variable Annuity (A) Subgroup, including its July 13 (Attachment Fifteen), May 18 (Attachment Sixteen), and May 17 (Attachment Seventeen) minutes. The motion passed unanimously.

4. Adopted the Report of the VM-22 (A) Subgroup

Mr. Slutsker said the comments on the proposed VM-22 framework have been separated into four tiers, with the first tier being the highest priority based on its impact on the reserve. He said tiers one and two have been addressed. He said the Subgroup is now discussing tier three comments. He said that the proposed framework will be re-exposed after it has been revised to reflect all responses.

Mr. Slutsker said the Subgroup report highlights notable items that have been addressed. He said that concurrent with the next exposure for public comment, the Subgroup will consider the standard projection amount (SPA). He said the Subgroup has decided to recommend an SPA to the Task Force but has not determined whether the SPA should be a minimum requirement or a disclosure item. He said the Subgroup is targeting Spring 2023 to begin a field test. He said the target date for implementation of the revised framework is likely Jan. 1, 2025.

Mr. Slutsker made a motion, seconded by Ms. Eom, to adopt the report of the Valuation Manual (VM)-22 (A) Subgroup (Attachment Eighteen), including its July 19 (Attachment Nineteen), July 13 (Attachment Twenty), June 29 (Attachment Twenty-One), June 14, (Attachment Twenty-Two) June 1, (Attachment Twenty-Three), May 11 (Attachment Twenty-Four), April 27 (Attachment Twenty-Five), and April 13 (Attachment Twenty-Six) minutes. The motion passed unanimously.

5. Adopted the Report of the IUL Illustration (A) Subgroup and Re-Exposed the Potential Options for Addressing the AG 49-A Volatility-Controlled Indices Issue

Mr. Andersen said the public comment period for the Indexed Universal Life (IUL) Illustration (A) Subgroup exposure of potential options (Attachment Twenty-Seven) for addressing *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest Sold on Or After December 14, 2020* (AG 49-A) related issues ended on July 26, with the intent of discussing comments at this meeting. He said the primary issue to be addressed is the illustration of uncapped volatility-controlled indices more favorably than traditional IUL with capped Standard & Poor's (S&P's) 500 indices.

Donna Megregian (Academy) presented the Academy comment letter (Attachment Twenty-Eight), which offered several questions for Task Force consideration. Austin Bichler (Allianz Life) presented the Allianz comment letter

(Attachment Twenty-Nine), which points to its February comment letter (Attachment Thirty). He said the company has extensive experience with products that offer volatility-controlled indices. He said the comment letter points out the value the products provide to consumers. He said Allianz supports a holistic approach that is principle-based. Brian Lessing (Equitable) said the Equitable comment letter (Attachment Thirty-One) recommends that if the Task Force chooses to extensively revise AG-49A, it should consider Equitable's 2020 proposal (Attachment Thirty-Two). Mr. Andersen said the comment letter (Attachment Thirty-Three) from Bobby Samuelson (The Life Product Review) and Sheryl Moore (Moore Market Intelligence) said there are options, other than those listed in the exposure, that could be quickly implemented to effectively address the immediate concerns.

Seth Detert (Securian Financial) said the Securian comment letter (Attachment Thirty-Four) reiterated its earlier comments (Attachment Thirty-Five) that AG 49-A achieved its goal of addressing the disparities in illustrations of products with multipliers and buy-up accounts. He said Securian is supportive of addressing the volatility-controlled indices issue with a quick fix to AG 49-A, such as applying the current 145% limit on benchmark index accounts (BIAs) to all accounts. He provided a spreadsheet (Attachment Thirty-Six) showing the impact of the 145% limit on various product designs.

Chris Conrad (Transamerica) said the Transamerica comment letter (Attachment Thirty-Seven) supports the quick-fix option. He said Transamerica will also support the long-term holistic approach requiring the overhauling of illustrations. Ryan Richey (Western & Southern Life) said the Western & Southern comment letter (Attachment Thirty-Eight) discusses its concern with the illustrations that combine a volatility-controlled index with a fixed interest rate bonus. He said Western & Southern supports the quick-fix option but would also support the long-term comprehensive option.

Birny Birnbaum (Center for Economic Justice—CEJ) said the illustration infrastructure is flawed, and its framework needs to be revised. He said the illustration issue is a consumer disclosure issue that should be addressed by those with disclosure expertise. He asked the Task Force to petition the Life Insurance and Annuities (A) Committee to examine and re-engineer life insurance and annuity illustrations. Brian Bayerle (American Council of Life Insurers—ACLI) said the solution that the Task Force chooses should be principle-based. Several Task Force members concurred that a comprehensive approach is necessary and suggested requesting that the Committee consider opening the *Life Insurance Illustrations Model Regulation* (#582).

Mr. Andersen made a motion, seconded by Mr. Yanacheak, to adopt the verbal report of the IUL Illustration (A) Subgroup, including its July 18 minutes (Attachment Thirty-Nine), and to re-expose the potential options for addressing the AG 49-A volatility-controlled indices issue, including consideration of limited, targeted revisions to Model #582 that may help to reduce or eliminate the need for addressing future IUL illustration issues through an actuarial guideline, for a 21-day public comment period ending Sept. 6. The motion passed unanimously.

6. Discussed the AAT Actuarial Guideline Templates

Mr. Andersen said AG 53 will be considered for adoption by the Executive (EX) Committee and Plenary during its Aug. 13 meeting. He said asset adequacy testing (AAT) templates (Attachment Forty) have been developed to capture the numerical aspects of the guideline requirements. He said the templates align with the sections of the guideline. He noted that the templates are currently exposed for a public comment period ending Aug. 19.

7. Discussed the Academy Framework for Developing, Evaluating, and Implementing ESGs

Jason Kehrberg (Academy) presented the Academy framework for developing, evaluating, and implementing ESGs (Attachment Forty-One). He stressed the importance of understanding ESG models, calibrations, and assumptions as the Task Force implements the Conning ESG. Hal Pedersen (Academy) said the presentation will communicate a process for developing and maintaining ESGs, using stylized facts and acceptance criteria. He noted that the

model purpose should be clear, the financial variables should be defined using relevant and credible data, and stylized facts specific to the model must be developed to establish and prioritize the model properties. He pointed out that if a class of models is unable to capture a vital stylized fact, then that model class should not be developed.

Tony Dardis (Academy) presented slides (Attachment Forty-Two) on ESG model governance, which is defined as the processes for ongoing scenario generation and delivery. He said members of the Academy who are involved in the production of the scenarios should consider what actuarial standards of practice (ASOPs) may apply. He identified ASOP No. 56, Modeling, as a particularly relevant standard and viewed the *Model Governance Practice Note* as a useful reference.

Mr. Yanacheak asked if companies using their own proprietary ESGs are subject to the same criteria laid out by the Academy. Mr. Dardis said if proprietary ESGs are permitted, companies would be required to follow the ASOPs and Academy practice notes. Mr. Boerner asked if there are clear acceptance criteria and stylized facts published for the current Academy Interest Rate Generator (AIRG). Mr. Kehrberg agreed to check.

8. Heard an Update on the ESG Field Test

Scott O'Neal (NAIC) gave an update on the ESG field test (Attachment Forty-Three). He said the ESG field test results for the equity model, Treasury model, and corporate model are expected at the end of August. He noted that the Treasury model is testing two calibrations, and the equity model is testing three calibrations. He gave an overview of the required and optional field test runs that are based on various calibrations and economic time frames.

Mr. O'Neal shared that 42 legal entities representing 29 insurance groups are participating in the field test. He said there is sufficient participation across the field tests and reserve/capital frameworks to allow for full aggregation of data. He said the NAIC will receive close to 600 data templates from participants. He cautioned that detailed data by life insurance product may not be available. He listed the field test objectives and the expected results. Mr. Slutsker asked if there is a concern about getting sufficient data related to exclusion testing. Mr. O'Neal said that may be an issue because he expects only the companies that expect to pass the exclusion test to run the exclusion test during the field test.

Mr. O'Neal said the NAIC has entered into a legal agreement with the Texas Department of Insurance (TDI) that allows the NAIC to request and collect field test results under the authority of the Texas insurance commissioner. The NAIC will be able to confidentially share company field test results with state insurance regulators and publicly share aggregated data.

Oliver Wyman has been hired to build an annuity model office for variable annuities (VAs) and ILVAs. The in-force VA model office will contain guaranteed minimum death benefits (GMDBs) and guaranteed living benefits (GLBs) with various levels of richness and various levels of in-the-moneyness at valuation. The new-business ILVA model office will include a buffer crediting strategy with buffer levels varying from 5% to 10%. The results of the model office can be used to confirm, understand, and extend the participant field test results. Mr. Carmello said that the New York Department of Financial Services (DFS) is seeing buffer levels from 10% to 30%. Mr. O'Neal said that information can be shared with Oliver Wyman for its consideration. He reviewed the timeline, noting that the dates are likely to be extended due to the volume of data that will need to be compiled.

9. Exposed the 2023 GRET

Tony Phipps (SOA) discussed the 2023 Generally Recognized Expense Tables (GRET) presentation (Attachment Forty-Four). He said there are no material changes in the process as compared to past years. He said the methodology limits percentage changes in expense factors to 10% to minimize large jumps from one year to the

next. He noted a 6.9% increase in the face amount of exposure and an increase in the number of companies in the study from 375 to 382. The Task Force requested that the SOA explore the possibility of better differentiating the “Other” distribution category.

Mr. Yanacheak made a motion, seconded by Mr. Andersen, to expose the 2023 GRET recommendation (Attachment Forty-Five) for a 21-day public comment period ending Aug. 29. The motion passed unanimously.

10. Heard an Update on SOA Research and Education

Dale Hall (SOA) gave a presentation (Attachment Forty-Six) on SOA research. He highlighted a soon-to-be-released report on company use of mortality improvement in life insurance and annuity pricing, and financial projections. The report captures data from 35 companies and covers experience through 2021. He said that company mortality improvement factors were lower in 2021 than they were in 2018.

Mr. Hall shared data from a survey of 59 experts from the actuarial, medical, and demographic professions on the impact of COVID-19 on future mortality. He noted that excess population mortality is expected to be higher than excess mortality for the insured, annuitant, and pension plan populations.

Mr. Hall shared a list of other SOA reports, including those on group annuity mortality, maternal mortality, individual life COVID-19 claims, and group life COVID-19 mortality.

11. Heard an Update on the Future Mortality Improvement Scale Development

Marianne Purushotham (Joint Academy Mortality Improvements Life Work Group [MILWG] and SOA Mortality and Longevity Oversight Advisory Council [MLOAC]) said recent changes were made to the FMI and HMI scales in response to the feedback received from the Task Force. She said the new recommendation (Attachment Forty-Seven) fully reflects the impact of COVID-19 in 2020 as an interim approach for this year. She said the approach will be revisited as more data is collected. She said the approach results in a small mortality deterioration for HMI. She said the overall FMI methodology has not changed, but an additional temporary COVID-19 margin has been applied. She stressed that companies should consider their own mortality experience and make appropriate additional adjustments. Ms. Purushotham said that model office simulations are being run to determine the reserve impact of reflecting the impact of COVID-19 on FMI by adding the temporary COVID-19 margin. She expects that the additional margin will result in a 1%–3% increase in the reserve.

Mr. Boston questioned the transition from the HMI graph showing mortality deterioration to the FMI graph showing mortality improvement over the period of one year. Ms. Purushotham said both the HMI deterioration and the FMI improvement are small, so the jump is not that large. She agreed to review the data supporting the graphs. Mr. Chupp said companies do not have to use the HMI. He said they can use their own mortality experience to the extent it is credible. He said it does not seem appropriate that a company with mortality experience better than industry experience generated by applying HMI to the valuation basic table (VBT) should be allowed to use its own experience as the starting point for the application of FMI. Ms. Hemphill suggested that the Task Force indicate its expectation that company experience should be no more aggressive than the HMI. Ms. Purushotham reminded the Task Force that the HMI and FMI are a package that is designed to work as a tandem. Mr. Slutsker asked whether the indication suggested by Ms. Hemphill would require a *Valuation Manual* change. Reggie Mazyck (NAIC) said a *Valuation Manual* amendment will be necessary if the Task Force desires to require company compliance. Ms. Hemphill said that last year, the Task Force provided guidance that companies consider the impact on COVID-19 on its mortality experience. She said the Task Force could provide similar actuarial guidance related to the pairing of HMI and FMI in the instructions for this year’s mortality improvement recommendation. Mr. Mazyck agreed that providing such actuarial guidance is permissible. He noted that a *Valuation Manual* amendment will be necessary to make the guidance a requirement. Mr. Carmello said his

preference is for an FMI equal to zero. Mr. Reedy said the current model office is focused on universal life with secondary guarantees (ULSG). He questioned whether a term insurance model office should also be run. Mr. O’Neal said a term model is available. Mr. Boerner asked Mr. O’Neal to run the term and ULSG models for assuming the FMI is zero. Ms. Purushotham said she will discuss the Task Force considerations with the MILWG and MLOAC.

12. Heard a Presentation on the Industry Experience Studies Partnership

Mr. Hall presented slides (Attachment Forty-Eight) on the SOA and Life Insurance Marketing Research Association (LIMRA) industry experience studies partnership. He said the collaboration allows the SOA to provide more detailed industry information by combining LIMRA’s ability to gather lots of data and information, and the SOA’s expertise in actuarial analysis. Ms. Purushotham shared the structure and costs of the packages offered by the partnership. She said payout annuities and fixed indexed annuities studies are expected to be completed later this year.

13. Heard an Update on the Recent Activities of the Academy LPC

Ben Slutsker (Academy Life Practice Council—LPC) gave a presentation (Attachment Forty-Nine) on the LPC’s recent activities. He highlighted the Academy accomplishments, such as the recent Academy webinars on non-guaranteed elements and reinsurance. He mentioned that the Academy annual meeting in November will include LPC breakout sessions. He said recent Academy activities include ESG stylized facts and acceptance criteria, proposing an amendment facilitating the transition from LIBOR to SOFR, and presenting the Life Risk-Based Capital (E) Working Group with recommendations for updated C-2 mortality factors. He noted that the LPC has published a discussion brief on the effect of COVID-19 on life insurance mortality improvement. He said the Academy is also engaged in efforts related to VM-22 and providing input on the ESG field study.

14. Heard a Presentation from the Academy on ESG Equity Stylized Facts

Mr. Kehrberg presented stylized facts (Attachment Fifty) developed by the Academy for the ESG equity model. He said that a comprehensive set of qualitative stylized facts is a key prerequisite for model selection and the development of acceptance criteria. Mr. Carmello asked if stylized facts are based only on market observances or if they can also encompass plausible scenarios that have not yet been experienced. Mr. Kehrberg said plausible scenarios can also be included in the development of stylized facts. Mr. Weber asked if the stylized facts and the acceptance criteria will always be aligned. Mr. Kehrberg said that stylized facts will not always be a “yes” or “no.” He said judgment and prioritization will be involved. He said that acceptance criteria tend to be more a more binary measure. Mr. O’Neal said the Task Force has discussed the set of stylized facts for all the ESG modules and acceptance criteria for the Conning Treasury module. Mr. Boerner asked Mr. Kehrberg to consider how the stylized facts being proposed by the Academy can be reconciled with those the NAIC ESG Drafting Group has developed. Mr. Kehrberg said that the Academy stylized facts are closely aligned with those of the Drafting Group. Mr. Kehrberg said the prioritization of stylized facts should be based on the model’s purpose. He discussed several important considerations for equity stylized facts and presented a list of equity stylized facts. Mr. Yanacheak asked whether other stylized facts were considered. Henry Yim (Academy) said a stylized fact related to equities and credit spreads was omitted from the equity list but will be addressed when the credit module is discussed. Mr. Kehrberg said that stylized facts are considered when recalibrating or selecting a model.

Link Richardson (Academy) discussed the selected stylized facts in detail. Mr. Chupp asked if another stylized fact should be correlation in the tails between different equity indices. Mr. Kehrberg said that correlation in the tails is more related to a short time horizon, while this presentation is focused on a long time horizon. He said he will ask the Academy team to consider Mr. Chupp’s question. Mr. Sartain asked if the bullet points below the stylized facts are also stylized facts. Mr. Kehrberg said the bullets are supports for the stylized facts.

Mr. Richardson discussed the stylized fact related to initial market conditions. He said the initial market condition should not have an impact on the long-term distribution of returns. The Task Force asked the Academy to consider a position median to the constant expected equity risk premium (ERP) and the constant mean equity return position. Mr. Richardson and Mr. Yim presented the remaining stylized facts. Mr. Kehrberg said the Academy plans to present other sessions on stylized facts for interest rates and credit. Mr. Boerner said the presentation will be posted on the industry tab of the NAIC website.

15. Heard an Update on the Academy Council on Professionalism and Education

Lisa Slotznick (Committee on Qualifications—COQ) said the COQ issued a final amended qualification standard in late 2021 and updated the frequently asked questions (FAQ) document on the Academy website. She said the new requirements based on completion of the actuarial credential, rather than on current memberships in an organization, are applicable for upcoming actuaries, not for those who have already qualified. She said the requirement for one hour of Bias continuing education (CE) per year will be required for all seeking qualification.

Darrell Knapp (Actuarial Standards Board—ASB) said the ASB is revising the scope of the ASOPs to identify the tasks to be done within a specific subject. He said the ASB has begun using templates to promote continuity across ASOPs, particularly in the language. He said other focuses are clarifications of what is meant by reliance and the differences between documentation and disclosure. He noted that ASOPs on actuarial communication and risk classification are being worked on. Shawna Ackerman (Actuarial Board for Counseling and Discipline—ABCD) said the ABCD had 25 life area requests for guidance last year.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/A CMTE/LATF/Summer 2022/Summer Natl Mtg/LATF 2022 Summer Meeting Minutes.docx

Draft: 8/1/22

Life Actuarial (A) Task Force
Virtual Meeting
July 21, 2022

The Life Actuarial (A) Task Force met July 21, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Kevin Clarkson (NJ); Adrienne A. Harris represented by Bill Carmello and Michael Cebula (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); and Michael Humphreys represented by Steve Boston (PA).

1. Heard a Presentation on the Experience Reporting Data Dictionary

Angela McNabb (NAIC) said that questions received from companies during the experience data collection process indicated that VM-51, Experience Reporting Formats, can be vague or lend itself to multiple interpretations of how to populate certain fields. She said, given the company input, that it was prudent to provide a data dictionary (Attachment One-A) for companies to follow. She said the data dictionary will be posted on the industry tab. She noted that the data dictionary is not intended to supersede the authority of the *Valuation Manual*.

2. Heard an Update on the LIBOR to SOFR Transition

Pat Allison (NAIC) said the NAIC is working with three data providers to obtain Secured Overnight Financing Rate (SOFR) data. She said contractual matters are in the process of being resolved. She noted that the Life Insurance and Annuities (A) Committee adopted amendment proposal 2022-04, which requires the use of SOFR data in the calculation of U.S. Treasury swap spreads used in principle-based reserving (PBR) effective Jan. 1, 2023. She said the next step is handling the transition to SOFR data for the remainder of 2022. She said the transition date will be set once the contracts are in place.

3. Heard an Update on the AAT Templates

Mr. Andersen said a draft of the templates supporting the asset adequacy testing (AAT) guideline is being worked on. He said the draft should be ready for exposure prior to the Summer National Meeting. He said the plan is to have the Task Force adopt the templates in September, so they are available for company use for year-end.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INSURANCE AND ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/7 21/July 21 Minutes.docx

2022 VM-51 DATA DICTIONARY
Last updated July 7, 2022

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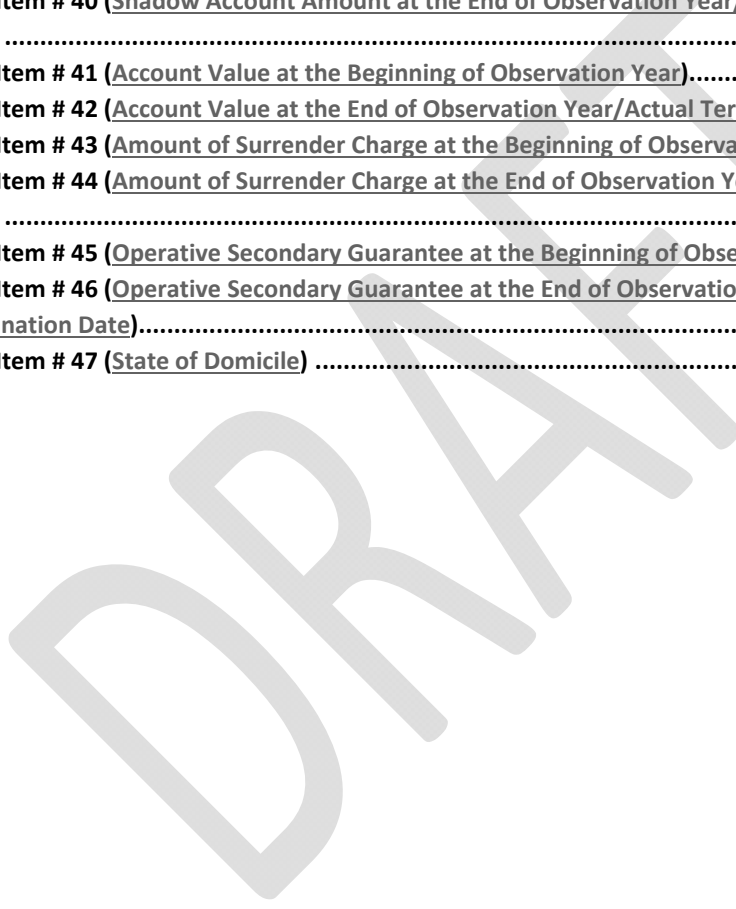
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PURPOSE AND SCOPE

- This VM-51 Data Dictionary is intended to aid companies submitting life insurance mortality experience data to the NAIC pursuant to VM-51 of the NAIC Valuation Manual. It provides descriptions and reporting instructions for each data field shown in VM-51 Appendix 4, in the 2022 version of the Valuation Manual.
- VM-51 Section 2.D defines “reporting year” and “observation year”, and there is a lag. For the 2022 reporting year, data for the 2020 observation year will be submitted. Submissions must be based on the requirements in the 2022 version of the Valuation Manual.
- The Valuation Manual is subject to change from year to year since amendments may be adopted. This data dictionary is only applicable for the 2022 reporting year. NAIC staff plans to provide an updated data dictionary prior to the kick-off of data collection for each reporting year.
- The VM-51 Data Dictionary is not (currently) part of the Valuation Manual and does not supersede any provision of the Valuation Manual. If there is a conflict between the Valuation Manual and the VM-51 Data Dictionary, the terms of the Valuation Manual take precedence, and companies are required to follow the guidance provided in the Valuation Manual. However, there has been noted certain instances where the guidance provided by the Valuation Manual may vary from actual company practices, and this Data Dictionary provides guidance on how companies may comply with the requirements of the Valuation Manual under these circumstances. Companies may rely upon the guidance provided in this VM-51 Data Dictionary in submitting the life insurance mortality experience to the NAIC unless otherwise notified by the Experience Reporting Agent.

GENERAL INSTRUCTIONS

- Data elements that describe the policy segment at issue should remain consistent from one reporting year to the next. For example: Issue Date, Issue Age, Date of Birth, etc. for a specified policy segment should not change. These types of fields are identified below as “Consistent Year Over Year.”
- All monetary values should be rounded to the nearest dollar.
- Currently, the VM-51 mortality experience data file excludes coverage for spouse and/or children under family policies or riders.
- Data items #1 - #5 form the unique key for a given record. If multiple records have the same values in these 5 fields, they will be flagged as a duplicate and will be rejected.

Data Item #1

Name: Submitting Company ID

Maximum Length: 9

Format: Left Justified

Consistent Year over Year

Description: This field should contain the NAIC company code of the company submitting the data file.

Reporting Instructions:

- If a company is reporting their own data, then data items #1 and #2 must be the same.
- There can only be one Submitting Company ID per data file.
- If a reinsurer or other third-party administrator is submitting data on behalf of the direct writer, this must be the code for the reinsurer / third party.
- If the reinsurer / third-party is submitting on behalf of more than one direct writing company, all data being reported must be in one file (data item #2 will distinguish between the different direct writers).
- If the reporting company has an NAIC company code, then that number must be used. If the reporting company does not have an NAIC company code, then the company's Federal Employer Identification Number (FEIN) should be used.

Data Item #2

Name: NAIC Company Code of the Direct Writer of Business

Length: 5

Consistent Year over Year

Description: This field is the NAIC assigned company code of the company that wrote the business being reported.

Reporting Instructions:

- In the case of assumption reinsurance where the assuming company is legally responsible for all benefits and claims paid, the assuming company is considered to be the direct writer. The direct writer is the company that reports the business in their Annual Statement.
- If a company is reporting their own data, then data items #1 and #2 must be the same.

Data Item # 3

Name: Observation Year

Length: 4

Description: The observation year is the calendar year of the experience data that is being reported.

Reporting Instructions:

- The observation year is different from the reporting year. For the 2022 reporting year, the observation year is 2020.
- The reporting year is the calendar year that the company submits the experience data. The observation year will be prior to the reporting calendar year as defined in VM-51 Section 2.D. VM-51 identifies the observation year as two years prior to the reporting year.
- There can only be one observation year per data file.

Data Item # 4

Name: Policy Number

Maximum Length: 20

Consistent Year over Year

Format: Left Justified

Description: This field is a unique number that identifies a specific policy.

Reporting Instructions:

- The policy number may be the actual policy number used internally. However, companies are encouraged to encrypt the policy number for privacy reasons.
- If the policy number is encrypted, then the same encryption process must be used each year so that the policy number is the same for each reporting year.

Data Item # 5

Name: Segment Number

Maximum Length: 3

Format: Left Justified

Consistent Year over Year

Description: This field identifies a specific coverage level within the policy.

Reporting Instructions:

- A given policy may have one segment or several.
- The base coverage for single life policies must always be distinguished as segment 1.
- Additional segments should be added for term riders, additional amounts of insurance purchased after original issue, and coverage purchased through dividend options.
- Note that additional amounts of insurance should be reported in a separate policy segment. They should not be added to the base coverage or reported in a new policy number.
- In the case where a policy exercised a Non-Forfeiture Option, the original policy data (if available) should be renumbered to a later segment number (we recommend adding 100 to the original segment number) and identified as terminated. The coverage resulting from the non-forfeiture election should be in a separate record and must be identified as segment 1.
- Special Consideration for Joint Life policies:
In the case of joint-life policies, the lives should be in segment 1 and segment 2. In the case of second to die, when the first insured dies, that segment should be identified as a death but without a death benefit. The following reporting year, that segment should no longer be in the data file. The segment number for the remaining insured should stay the same for year over year consistency validations.

Data Item # 6

Name: State of Issue

Length: 2

Consistent Year over Year

Description: State in which the policy was issued.

Reporting Instructions:

- Use standard two-letter state abbreviation codes.
- Acceptable values are as follows:
AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, VT, WA, WI, WV, WY, AS, GU, MP, PR, NA, OT

Data Item # 7

Name: Gender

Length: 1

Consistent Year over Year

Description: Gender as identified on the policy.

Reporting Instructions:

- Acceptable values are as follows:
0 = Unknown or unable to subdivide
1 = Male
2 = Female
3 = Unisex – Unknown or unable to identify
4 = Unisex – Male
5 = Unisex – Female
- Values 4 or 5 may be used when the policy is issued as unisex but the gender is known.

Data Item # 8

Name: Date of Birth

Length: 8

Format: YYYYMMDD

Consistent Year over Year

Description: Date of Birth for the insured covered in each policy segment.

Reporting instructions:

- This field must be populated.
- The date of birth is used to check the reasonableness of issue age based on calculations using date of birth, age basis, and issue date.

Data Item # 9

Name: Age Basis

Length: 1

Consistent Year over Year

Description: The age basis used to determine issue age for this policy.

Reporting Instructions:

- Acceptable values are as follows:
0 = Age Nearest Birthday
1 = Age Last Birthday
2 = Age Next Birthday

Data Item # 10

Name: Issue Age

Maximum Length: 3

Format: Left Justified

Consistent Year over Year

Description: Age of insured at issue for each segment as identified in the policy contract.**Data Item # 11**

Name: Issue Date

Length: 8

Format: YYYYMMDD

Consistent Year over Year

Description: Date of issue for each policy segment.

Reporting Instructions:

- If the segment number is not 1, this date may be different from the original issue date of the policy contract.
- Special Consideration for Coverages Purchased with Dividends (PUA or OYT): These coverages may be rolled together into one segment or identified separately for each issue date. If the coverages are being rolled together, the issue date should be the date the first of these coverages was issued (generally, one year after the issue date of the policy). If that date is unavailable, then the policy issue date may be used.

Data Item # 12

Name: Smoker Status

Length: 1

Description: This field represents the current smoker status of the coverage.

Reporting Instructions:

- Acceptable values are as follows:
 - 0 = Unknown
 - 1 = No tobacco usage
 - 2 = Nonsmoker
 - 3 = Cigarette smoker
 - 4 = Tobacco user
- If the company cannot distinguish between 1 and 2, then 2 should be used.
- If the company cannot distinguish between 3 and 4, then 4 should be used.
- The smoker status populated in this field should be the smoker status upon which the premium amount is based. Since some companies re-underwrite policies in certain situations after issue (e.g., changing smoker status from smoker to nonsmoker), this field may not always be consistent from one reporting year to the next.
- For the 2021 reporting year, VM-51 described this field as smoker status at issue, so the requirements have changed for the 2022 reporting year.

Data Item # 13

Name: Preferred Class Structure Indicator

Length: 1

Consistent Year over Year

Description: This field is used to indicate whether the policy segment was issued as a product with one or more preferred classes. This class structure has at least one preferred class and a residual standard class.

Reporting Instructions:

- Acceptable values are as follows:
 - 0 = If no reliable information on multiple preferred and standard classes is available or if the policy segment was issued substandard or if there were no multiple preferred and standard classes available for this policy segment or if preferred information is unknown.
 - 1 = If this policy was issued in one of the available multiple preferred and standard classes for this policy segment.
- The minimum number of classes in a preferred class structure is 2. For nonsmokers, these would be preferred nonsmoker and standard nonsmoker. For smokers, these would be preferred smoker and standard smoker.
- Standard (residual) smokers and nonsmokers should have a preferred class structure indicator of 1 if the policy was issued in one of the company's available multiple preferred and standard classes.
- VM-51 indicates that records coded as substandard should have a preferred class structure indicator of 0. This is a situation where the guidance provided by the Valuation Manual may vary from actual company practices, since some companies have a practice of issuing a flat extra on an otherwise preferred individual. In this situation, the NAIC will accept a preferred class structure indicator of 1 and a substandard code of 1.
 - Example: As a result of medical underwriting, the insured falls into a preferred risk class, however this individual has a hobby of flying a private plane. The company may choose to add a flat extra due to the risky avocation.

Data Item # 14

Name: Number of Classes in Nonsmoker Preferred Class Structure

Length: 1

Consistent Year over Year

Description: If the company is offering multiple nonsmoker preferred and standard classes for this product, enter the number of classes available at the time of issue.

Reporting Instructions:

- The number of classes in a preferred class structure must be at least 2 (preferred and standard) and can be as many as 9.
- For this data item, "nonsmoker" implies either "Nonsmoker" or "No Tobacco Usage."
- If the Preferred Class Structure Indicator (Item #13) is 0, this field should be blank.
- If Smoker Status (Item #12) indicates Unknown (0), Cigarette Smoker (3), or Tobacco User (4) then this field should be blank.

Data Item # 15

Name: Nonsmoker Preferred Class

Length: 1

Consistent Year over Year

Description: If this policy segment was issued as one of multiple nonsmoker preferred and standard classes, then identify which preferred or standard class was assigned to the policy segment.

Reporting Instructions:

- Classes are numbered 1 through 9 with 1 being the best preferred class. This number cannot be greater than the number identified in Data Item #14.
- For this data item, “nonsmoker” implies either “Nonsmoker” or “No Tobacco Usage.”
- If the Preferred Class Structure Indicator (Item #13) is 0 then this field should be blank.
- If Smoker Status (Item #12) indicates Unknown (0), Cigarette Smoker (3), or Tobacco User (4) then this field should be blank.

Data Item # 16

Name: Number of classes in Smoker Preferred Class Structure

Length: 1

Consistent Year over Year

Description: If the company is offering multiple smoker preferred and standard classes for this product, enter the number of classes available at the time of issue.

Reporting Instructions:

- The number of classes in a preferred class structure must be at least 2 (preferred and standard) and can be as many as 9.
- For this data item, “smoker” implies either “Cigarette smoker” or “Tobacco User.”
- If the Preferred Class Structure Indicator (Item #13) is 0 then this field should be blank.
- If Smoker Status (Data Item #12) indicates Unknown (0), No tobacco usage (1), or Nonsmoker (2) then this field should be blank.

Data Item # 17

Name: Smoker Preferred Class

Length: 1

Consistent Year over Year

Description: If this policy segment was issued as one of multiple smoker preferred and standard classes, then identify which preferred class.

Reporting Instructions:

- Classes are numbered 1 through 9 with 1 being the best preferred class. This number cannot be greater than the number identified in Data Item #16.
- For this data item, “smoker” implies either “Cigarette smoker” or “Tobacco User.”
- If the Preferred Class Structure Indicator (Item #13) is 0 then this field should be blank.
- If Smoker Status (Item #12) indicates Unknown (0), No tobacco usage (1), or Nonsmoker (2) then this field should be blank.

Data Item #18

Name: Type of Underwriting Requirements

Length: 2

Consistent Year over Year

Description: Indicate the type of underwriting that was performed at the issue of this policy segment.

Reporting Instructions:

- Acceptable values are as follows:
 - 01 = Underwritten but unknown whether fluid was collected
 - 02 = Underwritten with no fluid collection (this would include accelerated underwriting)
 - 03 = Underwritten with fluid collected
 - 06 = Term Conversion
 - 07 = Group Conversion
 - 09 = Not Underwritten
 - 99 = Unknown or Unable to Subdivide
- In the case of coverage purchased with dividends (PUA & OYT) the underwriting type should be the same as the base policy.
- This field **must contain leading zeros** where applicable.
- Please note the following types of business are currently excluded from this data collection: Simplified issue, guaranteed issue, worksite, individually solicited group life, direct response, final expense, pre-need, home service, and COLI/BOLI/CHOLI.

Data Item # 19

Name: Substandard Indicator

Length: 1

Consistent Year over Year

Description: This field identifies whether the policy segment was issued as substandard.

Reporting Instructions:

- Acceptable values are as follows:
 - 0 = Policy segment is not substandard
 - 1 = Policy segment is substandard
 - 2 = Policy segment is uninsurable
- Per VM-51 Section 2.E, submission of substandard policy segments is optional.
- If substandard coverages are included in the data file, they must be identified as substandard or uninsurable.
- If substandard coverages are excluded from the data file, they will need to be identified in the reconciliation between the data file and the company's Annual Statement data.

Data Item # 20

Name: Plan

Length: 3

Consistent Year over Year (Except in the case of Extended Term or Reduced Paid Up)

Description: This field is used to identify the type of coverage represented by each policy segment.

Reporting Instructions:

- There is an extensive list of plans to choose from (see file layout for defined values).
- All values **must contain a leading zero** where appropriate.
- If none of the pre-defined plans is appropriate, the company can define a custom plan code. If a custom plan code is used, the questionnaire in VM-51 Appendix 3 (Additional Plan Code Form) must be filled out and submitted via the company's FTP site.
- In the event the policy segment was issued with a secondary guarantee that is now expired or no longer in force, the plan should reflect how the policy segment was originally issued.
- Please note that the 2022 VM-51 specifically excludes spouse and/or children covered under family policies or riders.
- The NAIC has defined two new plan codes to identify coverages purchased with dividends. These plan codes are expected to be adopted for the 2023 *Valuation Manual*. We are asking companies to use the new plan codes on a voluntary basis for the 2022 data collection. *196 – Paid Up Additions; 197 – One Year Term.*

Data Item # 21

Name: In-force Indicator

Length: 1

Description: This field identifies whether the policy segment was in-force at the end of the calendar year of observation.

Reporting Instructions:

- Acceptable values are as follows:
 - 0 = Policy segment was not in force
 - 1 = Policy segment was in force

Data Item # 22

Name: Face Amount of Insurance at Issue

Maximum Length: 12

Format: Round to nearest dollar

Consistent Year over Year

Description: This field is the original face amount of each policy segment at the time of issue **of that segment.**

Reporting Instructions:

- For plans where the death benefit provides payment of cash value in addition to the face amount (e.g., UL option B), do not include the cash value.
- In the event the face amount at issue is unavailable (due to acquisition, legacy system, etc.) the face amount at beginning of year should be used.
- Special Consideration for Coverages Purchased with Dividends (PUA or OYT):
 - These coverages may be rolled together into one segment or identified separately for each year.
 - If the coverages are being rolled together, the face amount at issue should be the face amount that was issued for the first of these coverages.
 - If the first face amount issued is unavailable, the face amount at beginning of year may be used.

Data Item # 23

Name: Face Amount of Insurance at the Beginning of Observation Year

Maximum Length: 12

Format: Round to nearest dollar

Description: This field represents the face amount of the policy segment on January 1 of the observation year.

Reporting Instructions:

- If the policy was issued during the observation year, this field should be blank.
- For plans where the death benefit provides payment of cash value in addition to the face amount (e.g., UL option B), do not include the cash value.
- Do not include extra amounts attributable to 7702 corridors.

Data Item # 24

Name: Face Amount of Insurance at the End of the Observation Year

Maximum Length: 12

Format: Round to nearest dollar

Description: If the policy segment is in force at December 31st of the observation year then this field represents the face amount of the policy segment on that date. If the policy segment is terminated, then this represents the face amount of the policy segment at termination.

Reporting Instructions:

- If the face amount of the policy segment at termination is unavailable, this field may be left blank.
- For plans where the death benefit provides payment of cash value in addition to the face amount (e.g., UL option B), do not include the cash value.
- Do not include extra amounts attributable to 7702 corridors.

Data Item # 25

Name: Death Claim Amount

Maximum Length: 12

Format: Round to nearest dollar

Description: If the policy segment is terminated and the cause of termination is death or death due to Covid-19, this field represents the face amount that was paid out as death benefit.

Reporting Instructions:

- If the policy segment is in force, this field should be blank.
- If the policy segment is terminated but the cause of termination is not death, this field should be blank.
- For plans where the death benefit provides payment of cash value in addition to the face amount (e.g., UL option B), do not include the cash value.
- Do not include extra amounts attributable to 7702 corridors.
- Special Consideration for Joint Life Policies:

- For first to die policies, code both insureds as terminated due to death (or death due to covid-19).
- For first to die policies, enter the death claim amount only on the insured who died. If the company cannot determine which insured died, then code the death claim amount on segment 1 only.
- For second to die policies, in the event both insureds died in the same year, only populate the death claim amount on the second insured to die.

Data Item # 26

Name: Termination Reported Date

Length: 8

Format: YYYYMMDD

Description: If the policy segment is terminated, this represents the date the company was notified of the termination.

Reporting Instructions:

- If the policy segment is in force, this field should be blank.
- If the cause of termination is lapse due to non-payment of premium, enter the last premium paid to date.

Data Item # 27

Name: Actual Termination Date

Length: 8

Format: YYYYMMDD

Description: This field represents the date coverage ended.

Reporting Instructions:

- If the policy segment is in force, this field should be blank.
- If the policy segment is terminated and the cause of termination is death or death due to COVID-19, this represents the date of death.
- If the cause of termination is lapse due to non-payment of premium, enter the last premium paid to date.

Data Item # 28

Name: Cause of Termination

Length: 2

Description: This field indicates the reason coverage terminated.

Reporting Instructions:

- Acceptable values are as follows:
 - 00 = Termination cause unknown
 - 01 = Reduced paid-up
 - 02 = Extended term
 - 03 = Voluntary termination (unable to distinguish between 01, 02, 07, 09, 10, 11, 13)
 - 04 = Death
 - 05 = Death Due to COVID-19*
 - 07 = 1035 exchange

09 = Term conversion – unknown whether attained age or original age
 10 = Term conversion – attained age
 11 = Term conversion – original age
 12 = Coverage expired or contract reached end of mortality table
 13 = Surrendered for full cash value
 14 = Lapse (other than to Reduced Paid Up or Extended Term)
 15 = Termination via payment of a discounted face amount while still alive, pursuant to an accelerated death benefit provision

* The NAIC has identified a new cause of death to capture deaths due to Covid-19. This new cause of death is expected to be adopted for the 2023 *Valuation Manual*. We are asking companies to use this new cause of death on a voluntary basis for the 2022 data collection.

- If the policy segment is in force, this field should be blank.
- If the policy segment is terminated, indicate the cause of termination from the list of acceptable values.
- Note: this field **must contain leading zeros** where applicable.
- Special Consideration for term riders attached to permanent plans:
 In the case where the base coverage is surrendered for cash value, the term rider should be coded as a lapse. Similarly, if the base coverage terminates due to death and the rider is on a different insured, the rider should be coded as a lapse.

Data Item # 29

Name: Annualized Premium at Issue

Maximum Length: 10

Format: Round to nearest dollar

Consistent Year over Year

Description: This field represents the annualized premium as of the policy issue date.

Reporting Instructions:

- In the case of single premium policies, enter the single premium.
- For all other modes this field is calculated as the modal or billed premium at issue multiplied by the number of modes in the year.
- This field should only be populated on the base segment of the policy except in the case of some specific level term segments.
- For segments with plan codes 021 – 027, 041 – 045, or 211 – 271, populate this premium even if it is not the base segment.
- The billed premium should include any policy fees and modal loads.
- The amount populated on the base segment should be the total premium for the policy less the premium for any term segment identified separately.

Data Item # 30

Name: Annualized Premium at the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: This field represents the annualized premium as of the beginning of the observation year.

Reporting Instructions:

- This field is calculated as the modal or billed premium at the beginning of the observation year multiplied by the number of modes in the year.
- This field should only be populated on the base segment of the policy except in the case of some specific level term segments.
- For segments with plan codes 021 – 027, 041 – 045, or 211 – 271, populate this premium even if it is not the base segment.
- The billed premium should include any policy fees and modal loads.
- The amount populated on the base segment should be the total premium for the policy less the premium for any term segment identified separately.
- If the policy segment was issued in the observation year, this field should be blank.

Data Item # 31

Name: Annualized Premium at the End of Observation, if available. Otherwise Annualized Premium as of Year/Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: If the policy is in-force, this field represents the annualized premium as of the end of the observation year. If the policy is terminated, this field represents the annualized premium as of the actual termination date.

Reporting Instructions:

- This field is calculated as the modal or billed premium multiplied by the number of modes in the year.
- This field should only be populated on the base segment of the policy except in the case of some specific level term segments.
- For segments with plan codes 021 – 027, 041 – 045, or 211 – 271, populate this premium even if it is not the base segment.
- The billed premium should include any policy fees and modal loads.
- The amount populated on the base segment should be the total premium for the policy less the premium for any term segment identified separately.

Data Item # 32

Name: Premium Mode

Length: 2

Description: This field represents the frequency of premium payments.

Reporting Instructions:

- Acceptable values are as follows:
 - 01 = Annual
 - 02 = Semiannual
 - 03 = Quarterly
 - 04 = Monthly Bill Sent

- 05 = Monthly Automatic Payment
- 06 = Semimonthly
- 07 = Biweekly
- 08 = Weekly
- 09 = Single Premium
- 10 = Other / Unknown

- This field **must contain a leading zero** where applicable.

Data items 33 – 46 are only to be populated if the policy segment is ULSG (plan codes 071 – 078) or VLSG (plan codes 090 – 096) and only for the base segment of the policy. These fields should be left blank if unknown.

Data Item # 33

Name: Cumulative Premium Collected as of the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: This field is the cumulative premium collected since issue as of the beginning of the observation year. For policy segments issued in the observation year, this field should be blank.

Data Item # 34

Name: Cumulative Premium Collected as of the End of Observation Year if available. Otherwise Cumulative Premium collected as of Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: If the policy segment is in force, this field is the cumulative premium collected since issue as of the end of the observation year. If the policy segment is terminated, this field is the cumulative premium collected since issue as of the actual termination date.

Data Item # 35

Name: ULSG / VLSG Premium Type

Length: 2

Description: This field represents the type of premium that is supporting the secondary guarantee on this policy segment.

Reporting Instructions:

- Acceptable values are as follows:
 - 00 = Unknown
 - 01 = Single Premium
 - 02 = ULSG / VLSG whole life level premium
 - 03 = Lower premium (term like)
 - 04 = Other

Data Item # 36

Name: Type of Secondary Guarantee

Length: 2

Consistent Year over Year

Description: This field represents the type of secondary guarantee on this policy segment.

Reporting Instructions:

- Acceptable values are as follows:
 - 00 = Unknown
 - 01 = Cumulative Premium without Interest (Single Tier)
 - 02 = Cumulative Premium without interest (Multiple Tier)
 - 03 = Cumulative Premium without Interest (Other)
 - 04 = Cumulative Premium with Interest (Single Tier)
 - 05 = Cumulative Premium with interest (Multiple Tier)
 - 06 = Cumulative Premium with Interest (Other)
 - 11 = Shadow Account (Single Tier)
 - 12 = Shadow Account (Multiple Tier)
 - 13 = Shadow Account (Other)
 - 21 = Both Cumulative Premium without Interest and Shadow Account
 - 22 = Both Cumulative Premium with Interest and Shadow Account
 - 23 = Other, not involving either Cumulative Premium or Shadow Account
- This field **must contain a leading zero** where applicable.

Data Item # 37

Name: Cumulative Minimum Premium as of the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: For policy segments with a cumulative minimum premium secondary guarantee, this field is the cumulative minimum premium including applicable interest for all policy years as of the beginning of the observation year.

Reporting Instructions:

- For policy segments where the secondary guarantee is unknown or is a shadow account, this field should be blank.
- If the policy segment was issued during the observation year, this field should be blank.

Data Item # 38

Name: Cumulative Minimum Premium as of the End of Observation Year / Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: For policy segments with a cumulative premium secondary guarantee, this field is the cumulative minimum premium including applicable interest for all policy years as of the end of the observation year.

Reporting Instructions:

- For policy segments where the secondary guarantee is unknown or is a shadow account, this field should be blank.

- For in force policy segments, this field is the cumulative minimum premium for all policy years as of the end of the observation year.
- For terminated policy segments with, this field is the cumulative minimum premium for all policy years as of the actual termination date.

Data Item # 39

Name: Shadow Account Amount at the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: For policy segments with a shadow account, this field is the value of the shadow account as of the beginning of the observation year.

Reporting Instructions:

- For policy segments where the secondary guarantee is unknown or is a cumulative premium guarantee, this field should be blank.
- The value of the shadow account can be positive, zero, or negative.
- If the policy segment was issued during the observation year, the field should be blank.

Data Item # 40

Name: Shadow Account Amount at the End of Observation Year / Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: For policy segments with a shadow account, this field is the value of the shadow account as of the end of the observation year.

Reporting Instructions:

- For policy segments where the secondary guarantee is unknown or is a cumulative premium guarantee, this field should be blank.
- For in-force policy segments, this field is the value of the shadow account as of the end of the observation year.
- For terminated policy segments, this field is the value of the shadow account as of the actual termination date.
- The value of the shadow account can be positive, zero, or negative.

Data Item # 41

Name: Account Value at the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: This field is the policy account value, gross of any loan, at the beginning of the observation year.

Reporting Instructions:

- The policy account value can be positive, zero, or negative.
- For policy segments issued during the observation year, this field should be blank.

Data Item # 42

Name: Account Value at the end of Observation Year / Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: This field is the policy account value, gross of any loan, at the end of the observation year.

Reporting Instructions:

- For in force policy segments, this field is the policy account value at the end of the observation year.
- For terminated policy segments, this field is the policy account value at the actual termination date.
- The policy account value can be positive, zero, or negative.

Data Item # 43

Name: Amount of Surrender Charge at the Beginning of Observation Year

Maximum Length: 10

Format: Round to nearest dollar

Description: This field is the policy surrender charge value at the beginning of the observation year.

Reporting Instructions:

- For policy segments issued during the observation year, this field should be blank.

Data Item # 44

Name: Amount of Surrender Charge at the End of Observation Year / Actual Termination Date

Maximum Length: 10

Format: Round to nearest dollar

Description: This field is the policy surrender charge value at the end of the observation year.

Reporting Instructions:

- For in force policy segments, this field is the policy surrender charge value at the end of the observation year.
- For terminated policy segments, this field is the policy surrender charge value at the actual termination date.

Data Item # 45

Name: Operative Secondary Guarantee at the Beginning of Observation year

Length: 2

Description: This field identifies whether a secondary guarantee is in effect for a policy at the beginning of the observation year.

Reporting Instructions:

- Acceptable values are as follows:
 - 00 = Unknown whether the secondary guarantee is in effect
 - 01 = Secondary guarantee is not in effect
 - 02 = Secondary guarantee is in effect
 - 03 = All secondary guarantees have expired
- The term "in effect" is defined as whether the policy is being supported by the secondary guarantee (i.e. the policy would have lapsed without the secondary guarantee).
- For policies issued in the observation year, this field should be blank.

Data Item # 46

Name: Operative Secondary Guarantee at the End of Observation Year / Actual Termination Date

Length: 2

Description: This field identifies whether a secondary guarantee is in effect for a policy at the end of the observation year.

Reporting Instructions:

- Acceptable values are as follows:
 - 00 = Unknown whether the secondary guarantee is in effect
 - 01 = Secondary guarantee is not in effect
 - 02 = Secondary guarantee is in effect
 - 03 = All secondary guarantees have expired
- For terminated policy segments that were issued with a secondary guarantee, this field represents whether that secondary guarantee was in effect as of the actual termination date.
- The term “in effect” is defined as whether the policy is/was being supported by the secondary guarantee (i.e. the policy would have lapsed without the secondary guarantee).

Data Item # 47

Name: State of Domicile

Length: 2

Description: This field represents the **resident state of the policy owner**.

Reporting Instructions:

- Use standard two-letter state abbreviation codes.
- Acceptable values are as follows:
 - AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, VT, WA, WI, WV, WY, AS, GU, MP, PR, NA, OT
- If the policy owner resides outside the US then this field should be blank.

Draft: 7/28/22

Life Actuarial (A) Task Force
Virtual Meeting
July 7, 2022

The Life Actuarial (A) Task Force met July 7, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Kevin Clarkson (NJ); Adrienne A. Harris represented by Bill Carmello and Michael Cebula (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); and Michael Humphreys represented by Steve Boston (PA).

1. Exposed the 2022 HMI/FMI Scale Development Recommendation

Marianne Purushotham (Society of Actuaries [SOA] Preferred Mortality Project Oversight Group [POG]) presented the 2022 Historical Mortality Improvement (HMI)/Future Mortality Improvement (FMI) Scale Development Recommendations. She said the recommendations include: 1) how to reflect the impacts of COVID-19 on the HMI and the FMI; 2) the FMI scale margin; and 3) the HMI and FMI smoothing methods. She said the POG worked closely with other industry groups to determine consistent principles and guidance for developing valuation mortality. She said the groups agreed that the valuation mortality should reflect the expected recurring, ongoing mortality level over the full reserve projection period. She said the POG also sought perspectives on the impact of COVID-19 from other organizations from across the globe with similar interests. She said the POG also considered principles specific to life insurance, including the understanding that there is an explicit margin built into the recommendation because insured population mortality is lower than the general population mortality used as the basis for the development of the mortality improvement recommendation.

Ms. Purushotham said the recommendation for the HMI uses the standard method carried over from previous years but assumes zero improvement in 2020 over 2019. She said the recommendation results in a 1.4% valuation mortality increase in 2021 and a 0.4% valuation mortality increase in 2022. She said the recommendation for the loaded FMI recommendation includes a 25% margin for uncertainty, to which a temporary margin for COVID-19 is added. The COVID-19 margin starts at 25% and grades to zero over five years. It was noted that the recommended approach for smoothing the HMI and FMI rate is the same as was used in previous years.

Ms. Purushotham said a model office was used to estimate the reserve impact of the HMI and FMI recommendations on universal life with secondary guarantees (ULSG) test policies. She said the model office showed the recommendations result in a 2.7% decrease in the deterministic reserve. Mr. Reedy asked why the decrease differed from the 10% decrease shown in the June 23 mortality improvement presentation. Ms. Purushotham said the baseline for the current presentation includes the 2021 HMI recommendation—2022 is the first year for an FMI recommendation—while the baseline for the June 23 mortality improvement presentation does not include the 2021 HMI. Mr. Cebula expressed concern that the recommendation results in a decrease in the deterministic reserve at a time when there is a new cause of death for which long-term effects are unknown. Ms. Purushotham said the decrease reflects the best estimate of mortality over the projection period. She said the best estimate not only reflects COVID-19 but also reflects positive effects from medical advancements.

Mr. Yanacheak made a motion, seconded by Mr. Clarkson, to expose the mortality improvement recommendations (Attachment Two-A) for a 21-day public comment period ending July 27. The motion passed unanimously.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INSURANCE AND ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/7 7/July 7 Minutes.docx

Future Mortality Improvement Scale Development (VM-20) 2022 HMI and FMI Recommendations



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Mortality Improvements Life Work Group (MILWG),
SOA Mortality and Longevity Oversight Advisory Council (MLOAC)

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Life Actuarial Task Force (LATF) Meeting—July 7, 2022

Agenda

- Items addressed in the 2022 scale recommendation
- Mortality/Mortality Improvement (MI) Industry Group—
Principles for COVID-19 Impact on Valuation Mortality/Longevity
Assumptions
- Recommendation for 2022 Historical Mortality Improvement
(HMI) and Future Mortality Improvement (FMI) scales
- Next steps



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Items to be addressed in 2022 scale recommendation

Develop HMI and FMI scales for use in 2022 valuation year.

The 2022 recommendations include:

- ▣ Reflecting COVID-19 impacts for HMI and FMI
- ▣ FMI margin
- ▣ HMI and FMI scale smoothing methods



Mortality/MI Industry Group - COVID-19 Impact

- ▣ Group representing members of the American Academy of Actuaries (“Academy”), the Society of Actuaries, and members of the National Association of Insurance Commissioners (NAIC), Life Actuarial (A) Task Force (LATF)
- ▣ Convened in January 2022
- ▣ Focused on developing set of consistent principles to be considered in reflecting the impact of COVID-19 in mortality and longevity valuation work.



Industry Group Principles

Valuation mortality assumption should represent:

“the expected recurring, ongoing mortality level” over the full period of the reserve projection

Therefore, the basic mortality/MI assumption

- Should not reflect the shock of the pandemic on mortality
- Should reflect expected ongoing impacts (assuming a longer term perspective)



Principles Consistent With International Views on Mortality Projection and Impact of COVID-19

- Social Security Administration 2022 Trustees Report
 - “Projected death rates for years after 2023 are unchanged from the levels that would have been projected in the absence of the pandemic, under the assumption that increased deaths from the residual effects of living through the pandemic (both physiological and psychological) will be roughly offset by decreased deaths that instead happened sooner (during the pandemic).”
- Continuous Mortality Investigation (CMI) Mortality Projections Committee
 - “If we gave full weight to 2020 data ... the reduction in life expectancy would have been in excess of what most users of the model would consider reasonable.”
 - CMI_2021 incorporates mortality data to 31 December 2021
 - 2020 and 2021 data is given 0% weight in the Core version – Consistent with approach for CMI_2020 supported by consultation – Data for 2020 and 2021 is unlikely to be indicative of future trends – Using 100% weight for 2020 and 2021 data would lead to excessive falls in life expectancy
- Mortality projections for Social Security Programs in Canada (Actuarial Studies No. 22 and 23)



Additional Considerations

- Insured population mortality materially lower than general population mortality
 - Insured population generally in higher socioeconomic category than general population
 - Lower mortality and higher mortality improvement seen in higher socioeconomic categories (implicit margin in our recommendations)
- MI improvement scale annual updates should not create reserve volatility
- Individual companies should consider their own business and make appropriate additional adjustments

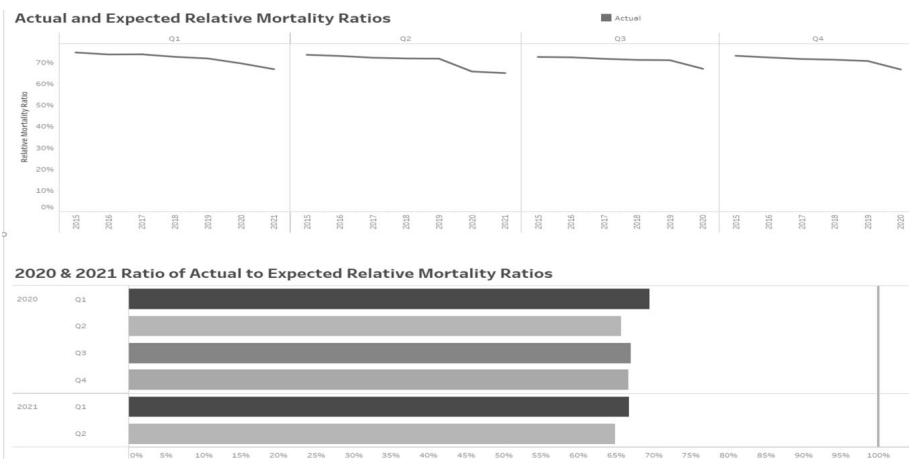


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Mortality Rates: Ratio of Insured Mortality to General Population



Implicit margin exists in using general population as basis for the MI scale development



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Source: COVID-19 Mortality Study: Analytics – 2020 Q1- 2021 Q2 – SOA, LIMRA, RGA, TAI
 Actual = Insured, Expected = General Population



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HMI Recommendation: Apply Standard Methodology With Discounted 2020 Impact (Assume Zero Improvement for 2020)

- ❑ Does not include shock pandemic impact
- ❑ Assumption that in the absence of COVID-19, there would be continued improvement at lower levels (consistent with international current views)
- ❑ This will continue to be evaluated as data becomes available each year



HMI 2022 Recommended Scale



HMI 2022 Recommendation

% Increase in Valuation Mortality Rates (2021 and 2022)

Valuation mortality rates increased by 1.4% in 2021 and will increase by an additional 0.4% in 2022 for most ages.



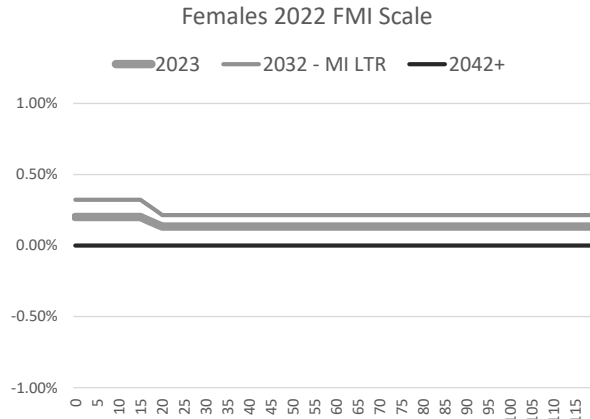
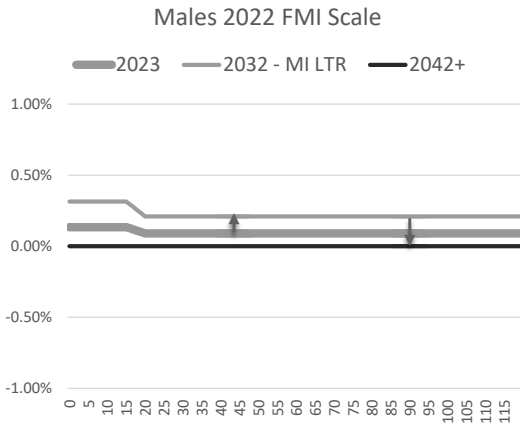
FMI Recommendation:

Apply approved methodology with additional temporary COVID-19 margin

- Basic FMI
 - Grade from recent HMI to long-term (LT) MI level based on SSA Alt 2 (2022 Trustees Report)
- Loaded FMI
 - Includes 25% margin for uncertainty around future trend
 - Plus additional margin for 5 years for uncertainty around COVID-19 ongoing impacts
 - Will be revisited each year as data becomes available



FMI 2022 Recommended Scale (with margins)



Approach for Margin for MI rates

- ▣ General Margin
 - Reduce improvement by 25 %
 - Increase deterioration by 25 %
- ▣ COVID-19 Margin
 - 25% grading down to zero over 5 years



Approach for Smoothing (HMI and FMI)

- By age
- Use same approach for 2022 as past years
 - ▣ Ages 0-15 = 1.5 x adult average improvement/deterioration
 - ▣ Ages 16-20 = Grade to adult average
 - ▣ Ages 21-84 = Assumed adult average
 - ▣ Ages 85-94 = Grade to ultimate level of at 95
 - ▣ Ages 95+ = 0.1%



Reserve Impact - NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the yearly renewable term (YRT) representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model
- Combined model office

Component	Values
Issue ages	Decennial issue ages 30 – 70
Gender	Male Female
Risk classes	Preferred non-tobacco Standard non-tobacco Standard tobacco
Face bands	Low (\$250,000) High (\$1,000,000)



Reserve Impact Results

	\$\\$ Deterministic Reserve	% chg in starting reserve
Baseline: HMI: 2021 HMI recommendation FMI: no FMI	1,895,591	
Illustrative Only: HMI: include full COVID shock impact FMI: no FMI	2,029,821	+ 7.1%
HMI: include 2020 with 0 trend, removes pandemic shock FMI: no FMI	1,923,953	+1.5%
2022 HMI and FMI Recommendation: HMI: include 2020 with 0 trend, removes pandemic shock FMI: grade to LTR with margin for general uncertainty <u>plus</u> margin for uncertainty in COVID impact	1,843,976	-2.7%



2023 Plan

- ❑ Revisit historical component calculation method in light of recent and expected experience
- ❑ Insured vs. general population MI recommendation
- ❑ Revisit smoothing across narrower age bands and margin structure



Questions?



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Appendix

NAIC Model Office: Background Information



FMI - Reserve Impact Estimates NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the YRT representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model

- Combined model office

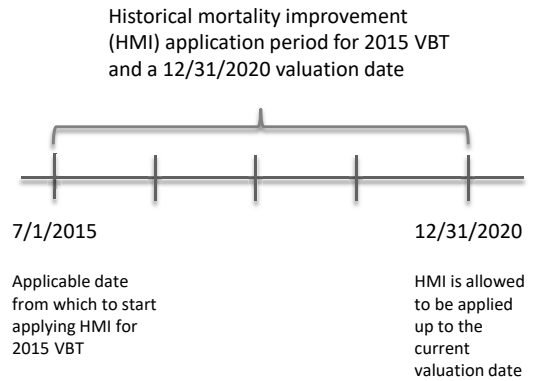
Component	Values
Issue ages	Decennial issue ages 30 – 70
Gender	Male Female
Risk classes	Preferred non-tobacco Standard non-tobacco Standard tobacco
Face bands	Low (\$250,000) High (\$1,000,000)



Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

- The 2021 and prior versions of VM-20 prohibited including FMI in the calculation of deterministic and stochastic reserves, while allowing the mortality assumption to be improved up to the valuation date using a historical mortality improvement (HMI) assumption developed by the MILWG
- An **“exact” approach** to including FMI in the calculation of deterministic and stochastic reserves would utilize the MILWG’s HMI assumption to bring the mortality table up to the valuation date and then apply the separate FMI assumptions beyond the valuation date

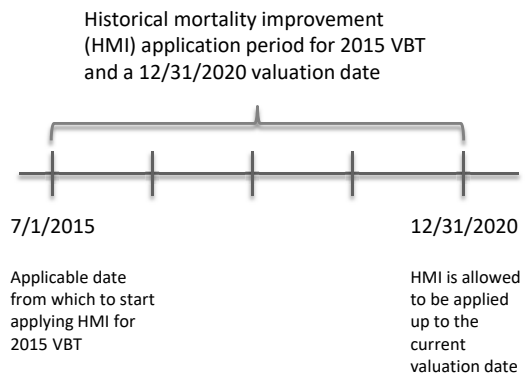


Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

A modeling simplification was employed that utilized the new MILWG FMI assumption as both HMI and FMI in the deterministic reserve projection.

This simplification allows for the impact of including FMI in current and future deterministic reserve calculations to be quantified.



Reserve Impact Estimates

ULSG Model Office Results

- Baseline reserves—no FMI
- Best estimate—reserves with FMI at best estimate level
- Margin 25%—FMI at best estimate level with 25% reduction across all gender/ages
- Margin 35%—FMI at best estimate level with 35% reduction across all gender/ages



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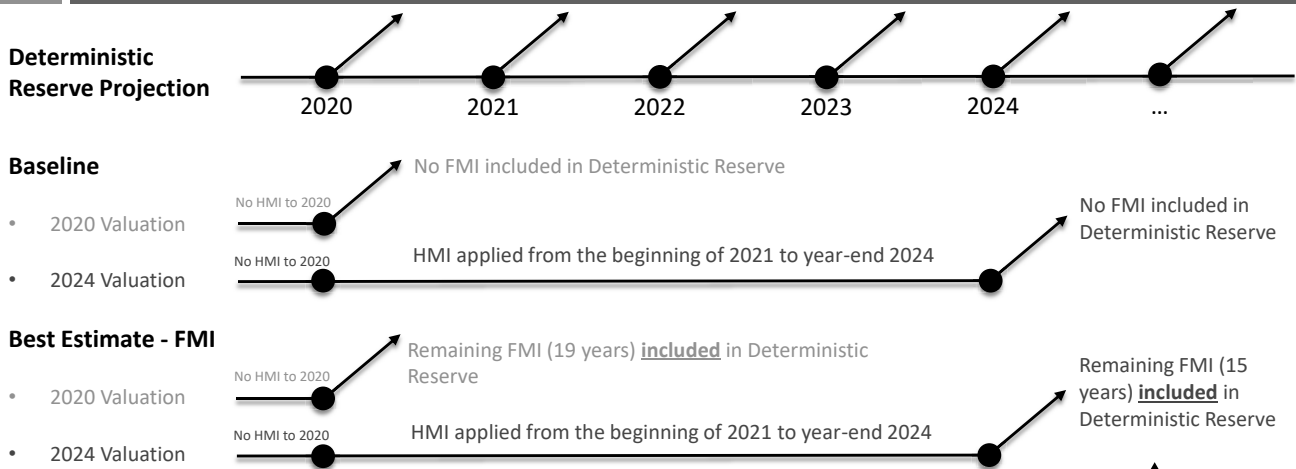
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Reserve Impact Estimates

Model Office—Deterministic Reserve Projection Illustration



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Draft: 7/28/22

Life Actuarial (A) Task Force
Virtual Meeting
June 30, 2022

The Life Actuarial (A) Task Force met June 30, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); and Michael Humphreys represented by Steve Boston (PA).

1. Adopted Amendment Proposal 2022-04

Pat Allison (NAIC) said amendment proposal 2022-04 (Attachment Three-A) addresses the transition from the London Interbank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) to calculate short-term and long-term swap rates that will be prescribed for principle-based reserving (PBR) valuations in 2023 and later. She noted that the NAIC staff recommendation for addressing the LIBOR to SOFR transition for the remainder of 2022 will be discussed on a later call. She said amendment proposal 2022-04 offers two options for addressing short-term and two options for long-term swap spreads. She said that in each case option A allows the swap data to come from a single nationally recognized source, and option B requires the averaging of data from at least two nationally recognized sources.

Ms. Allison said option A for current swap spreads requires the companies to obtain the current swap spreads from a nationally recognized source. She said small companies that may not have the resources to obtain the data would be able to request the data from the NAIC. Option B for current swap spreads calls for NAIC staff to obtain the swap rates and subtract the corresponding U.S. Treasury rates to obtain current swap spreads and publish the spreads on the NAIC website. She said option A for long-term swap spreads allows the NAIC to obtain data from a single source, apply the required method, and publish the rates. Option B requires averaging of long-term swap data from at least two nationally recognized sources, applying the required method, and publishing the rates.

Alan Routhenstein (American Academy of Actuaries—Academy) said the Academy comment letter (Attachment Three-B) expresses its preference for option A. He said the Academy believes the results from using option A will not significantly differ from those obtained using option B. Ms. Allison said the Academy's conclusion is consistent with the observations from NAIC research. She said for long-term swaps, NAIC staff recommend going with option B to ensure the supplier data that is posted on the NAIC website cannot be reverse engineered. She said NAIC staff are indifferent to whether option A or option B is used for current swap spreads.

Ms. Allison said the exposure asked for comments on whether the word “companies” in the option A language proposed for Appendix 2.F of VM-20, Requirements for Principle-Based Reserves for Life Products, should be replaced with the phrase “the appointed actuary.” Mr. Routhenstein said the Academy recommends using the phrase “the company,” which is consistently used throughout the *Valuation Manual*. Ms. Allison said a letter from Linda Lankowski (Risk & Regulatory Consulting LLC) supports the Academy recommendation. Mr. Carmello

expressed his preference for option B for both the current and long-term swaps. Mr. Routhenstein said the Academy is comfortable with going with option B for both.

Mr. Carmello made a motion, seconded by Ms. Eom, to adopt amendment proposal 2022-04 using option B for both the current and long-term swaps and the term “the company” in Appendix 2.F of VM-20. The motion was passed unanimously.

2. Discussed the ACLI Alternative Equity Calibration

Brian Bayerle (American Council of Life Insurers—ACLI) presented the alternative equity calibration (Attachment Three-C) that the ACLI recommends be included as optional run #6 in the economic scenario generator (ESG) field test. He noted that the ACLI alternative calibration is like the Conning H2 calibration approach. Mr. Boerner asked if the calibration is ready to be converted to field test scenarios. Mr. Bayerle said the calibration has been posted to the ESG SharePoint site, reviewed by Conning, and is ready for scenario conversion. Dan Finn (Conning) said the scenarios should be available in a week. Mr. Chupp asked if setting the short rate multiplier parameter to zero, as noted on slide 3, means there is no linkage to U.S. Treasury rates. Mr. Bayerle confirmed that the zero indicates that the equity rates are independent of the U.S. Treasury rates.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/6 30/June 30 Minutes.docx

Life Actuarial (A) Task Force
June 9, 2022
Updated Exposure of APF 2022-04

Swap Spreads and London Inter-Bank Offered Rate (LIBOR)
Transition to the Secured Overnight Financing Rate (SOFR)

This exposure of APF 2022-04 provides two options for moving forward with the transition to SOFR. Option A is applicable if the availability of SOFR data is limited to a single data source. Option B is applicable if SOFR data is available from multiple data sources.

Parties are also asked to opine on whether the APF should use the word “companies” or the term “appointed actuary” in option A for VM-20 Appendix 2.F.

Note this revised APF is complemented by a May 26, 2022 memo from NAIC staff to LATF on a recommended replacement to LIBOR swap spreads effective [TBD, potentially June 30, 2022].

Please send comments to Reggie Mazyck @ RMazyck@NAIC.Org by close of business on June 21, 2022.

Dates: Received	Reviewed by Staff	Distributed	Considered
03/08/22	RM	03/08/22	03/10/22
Notes: APF 2022-04 exposed on 6/9			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form**

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Alan Routhenstein, on behalf of the American Academy of Actuaries’ Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group

Pat Allison, NAIC staff

Title of the Issue:

Swap Spreads and London Inter-Bank Offered Rate (LIBOR) transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance in light of the LIBOR transition to SOFR.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-20 Section 9.F.8.d, VM-20 Appendix 2.F, VM-20 Appendix 2.G
 January 1, 2022 NAIC *Valuation Manual*

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

Proposed edits to VM-20 for LIBOR transition to SOFR are shown in the attached Appendix

4. State the reason for the proposed amendment? (You may do this through an attachment.)
 - a. Bank regulators and a group of swap market participants have agreed that for interbank interest rate swaps executed after 2021, the floating rate needs to be based on an index other than LIBOR.
 - b. During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap (for which the floating rate is based on SOFR) from the historical LIBOR swap (for which the floating rate is LIBOR).
 - c. As a result, VM-20 instructions for how the NAIC will calculate and publish swap spreads needs to be updated for:
 - i. Current Benchmark swap spreads (as of each month end); and
 - ii. Long-Term Benchmark swap spreads (as of each quarter end)
 - d. The associated presentation provides further background and rationale for this proposal.

NAIC Staff Comments:

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Appendix

Proposed amendments to VM-20 for APF 2022-04 on Swap Spreads and LIBOR transition to SOFR

VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads.....:

- d. Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model wherever appropriate for transactions and operations including, but not limited to, purchase, sale, settlement, cash flows of derivative positions and reset of floating rate investments. A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between. ~~The three month and six month points on the swap spread curves shall be the market observable values for these tenors. Currently, this shall be the corresponding London Interbank Offered Rate (LIBOR) spreads over Treasuries. When the NAIC determines LIBOR is no longer effective, the NAIC shall recommend a replacement to the Life Actuarial (A) Task Force which shall be effective upon adoption by the Task Force.~~
- i. The current prescribed swap spread curve shall be the Secured Overnight Financing Rate (SOFR) swap curve.
 - ii. The long term SOFR swap spread curve, given that the SOFR swap market did not emerge before late 2021 and that SOFR is an index for which there is no official data before April 2, 2018, shall be calculated based on 15 year moving averages of prescribed estimates of historical SOFR swap spreads for valuation dates prior to June 30, 2037.

Guidance Note: Actuarial judgment may be required in the use of prescribed swap spreads (for example, in the case where companies have a financial instrument with floating rate payments based on an index that is not prescribed by the NAIC [e.g., 1-month SOFR or 3-month LIBOR]).

VM-20 Appendix 2.F Current Benchmark Swap Spreads:

Option A – For use if the NAIC does not publish current benchmark swap spreads. Replace Section F with the language shown below.

F. Current Benchmark Swap Spreads

For tenors of 3 months, 6 months, and one year through 30 years, companies (the appointed actuary) shall use swap spread data determined as of the last business day of the month by maturity from a nationally recognized provider of this data.

Option B – For use if the NAIC publishes current benchmark swap spreads based on at least two data sources.

F. Current Benchmark Swap Spreads

1. For tenors of 3 months, 6 months, and one year ~~to~~ through 30 years, extract swap spread data determined as of the last business day of the month by maturity from at least two nationally recognized providers of this data. ~~For Bank of America data, If the data source provides swap rates rather than swap spreads, convert the swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate. For JP Morgan, the swap spread is provided for each maturity.~~
2. Average the ~~Bank of America swap spread with the JP Morgan swap spreads~~ from the data sources by maturity determined as of the last business day of the month.
3. Publish the Current Benchmark Swap Spreads by maturity in a table.

[Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.]

Guidance Note: 3-month and 6-month SOFR swap rates are defined herein as the fixed rate one party pays at the end of three months or six months in exchange for receiving at such time 3-month SOFR or 6-month SOFR, calculated on a compounded in arrears basis.

VM-20 Appendix 2.G Long-Term Benchmark Swap Spreads:**G. Long-Term Benchmark Swap Spreads _____****Option A**

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from a nationally recognized provider of this data. ~~For Bank of America data, If the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.~~

Option B

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two nationally recognized providers of this data. ~~For Bank of America data, If the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity~~

Treasury yield from the swap rate. ~~For JP Morgan, the daily swap spread is provided for each maturity.~~

2. For a valuation date during or after 2023 and before 2037, calculate SOFR swap spreads as follows for each business day on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:
 - a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$
3. For a valuation date during or after 2023 and before 2037, for each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilize Bloomberg’s 2021-03-05 published USD Spread Adjustments as follows:
 - a. For each maturity “m” = 3 or 6 months, and business day “u”:
 - i. SOFR swap spread(3 months,u) = LIBOR swap spread(3 months,u) - 0.26161% (the USD 3-month Spread Adjustment)
 - ii. SOFR swap spread(6 months,u) = LIBOR swap spread(6 months,u) - 0.42826% (the USD 6-month Spread Adjustment)
 - b. For each maturity “m” = 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{LIBOR swap spread}(m,u) - 0.26161\% \text{ (the USD 3-month Spread Adjustment)}$$
4. For a valuation date during or after 2037, calculate SOFR swap spreads as follows for each business day:
 - a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

Option A

Delete item 5 below. It would not apply, since data would come from one source.

Option B

Keep item 5 below, since data would come from more than one source and averaging would apply.

- ~~4.5.2. Average the daily Bank of America swap spread data from the data sources with the daily JP Morgan swap spread data by maturity over the prescribed observation (rolling 15-year period).~~
6. ~~3-~~ Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
7. ~~4-~~ Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), ~~a-~~ Table J shows Long-Term Benchmark Swap Spreads.



AMERICAN ACADEMY of ACTUARIES

Objective. Independent. Effective.™

June 21, 2022

Mr. Michael Boerner
Chair, Life Actuarial (A) Task Force (LATF)
National Association of Insurance Commissioners (NAIC)

Re: LATF’s June 9, 2022, exposure of a revised version of APF 2022-04 on swap spreads and LIBOR transition to SOFR (the “APF”), and a related memo (the “Memo”) from NAIC staff

Dear Mr. Boerner,

The Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group of the American Academy of Actuaries¹ (the “Academy”) appreciates the opportunity to provide comments on the APF and Memo. The Academy is thankful to LATF and NAIC staff as well for the May 26 exposure of earlier versions of the APF and of the Memo, for the March 10 exposure of an even earlier version of the APF drafted by the Academy and an accompanying Academy presentation deck, and for considering Academy member views expressed in our June 7 comment letter and in May through an informal drafting group discussion and follow-up emails.

The Academy is supportive of the exposed documents. We have the following comments on the two topics in the exposure for which LATF solicited feedback.

On Option A vs. Option B:

The Academy recommends Option A as it is easier to implement, and we do not expect Option A to result in materially different SOFR swap spreads used by companies than may result from Option B.

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

On “companies” vs. “appointed actuary” in Option A:

The Academy recommends that in the APF, “the company” is the preferred phrase, rather than “companies” or “the appointed actuary,” and that in the Memo, “The company” is the preferred phrase. Our rationale for this recommendation is consistency with numerous uses of this phrase and the absence of references to “appointed actuary” throughout Section 7 of VM-20. We note that the phrase “qualified actuary” is another alternative to consider, though for this context we believe that “the company” is most appropriate.

~ ~ ~

The Academy appreciates the efforts of LATF and NAIC staff on the APF and Memo. If you have any questions or would like further dialogue on the above topics, please contact Amanda Barry-Moilanen, life policy analyst, at barrymoilanen@actuary.org.

Sincerely,

Alan Routhenstein, MAAA, FSA
Member, Life Valuation Committee
American Academy of Actuaries



Economic Scenario Field Test Run #6: ACLI Equity Calibration for GEMS

June 30, 2022



Objective

- Test an alternative equity calibration in GEMS that
 - Reflects relevant economic data, theory, and relationships with plausibly severe (worse than history) tails
 - Exhibits different equity scenario behavior as market conditions, particularly interest rates, change
 - Similar to the Conning “H2” calibration approach adopted for the baseline field test runs, with the benefit of maintaining distribution properties across different initial and projected market conditions in a simple and effective way.
 - Can be updated in a transparent, repeatable manner if calibration targets or acceptance criteria change
 - Provides additional information for establishing the parameters of the second field test



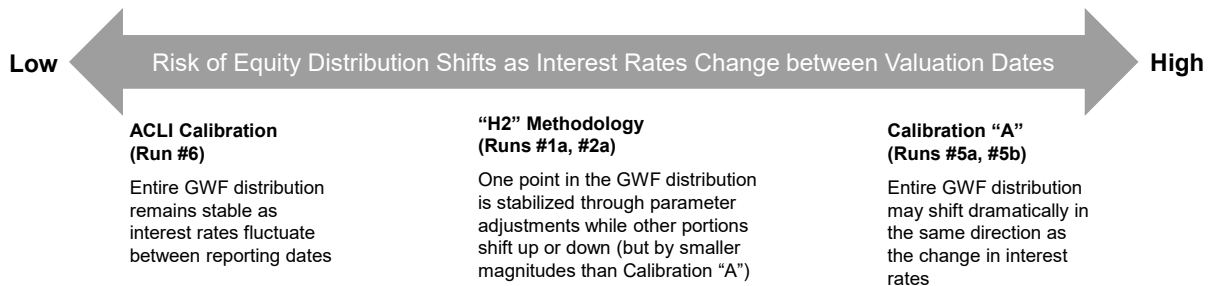
Calibration Approach

- Calibrate total returns for each of the 4 native GEMS US equity indices to historical data using generalized maximum likelihood estimation and other standard statistical methods
 - Sets GEMS short rate multiplier input parameter to 0
 - Preserves all other GEMS structural features, including jumps
- Make a limited set of defined adjustments (can be refined to meet acceptance criteria):
 - Adjust the Large Cap (S&P) drift parameter to align with regulators' previously specified 8.75% target annualized average for the average 30-year GWF (corresponds to ~7.4% geometric mean annual return) for the pre-2020 calibration criteria and AIRG
 - Adjust a volatility parameter of the other indices to align with historical volatility relationships with the S&P
 - Adjust the drift parameter for other indices to align Sharpe ratios with the S&P
- Slides 9-10 show the parameters of the calibration
- GEMS dividend process parameters and international fund derivations are unchanged



Behavior in Interest Rate Sensitivity Runs

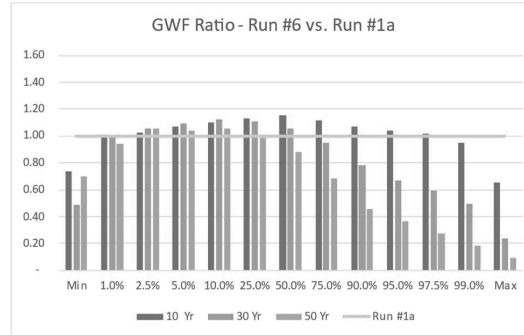
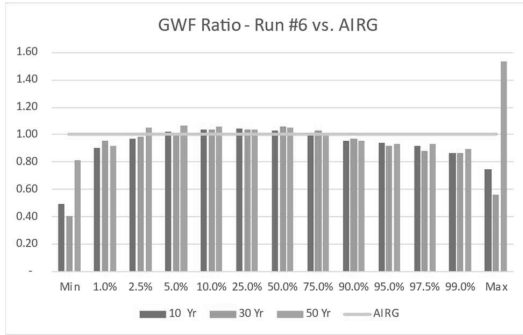
- ACLI Run #6 helps explore a range of equity distribution behaviors for the field test



See slide 17 for Field Test GWF distributions



Large Cap (S&P) Total Return Gross Wealth Factors



- Distributions are relatively similar to AIRG and GEMS Run #1a, however improves on the right tail in GEMS Run #1a that significantly exceeds AIRG at longer time horizons

Note: All Run #6 statistics were produced by a model that approximates the GEMS equity model based on publicly available information. Actual GEMS output may differ somewhat.



Large Cap (S&P) Total Return Gross Wealth Factors

AIRG							GEMS Run #1a							GEMS Run #6						
Min	1.0%	2.5%	5.0%	10.0%	25.0%	50.0%	Min	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	50 Yr	Min	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	50 Yr
0.40	0.37	0.36	0.40	0.47	0.49	0.49	0.50	0.28	0.24	0.39	0.39	0.57	0.48	0.27	0.18	0.30	0.19	0.40		
0.72	0.61	0.66	0.89	1.23	3.08		0.71	0.59	0.59	0.83	1.17	3.00	0.71	0.57	0.60	0.77	1.17	2.82		
0.78	0.71	0.79	1.12	1.72	4.47		0.77	0.68	0.75	1.06	1.60	4.46	0.78	0.70	0.77	1.06	1.69	4.71		
0.83	0.80	0.92	1.41	2.30	6.36		0.82	0.78	0.87	1.34	2.11	6.50	0.83	0.81	0.94	1.40	2.30	6.77		
0.88	0.93	1.12	1.80	3.09	9.77		0.87	0.89	1.05	1.69	2.86	9.80	0.89	0.94	1.15	1.89	3.21	10.35		
0.98	1.16	1.51	2.77	5.24	19.20		0.97	1.09	1.40	2.54	4.88	20.18	0.99	1.18	1.58	2.91	5.43	19.93		
1.08	1.45	2.11	4.37	8.97	39.11		1.07	1.35	1.88	4.01	8.99	46.87	1.09	1.49	2.18	4.55	9.51	41.23		
1.19	1.81	2.87	6.82	15.71	80.70		1.16	1.64	2.57	6.49	16.98	119.37	1.19	1.82	2.87	7.03	16.15	81.31		
1.30	2.19	3.82	10.30	25.69	150.99		1.25	1.96	3.41	10.25	31.70	312.82	1.28	2.13	3.65	9.91	24.87	144.24		
1.36	2.48	4.48	12.99	34.80	216.86		1.31	2.20	4.03	13.66	47.46	555.88	1.33	2.33	4.21	11.94	31.90	201.81		
1.42	2.74	5.21	16.03	44.83	294.06		1.35	2.45	4.70	17.57	66.82	995.72	1.38	2.52	4.77	14.31	39.47	274.67		
1.52	3.06	6.25	20.16	58.52	426.25		1.41	2.77	5.65	23.40	101.45	2,040.49	1.44	2.73	5.39	17.37	50.46	381.13		
1.85	5.28	12.24	40.39	195.03	1,259.57		1.81	4.53	13.89	55.97	457.07	21,412.21	1.67	3.67	9.11	31.04	108.91	1,933.20		

- Distributions are relatively similar to AIRG and GEMS Run #1a, however improves on the right tail in GEMS Run #1a that significantly exceeds AIRG at longer time horizons

Note: All Run #6 statistics were produced by a model that approximates the GEMS equity model based on publicly available information. Actual GEMS output may differ somewhat.



Small Cap Gross Wealth Factors

AIRG							GEMS Run #1a							GEMS Run #6						
	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	50 Yr	Min	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	50 Yr	Min	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	50 Yr
Min	0.26	0.20	0.14	0.10	0.09	0.09	0.46	0.24	0.18	0.17	0.20	0.24	0.24	0.28	0.16	0.09	0.15	0.07	0.13	0.13
1.0%	0.59	0.44	0.42	0.50	0.63	1.52	0.67	0.49	0.48	0.66	0.90	2.28	2.28	0.63	0.45	0.48	0.64	1.07	2.85	2.85
2.5%	0.68	0.56	0.56	0.70	1.02	2.51	0.73	0.61	0.63	0.90	1.37	3.83	3.83	0.70	0.61	0.65	1.00	1.58	4.96	4.96
5.0%	0.75	0.66	0.72	0.98	1.54	4.17	0.78	0.71	0.79	1.17	1.87	5.97	5.97	0.77	0.73	0.85	1.35	2.36	8.09	8.09
10.0%	0.83	0.80	0.93	1.42	2.35	6.99	0.85	0.83	0.97	1.58	2.69	9.63	9.63	0.85	0.90	1.12	1.96	3.53	13.56	13.56
25.0%	0.96	1.09	1.41	2.51	4.68	17.21	0.95	1.07	1.38	2.59	5.14	22.53	22.53	0.98	1.21	1.68	3.40	7.02	32.12	32.12
50.0%	1.09	1.49	2.19	4.73	9.93	45.64	1.07	1.39	1.98	4.46	10.26	57.85	57.85	1.12	1.61	2.49	6.02	13.90	76.68	76.68
75.0%	1.23	1.99	3.37	8.60	21.20	119.74	1.19	1.76	2.87	7.66	20.84	159.95	159.95	1.24	2.04	3.49	9.89	26.07	175.21	175.21
90.0%	1.39	2.57	4.85	14.82	41.52	289.80	1.30	2.17	3.90	12.54	40.12	433.95	433.95	1.35	2.46	4.63	14.83	44.77	351.33	351.33
95.0%	1.49	3.02	6.06	20.19	61.25	470.84	1.37	2.44	4.66	16.77	60.02	802.54	802.54	1.41	2.73	5.45	18.70	58.21	513.41	513.41
97.5%	1.58	3.50	7.37	26.67	85.41	730.92	1.43	2.73	5.53	21.80	88.64	1,348.54	1,348.54	1.47	2.98	6.26	22.96	74.57	712.63	712.63
99.0%	1.69	4.13	9.23	36.37	117.70	1,181.26	1.50	3.08	6.66	29.61	138.21	2,997.26	2,997.26	1.54	3.32	7.30	29.49	102.89	1,078.11	1,078.11
Max	2.41	8.39	18.89	167.40	840.32	7,806.02	1.81	5.62	16.81	123.05	548.09	29,025.90	29,025.90	1.85	5.00	12.43	59.69	283.24	7,533.87	7,533.87

- Run #6 calibrated to historical data (with adjustments to align volatility relationships and Sharpe ratios with the S&P) appears to be more favorable than AIRG and Run #1a but could be adjusted based on updated acceptance criteria or feedback.
- Run #6 preserves more of the differentiation across indices seen in the AIRG and history than the Run #1a adjustments for non-S&P indices (See slide 15-16)

Note: All Run #6 statistics were produced by a model that approximates the GEMS equity model based on publicly available information. Actual GEMS output may differ somewhat.



TECHNICAL APPENDIX

- Equity Parameters for Run #6
- Comparisons of Run #6 to
 - Historical Monthly Returns
 - Other Equity Models
 - Field Test Run #1a Parameters
 - Field Test Run #1a Gross Wealth Factors (All US Indices)
- Large Cap Gross Wealth Factors under Different Initial Market Conditions – Conning “A” and “H2” Methodologies

ACLI Calibration and Parameters

Total Return Interest Rate Multiplier (GEMS Input Parameter) | 0

Total equity returns are independent of the short rate, (i.e. follows constant mean returns and allows equity risk premiums to expand and contract).

	Large	Mid	Small	US Aggressive
mu0	0.0793	0.0579	0.0664	0.1653
mu1	0.2447	1.6990	1.3068	-1.4320
alpha	0.0205	0.0223	0.0213	0.0271
beta	1.0474	0.9698	0.7456	0.7365
sigma	0.1318	0.1237	0.1514	0.1647
mu_jump	-0.1419	-0.1682	-0.1792	-0.1815
sigma_jump	0.0700	0.0747	0.0801	0.0728
lambda_jump	2.9186	9.1715	7.5892	3.7389
ret/var correl	-0.5818	-0.6673	-0.6587	-0.3683
initial vol	0.1400	0.1518	0.1689	0.1917
theta	0.0196	0.0230	0.0285	0.0367
vol of var	0.0128	0.0135	0.0209	0.0260
avg jump freq.	5.7%	21.1%	21.7%	13.7%
MLE Sum LL	1399	838	788	900
MLE Avg. LL	1.83	1.65	1.55	1.51

Model parameters calibrated to monthly historical data using generalized maximum likelihood estimation (MLE):

- Large Cap: S&P total return index from 3/1957 to 12/2020, based on data provided by Link Richardson from a combination of sources
- Mid Cap: Willshire Mid Cap from 8/1978 to 12/2020, sourced from FRED
- Small Cap: Willshire Small Cap from 8/1978 to 12/2020, sourced from FRED
- Aggressive: NASDAQ Composite from 3/1971 to 12/2020, sourced from FRED

Adjustments / Targeting

- Large Cap drift coefficient, mu0, adjusted by -0.02954 to align with the 8.75% annualized average of the average 30-year GWF specified by regulators for the original AIRG and calibration criteria
- Mid, Small, and US Aggressive alpha parameter adjusted to align with the historical volatility relationships to Large Cap returns (see below)
- Mid, Small and US Aggressive mu0 adjusted to align with the Sharpe Ratio of 30.0% implied in the Large Cap scenarios, assuming a risk-free rate of 3%.

cross index volatility alignment

	large	mid	small	aggressive
historical (78-2020)	15.2%	18.2%	19.9%	21.5%
ratio to Large		1.19716	1.31045	1.41669
model target	14.5%	17.4%	19.0%	20.6%
model unadjusted	14.5%	18.2%	20.4%	20.2%
variance adj ratio		0.916501	0.873311	1.037511

ACLI Correlation Matrix

	Large Var	Large Ret	Mid Var	Mid Ret	Small Var	Small Ret	Aggr. Var	Aggr. Ret
Large Var	1.0000							
Large Ret	-0.5818	1.0000						
Mid Var	0.8279	-0.6281	1.0000					
Mid Ret	-0.5476	0.9105	-0.6673	1.0000				
Small Var	0.7604	-0.5840	0.9557	-0.6379	1.0000			
Small Ret	-0.5376	0.8705	-0.6649	0.9816	-0.6587	1.0000		
Aggr. Var	0.7681	-0.3550	0.8146	-0.3645	0.8107	-0.3699	1.0000	
Aggr. Ret	-0.5278	0.8631	-0.6256	0.8896	-0.6078	0.8977	-0.3683	1.0000

Correlation matrix based on historical data from 8/1978 to 12/2020:

- Variance/Return, or skew, correlation for each individual index based on each specific MLE
- Cross index Variance/Variance explicitly calculated using filtered historical Heston variance based on calibrated parameters
- Cross-skew correlation computed based on same filtered variances as above, but scaled to align with MLE-based correlation coefficients
- Cross index Return/Return explicitly calculated based on historical data

ACLI Comparison to Historical Return Distributions

Monthly Log-Return Scenario Statistics (GEMS 50yrs)				
	large	mid	small	US Aggressive
mean (annual.)	7.4%	8.2%	8.6%	9.2%
st.dev (annual.)	14.5%	17.4%	19.2%	20.6%
skew	-0.33	-1.01	-0.93	-0.63
kurtosis	5.89	9.06	9.08	6.61

Monthly Historical Log-Return Statistics (8/1978-12/2020)				
	large (price)	mid (tot)	small (tot)	Nasdaq (price)
mean (annual.)	11.2%	11.9%	11.6%	10.8%
st.dev (annual.)	15.2%	18.2%	19.9%	21.5%
skew	-0.88	-1.18	-1.18	-0.94
kurtosis	6.00	7.84	7.51	6.04

Monthly Log-Return Scenario Statistics (AIRG 50yrs)				
	large	mid	small	Aggressive (AIRG definition differs from GEMS US Aggressive)
mean (annual.)	7.3%		7.6%	
st.dev (annual.)	15.1%		20.5%	
skew	-0.67		-0.89	
kurtosis	7.00		8.36	

GEMS Monthly Return (10k scenarios / 50yrs)				
	Large	Mid	Small	NASDAQ
0.0%	-0.43	-0.51	-0.54	-0.52
0.5%	-0.12	-0.19	-0.20	-0.19
1.0%	-0.10	-0.14	-0.16	-0.15
5.0%	-0.06	-0.07	-0.07	-0.09
10.0%	-0.04	-0.05	-0.05	-0.06
50.0%	0.01	0.01	0.01	0.01
90.0%	0.06	0.07	0.07	0.08
95.0%	0.08	0.09	0.10	0.10
99.0%	0.12	0.13	0.15	0.16
99.5%	0.13	0.15	0.18	0.19
100.0%	0.37	0.41	0.55	0.56

AIRG Monthly Return (10k scenarios / 50yrs)				
	Large	Mid	Small	Aggressive
0.0%	-0.56			-0.65
0.5%	-0.14			-0.20
1.0%	-0.12			-0.16
5.0%	-0.07			-0.09
10.0%	-0.04			-0.06
50.0%	0.01			0.01
90.0%	0.06			0.07
95.0%	0.07			0.10
99.0%	0.12			0.16
99.5%	0.14			0.18
100.0%	0.71			1.22

Historical Monthly Return (78-2020)				
	Large	Mid	Small	Aggr.
0.0%	-0.22	-0.26	-0.29	-0.27
0.5%	-0.13	-0.20	-0.20	-0.21
1.0%	-0.11	-0.15	-0.17	-0.17
5.0%	-0.07	-0.07	-0.08	-0.09
10.0%	-0.04	-0.05	-0.06	-0.06
50.0%	0.01	0.01	0.02	0.02
90.0%	0.06	0.07	0.08	0.08
95.0%	0.08	0.09	0.09	0.11
99.0%	0.11	0.14	0.14	0.14
99.5%	0.12	0.14	0.15	0.16
100.0%	0.13	0.17	0.20	0.22

Large Cap volatility of 14.5% reflects longer historical data (from 1957 to 2020) used in calibration, slightly lower than 15.2% observed between 1978 and 2020.

- Field Test Run #6 GEMS equity scenarios and AIRG are reasonably well aligned with historical distributions and produce tail outcomes beyond the observed range.
- Right tail AIRG returns seem somewhat extreme

ACLI Large Cap GWF: Comparisons to Other Models Centered at 8.75%

Wf's calibrated to 1957-2020 and centered at 8.75%						
Model	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	
Heston	0.44	0.16	0.16	0.19	0.27	
1.0%	0.69	0.55	0.58	0.75	1.08	
2.5%	0.76	0.67	0.74	1.04	1.59	
5.0%	0.82	0.79	0.90	1.36	2.16	
10.0%	0.89	0.94	1.13	1.85	3.11	
25.0%	0.99	1.20	1.59	2.90	5.48	
50.0%	1.10	1.50	2.20	4.65	9.60	
75.0%	1.19	1.81	2.89	7.05	16.18	
90.0%	1.27	2.10	3.64	9.89	24.99	
95.0%	1.32	2.31	4.16	11.87	31.85	
97.5%	1.36	2.48	4.68	14.03	39.00	
99.0%	1.42	2.69	5.18	16.35	47.73	
99.5%	1.48	3.71	7.91	30.25	111.12	
Max						
SLV	0.41	0.17	0.17	0.15	0.20	
1.0%	0.66	0.50	0.50	0.62	0.85	
2.5%	0.73	0.61	0.66	0.88	1.28	
5.0%	0.80	0.73	0.82	1.16	1.77	
10.0%	0.87	0.88	1.03	1.61	2.64	
25.0%	0.98	1.15	1.50	2.62	4.81	
50.0%	1.09	1.48	2.15	4.43	9.01	
75.0%	1.20	1.84	2.94	7.05	16.21	
90.0%	1.29	2.17	3.80	10.27	26.13	
95.0%	1.34	2.39	4.38	12.76	34.44	
97.5%	1.39	2.58	4.96	15.27	43.43	
99.0%	1.44	2.82	5.60	18.12	52.99	
99.5%	1.71	3.93	8.64	33.07	132.86	
Max						
RSLN2	0.41	0.17	0.17	0.15	0.20	
1.0%	0.70	0.56	0.55	0.71	0.95	
2.5%	0.76	0.65	0.70	0.94	1.42	
5.0%	0.81	0.76	0.84	1.21	1.88	
10.0%	0.87	0.88	1.01	1.59	2.60	
25.0%	0.98	1.12	1.44	2.54	4.61	
50.0%	1.08	1.45	2.06	4.23	8.55	
75.0%	1.18	1.81	2.87	6.77	15.62	
90.0%	1.27	2.20	3.80	10.42	26.06	
95.0%	1.33	2.43	4.48	13.21	35.45	
97.5%	1.38	2.70	5.26	16.32	46.60	
99.0%	1.46	2.96	6.17	20.67	61.09	
99.5%	1.81	4.36	10.30	66.09	177.80	
Max						

- Reference equity models were calibrated to S&P return from 1957 to 2020, and centered at 8.75% NAIC target return for comparison purposes
- 8.75% NAIC target is based on the annualized average of the 30-year wealth factor and is equivalent to a 7.4% geometric average due to volatility/conconvexity of the GWF distribution. For reference, historical geometric average return for S&P Total Returns from 1957 to 2020 is 10.7%.
- All models assume constant mean return (no explicit short rate component in the equity return)
- The Run #6 GEMS calibration produces reasonable GWFs that are positioned within the neighborhood of outcomes defined by RSLN2/SLV/Heston and Base AIRG models (see slide 5)

GEMS Large Cap						
Model	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	
Min	0.48	0.27	0.38	0.30	0.35	
1.0%	0.71	0.57	0.60	0.77	1.17	
2.5%	0.78	0.70	0.77	1.06	1.69	
5.0%	0.83	0.81	0.94	1.40	2.30	
10.0%	0.89	0.94	1.15	1.89	3.21	
25.0%	0.99	1.18	1.58	2.91	5.43	
50.0%	1.09	1.49	2.18	4.55	9.51	
75.0%	1.19	1.82	2.87	7.03	16.15	
90.0%	1.28	2.13	3.65	9.91	24.87	
95.0%	1.33	2.33	4.21	11.94	31.90	
97.5%	1.38	2.52	4.77	14.31	39.47	
99.0%	1.44	2.73	5.39	17.37	50.46	
99.5%	1.67	3.67	9.11	31.04	108.91	
Max						

ACLI Large Cap GWFs: Comparison to Other Models Centered at 10.7%

WFs calibrated to 1957-2020 and centered at 10.7%						WFs Difference vs GEMS #6 (- GEMS #6 - Other Model)					
Heston						Heston					
	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr		1 Yr	5 Yr	10 Yr	20 Yr	30 Yr
Min	0.52	0.31	0.33	0.27	0.67	Min	(0.01)	(0.00)	0.01	(0.01)	0.28
1.0%	0.71	0.60	0.69	1.07	1.85	1.0%	(0.00)	0.03	0.10	0.30	0.68
2.5%	0.78	0.74	0.80	1.12	1.91	2.5%	(0.00)	0.00	0.32	0.41	1.01
5.0%	0.84	0.86	1.08	1.95	3.69	5.0%	0.01	0.65	0.15	0.55	1.39
10.0%	0.90	1.03	1.35	2.65	5.33	10.0%	0.01	0.89	0.20	0.76	2.12
25.0%	1.01	1.23	1.50	4.15	9.39	25.0%	0.02	0.51	0.52	1.24	3.96
50.0%	1.12	1.64	2.63	6.66	16.44	50.0%	0.02	0.12	0.45	2.11	6.94
75.0%	1.31	1.98	3.49	10.09	27.73	75.0%	0.02	0.14	0.39	1.45	11.24
90.0%	1.30	2.30	4.46	14.17	42.82	90.0%	0.02	0.17	0.21	4.26	17.95
95.0%	1.35	2.53	4.88	16.99	54.37	95.0%	0.02	0.19	0.27	5.95	22.66
97.5%	1.39	2.75	5.03	20.10	66.83	97.5%	0.02	0.19	0.48	5.80	27.56
99.0%	1.44	2.95	6.20	23.41	81.79	99.0%	0.00	0.22	0.61	6.04	33.31
Max	1.71	4.08	9.40	43.32	130.63	Max	0.04	0.41	0.30	12.39	61.20

- 8.75% NAIC target is based on the annualized average of the 30-year wealth factor and is equivalent to a 7.4% geometric average due to volatility/convexity of the GWF distribution. For reference, historical geometric average return for S&P Total Returns from 1957 to 2020 is 10.7%.
- All models assume constant mean return (no explicit short rate component in the equity return)
- The Run #6 GEMS calibration produces reasonable GWFs that are more conservative than the RSLN2/SLV/Heston and Base AIRG models calibrated directly to S&P data.

GEMS Large Cap					
	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr
Min	0.48	0.27	0.18	0.30	0.19
1.0%	0.71	0.57	0.60	0.77	1.17
2.5%	0.78	0.70	0.77	1.06	1.69
5.0%	0.83	0.81	0.94	1.40	2.30
10.0%	0.89	0.94	1.15	1.89	3.21
25.0%	0.99	1.18	1.58	2.91	5.43
50.0%	1.09	1.49	2.18	4.55	9.51
75.0%	1.19	1.82	2.87	7.03	16.15
90.0%	1.28	2.13	3.65	9.91	24.87
95.0%	1.33	2.33	4.21	11.94	31.90
97.5%	1.38	2.52	4.77	14.31	39.47
99.0%	1.44	2.73	5.39	17.37	50.46
Max	1.67	3.67	5.11	31.04	108.91

ACLI GEMS Run #6 vs. #1a Parameters

	ACLI alternative parameters			
	Large	Mid	Small	US Aggressive
mu0	0.0793	0.0579	0.0664	0.1653
mu1	0.2447	1.6990	1.3068	-1.4320
alpha	0.0205	0.0223	0.0213	0.0271
beta	1.0474	0.9698	0.7456	0.7365
sigma	0.1318	0.1237	0.1514	0.1647
mu_jump	-0.1419	-0.1682	-0.1792	-0.1815
sigma_jump	0.0700	0.0747	0.0801	0.0728
lambda_jump	2.9186	9.1715	7.5892	3.7389
ret/var correl	-0.5818	-0.6673	-0.6587	-0.3683
initial vol	0.1400	0.1518	0.1689	0.1917
theta	0.0196	0.0230	0.0285	0.0367
vol of var	0.0128	0.0135	0.0209	0.0260

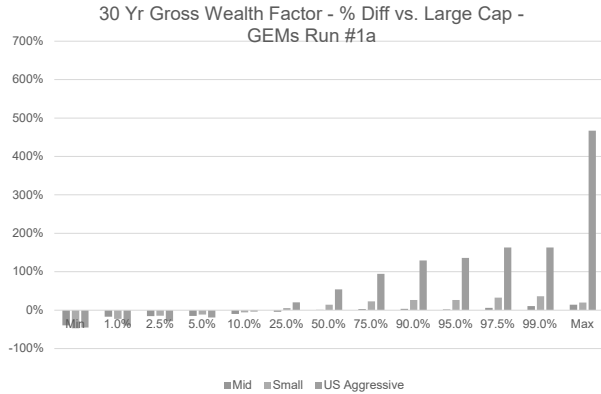
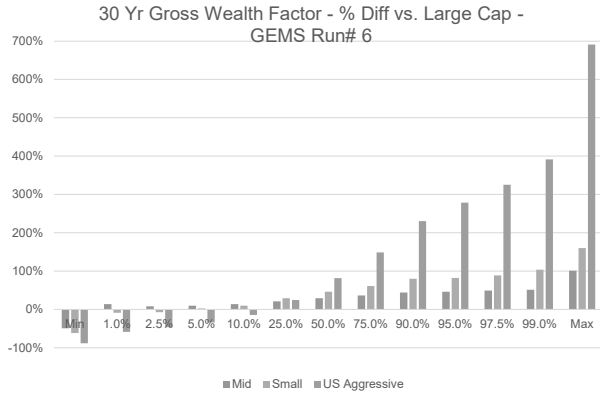
	Conning 1a parameters			
	Large	Mid	Small	US Aggressive
mu0	0.0069	0.0140	0.0161	0.0327
mu1	5.0971	3.4294	3.7711	2.3554
alpha	0.0059	0.0049	0.0052	0.0086
beta	0.4908	0.3059	0.3294	0.3402
sigma	0.0716	0.0181	0.0330	0.0193
mu_jump	-0.0556	-0.0446	-0.0738	-0.0738
sigma_jump	0.0575	0.0575	0.0575	0.0575
lambda_jump	139.5882	113.4168	112.9784	112.9784
ret/var correl	-0.4800	-0.5300	-0.5000	-0.4800
initial vol	0.1093	0.1261	0.1252	0.1593
theta	0.0119	0.0159	0.0157	0.0254
vol of var	0.0079	0.0029	0.0051	0.0037

Compared to GEMS 1a parameters, ACLI developed calibration indicates:

- Higher mean reversion of the Heston variance process (beta parameter)
- Lower frequency of jumps and larger / more severe jumps
- More negative skew/correlation between equity return and variance
- Higher volatility of variance (sigma parameter) and more intuitive relationship across indices, especially for non-Large Cap indices

Note: GEMS 1a ("H2") parameterization includes a constant mean ERP with the short rate fully reflected in the equity return (multiplier = 1). The ACLI calibration does not include the short rate dependency (multiplier = 0).

ACLI GEMS Run #6 vs. #1a GWF – All Indices



ACLI GEMS Run #6 vs. #1a GWF – All Indices

Run #6	US Aggressive	Small	Mid Cap	n Cap
Min	0.30	0.16	0.09	0.15
1.0%	0.60	0.45	0.48	0.64
2.5%	0.69	0.61	0.68	1.00
5.0%	0.75	0.73	0.83	1.35
10.0%	0.83	0.90	1.12	1.96
25.0%	0.97	1.21	1.68	3.40
50.0%	1.12	1.61	2.49	6.02
75.0%	1.27	2.04	3.49	9.89
90.0%	1.41	2.66	4.91	14.77
95.0%	1.51	3.35	6.56	20.81
97.5%	1.59	3.75	8.05	25.96
99.0%	1.70	4.28	11.10	36.85
Max	2.11	7.09	20.70	137.30
Run #1a	US Aggressive	Small	Mid Cap	n Cap
Min	0.42	0.13	0.12	0.11
1.0%	0.62	0.45	0.41	0.53
2.5%	0.70	0.55	0.55	0.77
5.0%	0.75	0.65	0.69	1.06
10.0%	0.82	0.77	0.90	1.47
25.0%	0.94	1.04	1.37	2.75
50.0%	1.07	1.39	1.98	4.46
75.0%	1.23	1.97	3.46	10.54
90.0%	1.39	2.61	5.15	19.00
95.0%	1.49	3.08	6.49	27.51
97.5%	1.57	3.51	7.94	38.48
99.0%	1.68	4.11	10.08	54.39
Max	2.05	8.23	18.05	174.53

- Run #6 allows for greater differentiation across indices, e.g., more severe tails for US Aggressive Equity
- Also avoids unintuitively explosive right tails over long horizons

ACLI Large Cap GWF – Conning Methodologies for Different Initial Rates

Under H2, parameter adjustments are derived to maintain the median 30Y GWF

Conning "H2" Methodology for Different Initial Interest Rates (Runs #1a and #2a)

Run #1a	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr	Run #2a	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr	#2a / #1a	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr
Min	0.50	0.28	0.24	0.39	0.39	0.55	0.57	Min	0.51	0.30	0.26	0.40	0.36	0.47	0.38	Min	1.01	1.06	1.06	1.02	0.93	0.86	0.66
1.0%	0.71	0.59	0.59	0.83	1.17	1.70	3.00	1.0%	0.73	0.65	0.64	0.83	1.07	1.37	2.15	1.0%	1.03	1.09	1.08	1.00	0.92	0.80	0.72
2.5%	0.77	0.68	0.75	1.06	1.60	2.56	4.46	2.5%	0.79	0.75	0.80	1.08	1.46	2.11	3.18	2.5%	1.03	1.09	1.07	1.02	0.91	0.82	0.71
5.0%	0.82	0.78	0.87	1.34	2.11	3.57	6.50	5.0%	0.84	0.85	0.95	1.34	1.94	2.94	4.79	5.0%	1.03	1.09	1.08	1.00	0.92	0.82	0.74
10.0%	0.87	0.89	1.05	1.69	2.86	5.17	9.80	10.0%	0.90	0.97	1.15	1.73	2.63	4.34	7.22	10.0%	1.03	1.09	1.09	1.02	0.92	0.84	0.74
25.0%	0.97	1.09	1.40	2.54	4.88	9.95	20.18	25.0%	1.00	1.20	1.54	2.64	4.71	8.56	15.59	25.0%	1.03	1.10	1.11	1.04	0.97	0.86	0.77
50.0%	1.07	1.35	1.88	4.01	8.99	20.31	46.87	50.0%	1.10	1.48	2.11	4.38	8.97	18.42	38.40	50.0%	1.03	1.10	1.12	1.09	1.00	0.91	0.82
75.0%	1.16	1.64	2.57	6.49	16.98	45.04	119.37	75.0%	1.20	1.82	2.96	7.42	18.19	43.78	103.51	75.0%	1.03	1.11	1.15	1.14	1.07	0.97	0.87
90.0%	1.25	1.96	3.41	10.25	31.70	100.27	312.82	90.0%	1.29	2.19	4.01	12.10	35.65	102.41	287.74	90.0%	1.03	1.12	1.17	1.18	1.12	1.02	0.92
95.0%	1.31	2.20	4.03	13.66	47.46	162.50	555.88	95.0%	1.35	2.46	4.74	16.59	54.53	180.62	549.68	95.0%	1.03	1.12	1.18	1.21	1.15	1.11	0.99
97.5%	1.35	2.45	4.70	17.57	66.82	260.28	995.72	97.5%	1.39	2.73	5.63	22.31	83.31	300.32	1,013.75	97.5%	1.03	1.12	1.20	1.27	1.25	1.15	1.02
99.0%	1.41	2.77	5.65	23.40	101.45	465.88	2,040.49	99.0%	1.45	3.10	7.00	30.38	127.25	564.70	2,243.81	99.0%	1.03	1.12	1.24	1.30	1.25	1.21	1.10
Max	1.81	4.53	13.89	55.97	457.07	4,782.17	21,412.21	Max	1.87	5.11	15.80	86.26	817.22	8,858.21	37,766.52	Max	1.04	1.13	1.14	1.54	1.79	1.85	1.76

With higher initial rates (e.g., Fed raises rates), H2 produces equity levels that are ~10% higher in the shorter term but ~20% lower in the longer term.

Conning "A" Methodology for Different Initial Interest Rates (Runs #5a and #5b)

Run #5a	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr	Run #5b	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr	#5b / #5a	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr	40 Yr	50 Yr
Min	0.47	0.13	0.06	0.04	0.05	0.03	0.03	Min	0.48	0.14	0.07	0.05	0.07	0.04	0.04	Min	1.04	1.10	1.13	1.22	1.34	1.39	1.17
1.0%	0.71	0.45	0.36	0.38	0.39	0.53	0.65	1.0%	0.74	0.53	0.44	0.50	0.54	0.71	0.90	1.0%	1.04	1.17	1.23	1.29	1.40	1.34	1.37
2.5%	0.76	0.57	0.48	0.54	0.65	0.85	1.24	2.5%	0.79	0.66	0.60	0.71	0.90	1.21	1.73	2.5%	1.05	1.16	1.24	1.32	1.39	1.42	1.39
5.0%	0.82	0.67	0.63	0.73	0.95	1.36	2.04	5.0%	0.85	0.78	0.78	0.98	1.30	1.92	2.98	5.0%	1.04	1.16	1.24	1.35	1.37	1.41	1.46
10.0%	0.87	0.80	0.82	1.04	1.48	2.27	3.61	10.0%	0.91	0.93	1.03	1.39	2.05	3.20	5.10	10.0%	1.04	1.16	1.25	1.34	1.39	1.41	1.41
25.0%	0.96	1.02	1.20	1.79	2.93	4.96	8.59	25.0%	1.00	1.19	1.51	2.43	4.14	7.18	12.56	25.0%	1.04	1.17	1.26	1.36	1.41	1.45	1.46
50.0%	1.05	1.28	1.69	3.09	5.88	11.45	22.37	50.0%	1.10	1.50	2.15	4.33	8.59	17.39	34.24	50.0%	1.04	1.17	1.28	1.40	1.46	1.52	1.53
75.0%	1.14	1.56	2.31	5.11	11.43	26.43	59.68	75.0%	1.19	1.85	3.01	7.48	17.73	42.77	96.32	75.0%	1.04	1.18	1.30	1.46	1.55	1.62	1.61
90.0%	1.21	1.85	3.02	8.11	21.44	58.36	154.41	90.0%	1.27	2.20	4.04	12.44	35.84	101.71	278.94	90.0%	1.04	1.19	1.34	1.53	1.67	1.74	1.81
95.0%	1.26	2.04	3.59	10.76	32.94	101.96	301.48	95.0%	1.32	2.43	4.83	17.01	57.49	179.96	546.31	95.0%	1.04	1.19	1.35	1.58	1.75	1.77	1.81
97.5%	1.30	2.23	4.11	13.82	47.76	159.43	537.93	97.5%	1.36	2.69	5.60	22.64	84.29	299.93	1,079.05	97.5%	1.04	1.21	1.36	1.64	1.76	1.88	2.01
99.0%	1.35	2.50	4.83	18.93	70.92	276.11	1,032.95	99.0%	1.41	3.01	6.76	31.05	132.88	563.88	2,151.49	99.0%	1.04	1.20	1.40	1.64	1.87	2.04	2.08
Max	1.68	3.79	10.89	64.69	494.22	2,243.58	9,499.24	Max	1.76	4.87	16.46	115.46	1,058.35	6,515.96	20,885.63	Max	1.05	1.28	1.51	1.78	2.14	2.90	2.20

With higher initial rates (e.g., Fed raises rates), A produces equity levels that are significantly higher across the board (e.g., ~40%+ higher over 30+ years).

Under A, equity parameters are not adjusted

Draft: 7/19/22

Life Actuarial (A) Task Force
Virtual Meeting
June 23, 2022

The Life Actuarial (A) Task Force met June 23, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Heard an Update on Mortality Improvement

Cynthia Edwalds (Society of Actuaries [SOA] Preferred Mortality Project Oversight Group [POG]) presented an update on the future mortality improvement scale development (Attachment Four-A). The update focused on the approach used to address the impact of COVID-19 on the mortality improvement scale. She said four scenarios were considered for addressing COVID-19 in the 10-year historical mortality improvement (HMI) scale observation period. She said the selected scenario reused the 2019 data in place of the 2020 data to eliminate the impact of COVID-19 deaths.

Ms. Edwalds said the methodology for determining the future mortality improvement (FMI) scale calls for a 25% reduction applied to the best estimate mortality improvement assumption. She said the COVID-19 impact on FMI will be reflected by further reducing the best estimate mortality assumption by a percentage that will grade off after five years. She noted that if the best estimate mortality assumption shows mortality deterioration, the margin is to be applied in a manner that results in greater deterioration. She shared model office results comparing the reserves based on the 2015 Valuation Basic Table (VBT) without mortality improvement to reserves calculated using the recommended HMI and FMI approach, as well as other scenarios. She said the reserve calculation using the recommended approach results in a 10% decrease from the 2015 VBT reserve. She said the Task Force will discuss the margin, the smoothing technique, and the final recommendation during its July 7 meeting. Mr. Carmello said the FMI should be set to zero until there is a better understanding of the long-term COVID-19 impacts. Mr. Cebula said the impacts of COVID-19 should be fully recognized in determination of mortality improvement. Mr. Reedy agreed that instead of reusing the 2019 data, the actual data for 2020 should be used for HMI. Ms. Edwalds said including the 2020 data will result in higher mortality for 2023 than was experienced in 2015. Cynthia MacDonald (POG) noted that the recommended approach does result in mortality dis-improvement for 2023. She said that by using the 2019 data for 2020, the approach assumes neither mortality improvement nor mortality dis-improvement.

Donna Claire (American Academy of Actuaries—Academy) shared a presentation (Attachment Four-B) listing the pros and cons of ignoring the impacts of COVID-19 on mortality improvement and delineating regulatory considerations for the Task Force to think about. She supplied a list (Attachment Four-C) of resources that Task Force members can use to gather information on COVID-19 mortality in life insurance and the general population.

2. Discussed the ESG Acceptance Criteria

Jason Kehrberg (Academy) gave a presentation (Attachment Four-D) following up on the June 16 exchange with the Task Force on the proposed schedule for the Academy discussions with the Task Force on developing stylized facts and acceptance criteria for evaluating stochastic sets of economic scenarios produced by the economic scenario generator (ESG).

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/6 23/June 23 Minutes.docx

Future Mortality Improvement Scale Development (VM-20) LATF Update #2



Mortality Improvements Life Work Group (MILWG), the Academy's Life Experience Committee and the SOA's Preferred Mortality Project Oversight Group ("Joint Committee")

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Life Actuarial Task Force (LATF) Meeting—June 23, 2022

Agenda

- Items to be addressed in the 2022 scale recommendation
- UPDATE: COVID-19 approach
- Next steps/discussion



Items to be addressed in 2022 scale recommendation

Develop Historical Mortality Improvement (HMI) and FMI Future Mortality Improvement (FMI) scales for use in 2022 valuation year.

The 2022 scales will address the following:

- ▣ Reflecting COVID-19 impacts
- ▣ Review of margin development
- ▣ Review of smoothing method



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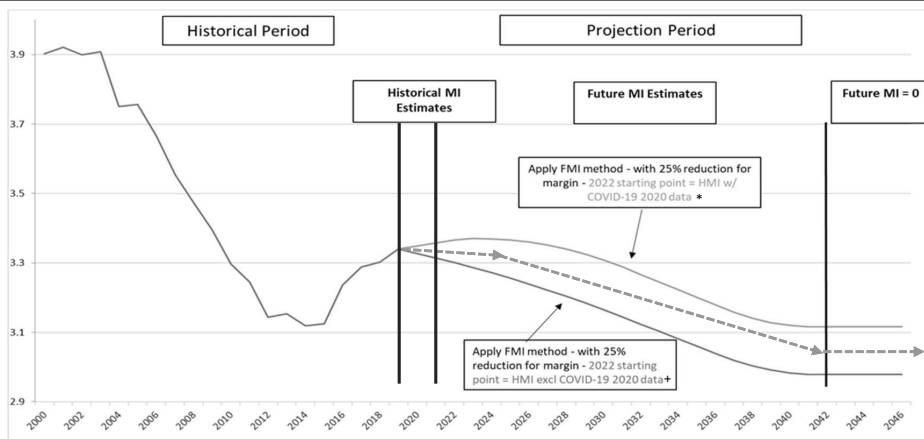


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Approach to COVID-19 impact

Example: Male Age 45—SSA Mortality Rates

w/ HMI estimates and FMI estimates and Expected Recommendation



*HMI-1, FMI-1 scenario, explained on p. 5
 +HMI-2, FMI-1 scenario, explained on p. 5



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COVID-19 Impact— FMI/HMI Model Scenarios

Scenario Label	Historical MI—Scenarios being assessed	Description/Notes
HMI-0	No HMI	used with FMI-0 to determine baseline for comparison
HMI-1	10-year historical average ending in 2020	includes full deterioration effect of 2020 COVID-19 (most conservative line on slide 4)
HMI-2	10-year historical average ending in 2019	exclude 2020 COVID-19 shock (most optimistic line on slide 4)
HMI-3	9-year historical average ending in 2019	exclude 2020 COVID-19 shock (intermediate)
HMI-4	10-year historical average ending in 2020	exclude 2020 COVID-19 shock by assuming zero improvement from 2019 to 2020 (intermediate)
Future MI—Scenarios being assessed		Description
FMI-0	No FMI	used with HMI-0 to determine baseline for comparison
FMI-1	Basic FMI scale = Use grading to Long Term (LT) average based on SSA Alt 2 with margin approach #1 (recommended method)	Loaded Mortality Improvement (MI) scale = Basic FMI with explicit margin for uncertainty around the future trend (= 25% reduction of Basic FMI rates in all years)
FMI-2	Basic FMI scale = Use grading to LT average based on SSA Alt 2 with margin approach #2	Loaded MI scale = FMI Basic with explicit margin for uncertainty in future trend (= 25% reduction of Basic FMI rates in all years) <u>and</u> <i>an additional explicit margin for uncertainty around the COVID-19 medium-/long-term impacts that grades off over time.</i> Additional COVID-19 explicit margin: 50% margin in 2023 grades to margin of 25% over 5 years.



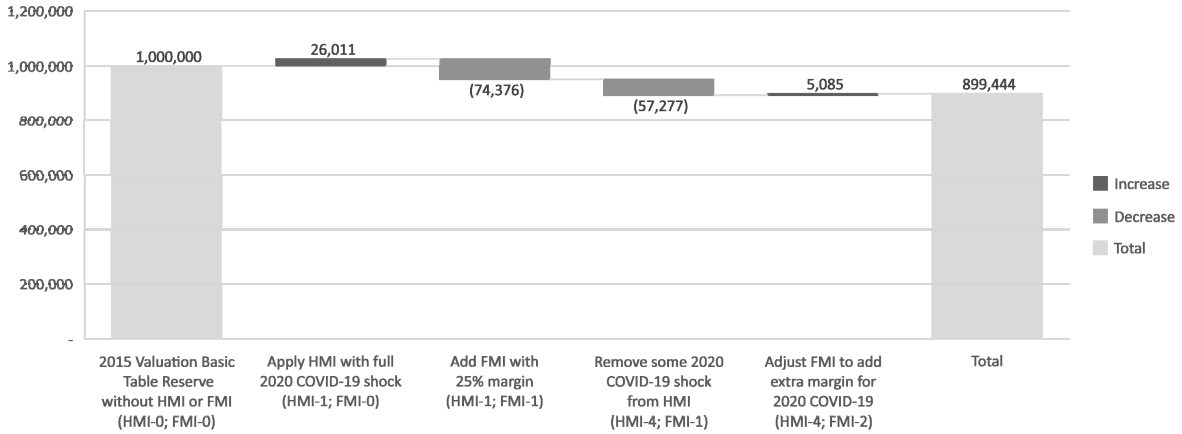
Reserve Impact - NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the yearly renewable term (YRT) representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model
- Combined model office

Component	Values
Issue ages	Decennial issue ages 30 – 70
Gender	Male Female
Risk classes	Preferred non-tobacco Standard non-tobacco Standard tobacco
Face bands	Low (\$250,000) High (\$1,000,000)



Reserve Impact Results



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Next Steps

- Review of smoothing method
- Review approach for MI rates near 0
- Finalize margin methodology
- Margin and smoothing recommendation to be presented to LATF on 7/7/22 call



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Questions?



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Appendix 1

RECAP:

Slides from LATF UPDATE #1 6/2/22



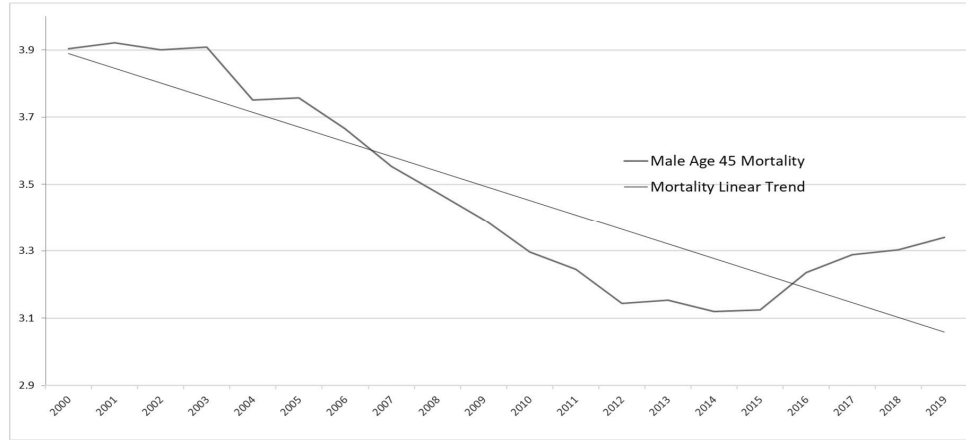
Approach to COVID-19 impact

- Quantification of COVID-19 impact
 - Data sources
 - Short- vs. medium- vs. longer-term impacts
 - Return to previously projected mortality level over time or residual excess mortality
 - Insured vs. general population considerations
 - Direct adjustment to MI rates or reflected in additional margins
- Implicit margins in MI scale development
 - Data source—general population data unadjusted for insured population differences (largest source of margin)
 - Starting MI level (HMI)
 - Long-term rate (FMI)
 - Limit on FMI assumption (20 years)



Approach to COVID-19 impact

Example: Male Age 45—Social Security Administration (SSA) Mortality Rates—Pre-COVID-19

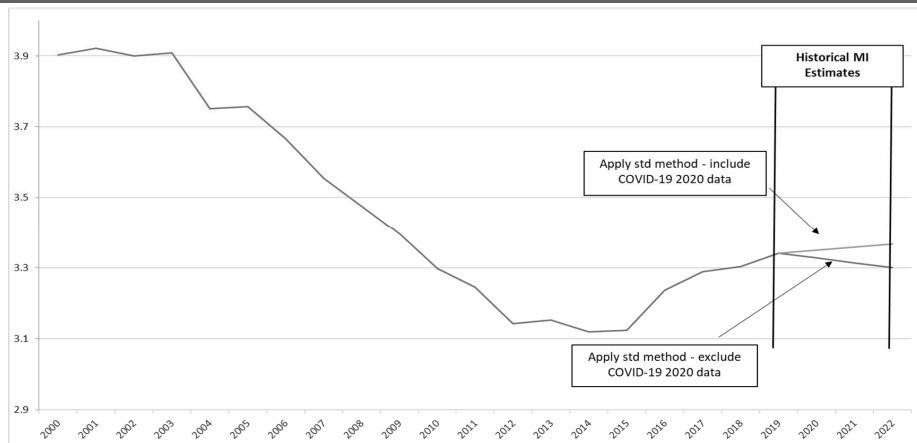


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Approach to COVID-19 impact

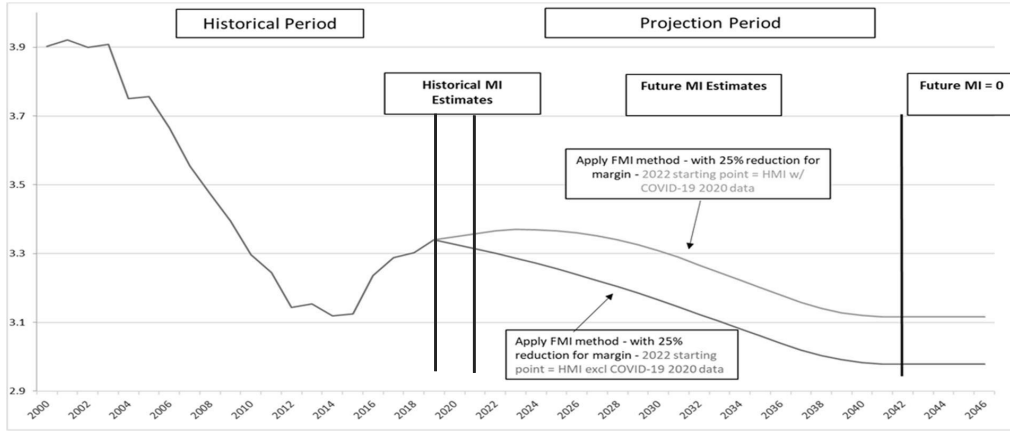
Example: Male Age 45—SSA Mortality Rates
 w/ HMI estimates both including and excluding 2020 COVID-19 impact in data



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Approach to COVID-19 impact
Example: Male Age 45—SSA Mortality Rates
w/ HMI estimates and FMI estimates

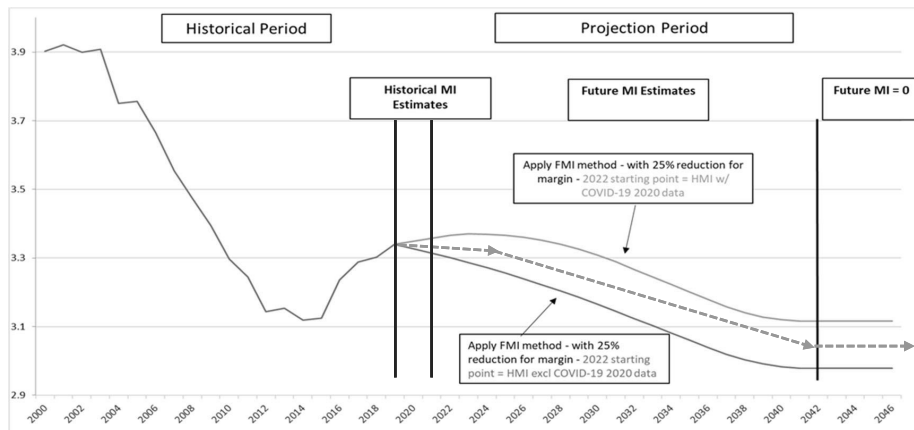


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Approach to COVID-19 impact
Example: Male Age 45—SSA Mortality Rates
w/ HMI estimates and FMI estimates and Expected Recommendation



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COVID-19 Impact—Modeling Scenarios

Historical MI—Scenarios being assessed	Description
1. 10-year historical average ending in 2020	including full deterioration for 2020 (most conservative)
2. 10-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (most optimistic)
3. 9-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (alternate)
4. 10-year historical average ending in 2020 (assuming no improvement from 2019 to 2020)	muted impact of 2020 (intermediate)

Future MI—Scenarios being assessed	Description
1. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty around the future trend (= 25% reduction of Basic FMI rates in all years)
2. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty in future trend (= 25% reduction of Basic FMI rates in all years) <u>and</u> an additional explicit margin for uncertainty around the COVID-19 medium-/long-term impacts that grades off over time. Additional COVID-19 explicit margin—options for model testing: 1. 50% margin grades to normal margin of 25% over 5 years. 2. Decrease mortality improvement by 1% in year 1 grading linearly down to 0% in year 5.



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2022 MI scale development timeline (VM-20) Updated May 2022

Milestones	Target Date
1. Receive 2020 data from the Centers for Medicare and Medicaid Services (CMS). SOA creates preliminary mortality estimates for 2020.	2/28/2022 (completed)
2. Identify options for reflecting COVID-19 impact on HMI and FMI scale recommendations including margin.	4/28/2022 (completed)
3. Assess reserve impact of COVID-19 adjustment recommendation—run National Association of Insurance Commissioners (NAIC) model office under several scenarios.	5/15/2022 (in progress)
4. Determine smoothing method for FMI and HMI scales.	6/15/2022 (in progress)
5. Receive SSA Trustees Report—Intermediate Projections for 2022.	Est. 6/15/2022
7. Finalize recommendation for reflecting COVID-19 based on NAIC model office results.	7/1/2022
8. Present to LATF for approval for exposure (LATF call in early July). <i>Assumes 60-day exposure period.</i>	7/15/2022
9. Update SSA mortality estimates for 2020 from SOA (final SOA estimates).	8/15/2022
10. Respond to exposure comments obtain LATF approval of 2022 HMI and FMI.	9/15/2022
11. Publish 2022 HMI and FMI scales on SOA website.	9/30/2022



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Appendix 2

NAIC Model Office: Background Information



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FMI - Reserve Impact Estimates

NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the YRT representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model

- Combined model office

Component	Values
Issue ages	Decennial issue ages 30 – 70
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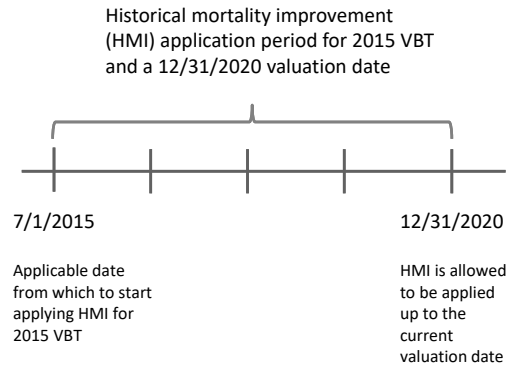
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Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

- The 2021 and prior versions of VM-20 prohibited including FMI in the calculation of deterministic and stochastic reserves, while allowing the mortality assumption to be improved up to the valuation date using a historical mortality improvement (HMI) assumption developed by the MILWG
- An **“exact” approach** to including FMI in the calculation of deterministic and stochastic reserves would utilize the MILWG’s HMI assumption to bring the mortality table up to the valuation date and then apply the separate FMI assumptions beyond the valuation date

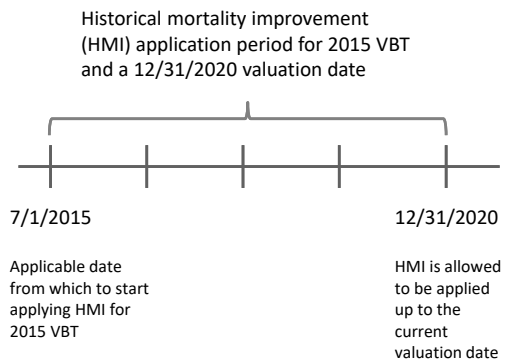


Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

A modeling simplification was employed that utilized the new MILWG FMI assumption as both HMI and FMI in the deterministic reserve projection.

This simplification allows for the impact of including FMI in current and future deterministic reserve calculations to be quantified.



Reserve Impact Estimates

ULSG Model Office Results

- ❑ Baseline reserves—no FMI
- ❑ Best estimate—reserves with FMI at best estimate level
- ❑ Margin 25%—FMI at best estimate level with 25% reduction across all gender/ages
- ❑ Margin 35%—FMI at best estimate level with 35% reduction across all gender/ages



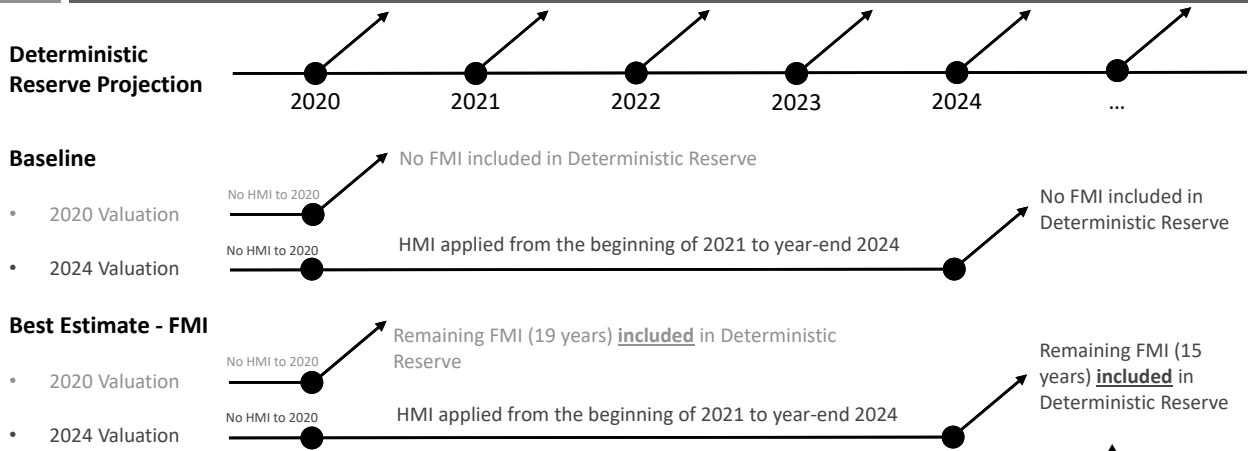
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Reserve Impact Estimates

Model Office—Deterministic Reserve Projection Illustration



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Reflection of COVID-19 in Life Insurance Mortality Improvement



Donna Claire, MAAA, FSA, CERA
Chairperson, American Academy of Actuaries
Life Experience Committee

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Life Actuarial Task Force (LATF) Meeting—May 26, 2022

Overview

- ❑ The American Academy of Actuaries' Life Experience Committee discussed how pandemics, and specifically COVID-19, would be reflected in projects such as asset adequacy testing and principle-based reserves (PBR) testing
- ❑ The committee's conclusion was that we will not find the perfect answer, but it would be helpful to develop a list of considerations that may be taken into account when developing mortality improvement assumptions



General Questions

- Does COVID-19 impact the mortality improvement assumption for PBR up to the date of valuation?
- Does COVID-19 impact the mortality improvement assumption for asset adequacy testing?
- Does COVID-19 impact the future mortality improvement assumption for PBR?
- Does COVID-19 impact the future mortality improvement assumption for asset adequacy testing?
- When considering COVID-19, should decreases in the mortality improvement be considered for annuity/long-term care insurance (LTCI) mortality?



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What Should Be Considered a COVID-19 Death?

At issue: If one is trying to determine excess deaths due to COVID-19,

- Does the determination include all deaths where COVID-19 was a factor in the death?
- Are COVID-19 deaths only those where it is listed as the primary cause of death?
- How does one determine COVID-19 deaths when some states do not list cause of death?



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In Actuarial Work for PBR and Asset Adequacy Testing, Should Past COVID-19 Deaths Be Ignored for Mortality Improvement to date of Valuation?



- | Yes | No |
|---|--|
| <ol style="list-style-type: none"> 1. Rare event covered by surplus/RBC 2. May have front-loaded deaths that would have occurred soon, so it is a positive for future mortality | <ol style="list-style-type: none"> 1. Methodology originally established for PBR mortality improvement to date of valuation included all deaths 2. Ignoring it would be the equivalent of ignoring stock market corrections 3. If future mortality is expected to be better, it should be reflected in future mortality improvement numbers instead |



Factors That Can Impact Future Mortality Improvements



- | Positives | Negatives |
|--|--|
| <ol style="list-style-type: none"> 1. May have front-loaded deaths that would have occurred soon, so it is a positive for future mortality 2. Population mortality is generally improving, albeit at slower rates absent COVID-19; e.g., for cancer 3. Increased use of self-testing and telemedicine has increased access to medical care for many | <ol style="list-style-type: none"> 1. Long COVID 2. Mental health impact of COVID including suicides and drug use 3. Mortality rates on certain diseases like heart disease, diabetes, liver disease and hypertension not improving recently 4. Delay in care may lead to extra deaths 5. There are still additional waves of virus |



Considerations re: Future Mortality Rates

- Mortality improvement varies by socioeconomic variables. An actuary could review these and determine which quintile/decile best matches their company's block of business
- The larger provisions for adverse deviation (PADs) used on the mortality improvement assumption, the more uncertainty there is in the assumption
- Margins used in mortality improvement rates for PBR testing and asset adequacy do not have to be the same, but differences should be justified
- No studies yet done on offsets, e.g., annuity vs life insurance



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Considerations re: Future Mortality Rates—Cont'd

- To date, the negative impact of COVID-19 on long-term care insurance (LTCI) mortality improvement has not been studied: the positive impact of front-loaded deaths may be offset with claimants experiencing long COVID
- Expected mortality improvements vary by age groups
- Consider differences in pandemic versus endemic phases of COVID



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Regulatory Considerations

- No single answer works for all
- May want to consider setting an established range of acceptable mortality improvement rates that could be allowed



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Thank You

- Questions?
- For more information, please contact the Academy's life policy analyst, Amanda Barry-Moilanen, at barrymoilanen@actuary.org.



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Information Resources on COVID-19 in Life Insurance Mortality
American Academy of Actuaries
Life Experience Committee
June 15, 2022

The American Academy of Actuaries¹ Life Experience Committee is discussing how pandemics, and specifically COVID-19, should be reflected in certain projects, such as asset adequacy testing and principle-based reserves (PBR) testing. The committee determined that it would be helpful to provide a list of resources of information for actuaries working in life insurance.

Studies of COVID-19 on Mortality

1. “[Population Mortality Observations Updated with 2020 Experience](#)” published by the Society of Actuaries (SOA) Research Institute in January 2022. This paper discusses population mortality by age groups and quintiles of socioeconomic data. It shows the mortality by cause of death, and mortality improvement impact with and without COVID-19.
2. “[Mortality by Socioeconomic Category in the United States](#)” published by the SOA Research Institute in February 2022. This paper discusses population mortality by socioeconomic category. The data period ends with 2019, so this study does not cover COVID-19 deaths, but it shows the impact of socioeconomic factors on life expectancies.
3. “[2022 Cause of Death Report](#)” published by the SOA in April 2022. This paper consolidates the causes of death from the 31 available companies in the study into three main categories plus unknown cause of death. Each of those three main categories were split into four or eight subcategories. Summary tables are provided.
4. “[Estimating excess mortality due to the COVID-19 pandemic: a systematic analysis of COVID-19-related mortality, 2020–21](#)”—This article gives a geographic estimate of excess mortality by state for the USA and also for other countries around the world. This analysis could help companies that are heavily weighted in certain geographies to adjust industry-level experience to make it more appropriate to their blocks of business.

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

5. “Evaluation of individual and ensemble probabilistic forecasts of COVID-19 mortality in the United States”—This article discusses the COVID-19 forecasting models and their predictive performance. The article suggests that using a combination of models is better than a single model. This piece would be useful currently for predicting COVID-19 effects that may be ongoing. It would also be useful should another pandemic arise.
6. U.S. Individual Life COVID-19 Reported Claims Analysis —This site tracks insurance claims. There is a lag—e.g., on May 16, 2022, the latest report was published in February 2022, and was based on data through September 2021.

Underwriting/Product Issues

7. “Dire Diagnosis” by Hank George, published in the September/October 2020 *Contingencies* magazine. An article published relatively early in the pandemic, it discusses items to consider in underwriting during a pandemic.
8. “Disruption of Life Insurance Profitability in the Aftermath of the COVID-19 Pandemic”— This article provides a broad overview of the effects of COVID-19 on profitability of life insurance and annuities. It’s helpful for someone getting up to speed on the possible pricing effects of the COVID-19 pandemic.

Impact on Long-Term Care Insurance

9. “COVID-19 Impact on Long-Term Care Insurance Report 2020 Survey” published by the SOA in 2021. This paper discusses the results of a survey of 14 long-term care insurance carriers to show the impact of COVID-19 on mortality, morbidity, and lapse across various characteristics.

Modeling of COVID-19 Impact

10. “The COVID Connection” by Annmarie Geddes Baribeau, published in the May/June 2022 *Contingencies* magazine. This article on COVID-19’s impact suggests that insurers look into more sophisticated catastrophic modeling.

Useful Websites

11. https://www.cdc.gov/nchs/nvss/vsrr/covid19/excess_deaths.htm: This Centers for Disease Control and Prevention (CDC) webpage is updated weekly and tracks excess deaths associated with COVID-19.

~ ~ ~ ~ ~

If you have any questions regarding this document, please contact the Academy's life policy analyst, Amanda Barry-Moilanen, at barrymoilanen@actuary.org.

Donna Claire
Chairperson
Life Experience Committee
American Academy of Actuaries

A proposed discussion schedule for the National Association of Insurance Commissioners (NAIC) Life Actuarial (A) Task Force and Life Risk-Based Capital (E) (LRBC) Working Group to develop acceptance criteria for stochastic sets of economic scenarios

A presentation by the Economic Scenario Generator Work Group (ESGWG) of the American Academy of Actuaries



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Jason Kehrberg, MAAA, FSA

June 23, 2022

Background

- The planning work for phase one of the field test on the NAIC’s Economic Scenario Generator (ESG) is now complete and the field test is now underway.
- With that work complete the ESGWG appreciates the opportunity to propose a discussion schedule for LATF and LRBC to develop a robust and comprehensive set of “acceptance criteria” to replace the rougher “boundary guidance” currently being used to evaluate stochastic sets of economic scenarios.
- Developing such a set of quantitative acceptance criteria, and the qualitative “stylized facts” they are based on will provide for an industry-standard framework for evaluating and implementing ESGs and the stochastic sets of economic scenarios they produce.
 - For example, see <https://www.soa.org/resources/research-reports/2016/2016-economic-scenario-generators/>



Definitions

- Stylized facts and acceptance criteria are two important concepts in the field of ESGs
 - ▣ Stylized facts are qualitative statements about the economic variables being simulated (e.g., equity returns are more often positive than negative)
 - ▣ Acceptance criteria are quantitative in nature and used to validate stochastic sets of economic scenarios prior to use (e.g., the mean equity return over 30 years should be between 8% and 9%)



Goals and regulatory benefit

- The goal of the proposed schedule is to:
 - ▣ Facilitate discussions on stylized facts and acceptance criteria for the three risk factors being modeled by the ESG (i.e., interest rates, equity returns, and corporate credit spreads)
 - ▣ Develop, expose, and adopt qualitative stylized facts
 - ▣ Develop, expose, and adopt quantitative acceptance criteria
- The adopted stylized facts and acceptance criteria are then used as a framework for further evaluation and implementation of ESGs and the stochastic sets of economic scenarios they produce



How are stylized facts and acceptance criteria developed and agreed upon?

- The first session in the proposed schedule will provide an overview of standard processes for developing stylized facts and acceptance criteria
- In subsequent sessions the ESGWG can provide input on proposing stylized facts for consideration and discussion
- Once agreed upon, the ESGWG can provide input on turning those qualitative stylized facts into a related set of quantitative acceptance criteria for consideration by regulators



Proposed schedule

Session	Duration (hours)	Topic
1	1.5	Overview - A process for implementing and evaluating ESG scenario sets
2	1.5	Equity Model - Stylized facts (1 of 2)
3	1.5	Equity Model - Stylized facts (2 of 2)
4	1.5	Corporate Credit Model - Stylized facts and acceptance criteria (1 of 1)
5	1.5	Corporate Credit Model - AAA simplified corporate credit model (1 of 1)
6	1.5	Equity Model - Acceptance criteria (1 of 1)
7	1.5	Interest Rate Model - Stylized facts and acceptance criteria (1 of 2)
8	1.5	Interest Rate Model - Stylized facts and acceptance criteria (2 of 2)
9	1.0	Interest Rate Model - ACLI alternative interest rate model (1 of 1)
10	1.0	Interest Rate Model - Other interest rate models (1 of 1)



Timing and next steps

- The ESGWG proposes starting the proposed discussions sometime in July and wrapping them up, and having the resulting framework for scenario set evaluation, by the end of September
 - This will allow for a framework in time for a phase two ESG field test
- The ESGWG looks forward to discussing the proposed schedule and next steps with regulators on future LATF/LRBC WG calls



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Questions?

Contact: Amanda Barry-Moilanen
Academy Life Policy Analyst
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Draft: 7/18/22

Life Actuarial (A) Task Force
Virtual Meeting
June 16, 2022

The Life Actuarial (A) Task Force met June 16, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Adopted AG AAT

Mr. Andersen said verbal comments on the actuarial guideline on asset adequacy testing (AG AAT) mentioned that attempting to categorize some Schedule BA assets as equity or non-equity may not be appropriate and could affect the relevant documentation required for those assets. He opined that Section 4 of the actuarial guideline requests the minimum amount of documentation. He said state insurance regulators would want the documentation on Schedule BA assets, unless the assets have conservative return assumptions. He said the subsections of Section 5 that cover sensitivity and attribution analysis state that judgment and best efforts apply to situations where a special type of asset does not fit neatly into an equity or non-equity categorization. He said the comment letter from National Guardian Life (Attachment Five-A) suggests excluding certain public corporate bonds from the requirements of Section 4.A.ii through Section 5 and excluding selected companies from the scope of the actuarial guideline. He said a decision was made earlier to exclude those types of assets from the requirements of Section 4.A.ii through Section 5 but include them in the requirements of Section 4.A.i. He said that in a situation where a company has corporate bonds that are assumed to earn high yields, state insurance regulators would want to have that information. He concluded that companies with those types of assets should be included in the scope of the actuarial guideline.

Mr. Andersen said the remaining decision relates to the inclusion of the word “materially” in Section 4.B.ii. He shared a list of pros and cons for including the word. Mr. Carmello voiced his support for eliminating the word. He said it is problematic when companies are liberal in their interpretation of what is material. He also noted that retaining the word takes away some but not all regulatory judgment. Ms. Eom and several others agreed. Mr. Serbinowski said the word “materially” should be retained. Brian Bayerle (American Council of Life Insurers—ACLI) said the ACLI comment letter (Attachment Five-B) is supportive of retaining the word. He said whether the word is removed or retained, there is still room for regulatory judgment. Mr. Yanacheak said it may be more beneficial to remove the word “favorable,” as it is open to broader interpretation than the word “materially.” He asked how “favorable” is defined in the context of asset adequacy. Mr. Andersen said a possible example is a company for which the results of 975 of its 1,000 stochastic scenarios are either neutral or unfavorable and the results of the remaining 25 scenarios are favorable, but those 25 scenarios are not included in the conditional tail expectation (CTE) results. He said that in that example, the 25 scenarios should not be considered to have a favorable result on the asset adequacy reserve. The Task Force agreed by voice vote, with several members dissenting, to remove the word “materially” from Section 4.B.ii.

Mr. Andersen made a motion, seconded by Mr. Yanacheak, to adopt AG AAT (Attachment Five-C), after removing the word “materially.” The motion passed unanimously.

2. Received an Update on the ESG Field Test

Scott O’Neal (NAIC) said two documents (Attachment Five-D and Attachment Five-E) were distributed to participants on the June 15 economic scenario generator (ESG) field test call. He reminded the Task Force that the field test began on June 1. He said NAIC staff continue to work with field test participants to answer questions and resolve issues. He said that except for run #6, all field test scenarios are posted on the Conning website.

3. Discussed ESG Acceptance Criteria

Jason Kehrberg (American Academy of Actuaries—Academy) gave a preview of an Academy proposal for developing stylized facts (qualitative statements about the economic variables being simulated by the ESG model) and acceptance criteria for evaluating stochastic sets of economic scenarios produced by the ESG. The preview lists dates and topics for the discussion sessions that will provide a decision framework that state insurance regulators can use to determine next steps for scenario evaluation in a manner consistent with actuarial standards of practice for using models and setting assumptions. He said the discussion sessions would be a mix of educational sessions and interactive discussions. He noted that one of the goals is to transform the loose boundary guidance developed by the ESG Field Test Drafting Group into more robust and comprehensive stylized facts and acceptance criteria that will perform well under a variety of economic conditions. The sessions will be open to Task Force and Life Risk-Based Capital (E) Working Group members, interested state insurance regulators, and interested parties.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/6 16/June 16 Minutes.docx

Memorandum

To: Reggie Mazyck, NAIC, and LATF Life Actuarial (A) Task Force Members

From: Scott Michels, VP & Appointed Actuary, National Guardian Life

Re: AGT AAT 5th Exposure comments

Date: June 10, 2022

I have reviewed the most recent changes and am supportive of most elements of this Actuarial Guideline for Asset Adequacy Testing. I do have one concern, regarding the definition of Projected High Net Yield Assets, in paragraph 3.F.iii and its lack of application to the Scope paragraph 2.B. My specific concern is centered around the fact that certain assets are included in the calculation for scope in 2.B, but then are excluded from the majority of the rest of the guidance (4.A.ii through 5). I feel there will likely be situations where this difference would cause additional work with very little value added for smaller companies and their regulators. I've provided one hypothetical example:

2.B. Scope Calculation:

A company has actuarial reserves of \$2 Billion

That company has \$110 Million of Projected High Net Yield Assets.

$\$110 \text{ M} / \$2 \text{ Billion} = 5.5\%$, so is included in the scope of this AG.

3.F.iii. Exemption for 4.A.ii through 5.

\$90 Million of the Projected High Net Yield Assets are from Public, non-convertible, fix-rate corporate bonds with no callability.

So, only $\$20 \text{ M} / \2 Billion or 1% of the assets would be required to apply the majority of these requirements.

I believe this is a potentially realistic situation for smaller companies when the current spreads are higher than the long-term spreads on their assets. I'm proposing to help those companies avoid the additional, non-value added work, by modifying the wording on 3.F.iii to be as follows (red font are my changes):

The following asset types can be excluded from both the scope of the guideline in 2.B. and the scope of requirements in sections 4.A.ii through 5:

- (a) Cash or cash equivalents,
- (b) Treasuries and agency bonds, and
- (c) Public non-convertible, fixed-rate corporate bonds with no or immaterial callability.

Thank you for the opportunity to provide feedback in this matter. Please let me know if you have any questions on this recommendation.



Brian Bayerle
Senior Actuary

June 14, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

Re: June 2nd Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the June 9th (Fifth) exposure of Actuarial Guideline (AG) on Asset Adequacy Testing (AAT, collectively Guideline).

ACLI is appreciative of the hard work of the regulators in this important and time-intensive effort. ACLI is confident that implementation of this Guideline will demonstrate the professionalism of Appointed Actuaries throughout the industry.

We look forward to work with LATF as regulators develop the template and template instructions accompanying the Guideline. Further, we look forward to engaging with LATF in the monitoring of the effectiveness of the Guideline and potential incorporation into VM-30 or sunseting of the various aspects of the Guideline.

Thank you.

A handwritten signature in black ink, appearing to read 'Reggie Mazyck', is written over a light blue horizontal line.

cc: Reggie Mazyck, NAIC; Ben Slutsker, Minnesota Department of Commerce

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

Adopted by the Life Actuarial (A) Task Force June 16, 2022

Actuarial Guideline AAT

APPLICATION OF THE VALUATION MANUAL FOR TESTING THE ADEQUACY OF LIFE INSURER RESERVES

Background

The *NAIC Valuation Manual (VM-30)* contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis. Regulators have observed a lack of uniform practice in the implementation of asset adequacy analysis. The variety of practice in incorporating the risk of complex assets into testing does not provide regulators comfort as to reserve adequacy. Examples of complex assets are structured securities, including asset-backed securities and collateralized loan obligations, as well as assets originated by the company or affiliated or contracted entity. An initial increase of this activity has been noted in support of general account annuity blocks; however, recent activity was noted in other life insurer blocks.

This Guideline is intended to provide uniform guidance and clarification of requirements for the appropriate support of certain assumptions for asset adequacy analysis performed by life insurers. In particular, this Guideline:

- (1) Helps identify reserve adequacy and claims-paying ability in moderately adverse conditions, including conditions negatively impacting cash flows from complex assets;
- (2) Clarifies elements to consider in establishing margins on asset-related assumptions;
- (3) Ensures recognition that higher expected gross returns from assets are, to some extent, associated with higher risk, and that assumptions fit reasonably within the risk-return spectrum;
- (4) Requires sensitivity testing regarding complex assets supporting life insurer business;
- (5) Identifies expectations in practice regarding the valuation of complex assets within asset adequacy analysis;
- (6) Reflects that while complex assets tend to have higher uncertainty regarding timing and amount of cash flows than more traditional investments, because complex assets are difficult to classify, and the regulatory concern is regarding the projected net yields and cash flows from those assets, the focus of the analysis requirements will be on assets categorized as high-yielding; and
- (7) Requires additional documentation of investment fee income relationships with affiliated entities or entities close to the company.

Text

1. Effective Date

This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2022 Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

Guidance note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. Requirements in the Guideline will cease to apply to annual statutory financial statements when the corresponding or replacement VM-30 requirements become effective.

2. Scope

This Guideline shall apply to all life insurers with:

- A. Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets or
- B. Over \$100 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.F.

Actuarial reserve amounts are included in the amounts in A and B whether directly written or assumed through reinsurance and are determined before any reinsurance ceded credit.

The Guideline applies to assets supporting liabilities tested in the asset adequacy analysis except it does not apply to unitized separate account assets or policy/contract loans.

3. Definitions

- A. Equity-like Instruments. Assets that include the following:
 - i. Any assets that, for purposes of risk-based capital C-1 reporting, are in the category of common stock, i.e., have a 30% or higher risk-based capital charge.
 - ii. Any assets that are captured on Schedule A or Schedule BA of the Annual Statement.
 - iii. Bond funds.
- B. Fair Value. The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, consistent with methodology of fair value, as reported in the Annual Statement.
- C. Net Market Spread. For each asset grouping, shall mean the spread over comparable Treasury bonds that equates the fair value as of the valuation date with modeled cash flows, less the default assumption used in asset adequacy analysis.

Market conventions and other approximations are acceptable for the purposes of this definition.
- D. Investment Grade Net Spread Benchmark. The applicable spread found in Appendix I using the weighted average life (WAL) of the associated non-Equity-like Instrument.
- E. Guideline Excess Spread. The net spread derived by subtracting the Investment Grade Net Spread Benchmark from the Net Market Spread for non-Equity-like Instruments. Investment expenses shall be excluded from this calculation.
- F. Projected High Net Yield Assets. Currently held or reinvestment assets that are either:
 - i. An Equity-like Instrument assumed to have higher value at projection year 10 or later than under an assumption of annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after. Aggregation shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model, or
 - ii. Assets other than Equity-like Instruments where the assumed Guideline Excess Spread is higher than zero. In addition:
 - (a) Aggregation of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model.

- (b) For applicable assets that do not have an explicit WAL or term to maturity, the Appointed Actuary shall disclose the method used to determine the appropriate WAL used for comparing to the Investment Grade Net Spread Benchmark.
 - (c) For purposes of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark, investment expenses shall be excluded.
- iii. The following asset types can be excluded from the scope of requirements in sections 4.A.ii through 5:
- (a) Cash or cash equivalents,
 - (b) Treasuries and agency bonds, and
 - (c) Public non-convertible, fixed-rate corporate bonds with no or immaterial callability.
4. Asset Adequacy Considerations and Documentation Expectations

A. Net return and risk documentation.

- i. For all assets, either currently held or in assumed reinvestments, provide:
 - (a) Identification of the assumed gross asset yield and the key components (for example, default and investment expenses) deducted to arrive at the assumed net asset yield.
 - (b) Explanation of any future reinvestment strategy assumptions that materially differ from current practices.
 - ii. For Projected High Net Yield Assets, either currently held or in assumed reinvestments, provide:
 - (a) A detailed explanation describing the relationship between the expected gross returns from these assets and the risk. It shall also include, for the aspect of any higher expected gross returns not assumed to be associated with higher risk, an explanation of how overperforming assets with expected returns lying outside the risk-return spectrum can be assumed to persist and be available for reinvestments throughout the projection period in moderately adverse conditions.
 - (b) Commentary on how assumptions on assets with risk factors leading to substantial volatility of returns, as identified through sensitivity testing or other means, contain an appropriate margin to reflect the uncertainty in the timing and amounts of asset cash flows.
 - (c) Identification of the extent to which Projected High Net Yield Assets are supporting major product categories, e.g., individual fixed annuities and pension risk transfers.
 - (d) Explanation of rationale for materially changing or not changing complex-asset-based assumptions from the prior year's analysis.
- B. Model rigor.** Where significant risks associated with complex, Projected High Net Yield Assets are not adequately captured with traditional modeling techniques, more rigorous modeling of those risks should occur.
- i. Where necessary to adequately reflect the risk:
 - (a) Multi-scenario testing of those risks specific to complex assets should be performed. For example, investments that may provide a higher expected return in part due to limited

information, niche skill sets, or other factors may require unique scenarios (for instance to adequately capture credit or liquidity risk) to fully encompass potential sources of loss.

- (b) Asset cash flows should be appropriately projected to reflect anticipated liquidity under adverse conditions. If such model aspects are not developed, sufficient additional conservatism to reflect this risk shall be applied.
 - (c) To the extent that the process for modeling or otherwise evaluating the risks is complex, and the potential for disconnect between reality and modeling increases, an additional margin to assumption(s) should be applied. Any such margin shall be applied in the direction of asset adequacy analysis results being less favorable.
 - (d) The full distribution of risk associated with complex assets should be considered.
- ii. An Appointed Actuary may use simplifications, approximations, and modeling efficiency techniques if the Appointed Actuary can demonstrate that the use of such techniques does not make asset adequacy analysis results more favorable. These techniques may be less appropriate if the amount of complex, high-yielding assets becomes a higher percentage of total assets.

Guidance note: Actuarial Standards of Practice (ASOPs), including ASOP No. 7 and No. 56 contain additional guidance on the use of models in the analysis of cash flows.

- C. **Fair Value determination.** In asset adequacy analysis, when an asset is projected to be available for sale, a Fair Value of that asset is established, based on the projected market conditions. Fair Value should only be determined internally (by the insurance or investment management company) when the market-based value of the asset or similar asset cannot be obtained or expected to be obtained in a projected scenario.
 - i. When the Fair Value of a material portion of supporting assets is determined internally, the actuarial memorandum shall contain a step-by-step description of the approach used to calculate the Fair Value of such assets.
 - ii. Provide the total Fair Value of assets that have values determined internally.
 - iii. When the Fair Value of a material portion of assets is determined internally, a sensitivity test should be performed (and the impact on asset adequacy analysis results presented) assuming a haircut to internally derived Fair Values that the Appointed Actuary deems reasonable given the commensurate level of anticipated uncertainty.
- D. **Non-publicly traded assets.** For non-publicly traded assets originated by the company, within the company's group, or within an entity closely tied to a company's group (inclusive of the company's investment manager), provide the following:
 - i. Documentation of practices to help ensure accurate valuation of those assets.
 - ii. The total Fair Value of such assets.
 - iii. To the extent the contractual agreement affects the investment income revenue streams included in the asset adequacy analysis, disclose in detail applicable contractual agreements and revenue sharing, e.g., performance fees, between the entity responsible for providing investment or other types of services and the insurer.

Also, assumed net cash flows from assets should be net of all explicit or implicit fees or expenses, such as origination fees, as well as reflective of other asset-related risks including credit risk, illiquidity risk, and other market risks.

- E. **Investments expenses (fees).** Assumed investment expenses, whether paid to an external asset manager or to internal investment management staff, as well as additional expenses that are directly attributable to the specific investments, should be commensurate with the expected expenses in light of the complexity of the assets.
- F. **Reinsurance modeling.** Related to reinsurance, relevant communications and disclosures, for instance commentary on collectability and counterparty risk, should be presented in the memorandum.

Guidance note: Section 4.F is consistent with the standard laid out in ASOP No. 11 – Reinsurance Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports.

- G. **Borrowing.** Please identify if any borrowing is modeled besides to address very short-term liquidity needs. Also, verify borrowing and reinvestment rates to ensure that projections are not materially benefiting from arbitrage advantages.
5. Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets

A. Sensitivity testing

- i. Perform and disclose, separately for (a) and (b), the asset adequacy analysis results from the following sensitivity tests:

- (a) For reinvestment assets other than Equity-like Instruments, assume the Net Market Spreads (before deduction of investment expenses) for Projected High Net Yield Assets do not exceed the Investment Grade Net Spread Benchmark and apply the test to a baseline of a level Treasury rate scenario.

For the purposes of limiting the Net Market Spreads at the Investment Grade Net Spread Benchmark, Projected High Net Yield Assets may be aggregated together but shall not include any assets that are not Projected High Net Yield Assets.

- (b) For reinvestment assets that are Equity-like Instruments, assume annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after.

- ii. Strict technical compliance for each asset may not be practical for reasons such as model limitations. Professional judgment should be applied to produce sensitivity testing results that are consistent with the spirit of the test. A variety of alternative methods may be acceptable. Appropriate explanation and justification should be provided for the method that was employed.
- iii. Sensitivity testing for the purpose of this Guideline does not reflect commentary on moderately adverse conditions, but the volatility and impact demonstrated from the testing should be contemplated in Section 4.A.ii.(b) considerations.

- B. For Projected High Net Yield Assets for non-Equity-like Instruments either currently held or in assumed reinvestments, perform and disclose the following attribution analysis steps at the asset type level associated with the templates in Section 6:

- i. State the assumed Guideline Excess Spread.

- ii. Estimate the proportion of the Guideline Excess Spread attributable to the following factors:
 - (a) Credit risk
 - (b) Illiquidity risk
 - (c) Deviations of current spreads from long-term spreads defined in Appendix 1
 - (d) Volatility and other risks (identify and describe these risks in detail)
- iii. Provide commentary on the results of Section 5.B.ii. Also, where judgment is applied, provide supporting rationale of how the expected return in excess of the Investment Grade Net Spread Benchmark is estimated.

Guidance note: a best-efforts approach is expected for the year-end 2022 attribution analysis

6. Reporting, Review, and Templates

Guidance note: The NAIC Valuation Analysis (E) Working Group (VAWG) shall serve as a resource in the targeted review of asset adequacy analysis related to modeling of business supported with Projected High Net Yield Assets. VAWG shall provide periodic reports identifying outliers and concerns regarding the analysis to help inform regulators on the effectiveness of the Guideline in meeting the seven objectives stated in the Background section.

- A. The documentation, sensitivity test results, and attribution analysis referenced above are to be incorporated as a separate, easily identifiable section of the actuarial memorandum required by VM-30 or as a standalone document, with a due date of April 1 following the applicable valuation date. The domiciliary commissioner may approve a later due date for companies seeking a hardship extension. The separate section or standalone document shall be available to other state insurance commissioners in which the company is licensed upon request to the company. The confidentiality and information provisions in state adoptions of NAIC Model 820 regarding the actuarial memorandum are applicable to the separate section or standalone document required by this Guideline.
- B. Sample templates (to be adopted by the Life Actuarial Task Force):
 - i. Asset types – will be categorized when the templates are completed.
 - ii. Template for the asset summary.
 - iii. Template for components of net asset yield for various asset classes, with separate tables to be provided for initial assets and reinvestment assets.
 - iv. Template for sensitivity test aspects for Projected High Net Yield Assets that are fixed-income.
 - v. Template for sensitivity test results for Projected High Net Yield Assets.
 - vi. Template for attribution analysis, with separate tables to be provided for initial assets and reinvestment assets for Projected High Net Yield Assets.

Appendix I – Investment Grade Net Spread Benchmark

WAL (Weighted Avg Life)	Investment Grade Net Spread Benchmark (in bps)
1-10	170
11-20	175
21-30	185



Agenda



1. Updates to Website and Documentation
2. Outstanding Items
3. Field Test Results Submission Process
4. ESG Field Test Run Survey
5. Questions

Updates to Website and Documentation

- ESG Field Test Instructions
 - Section II.A Summary of Field Test Runs - In the field test run table in the Test #3 box, added "Baseline" as a descriptor for the equity model to clarify the details of the scenario set
 - Section II.A Summary of Field Test Runs - In single asterisk under table, expanded on the instructions relating to adjusting the inforce for the 12/31/19 + 200 BP Treasury yield curve adjustments
 - Section II.I Fund Mapping - Updated the link for the Basic Data Columns file to reflect an update to the file to provide information on additional columns that were added. The additional columns provide one-to-one fund mappings for the Aggressive Equity, Diversified Fixed Income, and Diversified Balanced Allocation.
- VM-21 Field Test Template
 - Updated the instructions tab to note that participants that use the direct iteration method only need to provide time zero reserve and capital values
- Website Updates
 - Added fan chart statistical reports for 10k scenario set and subsets for each field test run
 - Added new "Basic Data Columns" file that describes the returns in the scenario files to NAIC ESG June 2022 Field Test: General Documents
 - Added SERT scenarios
 - Added 9/30 scenario sets, associated statistical reports, and SERT scenarios

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Outstanding Items

- Q&A Document
- Additional Field Test Scenario Set Statistics
- Realized and/or Implied Volatility Scenario Level Data
- Equity Parameters Document

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Field Test Result Submission Process

- The NAIC is entering into a legal agreement with the Texas Department of Insurance to directly request and collect field test results under the regulatory authority of the Texas Insurance Commissioner. This agreement will maintain confidentiality of the field test results pursuant to Texas confidentiality laws while also streamlining the collection of the data.
- Under the agreement, the NAIC will be able to confidentially share field test results with state regulators, NAIC Committees, Task Forces, and Working Groups - including the Valuation Analysis Working Group. The NAIC will also be able to share aggregated field test results at public meetings.
- Secure File Transfer Protocol (FTP) sites will be set up for each legal entity and login credentials will be provided to participants to submit results.
- Additional communications will be sent out to field test participants providing instructions and other resources to facilitate the submission of field test results to the NAIC.

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ESG Field Test Run Survey

Please complete the NAIC ESG Field Test Survey (included in materials) to indicate which field test runs your company intends to complete for the NAIC ESG Field Test. Add your company code into the name of the excel workbook and return to soneal@naic.org by 6/30/22.

	VM-20	VM-21 and C3 Phase II	C3 Phase I
Baseline #2			
Test #1a			
Test #1b			
Test #2a			
Test #2b			
Test #3:			
Test #4:			
Test #5a:			
Test #5b:			
Test #6:			
Test #7: C3 Phase I Specific Attribution			

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Instructions: Mark an X in the table below to indicate which field test runs your company intends to complete for the NAIC ESG Field Test. Add your company code into the name of the excel workbook and return to sonaal@naic.org by 6/30/22.

	VM-20	VM-21 and C3 Phase II	C3 Phase I
Baseline #2			
Test #1a			
Test #1b			
Test #2a			
Test #2b			
Test #3:			
Test #4:			
Test #5a:			
Test #5b:			
Test #6:			
Test #7: C3 Phase I Specific Attribution			

Draft: 7/18/22

Life Actuarial (A) Task Force
Virtual Meeting
June 9, 2022

The Life Actuarial (A) Task Force met June 9, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen and Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Discussed Comments on AG AAT

Mr. Andersen shared the comment letter (Attachment Six-A) submitted by the American Council of Life Insurers (ACLI) on the Actuarial Guideline on Asset Adequacy Testing (AG AAT) (Attachment Six-B). He said some of the ACLI suggestions were noncontroversial and, therefore, were easily accepted. Mr. Tsang suggested clarifying the definition of “net market spread” by saying that the spread should be determined using comparable Treasury bonds. Mr. Chang asked if the term “immaterial callability” in Section 3.F.iii(c) is considered based upon its financial effect on the company or is it a reference to the size of the asset. Brian Bayerle (ACLI) suggested the word “immaterial” with respect to the callability of a bond is used to reference bonds with little to no remaining call periods. He suggested striking the reference to non-callable bonds from Section 3.F.iii(c).

Mr. Andersen said the ACLI comment letter suggested adding the word “materially” to Section 4.B.ii. Mr. Bayerle said that suggestion is intended to parallel with the existing language in VM-20, Requirements for Principle-Based Reserves for Life Products. Mr. Chang said that VM-20 measures materiality in reference to the size of the reserve. He said Section 4.B.ii does not seem to have a comparable reference. Mr. Bayerle said that the reference measure is the asset adequacy reserve. Mr. Andersen said a revised version of the guideline will be exposed shortly.

2. Re-Exposed APF 2022-04 and the NAIC Staff Recommendation Memorandum

Pat Allison (NAIC) discussed the American Academy of Actuaries (Academy) comment letter (Attachment Six-C) on amendment proposal 2022-04 and the NAIC staff recommendation memorandum. She said the recommendation memorandum has been revised to incorporate some changes suggested in the Academy letter. She said the recommendation memorandum proposes two options for determining current benchmark swap spreads. Option A allows companies to calculate current benchmark swap spreads by independently obtaining the Secured Overnight Financing Rate (SOFR) swap spread data from a nationally recognized source to cover the possibility that the NAIC is unable to obtain the SOFR data from more than one source. Option B calls for the NAIC to continue to provide current benchmark swap spreads, assuming NAIC staff can contract with at least two data sources for SOFR swap rates.

Ms. Allison said that the NAIC staff recommendation memorandum also proposes two options for determining long-term swap spreads. She said long-term option A has the NAIC providing long-term swap spreads based on

rates from a single data source, while under option B the NAIC will continue averaging the data from at least two data sources. Regardless of which option is selected, the NAIC will continue to publish the long-term swap data.

Ms. Allison said that in response to revisions suggested by the Academy (Attachment Six-D), the amendment proposal was changed to add the phrase “for valuation dates prior to June 30, 2037” to the paragraph in Section 9.F.8.d.ii of VM-20. She said a guidance note that mirrors the language in the NAIC staff recommendation memorandum was also added, along with a guidance note providing a definition of three-month and six-month SOFR swap rates. She specifically pointed to the changes related to option A and option B language provided in the amendment proposal. She noted that other clarifying changes suggested by the Academy (Attachment Six-E) were made to the NAIC staff recommendation memorandum. Alan Routhenstein (Academy) asked if the word “companies” in the paragraph proposed for Appendix 2.F should be replaced with the term “the appointed actuary.” Mr. Boerner said the question of which term to use will be noted in the exposure.

Mr. Leung made a motion, seconded by Mr. Chupp, to expose the NAIC staff recommendation memorandum (Attachment Six-F) and amendment proposal 2022-04 (Attachment Six-G), including the question of replacing “companies” with “the appointed actuary,” for a 12-day public comment period ending June 21. The motion passed unanimously.

3. Adopted Amendment Proposal 2020-12

Mr. Slutsker said amendment proposal 2020-12 was crafted over a two-year period. He said it now focuses on targeting the modeling of hedges when there are future hedging programs. Mr. Bayerle said earlier ACLI comment letters provided recommendations for enhancing the quality of the amendment proposal. He said the Task Force decided to defer some of the recommendations. He said the amendment proposal also does not address other issues, such as index credits. He said the current ACLI comment letter (Attachment Six-H) shows the ACLI’s willingness to work with the Task Force to address the remaining issues by the end of the year.

Mr. Slutsker made a motion, seconded by Mr. Chupp, to adopt amendment proposal 2020-12 (Attachment Six-I). The motion passed unanimously.

4. Heard an Update on the Experience Reporting Data Collection

Ms. Allison gave an update (Attachment Six-J) on the mortality data collected for the 2018 and 2019 observation years. She said the data will be used to develop industry experience tables and to help state insurance regulators monitor principle-based reserves. She said an aggregated data submission file was sent to the Society of Actuaries (SOA) on May 31. She said NAIC staff will be contacting companies that had incomplete submissions to have them address the missing items. She said the communication will include the companies’ domestic regulators. She said companies will also be provided responses on reviews of their field distributions in preparation for the upcoming data submission. She provided an overview of the data acceptance statistics and named several improvements that are being made to the data collection process.

5. Heard an Update on the ESG Field Test

Scott O’Neal (NAIC) said the economic scenario generator (ESG) field test started on June 1. He said more field test scenario information is continually being added to the Conning website. He mentioned that questions received from field test participants have been added to the question-and-answer (Q&A) document.

Having no further business, the Life Actuarial (A) Task Force adjourned.



Brian Bayerle
Senior Actuary

June 8, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

Re: June 2nd Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the June 2nd (Fourth) exposure of Actuarial Guideline (AG) on Asset Adequacy Testing (AAT, collectively Guideline). We have the following feedback on the Guideline by section of the document, with an accompanying redlined version (AG AAT - 4th Exposure - ACLI Markup):

- It may be more streamlined to put “best efforts” into an earlier part of the Guideline rather than at the end of Section 5 since it logically applies to most of the requirements of the Guideline.
- The Appointed Actuary, not the company, is providing the actuarial opinion, so suggest changing references from “company” to “Appointed Actuary” throughout.
- Guidance Note after 1. Effective Date: Given the expectation that these requirements will be revisited before potential incorporation into VM-30, we suggest clarifying the Guidance Note to avoid suggesting aspects of the Guideline are still effective even if other aspects are incorporated into VM-30.
- 3.G: Call provisions are very common in corporate bonds and are well-understood by market participants and regulators. The risk of achieving a low yield should be captured in low interest rate scenarios in the model when a bond is called away and the proceeds must be reinvested in a lower interest rate environment. For this reason, we suggest that regulators consider striking “non-callable” from the requirements. At a minimum, this item could include a materiality qualifier, e.g., “public fixed-rate corporate bonds with immaterial callability and convertibility.”
- Section 4.B.ii: Suggest adding “materially” to “more favorable” to avoid cases where simplifications could lead to a small difference in results.
- 4.E: Suggest striking “in light of the complexity of the assets” since it is irrelevant to the expected expenses associated with the assets.

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

- 6.A: Suggest striking “hardship” from the extension language.

ACLI is appreciative of your consideration of our comments and looks forward to a future discussion.

Thank you for your consideration,

A handwritten signature in cursive script, appearing to read "B. Banerji".

cc: Reggie Mazyck, NAIC; Ben Slutsker, Minnesota Department of Commerce

Actuarial Guideline AAT – 4th Exposure**APPLICATION OF THE VALUATION MANUAL FOR TESTING THE ADEQUACY OF LIFE INSURER RESERVES****Background**

The *NAIC Valuation Manual (VM-30)* contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis. Regulators have observed a lack of uniform practice in the implementation of asset adequacy analysis. The variety of practice in incorporating the risk of complex assets into testing does not provide regulators comfort as to reserve adequacy. Examples of complex assets are structured securities, including asset-backed securities and collateralized loan obligations, as well as assets originated by the company or affiliated or contracted entity. An initial increase of this activity has been noted in support of general account annuity blocks; however, recent activity was noted in other life insurer blocks.

This Guideline is intended to provide uniform guidance and clarification of requirements for the appropriate support of certain assumptions for asset adequacy analysis performed by life insurers. In particular, this Guideline:

- (1) Helps identify reserve adequacy and claims-paying ability in moderately adverse conditions, including conditions negatively impacting cash flows from complex assets;
- (2) Clarifies elements to consider in establishing margins on asset-related assumptions;
- (3) Ensures recognition that higher expected gross returns from assets are, to some extent, associated with higher risk, and that assumptions fit reasonably within the risk-return spectrum;
- (4) Requires sensitivity testing regarding complex assets supporting life insurer business;
- (5) Identifies expectations in practice regarding the valuation of complex assets within asset adequacy analysis;
- (6) Reflects that while complex assets tend to have higher uncertainty regarding timing and amount of cash flows than more traditional investments, because complex assets are difficult to classify, and the regulatory concern is regarding the projected net yields and cash flows from those assets, the focus of the analysis requirements will be on assets categorized as high-yielding; and
- (7) Requires additional documentation of investment fee income relationships with affiliated entities or entities close to the company.

Text

1. Effective Date

This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2022 Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

Guidance note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. This Guideline will cease to apply to annual statutory financial statements when the corresponding VM-30 requirements become effective.

2. Scope

This Guideline shall apply to all life insurers with:

- A. Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets or
- B. Over \$100 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the Annual Statement) and non-unitized separate account assets and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.F.

Actuarial reserve amounts are included in the amounts in A and B whether directly written or assumed through reinsurance and are determined before any reinsurance ceded credit.

The Guideline applies to assets supporting liabilities tested in the asset adequacy analysis except it does not apply to unitized separate account assets or policy/contract loans.

3. Definitions

- A. Equity-like Instruments. Assets that include the following:
 - i. Any assets that, for purposes of risk-based capital C-1 reporting, is in the category of common stock, i.e., has a 30% or higher risk-based capital charge.
 - ii. Any assets that are captured on Schedule A or Schedule BA of the Annual Statement.
 - iii. Bond funds.
- B. Fair Value. The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, consistent with methodology of fair value, as reported in the Annual Statement.
- C. Net Market Spread. For each asset grouping, shall mean the spread over Treasury bonds that equates an asset's fair value as of the valuation date with its modeled cash flows, less the default assumption used in asset adequacy analysis.

Market conventions and other approximations are acceptable for the purposes of this definition.
- D. Investment Grade Net Spread Benchmark. The applicable spread found in Appendix I using the weighted average life (WAL) of the associated non-Equity-like Instrument.
- E. Guideline Excess Spread. The net spread derived by subtracting the Investment Grade Net Spread Benchmark from the Net Market Spread for non-Equity-like Instruments. Investment expenses shall be excluded from this calculation.
- F. Projected High Net Yield Assets. Currently held or reinvestment assets that are either:
 - i. An Equity-like Instrument assumed to have higher value at projection year 10 or later than under an assumption of annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after. Aggregation shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model, or
 - ii. Assets other than Equity-like Instruments where the assumed Guideline Excess Spread is higher than zero. In addition:

- (a) Aggregation of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model.
- (b) For applicable assets that do not have an explicit WAL or term to maturity, the company shall disclose the method used to determine the appropriate WAL used for comparing to the Investment Grade Net Spread Benchmark.
- (c) For purposes of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark, investment expenses shall be excluded.

iii. The following asset types can be excluded from the scope of requirements in sections 4.A.ii through 5:

- (a) Cash or cash equivalents,
- (b) Treasuries and agency bonds, and
- (c) Public non-callable, non-convertible, fixed-rate corporate bonds.

4. Asset Adequacy Considerations and Documentation Expectations

A. Net return and risk documentation.

i. For all assets, either currently held or in assumed reinvestments, provide:

- (a) Identification of the assumed gross asset yield and the key components (for example, default and investment expenses) deducted to arrive at the assumed net asset yield.
- (b) Explanation of any future reinvestment strategy assumptions that materially differ from current practices.

ii. For Projected High Net Yield Assets, either currently held or in assumed reinvestments, provide:

- (a) A detailed explanation describing the relationship between the expected gross returns from these assets and the risk. It shall also include, for the aspect of any higher expected gross returns not assumed to be associated with higher risk, an explanation of how overperforming assets with expected returns lying outside the risk-return spectrum can be assumed to persist and be available for reinvestments throughout the projection period in moderately adverse conditions.
- (b) Commentary on how assumptions on assets with risk factors leading to substantial volatility of returns, as identified through sensitivity testing or other means, contain an appropriate margin to reflect the uncertainty in the timing and amounts of asset cash flows.
- (c) Identification of the extent to which Projected High Net Yield Assets are supporting major product categories, e.g., individual fixed annuities and pension risk transfers.
- (d) Explanation of rationale for materially changing or not changing complex-asset-based assumptions from the prior year's analysis.

B. **Model rigor.** Where significant risks associated with complex, Projected High Net Yield Assets are not adequately captured with traditional modeling techniques associated with simple assets like corporate bonds, more rigorous modeling of those risks should occur.

- i. Where necessary to adequately reflect the risk:
 - (a) Multi-scenario testing of those risks specific to complex assets should be performed. For example, investments that may provide a higher expected return in part due to limited information, niche skill sets, or other factors may require unique scenarios (for instance to adequately capture credit or liquidity risk) to fully encompass potential sources of loss.
 - (b) Asset cash flows should be appropriately projected to reflect anticipated liquidity under adverse conditions. If such model aspects are not developed, sufficient additional conservatism to reflect this risk shall be applied.
 - (c) To the extent that the process for modeling or otherwise evaluating the risks is complex, and the potential for disconnect between reality and modeling increases, an additional margin to assumption(s) should be applied. Any such margin shall be applied in the direction of asset adequacy analysis results being less favorable.
 - (d) The full distribution of risk associated with complex assets should be considered.
- ii. A company may use simplifications, approximations, and modeling efficiency techniques if the company can demonstrate that the use of such techniques does not make asset adequacy analysis results more favorable. These techniques may be less appropriate if the amount of complex, high-yielding assets becomes a higher percentage of total assets.

Guidance note: Actuarial Standards of Practice (ASOPs), including ASOP No. 7 and No. 56 contain additional guidance on the use of models in the analysis of cash flows.

- C. **Fair Value determination.** In asset adequacy analysis, when an asset is projected to be available for sale, a Fair Value of that asset is established, based on market information. Fair Value should only be determined internally (by the insurance or investment management company) when the market-based value of the asset or similar asset cannot be obtained.
 - i. When the Fair Value of a material portion of supporting assets is determined internally, the actuarial memorandum shall contain a step-by-step description of the approach used to calculate the Fair Value of such assets.
 - ii. Provide the total Fair Value of assets that have values determined internally.
 - iii. When the Fair Value of a material portion of assets is determined internally, a sensitivity test should be performed (and the impact on asset adequacy analysis results presented) assuming a haircut to internally derived Fair Values that the company deems reasonable given the commensurate level of anticipated uncertainty.
- D. **Non-publicly traded assets.** For non-publicly traded assets originated by the company, within the company's group, or within an entity closely tied to a company's group (inclusive of the company's investment manager), provide the following:
 - i. Documentation of practices to help ensure accurate valuation of those assets.
 - ii. The total Fair Value of such assets.
 - iii. To the extent the contractual agreement affects the investment income revenue streams included in the asset adequacy analysis, disclose in detail applicable contractual agreements and revenue sharing, e.g.,

performance fees, between the entity responsible for providing investment or other types of services and the insurer.

Also, assumed net cash flows from assets should be net of all explicit or implicit fees or expenses, such as origination fees, as well as reflective of other asset-related risks including credit risk, illiquidity risk, and other market risks.

- E. **Investments expenses (fees).** Assumed investment expenses, whether paid to an external asset manager or to internal investment management staff, as well as additional expenses that are directly attributable to the specific investments, should be commensurate with the expected expenses in light of the complexity of the assets.
- F. **Reinsurance modeling.** Related to reinsurance, relevant communications and disclosures, for instance commentary on collectability and counterparty risk, should be presented in the memorandum.

~~**Guidance note:** Section 4.F is consistent with the standard laid out in ASOP No. 11 – Reinsurance Involving Life Insurance, Annuities, or Health Benefit Plans in Financial Reports.~~

- G. **Borrowing.** Please identify if any borrowing is modeled besides to address very short-term liquidity needs. Also, verify borrowing and reinvestment rates to ensure that projections are not materially benefiting from arbitrage advantages.
5. Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets

A. Sensitivity testing

- i. Perform and disclose, separately for (a) and (b), the asset adequacy analysis results from the following sensitivity tests:
- (a) For reinvestment assets other than Equity-like Instruments, assume the Net Market Spreads (before deduction of investment expenses) for Projected High Net Yield Assets do not exceed the Investment Grade Net Spread Benchmark and apply the test to a baseline of a level Treasury rate scenario.
- For the purposes of limiting the Net Market Spreads at the Investment Grade Net Spread Benchmark, Projected High Net Yield Assets may be aggregated together but shall not include any assets that are not Projected High Net Yield Assets.
- (b) For reinvestment assets that are Equity-like Instruments, assume annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after.
- ii. Strict technical compliance for each asset may not be practical for reasons such as model limitations. Professional judgment should be applied to produce sensitivity testing results that are consistent with the spirit of the test. A variety of alternative methods may be acceptable. Appropriate explanation and justification should be provided for the method that was employed.
- iii. Sensitivity testing for the purpose of this Guideline does not reflect commentary on moderately adverse conditions, but the volatility and impact demonstrated from the testing should be contemplated in Section 4.A.ii.(b) considerations.

- B. For Projected High Net Yield Assets for non-Equity-like Instruments either currently held or in assumed reinvestments, perform and disclose the following attribution analysis steps at the asset type level associated with the templates in Section 6:

- i. State the assumed Guideline Excess Spread.
- ii. Estimate the proportion of the Guideline Excess Spread attributable to the following factors:
 - (a) Credit risk
 - (b) Illiquidity risk
 - (c) Deviations of current spreads from long-term spreads defined in Appendix 1
 - (d) Volatility and other risks (identify and describe these risks in detail)
- iii. Provide commentary on the results of Section 5.B.ii. Also, where judgment is applied, provide supporting rationale of how the expected return in excess of the Investment Grade Net Spread Benchmark is estimated.

Guidance note: a best-efforts approach is expected for the year-end 2022 attribution analysis

6. Reporting, Review, and Templates

Guidance note: The NAIC Valuation Analysis (E) Working Group (VAWG) shall serve as a resource in the targeted review of asset adequacy analysis related to modeling of business supported with Projected High Net Yield Assets. VAWG shall provide periodic reports identifying outliers and concerns regarding the analysis to help inform regulators on the effectiveness of the Guideline in meeting the seven objectives stated in the Background section.

- A. The documentation, sensitivity test results, and attribution analysis referenced above are to be incorporated as a separate, easily identifiable section of the actuarial memorandum required by VM-30 or as a standalone document, with a due date of April 1 following the applicable valuation date. The domiciliary commissioner may approve a later due date for companies seeking a hardship extension. The separate section or standalone document shall be available to other state insurance commissioners in which the company is licensed upon request to the company. The confidentiality and information provisions in state adoptions of NAIC Model 820 regarding the actuarial memorandum are applicable to the separate section or standalone document required by this Guideline.
- B. Sample templates (to be adopted by the Life Actuarial Task Force):
 - i. Asset types – will be categorized when the templates are completed
 - ii. Template for the asset summary.
 - iii. Template for components of net asset yield for various asset classes, with separate tables to be provided for initial assets and reinvestment assets.
 - iv. Template for sensitivity test aspects for Projected High Net Yield fixed-income assets.
 - v. Template for sensitivity test results for Projected High Net Yield Assets.
 - vii. Template for attribution analysis, with separate tables to be provided for initial assets and reinvestment assets for Projected High Net Yield Assets.

Appendix I – Investment Grade Net Spread Benchmark

WAL (Weighted Avg Life)	Investment Grade Net Spread Benchmark (in bps)
1-10	170
11-20	175
21-30	185



AMERICAN ACADEMY of ACTUARIES

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June 7, 2022

Mr. Michael Boerner,
Chair, Life Actuarial (A) Task Force (LATF)
National Association of Insurance Commissioners (NAIC)

Re: LATF's May 26, 2022, exposure of a revised version of APF 2022-04 on Swap Spreads and LIBOR transition to SOFR (the "APF"), and a related memo (the "Memo") from NAIC staff

Dear Mr. Boerner,

The Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group of the American Academy of Actuaries¹ (the "Academy") appreciates the opportunity to provide comments on the APF and Memo. The Academy is thankful to LATF and NAIC staff as well for the March 10 exposure of an earlier version of the APF drafted by the Academy and an accompanying Academy presentation deck, and for considering Academy member views earlier in May through an informal drafting group discussion and follow-up emails.

The Academy is supportive of the exposed documents, though we have the following comments on actuarial judgment and suggested refinements to the documents to improve clarity.

Although the APF and Memo depart from the Academy's March recommendation that the NAIC continue to publish LIBOR swap spreads for as long as the NAIC can obtain supporting data from two data providers, the Academy is supportive of the approach taken in the May 26 exposures as it allows for appropriate actuarial judgment. More specifically, on or after the Memo effective date (e.g., possibly June 30, 2022) if an insurer has an asset, liability or other financial instrument subject to principles-based valuation that has a floating rate based on LIBOR, LIBOR swap rates or LIBOR swap spreads, such floating rate will no longer be prescribed under VM-20 and thus will need to be estimated by the qualified actuary via the use of actuarial judgment. The Academy believes that the expertise to perform such estimation is well within

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

the professional experience of many actuaries working with annuity or interest sensitive life blocks, yet anticipate that a variety of reasonable approaches might be used for estimation.

The Academy’s comments on the APF and the Memo appear in the margin of refined versions of these documents, which are attached. In summary:

- The APF includes five self-explanatory comments that begin with “To improve clarity”, one self-explanatory comment that begins with “To improve concision”, and one comment that suggests for parallel construction the inclusion of a new Guidance Note (verbatim from the Memo, that begins with “Actuarial judgment may be required”).
- The Memo includes two self-explanatory comments that begin with “To improve clarity”, and one self-explanatory comment that begins with “To improve concision”.

The Academy appreciates the efforts of LATF and NAIC staff on the APF and Memo. If you have any questions or would like further dialogue on the above topics, please contact Amanda Barry-Moilanen, Life Policy Analyst, at barrymoilanen@actuary.org.

Sincerely,

Alan Routhenstein, MAAA, FSA
Member, Life Valuation Committee
American Academy of Actuaries

Life Actuarial (A) Task Force
Updated Exposure of APF 2022-04

Swap Spreads and London Inter-Bank Offered Rate (LIBOR)
Transition to the Secured Overnight Financing Rate (SOFR)

Note this revised APF is complemented by a May 26, 2022 memo from NAIC staff to LATF on a recommended replacement to LIBOR swap spreads effective [TBD, potentially June 30, 2022].

Please send comments to Reggie Mazyck @ RMazyck@NAIC.Org by close of business on June 1, 2022.

Dates: Received	Reviewed by Staff	Distributed	Considered
03/08/22	RM	03/08/22	03/10/22
Notes: APF 2022-04			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form**

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Alan Routhenstein, on behalf of the American Academy of Actuaries’ Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group

Pat Allison, NAIC staff

Title of the Issue:

Swap Spreads and London Inter-Bank Offered Rate (LIBOR) transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance in light of the LIBOR transition to SOFR.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-20 Section 9.F.8.d, VM-20 Appendix 2.F, VM-20 Appendix 2.G
 January 1, 2022 NAIC *Valuation Manual*

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

Proposed edits to VM-20 for LIBOR transition to SOFR are shown in the attached Appendix

4. State the reason for the proposed amendment? (You may do this through an attachment.)
 - a. Bank regulators and a group of swap market participants have agreed that for interbank interest rate swaps executed after 2021, the floating rate needs to be based on an index other than LIBOR.
 - b. During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap (for which the floating rate is based on SOFR) from the historical LIBOR swap (for which the floating rate is LIBOR).
 - c. As a result, VM-20 instructions for how the NAIC will calculate and publish swap spreads needs to be updated for:
 - i. Current Benchmark swap spreads (as of each month end); and
 - ii. Long-Term Benchmark swap spreads (as of each quarter end)
 - d. The associated presentation provides further background and rationale for this proposal.

NAIC Staff Comments:

W:\National Meetings\2015\...TF\LHA\

Appendix

Proposed amendments to VM-20 for APF 2022-04 on Swap Spreads and LIBOR transition to SOFR

VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads.....:

d. Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model wherever appropriate for transactions and operations including, but not limited to, purchase, sale, settlement, cash flows of derivative positions and reset of floating rate investments. A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between. ~~The three month and six month points on the swap spread curves shall be the market-observable values for these tenors. Currently, this shall be the corresponding London Interbank Offered Rate (LIBOR) spreads over Treasuries. When the NAIC determines LIBOR is no longer effective, the NAIC shall recommend a replacement to the Life Actuarial (A) Task Force which shall be effective upon adoption by the Task Force.~~

- i. The current prescribed swap spread curve shall be the Secured Overnight Financing Rate (SOFR) swap curve.
- ii. The long term SOFR swap spread curve, given that the SOFR swap market did not emerge before late 2021 and that SOFR is an index for which there is no official data before April 2, 2018, shall be calculated based on 15 year moving averages of prescribed estimates of historical current SOFR swap spreads.

Commented [A1]: To improve clarity, after "shall" insert "for valuation dates prior to June 30, 2037"

Commented [A2]: Insert a [Guidance Note: Actuarial judgment may be required in the use of prescribed swap spreads (for example, in the case where companies have a financial instrument with floating rate payments based on an index that is not prescribed by the NAIC (e.g., 1-month SOFR or 3-month LIBOR)).]

VM-20 Appendix 2.F Current Benchmark Swap Spreads:

F. Current Benchmark Swap Spreads

1. For tenors of 3 months, 6 months, and one year to 30 years, extract swap spread data determined as of the last business day of the month by maturity from at least two reputable data sources. For Bank of America data, if the data source provides swap rates rather than swap spreads, convert the swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate. For JP Morgan, the swap spread is provided for each maturity.
2. Average the Bank of America swap spread with the JP Morgan swap spreads from the data sources by maturity determined as of the last business day of the month.
3. Publish the Current Benchmark Swap Spreads by maturity in a table.

Commented [A3]: To improve clarity, reinstate this Drafting Note from the 2022-03-10 exposure, and replace "Drafting Note" with "Guidance Note": **[Guidance Note:** 3-month and 6-month SOFR swap rates are defined herein as the fixed rate one party pays at the end of three months or six months in exchange for receiving at such time 3-month SOFR or 6-month SOFR, calculated on a compounded in arrears basis.]

[Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.]

VM-20 Appendix 2.G Long-Term Benchmark Swap Spreads:

G. Long-Term Benchmark Swap Spreads

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. For Bank of America data, if the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate. For JP Morgan, the daily swap spread is provided for each maturity.
2. Starting in 2023 and before 2037, calculate SOFR swap spreads as follows for each business day "u" on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:
 - a. For each maturity "m" = 0.25, 0.5, 1 ... 30 years, and business day "u":

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$
3. For each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilize Bloomberg's 2021-03-05 published USD Spread Adjustments as follows:
 - a. For each maturity "m" = 3 or 6 months, and business day "u":
 - i. $\text{SOFR swap spread}(3 \text{ months},u) = \text{LIBOR swap spread}(3 \text{ months},u) - 0.26161\%$
(the USD 3-month Spread Adjustment)
 - ii. $\text{SOFR swap spread}(6 \text{ months},u) = \text{LIBOR swap spread}(6 \text{ months},u) - 0.42826\%$
(the USD 6-month Spread Adjustment)
 - b. For each maturity "m" = 1 ... 30 years, and business day "u":

$$\text{SOFR swap spread}(m,u) = \text{LIBOR swap spread}(m,u) - 0.26161\% \text{ (the USD 3-month Spread Adjustment)}$$
4. During and after 2037, calculate SOFR swap spreads as follows for each maturity "m" = 0.25, 0.5, 1 ... 30 years:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

Commented [A4]: To improve clarity, delete "Starting in" and insert "For a valuation date during or after"

Commented [A5]: To improve concision, delete "u" here because it is defined in 2.a below

Commented [A6]: To improve clarity, after "For" insert "a valuation date during or after 2023 and before 2037, for"

Commented [A7]: To improve clarity,
- delete "During and" and insert "For a valuation date during or"
- refine the latter two-thirds of this paragraph, starting with "for each maturity" to replicate 2a above, including the insertion after "30 years" of the following:
, and business day "u"

- ~~4.5.2. Average the daily Bank of America swap spread data from the data sources with the daily JP Morgan swap spread data by maturity over the prescribed observation (rolling 15-year period).~~
6. ~~3.~~ Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
7. ~~4.~~ Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H)~~),~~ ~~Table J~~ shows Long-Term Benchmark Swap Spreads.



MEMORANDUM

TO: Life Actuarial (A) Task Force
 FROM: Pat Allison, NAIC Staff
 DATE: May 26, 2022
 RE: Recommended replacement related to APF 2022-04 Swap Spreads and LIBOR transition to SOFR

Background

The purpose of this memo is to recommend: 1) Secured Overnight Financing Rate (SOFR) swap spreads as the replacement for LIBOR swap spreads upon adoption by LATF, and 2) The approach to be used in calculating current and long-term swap spread curves from the date of this adoption through the remainder of 2022. These recommendations are consistent with APF 2022-04 (which would be effective for the 2023 *Valuation Manual*), which identifies the SOFR as the replacement for LIBOR, and 2) the VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads, cited below:

A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between. The three-month and six-month points on the swap spread curves shall be the market-observable values for these tenors. Currently, this shall be the corresponding London Interbank Offered Rate (LIBOR) spreads over Treasuries. When the NAIC determines LIBOR is no longer effective, the NAIC shall recommend a replacement to the Life Actuarial (A) Task Force which shall be effective upon adoption by the Task Force.

The last sentence above notes that the NAIC shall recommend “a replacement”, which indicates an intent to replace the prescribed current and long-term swap spread curves with a single replacement, as opposed to continuing the use of LIBOR beyond the adoption date.

Commented [AR1]: To improve clarity, delete "use" (which might be misinterpreted) and insert "NAIC's prescription"

Determination that LIBOR is no longer effective

An American Academy of Actuaries’ extrapolation of data published on April 13 by the International Swaps and Derivatives Association (ISDA) Clarus Financial Technology¹ shows that SOFR-based transactions are growing in popularity and can be expected to reach in July or August a two-thirds majority of newly executed USD interest rate derivatives (based on a risk-based DV01 metric). A

¹ See “The Percentage of DV01” chart accessible via “The Charts” link within this ISDA-Clarus 2022-04-13 publication: <https://www.clarusfi.com/latest-data-shows-sofr-trading-soaring/>

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Bloomberg February 9 article² states that over two-thirds of newly executed USD interest rate swaps in January 2022 were SOFR swaps (with the floating rate based on SOFR) rather than LIBOR swaps (with the floating rate based on LIBOR). Based on the information provided in these publications, NAIC staff has determined that LIBOR is no longer effective.

Actuarial judgment may be required in the use of prescribed swap spreads (for example, in the case where companies have a combination of SOFR and LIBOR-based swaps). VM-20 Section 9.F.8.d states, in part “Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model *wherever appropriate* for transactions and operations...” (emphasis added).

Commented [AR2]: To improve clarity, delete "a combination of SOFR and LIBOR-based swaps" and insert "a financial instrument with floating rate payments based on an index that is not prescribed by the NAIC (e.g., 1-month SOFR or 3-month LIBOR)"

Recommended Replacement for Current Benchmark Swap Spreads

Effective [TBD, potentially June 30, 2022] and through December 31, 2022, NAIC staff recommends that for each month-end date, LIBOR swap spreads shall be replaced with SOFR swap spreads³:

- o 3-month LIBOR spread should be replaced with 3m SOFR swap⁴ spread
- o 6-month LIBOR spread should be replaced with 6m SOFR swap spread
- o 1-year swap spread should be replaced with 1y SOFR swap spread
- o ...
- o 30-year swap spread should be replaced with 30y SOFR swap spread

Recommended Replacement for Long-Term Benchmark Swap Spreads

Effective on the adoption date by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed and through December 31, 2022, NAIC staff recommends the following approach for the calculation of long-term benchmark swap spreads, consistent with APF 2022-04:

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. If the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.
2. Calculate SOFR swap spreads as follows for each business day ^{“u”} on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:
 - a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$
3. Calculate SOFR swap spreads as follows for each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilizing Bloomberg’s 2021-03-05 published USD Spread Adjustments:
 - a. For each maturity “m” = 3 or 6 months, and business day “u”,

Commented [AR3]: To improve concision, delete "u" here because it is defined in 2.a below

² See "Growth in SOFR Swaps Volume" within this 2022-02-09 Bloomberg article: <https://www.bloomberg.com/professional/blog/sofr-liquidity-eclipses-libor/>
³ During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap from the LIBOR swap.
⁴ 3-month and 6-month SOFR swap rates are defined herein as the fixed rate one party pays at the end of three months or six months in exchange for receiving at such time 3-month SOFR or 6-month SOFR, calculated on a compounded in arrears basis.

- i. $\text{SOFR swap spread}(3 \text{ months}, u) = \text{LIBOR swap spread}(3 \text{ months}, u) - 0.26161\%$ (the USD 3-month Spread Adjustment)
 - ii. $\text{SOFR swap spread}(6 \text{ months}, u) = \text{LIBOR swap spread}(6 \text{ months}, u) - 0.42826\%$ (the USD 6-month Spread Adjustment)
 - b. For each maturity “m” = 1 ... 30 years, and business day “u”:
 $\text{SOFR swap spread}(m, u) = \text{LIBOR swap spread}(m, u) - 0.26161\%$ (the USD 3-month Spread Adjustment)
3. Average the swap spread data from the data sources by maturity over the prescribed observation (rolling 15-year period).
 4. Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
 5. Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), Table J shows Long-Term Benchmark Swap Spreads.

In Table J, NAIC staff shall clarify that from the adoption date forward, current and long-term benchmark swap spreads are SOFR swap spreads.



MEMORANDUM

TO: Life Actuarial (A) Task Force

FROM: Pat Allison, NAIC Staff

DATE: May 26, 2022

RE: Recommended replacement related to APF 2022-04 Swap Spreads and LIBOR transition to SOFR

Background

The purpose of this memo is to recommend: 1) Secured Overnight Financing Rate (SOFR) swap spreads as the replacement for LIBOR swap spreads upon adoption by LATF, and 2) The approach to be used in calculating current and long-term swap spread curves from the date of this adoption through the remainder of 2022. These recommendations are consistent with APF 2022-04 (which would be effective for the 2023 *Valuation Manual*), which identifies the SOFR as the replacement for LIBOR, and the VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads, cited below:

A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between. The three-month and six-month points on the swap spread curves shall be the market-observable values for these tenors. Currently, this shall be the corresponding London Interbank Offered Rate (LIBOR) spreads over Treasuries. When the NAIC determines LIBOR is no longer effective, the NAIC shall recommend a replacement to the Life Actuarial (A) Task Force which shall be effective upon adoption by the Task Force.

The last sentence above notes that the NAIC shall recommend “a replacement”, which indicates an intent to replace the prescribed current and long-term swap spread curves with a single replacement, as opposed to continuing the NAIC’s prescription of LIBOR beyond the adoption date.

Determination that LIBOR is no longer effective

An American Academy of Actuaries’ extrapolation of data published on April 13 by the International Swaps and Derivatives Association (ISDA) Clarus Financial Technology¹ shows that SOFR-based transactions are growing in popularity and can be expected to reach in July or August a two-thirds majority of newly executed USD interest rate derivatives (based on a risk-based DV01 metric). A Bloomberg February 9 article² states that over two-thirds of newly executed USD interest rate swaps in

¹ See “The Percentage of DV01” chart accessible via “The Charts” link within this ISDA-Clarus 2022-04-13 publication: <https://www.clarusft.com/latest-data-shows-sofr-trading-soaring/>

² See “Growth in SOFR Swaps Volume” within this 2022-02-09 Bloomberg article: <https://www.bloomberg.com/professional/blog/sofr-liquidity-eclipses-libor/>

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January 2022 were SOFR swaps (with the floating rate based on SOFR) rather than LIBOR swaps (with the floating rate based on LIBOR). Based on the information provided in these publications, NAIC staff has determined that LIBOR is no longer effective.

Actuarial judgment may be required in the use of prescribed swap spreads (for example, in the case where companies have a combination of SOFR and LIBOR-based swaps). VM-20 Section 9.F.8.d states, in part “Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model *wherever appropriate* for transactions and operations...” (emphasis added).

Recommended Replacement for Current Benchmark Swap Spreads

Effective [TBD, potentially June 30, 2022] and through December 31, 2022, NAIC staff recommends that for each month-end date, LIBOR swap spreads shall be replaced with SOFR swap spreads³:

- 3-month LIBOR spread should be replaced with 3m SOFR swap⁴ spread
- 6-month LIBOR spread should be replaced with 6m SOFR swap spread
- 1-year swap spread should be replaced with 1y SOFR swap spread
- ...
- 30-year swap spread should be replaced with 30y SOFR swap spread

Recommended Replacement for Long-Term Benchmark Swap Spreads

Effective on the adoption date by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed and through December 31, 2022, NAIC staff recommends the following approach for the calculation of long-term benchmark swap spreads, consistent with APF 2022-04:

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. If the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.
2. Calculate SOFR swap spreads as follows for each business day “u” on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:
 - a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:
SOFR swap spread(m,u) = SOFR swap rate(m,u) - Treasury yield(m,u).
3. Calculate SOFR swap spreads as follows for each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilizing Bloomberg’s 2021-03-05 published USD Spread Adjustments:
 - a. For each maturity “m” = 3 or 6 months, and business day “u”,
 - i. SOFR swap spread(3 months,u) = LIBOR swap spread(3 months,u) - 0.26161% (the USD 3-month Spread Adjustment)
 - ii. SOFR swap spread(6 months,u) = LIBOR swap spread(6 months,u) - 0.42826% (the USD 6-month Spread Adjustment)

³ During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap from the LIBOR swap.

⁴ 3-month and 6-month SOFR swap rates are defined herein as the fixed rate one party pays at the end of three months or six months in exchange for receiving at such time 3-month SOFR or 6-month SOFR, calculated on a compounded in arrears basis.

- b. For each maturity “m” = 1 ... 30 years, and business day “u”:
SOFR swap spread(m,u) = LIBOR swap spread(m,u) - 0.26161% (the USD 3-month Spread Adjustment)
4. Average the swap spread data from the data sources by maturity over the prescribed observation (rolling 15-year period).
 5. Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
 6. Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), Table J shows Long-Term Benchmark Swap Spreads

In Table J, NAIC staff shall clarify that from the adoption date forward, current and long-term benchmark swap spreads are SOFR swap spreads. [Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.]

Life Actuarial (A) Task Force
Updated Exposure of APF 2022-04

Swap Spreads and London Inter-Bank Offered Rate (LIBOR)
Transition to the Secured Overnight Financing Rate (SOFR)

Note this revised APF is complemented by a May 26, 2022 memo from NAIC staff to LATF on a recommended replacement to LIBOR swap spreads effective [TBD, potentially June 30, 2022].

Please send comments to Reggie Mazyck @ RMazyck@NAIC.Org by close of business on June [], 2022.

Dates: Received	Reviewed by Staff	Distributed	Considered
03/08/22	RM	03/08/22	03/10/22
Notes: APF 2022-04			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form**

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Alan Routhenstein, on behalf of the American Academy of Actuaries’ Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group

Pat Allison, NAIC staff

Title of the Issue:

Swap Spreads and London Inter-Bank Offered Rate (LIBOR) transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance in light of the LIBOR transition to SOFR.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-20 Section 9.F.8.d, VM-20 Appendix 2.F, VM-20 Appendix 2.G
 January 1, 2022 NAIC *Valuation Manual*

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

Proposed edits to VM-20 for LIBOR transition to SOFR are shown in the attached Appendix

4. State the reason for the proposed amendment? (You may do this through an attachment.)

- a. Bank regulators and a group of swap market participants have agreed that for interbank interest rate swaps executed after 2021, the floating rate needs to be based on an index other than LIBOR.
- b. During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap (for which the floating rate is based on SOFR) from the historical LIBOR swap (for which the floating rate is LIBOR).
- c. As a result, VM-20 instructions for how the NAIC will calculate and publish swap spreads needs to be updated for:
 - i. Current Benchmark swap spreads (as of each month end); and
 - ii. Long-Term Benchmark swap spreads (as of each quarter end)
- d. The associated presentation provides further background and rationale for this proposal.

NAIC Staff Comments:

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Appendix

Proposed amendments to VM-20 for APF 2022-04 on Swap Spreads and LIBOR transition to SOFR

VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads.....:

- d. Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model wherever appropriate for transactions and operations including, but not limited to, purchase, sale, settlement, cash flows of derivative positions and reset of floating rate investments. A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between.
 - i. The current prescribed swap spread curve shall be the Secured Overnight Financing Rate (SOFR) swap curve.
 - ii. The long term SOFR swap spread curve, given that the SOFR swap market did not emerge before late 2021 and that SOFR is an index for which there is no official data before April 2, 2018, shall be calculated based on 15 year moving averages of prescribed estimates of historical SOFR swap spreads.

VM-20 Appendix 2.F Current Benchmark Swap Spreads:

F. Current Benchmark Swap Spreads

1. For tenors of 3 months, 6 months, and one year to 30 years, extract swap spread data determined as of the last business day of the month by maturity from at least two reputable data sources. If the data source provides swap rates rather than swap spreads, convert the swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.
2. Average the swap spreads from the data sources by maturity determined as of the last business day of the month.
3. Publish the Current Benchmark Swap Spreads by maturity in a table.

[Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.]

VM-20 Appendix 2.G Long-Term Benchmark Swap Spreads:

G. Long-Term Benchmark Swap Spreads

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. If the data source

provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.

2. Starting in 2023 and before 2037, calculate SOFR swap spreads as follows for each business day “u” on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:

- a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

3. For each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilize Bloomberg’s 2021-03-05 published USD Spread Adjustments as follows:

- a. For each maturity “m” = 3 or 6 months, and business day “u”:

- i. $\text{SOFR swap spread}(3 \text{ months},u) = \text{LIBOR swap spread}(3 \text{ months},u) - 0.26161\%$
(the USD 3-month Spread Adjustment)

- ii. $\text{SOFR swap spread}(6 \text{ months},u) = \text{LIBOR swap spread}(6 \text{ months},u) - 0.42826\%$
(the USD 6-month Spread Adjustment)

- b. For each maturity “m” = 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{LIBOR swap spread}(m,u) - 0.26161\% \text{ (the USD 3-month Spread Adjustment)}$$

4. During and after 2037, calculate SOFR swap spreads as follows for each maturity “m” = 0.25, 0.5, 1 ... 30 years:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

5. Average the swap spread data from the data sources by maturity over the prescribed observation (rolling 15-year period).
6. Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
7. Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), Table J shows Long-Term Benchmark Swap Spreads.



Brian Bayerle
Senior Actuary

Colin Masterson
Policy Analyst

June 1, 2022

Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Re: May 2022 Re-Exposure of APF 2020-12

Dear Mr. Boerner:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit feedback on APF 2020-12 which was re-exposed by LATF during their meeting on May 26, 2022.

ACLI believes that additional work to APF 2020-12 is needed to address a number of key issues, including topics such as an immateriality exemption. It is our hope that we can continue to work alongside regulators to develop improvements for such a future APF.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read 'B Bayerle'.

A handwritten signature in cursive script, appearing to read 'Colin Masterson'.

cc: Reggie Mazyck, NAIC

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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11/16/20	RM		
Notes: APF 2020-12			

Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force Amendment Proposal Form*

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Hedging Drafting Group of LATF

Title of the Issue:

Reflect all future hedging strategies in VM-20 and VM-21. Revise hedge modeling to increase E factor (VM-21) or residual risk (VM-20) when future hedging strategies are not clearly defined.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-01, VM-20 Section 6.A.1.b, VM-20 Section 7.E.1.g, VM-20 Section 7.K, VM-20 Section 7.L, VM-21 Section 1.D.2, VM-21 Section 4.A.4, VM-21 Section 4.D.4.b, VM-21 Section 6.B.3.a.ii, VM-21 Section 6.B.3.b.ii, VM-21 Section 6.B.5, VM-21 Section 9, VM-31 Section 3.C.5, VM-31 Section 3.D.6.f, VM-31 Section 3.D.14.a and 3.D.14.b, VM-31 Section 3.E.5, VM-31 Section 3.F.8, VM-31 Section 3.F.12.c, VM-31 Section 3.F.16.a and Section 3.F.16.b

January 1, 2022 NAIC Valuation Manual

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

See attached.

4. State the reason for the proposed amendment? (You may do this through an attachment.)

1. Consistent definition of CDHS for use in VM-20 and VM-21.
2. Add a definition for “future hedging strategy,” consistent with the definition for CDHS and the current VM-01 definition of “derivative program”, which VM-01 notes includes hedging programs.
3. Add a definition for “hedging transactions,” taken from the APPM but modified slightly to be consistent with Valuation Manual terminology.
4. Reflect all of a company’s future hedging strategies, but reflect the additional error (VM-21) or residual risk (VM-20) that is presented by a future hedging strategy not being clearly defined.
5. Remove optionality for liquidating currently held hedges if the company does not have a future hedging strategy. Language has been added for consideration to keep this optionality for the adjusted run for a company that does have a future hedging strategy (which would not be modeled in the adjusted run), as the drafting group is interested in additional input on this item. A reporting item to disclose the impact of any such liquidation is added, to provide additional regulator comfort if this optionality is included in the final adopted edits.
6. New hedging strategies (those without at least 12 months experience or 3 months of experience and robust mock testing) have an E factor of 1.0 for VM-21, unless they are new hedging strategies backing a newly introduced or newly acquired product or block of business, which may have an E factor as low as 0.3. Moreover, with prior domestic regulator approval, which should mitigate regulator concerns that strategy changes implemented just before year end may allow for manipulation of results, robust

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Notes: APF 2020-12			

mock testing is sufficient to allow an E factor lower than 1.0. Note that the current draft VM-22 only allows modeling hedges after they have been in place for 6 months, and we would recommend that be revised to be in line with these changes. When only CDHS were modeled in VM-21, new hedging strategies with no experience had E factors as low as 0.5 even without meaningful analysis. This treatment was much too lenient for new hedging strategies.

* This form is not intended for minor corrections, such as formatting, grammar, cross–references or spelling. Those types of changes do not require action by the entire group and may be submitted via letter or email to the NAIC staff support person for the NAIC group where the document originated.

NAIC Staff Comments:

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Notes: APF 2020-12			

VM-01

- The term “clearly defined hedging strategy” (CDHS) means a strategy undertaken by a company to manage risks through the future purchase or sale of hedging instruments and the opening and closing of hedging positions for which the following attributes are clearly documented that meet the criteria specified in the applicable reserve requirement section of the Valuation Manual:
 - a. The specific risks being hedged (e.g., cash flow, fee income, policy interest credits, delta, rho, vega, etc.).
 - b. The hedging objectives.
 - c. The material risks that are not hedged (e.g., variation from expected mortality, withdrawal, and other utilization or decrement rates assumed in the hedging strategy, etc.).
 - d. The financial instruments used to hedge the risks.
 - e. The hedging strategy’s trading rules, including the permitted tolerances from hedging objectives.
 - f. The metrics, criteria, and frequency for measuring hedging effectiveness.
 - g. The conditions under which hedging will not take place and for how long the lack of hedging can persist.
 - h. The group or area, including whether internal or external, responsible for implementing the hedging strategy.
 - i. Areas where basis, gap or assumption risk related to the hedging strategy have been identified.
 - j. The circumstances under which hedging strategy will not be effective in hedging the risks.

The hedge strategy may be dynamic, static or a combination thereof.

Guidance Note: For purposes of the CDHS documented attributes, “effectiveness” need not be measured in a manner as defined in <i>SSAP No. 86—Derivatives</i> in the AP&P Manual.

- The term “future hedging strategy” is a derivative program undertaken by a company to manage risks through one or more future hedging transactions, including the future purchase or sale of hedging instruments and the opening and closing of hedging positions.

A future hedging strategy may be dynamic, static or a combination thereof. A strategy involving the offsetting of the risks associated with products falling under the scope of different requirements within the *Valuation Manual* (e.g., VM-20, VM-21, or VM-22) does not qualify as a future hedging strategy.

- The term “hedging transaction” means a derivative(s) transaction which is entered into and maintained to reduce:
 - a. The risk of a change in the fair value, the value on a statutory, GAAP, or other basis, or cash flow of assets and liabilities which the company has acquired or incurred or has a firm commitment to acquire or incur or for which the company has a forecasted acquisition or incurrence; or
 - b. The currency exchange rate risk or the degree of foreign currency exposure in assets and liabilities which the company has acquired or incurred or has a firm commitment to acquire or incur or for which the company has forecasted acquisition or incurrence.

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Notes: APF 2020-12			

VM-20 Section 6.A.1.b

A company may not exclude a group of policies for which there is one or more future hedging strategies supporting the policies~~clearly defined hedging strategies~~ from SR requirements, except in the case where all future hedging strategies supporting the policies~~clearly defined hedging strategies~~ are solely associated with product features that are determined to not be material under Section 7.B.1 due to low utilization.

VM-20 Section 7.E.1.g

Notwithstanding the above requirements, the modeled reserve shall be the higher of that produced by the modeled company investment strategy and that produced by substituting an alternative investment strategy in which the fixed income reinvestment assets have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs and investment expenses by projection year that are consistent with a credit quality blend of 50% PBR credit rating 6 (A2/A) and 50% PBR credit rating 3 (Aa2/AA).

Policy loans, equities and derivative instruments associated with the execution of a ~~clearly defined hedging strategy~~future hedging strategies supporting the policies (in compliance with ~~Section 7.L~~) are not affected by this requirement.

VM-20 Section 7.K

K. Modeling of Derivative Programs

1. When determining the DR and the SR, the company shall include in the projections the appropriate costs and benefits of derivative instruments that are currently held by the company in support of the policies subject to these requirements. The company shall also include the appropriate costs and benefits of anticipated future derivative instrument transactions associated with the execution of a ~~future hedging strategies supporting the policies~~clearly defined hedging strategy, as well as the appropriate costs and benefits of anticipated future derivative instrument transactions associated with non-hedging derivative programs (e.g., replication, income generation) undertaken as part of the investment strategy supporting the policies, provided they are normally modeled as part of the company’s risk assessment and evaluation processes.

Guidance Note: The requirements stated here for handling hedging strategies are essentially consistent with those included in the CTE methodology of VM 21 and the five principles spelled out there. The prohibition in these modeled reserve requirements against projecting future hedging transactions other than those associated with a clearly defined hedging strategy is intended to address initial concerns expressed by various parties that reserves could be unduly reduced by reflection of programs whose future execution and performance may have greater uncertainty. The prohibition appears, however, to be in conflict with Principle 2 listed in VM 21. Companies may actually execute and reflect in their risk assessment and evaluation processes hedging strategies similar in many ways to clearly defined hedging strategies but lack sufficient clarity in one or more of the qualification criteria. By excluding the associated derivative instruments, the investment strategy that is modeled may also not reflect the investment strategy the company actually uses. Further, because the future hedging transactions may be a net cost to the company in some scenarios and a net benefit in other scenarios, the exclusion of such transactions can result in a modeled reserve that is either lower or higher than it would have been if the transactions were not excluded. The direction of such impact on the reserves could also change from period to period as the actual and projected paths of economic conditions change. A more graded approach to recognition of non-qualifying hedging strategies

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~~may be more theoretically consistent with Principle 2. It is recommended that as greater experience is gained by actuaries and state insurance regulators with the principle based approach and as industry hedging programs mature, the various requirements of this section be reviewed.~~

2. For each derivative program that is modeled, the company shall reflect the company's established investment policy and procedures for that program; project expected program performance along each scenario; and recognize all benefits, residual risks and associated frictional costs. The residual risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, etc.). Frictional costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. For future hedging strategies supporting the policies~~clearly defined hedging strategies~~, the company may not assume that residual risks and frictional costs have a value of zero, unless the company demonstrates in the PBR Actuarial Report that "zero" is an appropriate expectation. VM-21 Section 1.B Principle 5 applies as a general principle for the modeling of future hedging strategies.
3. In circumstances where one or more material risk factors related to a derivative program are not fully captured within the cash-flow model used to calculate CTE 70, the company shall reflect such risk factors by increasing the SR as described in Section 5.E.
4. In circumstances where documentation outlining the future hedging strategies is incomplete, the company shall reflect the future hedging strategies not being clearly defined by increasing the SR as described in Section 5.E. To support no increase to the SR, there should be very robust documentation outlining each future hedging strategy. In particular, the SR shall be at least as great as the SR that would result if a future hedging strategy were not reflected in the SR, if the documentation is materially incomplete for any of the individual CDHS attributes (a) through (j), as listed in VM-01.

Any increases required to the SR to reflect that documentation is not available to support that the future hedging strategies are clearly defined shall be in addition to increases to the SR pursuant to Section 7.K.3 above.

Guidance Note: Section 5.E requires that the company "Determine any additional amount needed to capture any material risk included in the scope of these requirements but not already reflected in the cash-flow models using an appropriate and supportable method and supporting rationale." In the case of a derivative program that is a future hedging strategy, Section 7.K.3 requires such an increase for disconnects between the hedge modeling and the future hedging strategy, while Section 7.K.4 requires such an increase for disconnects between the loosely defined future hedging strategy and what may actually take place.

VM-20 Section 7.L (Remove entire Section 7.L)

L. Clearly Defined Hedging Strategy

1. A clearly defined hedging strategy must identify:
 - a. The specific risks being hedged (e.g., cash flow, policy interest credits, delta, rho, vega, etc.).
 - b. The hedge objectives.

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- e. The risks that are not hedged (e.g., variation from expected mortality, withdrawal, and other utilization or decrement rates assumed in the hedging strategy, etc.).
- d. The financial instruments used to hedge the risks.
- e. The hedge trading rules, including the permitted tolerances from hedging objectives.
- f. The metrics for measuring hedging effectiveness.
- g. The criteria used to measure hedging effectiveness.
- h. The frequency of measuring hedging effectiveness.
- i. The conditions under which hedging will not take place.
- j. The person or persons responsible for implementing the hedging strategy.
- k. Areas where basis, gap or assumption risk related to the hedging strategy have been identified.
- l. The circumstances under which hedging strategy will not be effective in hedging the risks.

Hedging strategies involving the offsetting of the risks associated with other products outside of the scope of these requirements is not a clearly defined hedging strategy.

Guidance Note: For purposes of the above criteria, “effectiveness” need not be measured in a manner as defined in *SSAP No. 86 – Derivatives* in the AP&P Manual.

VM-21 Section 1.D.2 (Delete entire definition and renumber subsequent sections VM-21 Section 1.D.3 and VM-21 Section 1.D.4)

The term “clearly defined hedging strategy” (CDHS) is defined in VM 01. In order to be designated as a CDHS, the strategy must meet the principles outlined in Section 1.B (particularly Principle 5) and shall, at a minimum, identify:

- a. The specific risks being hedged (e.g., delta, rho, vega, etc.).
- a. The hedge objectives.
- b. The risks not being hedged (e.g., variation from expected mortality, withdrawal, and other utilization or decrement rates assumed in the hedging strategy, etc.).
- e. The financial instruments that will be used to hedge the risks.
- d. The hedge trading rules, including the permitted tolerances from hedging objectives.
- e. The metric(s) for measuring hedging effectiveness.
- f. The criteria that will be used to measure hedging effectiveness.
- g. The frequency of measuring hedging effectiveness.
- h. The conditions under which hedging will not take place.
- i. The person or persons responsible for implementing the hedging strategy.

Guidance Note: It is important to note that strategies involving the offsetting of the risks associated with VA guarantees with other products outside of the scope of these requirements (e.g., equity-indexed annuities) do not currently qualify as a clearly defined hedging strategy under these requirements.

VM-21 Section 4.A.4

Modeling of Hedges

- a. For a company that does not have a CDHS future hedging strategy supporting the contracts:

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- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling, since they are not included in the company's investment strategy supporting the contracts.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. ~~The hedge assets may then be considered in one of two ways:~~
 - ii. ~~- a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions — in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.~~

Guidance Note: ~~If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.~~

~~A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.~~
- b. For a company with ~~a one or more CDHS future hedging strategies supporting the contracts,~~ the detailed requirements for the modeling of hedges are defined in Section 9. The following paragraphs are a high-level summary and do not supersede the detailed requirements.
 - i. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the SR.
 - ii. The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future through the execution of the CDHS future hedging strategies supporting the contracts. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and no future hedge purchases. These are discussed in greater detail in Section 9. The SR shall be the weighted average of the two CTE70 values, where the weights reflect the error factor ~~(E)~~ determined following the guidance of Section 9.C.4.
 - iii. The company is responsible for verifying compliance with CDHS requirements and any other all requirements in Section 9 for all hedging instruments included in the projections.
 - iv. The use of products not falling under the scope of these requirements (e.g., equity-indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

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VM-21 Section 4.D.4.b

Notwithstanding the above requirements, the SR shall be the higher of that produced by the modeled company investment strategy and that produced by substituting an alternative investment strategy in which the fixed income reinvestment assets have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of 50% PBR credit rating 6 (A2/A) and 50% PBR credit rating 3 (Aa2/AA).

Policy loans, equities and derivative instruments associated with the execution of ~~a future hedging strategies supporting the contracts~~clearly defined hedging strategy are not affected by this requirement.

VM-21 Section 6.B.3.a.ii – Footnote (Footnote at Bottom of Page 21-23)

Throughout this Section 6, references to CTE70 (adjusted) shall also mean the SR for a company that does not have a future hedging strategy supporting the contracts ~~CDHS~~ as discussed in Section 4.A.4.a.

VM-21 Section 6.B.3.b.ii

Calculate the Prescribed Projections Amount as the CTE70 (adjusted) using the same method as that outlined in Section 9.C (which is the same as SR following Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts ~~CDHS~~) but substituting the assumptions prescribed by Section 6.C. The calculation of this Prescribed Projections Amount also requires that the scenario reserve for any given scenario be equal to or in excess of the cash surrender value in aggregate on the valuation date for the group of contracts modeled in the projection.

VM-21 Section 6.B.5

Cash flows associated with hedging shall be projected in the same manner as that used in the calculation of the CTE70 (adjusted) as discussed in Section 9.C or Section 4.A.4.a for a company without a future hedging strategy supporting the contracts ~~CDHS~~.

VM-21 Section 9

Section 9: Modeling of Hedges under a ~~CDHS~~ Future Hedging Strategy

A. Initial Considerations

1. Subject to Section 9.C.2, the appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the SR, determined in accordance with Section 3.D and Section 4.D.
2. If the company is following ~~a one or more future hedging strategies supporting the contracts~~ CDHS, in accordance with an investment policy adopted by the board of directors, or a committee of board members, the company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario based on the execution of the hedging strategy, and it is eligible

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to reduce the amount of the SR using projections otherwise calculated. The investment policy must clearly articulate the company's hedging objectives, including the metrics that drive rebalancing/trading. This specification could include maximum tolerable values for investment losses, earnings, volatility, exposure, etc. in either absolute or relative terms over one or more investment horizons vis-à-vis the chance of occurrence. Company management is responsible for developing, documenting, executing and evaluating the investment strategy, including the hedging strategy, used to implement the investment policy.

3. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
4. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.
- ~~5. Before either a new or revised hedging strategy can be used to reduce the amount of the SR otherwise calculated, the hedging strategy should be in place (i.e., effectively implemented by the company) for at least three months. The company may meet the time requirement by having evaluated the effective implementation of the hedging strategy for at least three months without actually having executed the trades indicated by the hedging strategy (e.g., mock testing or by having effectively implemented the strategy with annuity products for at least three months).~~

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the SR otherwise calculated. Particular attention should be given to VM-21 Section 1.B Principle 5 for the modeling of future hedging strategies.
2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.
3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the SR needs to recognize all risks, associated costs,

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imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or mock tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta. Another example is that financial indices underlying typical hedging instruments typically do not perform exactly like the separate account funds, and hence the use of hedging instruments has the potential for introducing basis risk

- 5.—A safe harbor approach is permitted for CDHS reflection of future hedging strategies supporting the contracts for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

C. Calculation of SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the future hedging strategies supporting the contracts ~~CDHS~~ (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to execute the future hedging strategies supporting the contracts ~~CDHS~~ (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no future hedging strategies supporting the contracts ~~CDHS~~, therefore following the requirements of Section 4.A.4.a.

However, for a company with a future hedging strategy supporting the contracts, existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements may be considered in one of two ways for the CTE70 (adjusted):

- a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
- b) No hedge positions – in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company’s investment strategy.

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A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the SR is given by:

$$SR = CTE70 \text{ (best efforts)} + E \times \max[0, CTE70 \text{ (adjusted)} - CTE70 \text{ (best efforts)}]$$

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent 12 months, to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
- a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge strategy and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E , the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.

b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:

- i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
- ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s

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market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.

iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.

v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.

vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.

vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).

c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.

~~6.—~~7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with less than 12 months of experience and without robust mock testing, E should be 1.0. For a material change in strategy, with ~~no~~ less than 3 months of history, E should be at least 0.501.0. However, when a material change in hedging strategy with less than 3 months history is the introduction of hedging for a newly introduced product or newly acquired block of business and is supplemented by robust mock testing, E should instead be at least 0.3. Moreover, with prior approval from the domestic regulator, material changes in hedge strategy with less than 3 months history but with robust mock testing may have error factors less than 1.0, though still subject to the minimum error factor specified in Section 9.C.4 and with an appropriate prudent estimate to account for additional uncertainty in anticipated hedging experience beyond that of a robust hedging program already in existence. However, E may also be lower than 0.501.0 if some reliable experience is available and/or if the change in strategy is a minor refinement rather than a substantial material change in strategy, though still subject to the minimum error factor specified in Section 9.C.4 and with an appropriate prudent estimate to account for any additional uncertainty associated with the refinement.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program. These examples are not intended to be exhaustive, and a company must support the determination of whether a hedge methodology change is material based on a review of the company's specific change in methodology.

•—

•—The error factor should be temporarily large (e.g., $\geq 50100\%$) for substantial material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) without robust mock

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~~testing where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.~~

- ~~• An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).~~
 - ~~• A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or CDHS modeling where meaningful simulation has not been created (e.g., adding second order hedging, such as gamma or rate convexity).~~
 - ~~• No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).~~
8. The company shall set the value of E reflecting the extent to which the hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining all future hedging strategies. To the extent that documentation outlining any of the future hedging strategies is incomplete, the value of E shall be increased. In particular, the value of E shall be 1.0 if documentation is materially incomplete for any of the individual CDHS attributes (a) through (j), as listed in VM-01.

Any increases required to the value of E to reflect that documentation is not available to support that the future hedging strategies are clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results, subject to an overall ceiling of 1.0 for E.

Guidance Note: Companies must use judgment both in determining an E factor and in applying this requirement in the case where there are multiple future hedging strategies, particularly where some may be CDHS and some may not be CDHS. In this case, the SR should be ensured to be no less than the CTE(70) reflecting the future hedging strategies that are CDHS and not reflecting those that are not CDHS. Companies with multiple future hedging strategies with very different levels of effectiveness or with multiple future hedging strategies that include both CDHS and non-CDHS should discuss with their domestic regulator.

D. Additional Considerations for CTE70 (best efforts)

If the company is following ~~a one or more future hedging strategies supporting the contracts~~CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

E. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be

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adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the variable annuity account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the SR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the SR otherwise calculated.
6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.
- 6.7. The company may also consider historical experience for similar current or past hedging programs on similar products to support the error factor determined for the projection.

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VM-31 Section 3.C.5

Assets and Risk Management – A brief description of the asset portfolio, and the approach used to model risk management strategies, such as hedging, and other derivative programs, including a description of any ~~clearly defined hedging strategies~~ future hedging strategies supporting the policies, and any material changes to the hedging strategies from the prior year.

VM-31 Section 3.D.6.f

Risk Management – Detailed description of model risk management strategies, such as hedging and other derivative programs, including any future hedging strategies supporting the policies ~~clearly defined hedging strategies~~ and any adjustments to the SR pursuant to VM-20 Section 7.K.3 and VM-20 Section 7.K.4, specific to the groups of policies covered in this sub-report and not discussed in the Life Summary Section 3.C.5. Documentation of any future hedging strategies should include documentation addressing each of the CDHS documentation attributes.

VM-31 Section 3.D.14.a and 3.D.14.b

- a. Investment Officer on Investments – A certification from a duly authorized investment officer that the modeled company investment strategy, including any future hedging strategies supporting the policies, is representative of and consistent with the company’s investment policy and that documentation of the CDHS attributes for any future hedging strategies supporting the policies are accurate.
- b. Qualified Actuary on Investments – A certification by a qualified actuary, not necessarily the same qualified actuary that has been assigned responsibility for the PBR Actuarial Report or this sub-report, that the modeling of any future hedging strategies supporting the policies is consistent with the company’s actual future hedging strategies and clearly defined hedging strategies was performed in accordance with VM-20 and in compliance with all applicable ASOPs, and the alternative investment strategy as defined in VM-20 Section 7.E.1.g reflects the prescribed mix of assets with the same WAL as the reinvestment assets in the company investment strategy.

VM-31 Section 3.E.5

Assets and Risk Management – A brief description of the general account asset portfolio, and the approach used to model risk management strategies, such as hedging and other derivative programs, including a description of any future hedging strategies supporting the contracts ~~clearly defined hedging strategies~~, and any material changes to the hedging ~~strategy~~ strategies from the prior year.

VM-31 Section 3.F.8

Hedging and Risk Management – The following information regarding the hedging and risk management assumptions used by the company in performing a principle-based valuation under VM-21:

Dates: Received	Reviewed by Staff	Distributed	Considered
11/16/20	RM		
Notes: APF 2020-12			

- a. Strategies – Detailed description of risk management strategies, such as hedging and other derivative programs, including any future hedging strategies supporting the contractsCDHS, specific to the groups of contracts covered in this sub-report.
 - i. Descriptions of basis risk, gap risk, price risk and assumption risk.
 - ii. Methods and criteria for estimating the a priori effectiveness of the strategy.
 - iii. Results of any reviews of actual historical hedging effectiveness.
- b. CDHS – Documentation addressing each of the CDHS documentation attributes for any future hedging strategies supporting the contractshedging strategy that meets the requirements to be a CDHS.
- c. Strategy Changes – Discussion of any changes to the hedging strategy during the past 12 months, including identification of the change, reasons for the change, and the implementation date of the change.
- d. Hedge Modeling – Description of how the hedge strategy was incorporated into modeling, including:
 - i. Differences in timing between model and actual strategy implementation.
 - ii. For a company that does not have a future hedging strategy supporting the contractsCDHS, ~~disclosure of the method used to consider confirmation that currently held hedge assets were included in the starting assets, either (1) including the asset cash flows in the projection model; or (2) replacing the hedge positions with cash and/or other general account assets in an amount equal to the market value of the hedge positions, as discussed in VM 21 Section 4.A.4.a.~~
 - iii. Evaluations of the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, and other items that are likely to result in materially adverse results.
 - iii-iv. Discussion of the projection horizon for the future hedge strategy as modeled and a comparison to the timeline for any anticipated future changes in the company’s hedge strategy.
 - iv-v. If residual risks and frictional costs are assumed to have a value of zero, a demonstration that a value of zero is an appropriate expectation.
 - v-vi. Any discontinuous hedging strategies modeled, and where such discontinuous hedging strategies contribute materially to a reduction in the SR, any evaluations of the interaction of future trigger definitions and the discontinuous hedging strategy, including any analyses of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
 - vi-vii. Disclosure of any situations where the modeled hedging strategies make money in some scenarios without losing a reasonable amount in some other scenarios, and an explanation of why the situations are not material for determining the CTE 70 (best efforts).
 - vii-viii. Results of any testing of the method used to determine prices of financial instruments for trading in scenarios against actual initial market prices, including how the testing considered historical relationships. If there are substantial discrepancies, disclosure of the substantial discrepancies and documentation as to why the model-based prices are appropriate for determining the SR.
 - viii-ix. Any model adjustments made when calculating CTE 70 (adjusted), in particular, any liquidation or substitution of assets for currently held hedges. If there is liquidation or substitution of assets for currently held hedges, disclosure of the impact on the adjusted run.
- e. Error Factor (E) and Back-Testing – Description of E, the error factor, and formal back-tests performed, including:
 - i. The value of E, and the approach and rationale for the value of E used in the reserve calculation.
 - ii. For companies that model hedge cash flows using the explicit method, as described in VM-21 Section 9.C.6.a, and have 12 months of experience, an analysis of at least the most recent 12 months of experience and the results of a back-test showing that the model is able to replicate the hedging results experienced in a way that justifies the value used for E. Include at least a ratio of the actual

Dates: Received	Reviewed by Staff	Distributed	Considered
11/16/20	RM		
Notes: APF 2020-12			

- change in market value of the hedges to the modeled change in market value of the hedges at least quarterly.
- iii. For companies that model hedge cash flows using the implicit method, and have 12 months of experience, as described in VM-21 Section 9.C.6.b, the results of a back-test in which (a) actual hedge asset gains and losses are compared against (b) proportional fair value movements in hedged liability, including:
 - a) Delta, rho and vega coverage ratios in each month over the back-testing period, which may be presented in a chart or graph.
 - b) The implied volatility level used to quantify the fair value of the hedged item, as well as the methodology undertaken to determine the appropriate level used.
 - iv. For companies that do not model hedge cash flows using either the explicit method or the implicit method, as described in VM-21 Section 9.C.6.c, and have 12 months of experience, the results of the formal back-test conducted to validate the appropriateness of the selected method and value used for E.
 - v. For companies that do not have 12 months of experience, the basis for the value of E that is chosen based on the guidance provided in VM-21 Section 9.C.7, considering the actual history available, mock testing performed, and the degree and nature of any changes made to the hedge strategy.
 - ~~v~~.vi. The basis for the magnitude of adjustment or lack of adjustment for the value of E chosen based on the robustness of the documentation outlining the future hedging strategy.
 - f. Safe Harbor for Future Hedging Strategies ~~CDHS~~ – If electing the safe harbor approach for a future hedging strategy supporting the contracts ~~CDHS~~, as discussed in VM-21 Section 9.C.8, a description of the linear instruments used to model the option portfolio.
 - g. Hedge Model Results – Disclosure of whether the calculated CTE 70 (best efforts) is below both the fair value and CTE 70 (adjusted), and if so, justification for why that result is reasonable, as discussed in VM-21 Section 9.D.

VM-31 Section 3.F.12.c

CTEPA – If using the CTEPA method, a summary including:

- i. Disclosure (in tabular form) of the scenario reserves using the same method and assumptions as those used by the company to calculate CTE 70 (adjusted) as outlined in VM-21 Section 9.C (or the SR following VM-21 Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts ~~CDHS~~), as well as the corresponding scenarios reserves substituting the assumptions prescribed by VM-21 Section 6.C.
- ii. Summary of results from a cumulative decrement projection along the scenario whose reserve value is closest to the CTE 70 (adjusted), as outlined in VM-21 Section 9.C (or the SR following VM-21 Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts ~~CDHS~~), under the assumptions outlined in VM-21 Section 6.C. Such a cumulative decrement projection shall include, at the end of each projection year, the projected proportion (expressed as a percent of the total projected account value) of persisting contracts as well as the allocation of projected decrements across death, full surrender, account value depletion, elective annuitization, and other benefit election.
- iii. Summary of results from a cumulative decrement projection, identical to (ii) above, but replacing all assumptions outlined in VM-21 Section 6.C with the corresponding assumptions used in calculating the SR.

Dates: Received	Reviewed by Staff	Distributed	Considered
11/16/20	RM		
Notes: APF 2020-12			

VM-31 Section 3.F.16.a and Section 3.F.16.b

- a. Investment Officer on Investments – A certification from a duly authorized investment officer that the modeled asset investment strategy, including any future hedging strategies supporting the contractsCDHS, is consistent with the company’s current investment strategy except where the modeled reinvestment strategy may have been substituted with the alternative investment strategy, and ~~also any CDHS meets the~~that documentation of the requirements of a CDHS attributes for any future hedging strategies supporting the contracts are accurate.

- b. Qualified Actuary on Investments – A certification by a qualified actuary, not necessarily the same qualified actuary that has been assigned responsibility for the PBR Actuarial Report or this sub-report, that the modeling of any future hedging strategies supporting the contracts~~clearly defined hedging strategies is~~ consistent with the company’s actual future hedging strategies and was performed in accordance with VM-21 and in compliance with all applicable ASOPs.

Update on Mortality Experience Data Collection

Pat Allison, FSA, MAAA
Angela McNabb, ASA, MAAA
June 9, 2022



Agenda

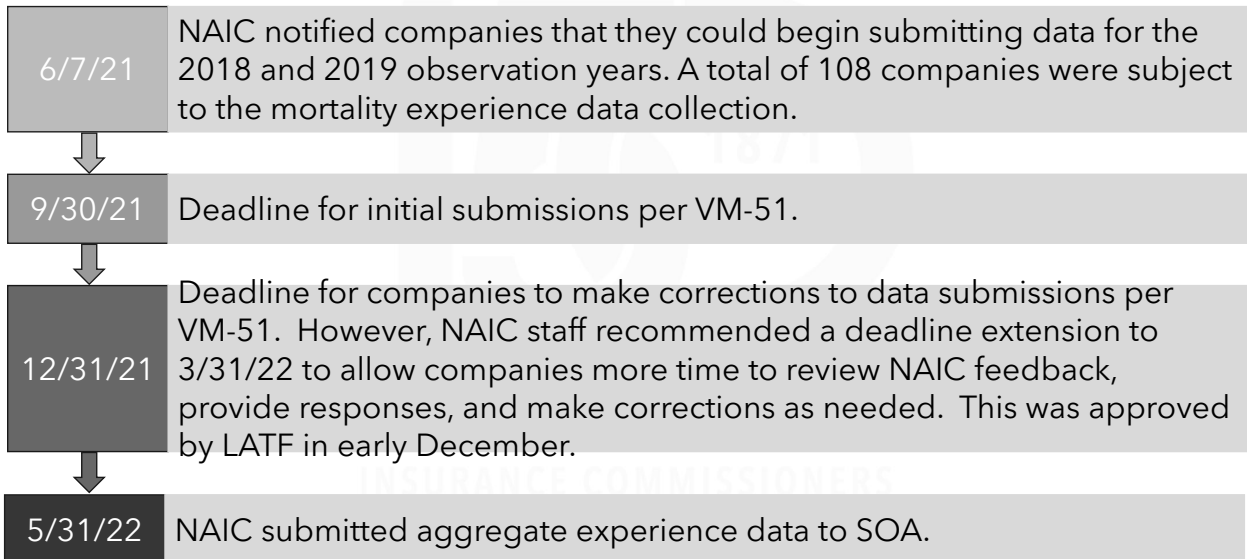
- Background
- Timeline
- Review Process
- Submission Requirements and Status
- Results
- 2022 Data Collection Improvements and Training

NAIC MORTALITY EXPERIENCE DATA COLLECTION Background

- The *Valuation Manual* (VM-50 & VM-51) requires that selected companies submit mortality experience data files for individual ordinary life business. Certain types of business are excluded (simplified issue, worksite, final expense, etc.). This data collection will take place annually.
- The first of these data collections had been scheduled for 2020, however, due to the pandemic it was delayed to 2021. The 2021 collection included data from observation years 2018 and 2019. The deadline to submit final files was March 31, 2022.
- VM-50 Section 1.B outlines the purpose of data collection, which includes development of industry experience tables and assisting regulators in monitoring company’s principle-based reserves.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

2021 Experience Data Collection Timeline



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NAIC MORTALITY EXPERIENCE DATA COLLECTION Review Process

- The *Valuation Manual* identifies the NAIC as the Experience Reporting Agent. The NAIC has the task of collecting, validating and aggregating the data prior to submitting it to the SOA.
- The NAIC has developed a multi-stage validation process.
 - Submitted data files are first run through a rules-based validation program which checks for invalid values and invalid combinations of fields (e.g.: date of birth before issue date).
 - Data files are then subject to a field distribution review. This identifies unusual distribution patterns in the data (e.g.: no terminations, unreasonable ratio of males to females, etc.).
 - Feedback is provided to the submitting company at each step of the process. Companies are then required to correct critical data exceptions and resubmit their data.

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NAIC MORTALITY EXPERIENCE DATA COLLECTION Submission Requirements

- A complete data submission must include all the following:
 - Data files for observation years 2018 and 2019 submitted using the NAIC's Regulatory Data Collection system (RDC).
 - A reconciliation of the data file to the company's Annual Statement (Exhibit of Life).
 - A control totals summary.
 - VM-51 Appendix 1 - 3 Questionnaires (Appendix 3 questionnaire is only required for companies defining custom plan codes).
 - Responses to questions/exceptions of a critical nature.

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NAIC MORTALITY EXPERIENCE DATA COLLECTION

Submission Status

- NAIC actuarial staff is continuing to follow-up with companies that have incomplete submissions. Outstanding items for some companies include:
 - Control totals, reconciliations and/or questionnaires.
 - Responses to items noted as critical in the field distribution review.
- Field distribution reviews for final submissions is ongoing.
 - Companies will be given feedback which they should consider when preparing for the 2022 data collection. Those that have reviewed NAIC feedback have typically identified changes that need to be made to their data.
 - Responses to questions in the field distribution review are required. This information helps NAIC staff understand the company's distribution of data and avoid asking the same questions year after year.
 - A/E ratios will be provided to companies soon.

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NAIC MORTALITY EXPERIENCE DATA COLLECTION

Results

- Final data submissions were greatly improved compared to initial submissions (i.e. 3/31/22 versus 9/30/21 submissions).
- A total of 108 companies participated in the data collection, of which 105 were included in the aggregate file for the SOA. A few companies had many data exceptions and as a result were excluded.
- A total of approximately 97 million records (from 108 companies) were collected for each of the two observation years. Of these, approximately 91 million records were accepted for each observation year (94% of submitted records). Some records were rejected based on data exceptions identified during the validation process.

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NAIC MORTALITY EXPERIENCE DATA COLLECTION Results - Aggregate File

- The aggregate file for the SOA was delivered on May 31st.
- VM-51 Appendix 4 fields 28 - 46 are not included in the aggregate file (e.g. premium, UL/VL secondary guarantee info, etc.).
 - NAIC feedback sent to companies included validation results for all fields.
 - There were numerous data exceptions for fields 28 - 46. For the 2021 data collection, the NAIC asked companies to focus on making corrections to fields 1 - 27. Data acceptance criteria for the aggregate file was based only on fields 1 - 27.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

2022 NAIC MORTALITY EXPERIENCE DATA COLLECTION (Observation Year 2020) Improvements

- NAIC staff will be implementing improvements for the 2022 data collection. Some of these improvements include:
 - Companies will have the option to download data exceptions from RDC.
 - A Data Dictionary will be provided to give companies additional guidance.
 - NAIC staff is further automating the review process to provide feedback to companies faster.
 - NAIC staff is reviewing the rules-based data validations and their severity.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

NAIC MORTALITY EXPERIENCE DATA COLLECTION 2022 Company Training

- Kick-Off meeting/training will be conducted on June 15th. Topics will include:
 - Discussion of planned improvements to the process.
 - Obtain feedback from companies regarding additional improvements.
 - File layout changes.
 - Optional information to be collected.
- Additional training is planned for later in June to go over changes to reporting when a Third-Party Administrator is involved.

Draft: 7/14/22

Life Actuarial (A) Task Force
Virtual Meeting
June 2, 2022

The Life Actuarial (A) Task Force met June 2, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Ben Slutsker (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Discussed Comments on AG AAT

Colin Masterson (American Council of Life Insurers—ACLI) said the ACLI comment letter (Attachment Seven-A) recommends additional edits to the proposed actuarial guideline (AG) on asset adequacy testing (AAT) (Attachment Seven-B) and asks for a short re-exposure of the AG AAT. Mr. Slutsker said that the question of which asset classes to exempt from sensitivity testing, attribution analysis, and other requirements of Section 4 will be addressed first, after which there will be discussion on the remaining ACLI comments. He said that cash, U.S. Treasury bonds and agency bonds are currently the only asset classes exempted. He said the Task Force could add public corporate bonds and floaters to the list of exempted asset classes. He said another option is to include real estate, direct mortgage loans, and mortgage passthroughs in addition to public corporate bonds and floaters as exempted asset classes. Mr. Slutsker requested a vote on the various options. The Task Force voted to add nonconvertible/noncallable public corporate bonds to the list of noncomplex assets to be exempted. In a second vote, the Task Force agreed to exclude convertible/callable public corporate bonds and floating rate instruments from the list of noncomplex assets. In a third vote, the Task Force agreed to exclude direct mortgage loans from the list of noncomplex assets. There was no objection to excluding real estate and mortgage passthroughs from the list of complex assets.

Mr. Slutsker said the ACLI suggested striking requirement #6 on page 1 of the guideline. He recommended that instead of striking it, the requirement could be revised to clarify its intention by possibly having the company provide the rationale for updating some of the underlying assumptions related to complex assets. He said the revision will be included in the next exposure of the guideline.

Mr. Slutsker said comment letters mentioned the difficulty of meeting the Dec. 31, 2022, implementation date. He asked the Task Force to consider a May 1, 2023, implementation date, with an option for companies to request more time from their domestic regulator if needed. Mr. Leung said a May 1 implementation date will make it difficult for state insurance regulators to review the required information and suggest additional revisions to the guideline. The Task Force voted to change the implementation date to April 1 for year-end 2022 submissions, with a possibility of an extension beyond April 1 in the case of hardship.

Mr. Slutsker said the ACLI comment letter recommended excluding policy loans from the scope of the guideline. He said the guideline was intended to exclude policy loans. He suggested accepting the revision proposed by the ACLI. There was no objection from Task Force members.

Mr. Slutsker identified the definition of “net market spread” in Section 3.C, and the discussion of the tail expectation in Section 4.B.i.(d) as items to be highlighted to solicit comments on the next exposure. He also said that paragraph 5.B.iii, which refers to the “Guideline Excess Spread,” will be stricken; commentary on the attribution analysis will be requested instead.

2. Heard an Update on HMI/FMI

Marianne Purushotham (Society of Actuaries [SOA] Preferred Mortality Project Oversight Group [POG]) presented slides (Attachment Seven-C) showing the present state and the direction of the 2022 mortality improvement recommendation to be considered by the Task Force. She said historical mortality improvement (HMI) and the future mortality improvement (FMI) scales will be developed for 2022. The scales will address: 1) how COVID-19 impacts are reflected in the mortality improvement scales; 2) margin development for the FMI; and 3) whether a modification to the smoothing method is necessary. She noted that there are already implicit margins in both the HMI and FMI scales due to the use of general population data that is unadjusted for the insured population differences. She said four mortality HMI scenarios and two FMI are undergoing model office testing. She said the final recommendation should be ready by the first week of July.

Donna Claire (American Academy of Actuaries [Academy] Life Experience Committee) discussed some general questions (Attachment Seven-D) related to the COVID-19 impact on mortality improvement for Task Force consideration.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/6 2/June 2 Minutes.docx



Brian Bayerle
Senior Actuary

May 31, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

Re: May Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the May 19th (Third) exposure of Actuarial Guideline (AG) on Asset Adequacy Testing (AAT, collectively Guideline).

We have substantive feedback for this draft of the Guideline, so we request a short re-exposure of about a week so we can collectively work together to avoid serious unintended consequences. In particular, we have serious concerns around well-understood asset classes being considered “complex” in this Guideline; we believe this could lead to problematic issues that could be avoided by deferral and further discussion outside of this process.

We have the following feedback on the Guideline by section of the document, with an accompanying redlined version (AG AAT - 3rd Exposure - May 2022 - ACLI Markup.pdf):

General:

- Adherence to relevant Actuarial Standards of Practice is already expected of all practicing actuaries, so we suggest moving all ASOP references to guidance notes within the Guideline.

Background:

- We suggest striking item 6 in the Background Section and Section 4.E in their entirety. First, these items pertain to “complex assets,” the meaning of which is quite broad within the AG, such as including “vanilla” investments such as non-investment grade bonds and equities. Second, it involves “research and monitoring,” which is not within the expertise of the appointed actuary. Thus, the scope of this provision is quite broad and the

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voluminous information provided by entities is unlikely to provide significant regulatory value.

Section 2 Scope:

- Clearly policy loans should be removed from the scope of the Guideline.

Section 3 Definitions:

- 3.A: Definition of “Fair Value” should be modified as current definition does not reflect fair value when asset is sold in projection.
- 3.C: Definition of “Net Market Spread” can be simplified given that the use of this term is to determine which asset groups get more disclosure.
- 3.F.i: For consistency with 3.F.ii, suggest additional clarity around aggregation.
- 3.G: ACLI supports expansion of asset classes within the definition of “Non-complex Assets.” Corporate bonds are already described in 4.B as “simple assets,” and logically fit into this category. Excluding these from the definition may categorize a significant portion of these assets as “high net yield” depending on the current benchmark spreads. ACLI urges several targeted asset classes to be included in the definition of the Non-complex assets in addition to corporate bonds: real estate, direct mortgage loans, and mortgage pass-through securities. Each of these classes have well-established, credible experience with significant industry and regulatory expertise around the use, modeling, and assumptions regarding these assets.

Further, there are significant implications for not including these classes in the definition: there would need to be a considerable investment of company resources in a limited amount of time to assess the significant operational challenges of implementation (e.g., understanding implications for real estate and other asset classes if subject to disclosure on non-publicly traded assets). We are open to discussing additional disclosures around these items in the future, but there is simply not enough time to develop appropriate regulatory guidance for these asset classes. In these discussions, we would seek to understand the new fact pattern that has emerged as to why these classes have generated a concern and to have a constructive dialogue on the best way to address such concerns.

- 3.G (continued): It would be clearer to specify which sections are not applicable rather than using “through” language which could be ambiguous.

Section 4 Asset Adequacy Considerations and Documentation Expectations

- 4.A.i.(b): We suggest edits as reinvestment assumptions are always approximate, and it doesn’t make sense for them to be based on experience.
- 4.A.ii.(a): The extent of the relationship between risk and return is difficult to characterize, so suggest revising text.
- 4.A.ii.(b): We suggest edits as the term “asset-related factor” is neither defined nor used elsewhere.
- 4.B: Suggest clarification of high yielding-complex assets in text. Low yielding, complex assets likely would not benefit from the proposed disclosures.
- 4.B.i: The current structuring implies that illiquidity margins [4.B.i.(b)] and complexity margins [4.B.i.(c)] are subsumed under multi-scenario testing [4.B.i], while in reality the practices can be applied separately and independently. Suggest restructuring this section.
- Suggest striking 4.B.i.(d) in its entirety. The text is a statement rather than guidance. Additionally, The “moderately adverse” standard for AAT specifically excludes extreme tail

scenarios and thus shouldn't be in scope for AAT guidance. CTE measures necessarily include extreme scenarios beyond moderately adverse.

- 4.C.iv. The current structure implies that non-publicly traded assets originated by the company are the same as assets with internally determined fair values. To avoid this inference, a new section D is suggested in place of 4.C.iv.
- 4.D (original): Assumed investment expenses should be linked to actual expectations for expenses rather than the complexity of the assets; suggest changing “complexity of assets” to “expected expenses.”
- 4.E (original): Same comment as above in item 6 in the Background Section.

Section 5 Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets:

- 5.A.i: Strike “For the year-end 2022 and subsequent VM-30 actuarial memoranda,” from the text. This text is not necessary for the guideline.
- 5.A.i.(b): Add reinvestment assets in the equity section for consistency with regulator consensus: “For reinvestment assets in Equity-like Instruments.”
- 5.A.iii (new): Add text in this section to state that the sensitivities are not intended to define “moderately adverse” for the purposes of the Actuarial Opinion.
- 5.B.ii.(c): Clarify what long-term spreads are intended; we believe it is the spreads listed in Appendix I but would like clarification on this item.
- 5.B.iii: We suggest striking 5.B.iii in its entirety. The text presumes that factors contributing to the Guideline Excess Spread are not assumed to be contributing to additional losses. Yet Section 4.A.ii essentially requires that factors contributing to a Guideline Excess Spread include a margin or an explanation must be provided on how overperforming assets can be assumed to continue to outperform. Since this presumption is not necessarily true and the scope of assets is narrower than in Section 4.A.ii, we suggest eliminating this provision.
- 5.B.iv (original): The lack of context around “expected excess return” could be confusing, so we suggest revising the text.
- Guidance Note after 5.B.iv (original): Strike “(as opposed to perfection)” from the note.

Section 6 Reporting, Review, and Templates:

- 6.A: The required due date should be May 1st. The Guideline requires significant effort for companies and may not be feasible to provide earlier due to other competing requirements (including Q1 reporting). Additionally, several states do not require the Memorandum until after March 1st. Additionally, we would suggest a hardship allowance at the approval of the domestic regulator if May 1st were not an attainable submission date for some companies.
- 6.A (continued): The confidentiality and sharing provisions should not vary between a submission within the actuarial memorandum and a standalone document. They should also not deviate from existing state laws (noting that VM-30 does not contain confidentiality language).
- 6.B: VAWG cannot be subject to an Actuarial Guideline, so suggest moving to a guidance note at the start of this section.
- 6.C (original): Related to the question below, are the asset types being used for anything besides the template? If not, then the heading in C should eliminate the reference to “memorandum section aspects.”
- 6.C.i (original): We are seeking clarification of the categorization of asset classes in this section. Is the intent for companies to report under these groupings, which are inconsistent with how they are grouped elsewhere in the draft? For example, “Equity-like Instrument,” real estate and Schedule BA assets have separate categories in the asset types list, however, the current definition of Equity-like Instruments includes real estate and Schedule

BA assets. If the categorizing could be different than this list, would suggest striking the detailed list from this section.

Other topics:

- It isn't clear how the instructions and spreadsheet accommodate situations where yields, spreads, fees, defaults, etc. change over time.
- How would one determine if an asset is a Projected High Net Yield Asset if the AAT modeled returns vary by scenario?

ACLI is appreciative of your consideration of our comments and looks forward to a future discussion.

Thank you for your consideration,

A handwritten signature in cursive script, appearing to read "B Slutsker".

cc: Reggie Mazyck, NAIC; Ben Slutsker, Minnesota Department of Commerce

5/20/22

Actuarial Guideline AAT – 3rd Exposure**APPLICATION OF THE VALUATION MANUAL FOR TESTING THE ADEQUACY OF LIFE INSURER RESERVES****Background**

The *NAIC Valuation Manual (VM-30)* contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis. Regulators have observed a lack of uniform practice in the implementation of asset adequacy analysis. The variety of practice in incorporating the risk of complex assets into testing does not provide regulators comfort as to reserve adequacy. Examples of complex assets are structured securities, including asset-backed securities and collateralized loan obligations, as well as assets originated by the company or affiliated or contracted entity. An initial increase of this activity has been noted in support of general account annuity blocks; however, recent activity was noted in other life insurer blocks.

This Guideline is intended to provide uniform guidance and clarification of requirements for the appropriate support of certain assumptions for asset adequacy analysis performed by life insurers. In particular, this Guideline:

- (1) Helps identify reserve adequacy and claims-paying ability in moderately adverse conditions, including conditions negatively impacting cash flows from complex assets;
- (2) Clarifies elements to consider in establishing margins on asset-related assumptions;
- (3) Ensures recognition that higher expected gross returns from assets are, to some extent, associated with higher risk, and that assumptions fit reasonably within the risk-return spectrum;
- (4) Requires sensitivity testing regarding complex assets supporting life insurer business;
- (5) Identifies expectations in practice regarding the valuation of complex assets within asset adequacy analysis;
- (6) Establishes a process for researching and monitoring the risks associated with complex assets;
- (7) Reflects that while complex assets tend to have higher uncertainty regarding timing and amount of cash flows than more traditional investments, because complex assets are difficult to classify, and the regulatory concern is regarding the projected net yields and cash flows from those assets, the focus of the analysis requirements will be on assets categorized as high-yielding; and
- (8) Requires additional documentation of investment fee income relationships with affiliated entities or entities close to the company.

Text

1. Effective Date

This Guideline shall be effective for asset adequacy analysis of the reserves reported in the December 31, 2022 Annual Statement and for the asset adequacy analysis of the reserves reported in all subsequent Annual Statements.

Note: It is anticipated that the requirements contained in this Guideline will be incorporated into VM-30 at a future date, effective for a future valuation year. This Guideline will cease to apply to annual statutory financial statements when the corresponding VM-30 requirements become effective.

2. Scope

This Guideline shall apply to all life insurers with:

- A. Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) and non-unitized separate account assets or
- B. Over \$100 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) and non-unitized separate account assets and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.F.

{Drafting note – proposed language would be appreciated on the company scope; this exposure reflects a lower floor in 2B and that in Sections 4-5, only 4.a.i. applies to assets that are also not Projected High Net Yield Assets}

Actuarial reserve amounts are included in the amounts in A and B whether directly written or assumed through reinsurance and are determined before any reinsurance ceded credit.

The Guideline applies to assets supporting liabilities tested in the asset adequacy analysis except it does not apply to unitized separate account assets.

3. Definitions

- A. Equity-like Instrument. Assets that include the following:
 - i. Any assets that, for purposes of risk-based capital C-1 reporting, is in the category of common stock, i.e., has a 30% or higher risk-based capital charge.
 - ii. Any asset that is captured on Schedule A or Schedule BA of the Annual Statement.
 - iii. Bond funds.
- B. Fair Value. The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date as reported in the Annual Statement.
- C. Net Market Spread. For each asset, shall mean the average spread over zero coupon Treasury bonds that equates a bond's fair value as of the valuation date with its modeled cash flows across an arbitrage free set of stochastic interest rate scenarios, less the default assumption used in asset adequacy analysis.

For floating rate bonds, the Net Market Spread shall be calculated as the equivalent spread over Treasuries if the bonds were swapped to a fixed rate, less the default cost assumption used in asset adequacy analysis.

Market conventions and other approximations are acceptable for the purposes of this definition.
- D. Investment Grade Net Spread Benchmark. The applicable spread found in Appendix I using the weighted average life (WAL) of the associated non-Equity-like Instrument.
- E. Guideline Excess Spread. The net spread derived by subtracting the Investment Grade Net Spread Benchmark from the Net Market Spread for non-Equity-like Instruments. Investment expenses shall be excluded from this calculation.
- F. Projected High Net Yield Assets. Currently held or reinvestment assets that are either:

- i. An Equity-like Instrument assumed to have higher value at projection year 10 or later than under an assumption of annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after, or
- ii. Assets other than Equity-like Instruments where the assumed Guideline Excess Spread is higher than zero. In addition:
 - (a) Aggregation of the comparison between the assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model.
 - (b) For applicable assets that do not have an explicit WAL or term to maturity, the company shall disclose the method used to determine the appropriate WAL used for comparing to the Investment Grade Net Spread Benchmark.
 - (c) For purposes of the comparison between assumed Net Market Spread from each asset and the Investment Grade Net Spread Benchmark, investment expenses shall be excluded.

G. Non-complex Assets. Assets including the following:

- i. Cash or cash equivalents and
- ii. Treasuries and agency bonds.

{Drafting note: comments are welcome on the inclusion or exclusion of public corporate bonds and floaters}

Non-complex Assets are excluded from the scope of requirements in sections 4.B through 5.

4. Asset Adequacy Considerations and Documentation Expectations

A. **Net return and risk documentation.**

- i. For all assets, either currently held or in assumed reinvestments, provide:
 - (a) Identification of the assumed gross asset yield and the key components (for example, default and investment expenses) deducted to arrive at the assumed net asset yield.
 - (b) Explanation of any future reinvestment strategy assumptions that differ from current practices and experience.
- ii. For Projected High Net Yield Assets, either currently held or in assumed reinvestments, provide:
 - (a) A detailed explanation describing the extent to which higher expected gross returns from these assets are associated with higher risk. It shall also include, for the aspect of any higher expected gross returns not assumed to be associated with higher risk, an explanation of how overperforming assets with expected returns lying outside the risk-return spectrum can be assumed to persist and be available for reinvestments throughout the projection period in moderately adverse conditions.
 - (b) Commentary on how asset-related factors identified as being volatile and impactful through sensitivity testing or other means contain an appropriate margin to reflect this volatility and impact.

- (c) Identification of the extent to which Projected High Net Yield Assets are supporting major product categories, e.g., individual fixed annuities and pension risk transfers.
- B. **Model rigor.** Where significant risks associated with complex assets are not adequately captured with traditional modeling techniques associated with simple assets like corporate bonds, more rigorous modeling of those risks should occur.
 - i. Where necessary to adequately reflect the risk, multi-scenario testing of those risks specific to complex assets should be performed.
 - (a) For example, investments that may provide a higher expected return in part due to limited information, niche skill sets, or other factors may require unique scenarios (for instance to adequately capture credit or liquidity risk) to fully encompass potential sources of loss.
 - (b) Asset cash flows should be appropriately projected to reflect anticipated liquidity under adverse conditions. If such model aspects are not developed, sufficient additional conservatism to reflect this risk shall be applied.
 - (c) To the extent that the process for modeling or otherwise evaluating the risks is complex, and the potential for disconnect between reality and modeling increases, an additional margin to assumption(s) should be applied. Any such margin shall be applied in the direction of asset adequacy analysis results being less favorable.
 - (d) Note that a robust conditional tail expectation calculation considering all key risks specific to complex assets would likely show that tail losses (from low probability, high impact events) affect asset adequacy results.
 - ii. A company may use simplifications, approximations, and modeling efficiency techniques if the company can demonstrate that the use of such techniques does not make asset adequacy analysis results more favorable. These techniques may be less appropriate if the amount of complex, high-yielding assets becomes a higher percentage of total assets.
 - iii. Actuarial Standards of Practice (ASOPs), including ASOP No. 7 and No. 56 contain additional guidance on the use of models in the analysis of cash flows.
- C. **Fair Value determination.** In asset adequacy analysis, when an asset is projected to be available for sale, a Fair Value of that asset is established, based on market information. Fair Value should only be determined internally (by the insurance or investment management company) when the market-based value of the asset or similar asset cannot be obtained.
 - i. When the Fair Value of a material portion of supporting assets is determined internally, the actuarial memorandum shall contain a step-by-step description of the approach used to calculate the Fair Value of such assets.
 - ii. Provide the total Fair Value of assets that have values determined internally.
 - iii. When the Fair Value of a material portion of assets is determined internally, a sensitivity test should be performed (and the impact on asset adequacy analysis results presented) assuming a haircut to internally derived Fair Values that the company deems reasonable given the commensurate level of anticipated uncertainty.
 - iv. With respect to non-publicly traded assets originated by the company, within the company's group, or within an entity closely tied to a company's group (inclusive of the company's investment manager), practices to help ensure accurate valuation of those assets should be documented in the actuarial

memorandum. Also, provide the total Fair Value of such assets and disclose in detail how the following are appropriately reflected in the net cash flows:

- (a) Contractual agreements in place between such entities.
- (b) Any measures taken to ensure that the valuation of such assets is appropriate and accurate.
- (c) Revenue sharing, e.g., performance fees, between the entity responsible for providing investment or other types of services and the insurer, if applicable.

Also, assumed net cash flows from assets should be net of all explicit or implicit fees or expenses, such as origination fees, as well as reflective of other asset-related risks including credit risk, illiquidity risk, and other market risks.

- D. **Investments expenses (fees).** Assumed investment expenses, whether paid to an external asset manager or to internal investment management staff, as well as additional expenses that are directly attributable to the specific investments, should be commensurate with the complexity of the assets.
 - E. **Trends.** The actuarial memorandum should contain a detailed description of research and monitoring related to trends impacting risks associated with the insurer's complex assets or industry-wide or market-wide assets of similar type.
 - F. **Reinsurance modeling.** Related to reinsurance, relevant communications and disclosures from ASOP No. 11, for instance commentary on collectability and counterparty risk, should be presented in the memorandum.
 - G. **Borrowing.** Please identify if any borrowing is modeled besides to address very short-term liquidity needs. Also, verify borrowing and reinvestment rates to ensure that projections are not materially benefiting from arbitrage advantages.
5. Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets
- A. Sensitivity testing
 - i. For the year-end 2022 and subsequent VM-30 actuarial memoranda, perform and disclose, separately for (a) and (b), the asset adequacy analysis results from the following sensitivity tests:
 - (a) For reinvestment assets other than Equity-like Instruments, assume the Net Market Spreads (before deduction of investment expenses) for Projected High Net Yield Assets do not exceed the Investment Grade Net Spread Benchmark and apply the test to a baseline of a level Treasury rate scenario.

For the purposes of limiting the Net Market Spreads at the Investment Grade Net Spread Benchmark, Projected High Net Yield Assets may be aggregated together but shall not include any assets that are not Projected High Net Yield Assets.
 - (b) For Equity-like Instruments, assume annual total returns, before the deduction of investment expenses, of 4% for the first 10 projection years after the valuation date followed by 5% for projection year 11 and after.
 - ii. Strict technical compliance for each asset may not be practical for reasons such as model limitations. Professional judgment should be applied to produce sensitivity testing results that are consistent with the spirit of the test. A variety of alternative methods may be acceptable. Appropriate explanation and justification should be provided for the method that was employed.
 - B. For Projected High Net Yield Assets for non-Equity-like Instruments either currently held or in assumed

reinvestments, perform and disclose the following attribution analysis steps at the asset type level defined in Section 6.c.i.:

- i. State the assumed Guideline Excess Spread.
- ii. Estimate the proportion of the Guideline Excess Spread attributable to the following factors:
 - (a) Credit risk
 - (b) Illiquidity risk
 - (c) Deviations of current spreads from long-term spreads
 - (d) Volatility and other risks (identify and describe these risks in detail)
- iii. For each of the factors contributing to the Guideline Excess Spread, explain why the factor is not assumed to contribute to additional losses (tail or otherwise) related to the risks.
- iv. Where appropriate, apply judgment and provide commentary on the supporting rationale of how the expected excess return is estimated across the various risk components.

{Guidance note: a best-efforts approach (as opposed to perfection) is expected for the year-end 2022 attribution analysis}

6. Reporting, Review, and Templates

- A. The documentation, sensitivity test results, and attribution analysis referenced above are to be incorporated as a separate, easily identifiable section of the actuarial memorandum required by VM-30 or as a standalone document, with a due date to be established between March 1 and May 1 following the applicable valuation date. The separate section or standalone document shall be available to other state insurance commissioners in which the company is licensed upon request to the company. The confidentiality provisions in VM-30 regarding the actuarial memorandum are applicable to the separate section or standalone document required by this Guideline.
- B. The NAIC Valuation Analysis (E) Working Group (VAWG) shall serve as a resource in the targeted review of asset adequacy analysis related to modeling of business supported with Projected High Net Yield Assets. VAWG shall provide periodic reports identifying outliers and concerns regarding the analysis to help inform regulators on the effectiveness of the Guideline in meeting the eight objectives stated in the Background section.
- C. Sample memorandum section aspects / templates (to be completed) –
 - i. Asset types
 - (a) Treasuries and Agencies
 - (b) Public Corporate Bonds
 - (c) Convertible Bonds
 - (d) Floating Rate Notes
 - (e) Municipal Bonds
 - (f) Other Private Bonds
 - (g) Preferred Stock
 - (h) Agency Mortgage-Backed Securities or Collateralized Mortgage Obligations
 - (i) Non-Agency Commercial Mortgage-Backed Securities
 - (j) Non-Agency Residential Mortgage-Backed Securities
 - (k) Collateralized Loan Obligations
 - (l) Other Asset Backed Securities
 - (m) Equities or Equity-Like Instruments

- (n) Real Estate
 - (o) Mortgage Loans (Commercial and Residential)
 - (p) Schedule BA Assets
 - (q) Derivative Instruments linked to Equity-Like Assets
 - (r) Other Derivative Instruments
 - (s) Other - Not Covered Above³
- ii. Template for the asset summary.
 - iii. Template for components of net asset yield for various asset classes, with separate tables to be provided for initial assets and reinvestment assets.
 - iv. Template for sensitivity test aspects for fixed-income securities.
 - v. Template for sensitivity test results.
 - vii. Template for attribution analysis, with separate tables to be provided for initial assets and reinvestment assets.

Appendix I – Investment Grade Net Spread Benchmark

WAL (Weighted Avg Life)	Investment Grade Net Spread Benchmark (in bps)
1-10	170
11-20	175
21-30	185

Future Mortality Improvement Scale Development (VM-20) LATF Update #1



Mortality Improvements Life Work Group (MILWG), the Academy's Life Experience Committee and the SOA's Preferred Mortality Project Oversight Group ("Joint Committee")

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Life Actuarial Task Force (LATF) Meeting—May 2022

Agenda

- Items to be addressed in the 2022 scale recommendation
- COVID-19 approach
- Update on scale development timeline
- Next steps/discussion



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Items to be addressed in 2022 scale recommendation

Develop HMI (historical mortality improvement) and FMI (future mortality improvement) scales for use in 2022 valuation year.

The 2022 scales will address the following:

- ▣ Reflecting COVID-19 impacts
- ▣ Margin development
- ▣ Modification to smoothing method



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Approach to COVID-19 impact

- ▣ Quantification of COVID-19 impact
 - ▣ Data sources
 - ▣ Short- vs. medium- vs. longer-term impacts
 - ▣ Return to previously projected mortality level over time or residual excess mortality
 - ▣ Insured vs. general population considerations
 - ▣ Direct adjustment to MI rates or reflected in additional margins
- ▣ Implicit margins in MI scale development
 - ▣ Data source—general population data unadjusted for insured population differences (largest source of margin)
 - ▣ Starting MI level (HMI)
 - ▣ Long-term rate (FMI)
 - ▣ Limit on FMI assumption (20 years)



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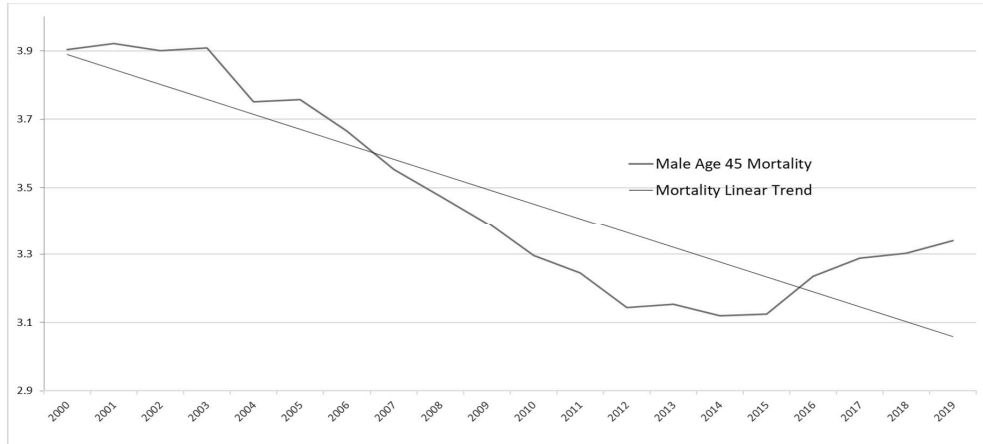


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Approach to COVID-19 impact

Example: Male Age 45—Social Security Administration (SSA) Mortality Rates—Pre-COVID-19



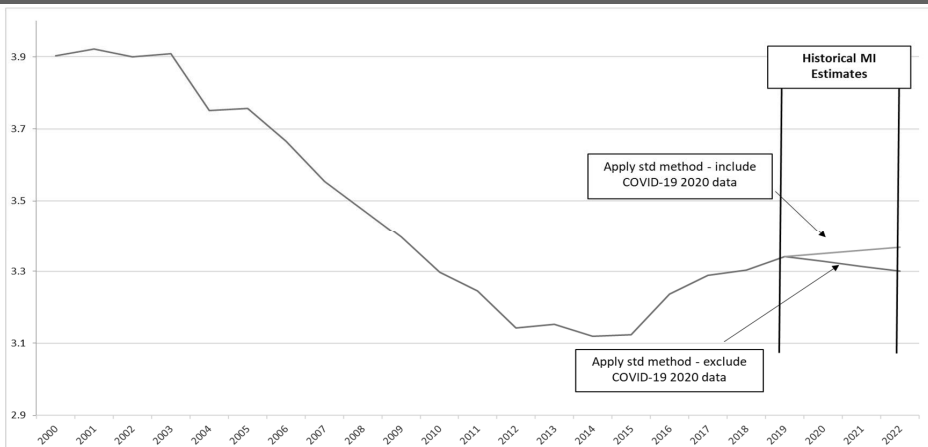
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Approach to COVID-19 impact

Example: Male Age 45—SSA Mortality Rates
 w/ HMI estimates both including and excluding 2020 COVID-19 impact in data

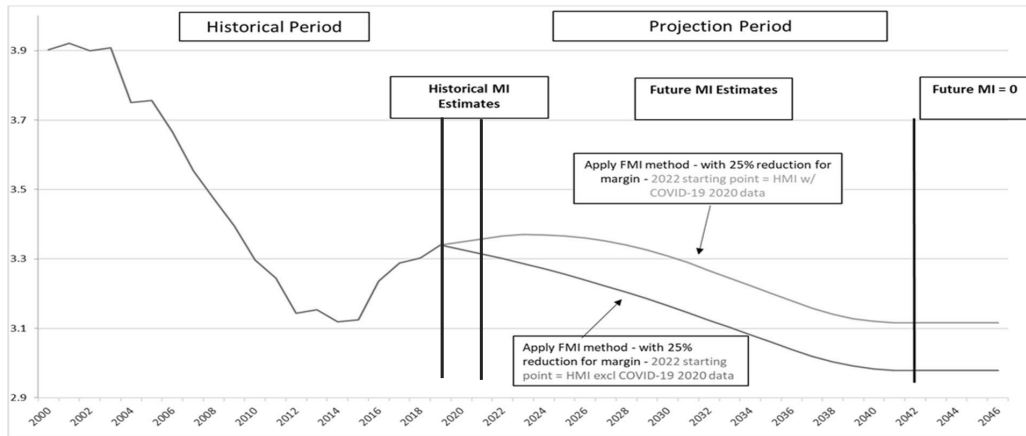


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Approach to COVID-19 impact
 Example: Male Age 45—SSA Mortality Rates
 w/ HMI estimates and FMI estimates

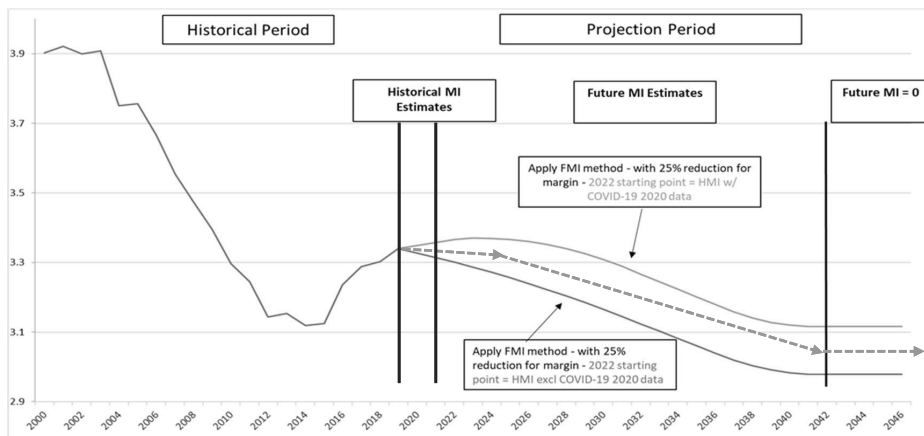


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Approach to COVID-19 impact
 Example: Male Age 45—SSA Mortality Rates
 w/ HMI estimates and FMI estimates and **Expected Recommendation**



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COVID-19 Impact—Modeling Scenarios

Historical MI—Scenarios being assessed	Description
1. 10-year historical average ending in 2020	including full deterioration for 2020 (most conservative)
2. 10-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (most optimistic)
3. 9-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (alternate)
4. 10-year CH [2]10 average ending in 2020 (assuming no improvement from 2019 to 2020)	muted impact of 2020 (intermediate)
Future MI—Scenarios being assessed	Description
1. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty around the future trend (= 25% reduction of Basic FMI rates in all years)
2. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty in future trend (= 25% reduction of Basic FMI rates in all years) <u>and an additional explicit margin for uncertainty around the COVID-19 medium-/long-term impacts that grades off over time.</u> Additional COVID-19 explicit margin—options for model testing: 1. 50% margin grades to normal margin of 25% over 5 years. 2. Decrease mortality improvement by 1% in year 1 grading linearly down to 0% in year 5.



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Slide 9

CH [2]10 added hyphens
 Craig Hanna, 5/11/2022

2022 MI scale development timeline (VM-20)

Updated May 2022

Milestones	Target Date
1. Receive 2020 data from the Centers for Medicare and Medicaid Services (CMS). SOA creates preliminary mortality estimates for 2020.	2/28/2022 (completed)
2. Define options for reflecting COVID-19 impact on HMI and FMI scale recommendations including margin.	4/28/2022 (completed)
3. Assess reserve impact of COVID-19 adjustment recommendation—run National Association of Insurance Commissioners (NAIC) model office under several scenarios.	6/1/2022 (in progress)
4. Determine smoothing method for FMI and HMI scales.	6/1/2022
5. Finalize recommendation for reflecting COVID-19 based on NAIC model office results.	7/1/2022
6. Present to LATF for exposure. <i>Assumes 60-day exposure period.</i>	7/15/2022
7. Receive SSA mortality estimates for 2020 from SOA (final SOA estimates).	8/15/2022
8. Receive SSA Trustees Report—Intermediate Projections for 2022.	8/15/2022
10. Respond to exposure comments obtain LATF approval of 2022 HMI and FMI.	9/15/2022
11. Publish 2022 HMI and FMI scales on SOA website.	9/30/2022



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Questions?



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Slide 12

CH [2]9 filled in Amanda's info
Craig Hanna, 5/10/2022

Reflection of COVID-19 in Life Insurance Mortality Improvement



Donna Claire, MAAA, FSA, CERA
Chairperson, American Academy of Actuaries
Life Experience Committee

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Life Actuarial Task Force (LATF) Meeting—May 26, 2022

Overview

- ❑ The American Academy of Actuaries' Life Experience Committee discussed how pandemics, and specifically COVID-19, would be reflected in projects such as asset adequacy testing and principle-based reserves (PBR) testing
- ❑ The committee's conclusion was that we will not find the perfect answer, but it would be helpful to develop a list of considerations that may be taken into account when developing mortality improvement assumptions



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General Questions

- Does COVID-19 impact the mortality improvement assumption for PBR up to the date of valuation?
- Does COVID-19 impact the mortality improvement assumption for asset adequacy testing?
- Does COVID-19 impact the future mortality improvement assumption for PBR?
- Does COVID-19 impact the future mortality improvement assumption for asset adequacy testing?
- When considering COVID-19, should decreases in the mortality improvement be considered for annuity/long-term care insurance (LTCI) mortality?



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What Should Be Considered a COVID-19 Death?

At issue: If one is trying to determine excess deaths due to COVID-19,

- Does the determination include all deaths where COVID-19 was a factor in the death?
- Are COVID-19 deaths only those where it is listed as the primary cause of death?
- How does one determine COVID-19 deaths when some states do not list cause of death?



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In Actuarial Work for PBR and Asset Adequacy Testing, Should Past COVID-19 Deaths Be Ignored for Mortality Improvement to date of Valuation?

Yes

1. Rare event covered by surplus/RBC
2. May have front-loaded deaths that would have occurred soon, so it is a positive for future mortality

No

1. Methodology originally established for PBR mortality improvement to date of valuation included all deaths
2. Ignoring it would be the equivalent of ignoring stock market corrections
3. If future mortality is expected to be better, it should be reflected in future mortality improvement numbers instead



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Factors That Can Impact Future Mortality Improvements

Positives

1. May have front-loaded deaths that would have occurred soon, so it is a positive for future mortality
2. Population mortality is generally improving, albeit at slower rates absent COVID-19; e.g., for cancer
3. Increased use of self-testing and telemedicine has increased access to medical care for many

Negatives

1. Long COVID
2. Mental health impact of COVID including suicides and drug use
3. Mortality rates on certain diseases like heart disease, diabetes, liver disease and hypertension not improving recently
4. Delay in care may lead to extra deaths
5. There are still additional waves of virus



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Considerations re: Future Mortality Rates

- Mortality improvement varies by socioeconomic variables. An actuary could review these and determine which quintile/decile best matches their company's block of business
- The larger provisions for adverse deviation (PADs) used on the mortality improvement assumption, the more uncertainty there is in the assumption
- Margins used in mortality improvement rates for PBR testing and asset adequacy do not have to be the same, but differences should be justified
- No studies yet done on offsets, e.g., annuity vs life insurance



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Considerations re: Future Mortality Rates—Cont'd

- To date, the negative impact of COVID-19 on long-term care insurance (LTCI) mortality improvement has not been studied: the positive impact of front-loaded deaths may be offset with claimants experiencing long COVID
- Expected mortality improvements vary by age groups
- Consider differences in pandemic versus endemic phases of COVID



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Regulatory Considerations

- No single answer works for all
- May want to consider setting an established range of acceptable mortality improvement rates that could be allowed



Thank You

- Questions?
- For more information, please contact the Academy's life policy analyst, Amanda Barry-Moilanen, at barrymoilanen@actuary.org.



Draft: 7/7/22

Life Actuarial (A) Task Force
Virtual Meeting
May 26, 2022

The Life Actuarial (A) Task Force met May 26, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ben Bock, Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen (MN); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Re-Exposed Amendment Proposal 2022-04

Pat Allison (NAIC) said the London Interbank Offered Rate (LIBOR) will be published through June 2023. She said the designated replacement for LIBOR is the Secured Overnight Financing Rate (SOFR). She said amendment proposal 2022-04, exposed for public comment through April 22, was drafted by the American Academy of Actuaries (Academy) to propose the *Valuation Manual* changes needed to effect the change from LIBOR to SOFR beginning in 2022 and carrying through to future years. Informal comments to the Academy from Rachel Hemphill (Texas Department of Insurance [DOI]) suggested removing references to years prior to 2022 and addressing the changes for 2022 with an NAIC staff memorandum instead of making a *Valuation Manual* change. Ms. Allison said her informal comments to the Academy recommended that the redlining be redone to show the proposed changes against existing *Valuation Manual* language. The formal comments (Attachment Eight-A) provided by the American Council of Life Insurers (ACLI) requested that the NAIC publish both LIBOR-based and SOFR-based spreads for 2022.

Ms. Allison discussed the NAIC staff memorandum (Attachment Eight-B) recommending a process for developing swap rates to be used for the remainder of 2022. She said the memorandum is consistent with the approach proposed in amendment proposal 2022-04 and with Section 9.F.8.d of VM-20, Requirements for Principle-Based Reserves for Life Products. She noted that the wording of Section 9.F.8.d allows for the publication of rates based on one source, which would preclude the NAIC from publishing both LIBOR-based rates and SOFR-based rates. She said the memorandum includes information that verifies that LIBOR is no longer effective. She noted that one of the two data providers used by the NAIC began providing SOFR rates instead of LIBOR in December 2021. Companies that have transactions based on LIBOR must use actuarial judgment to appropriately apply SOFR rates.

Ms. Allison said she revised amendment proposal 2022-04, authored by Alan Routhenstein (Academy), so that it is applicable only to the years 2023 and later. Mr. Carmello suggested removing the word “current” from the phrase “historical current SOFR spreads” from the revision proposed for Section 9.F.8.d.ii of VM-20

Mr. Weber made a motion, seconded by Mr. Chupp, to re-expose amendment proposal 2022-04 (Attachment Eight-C), including the change suggested by Mr. Carmello, and expose the NAIC staff memorandum both for a 13-day public comment period ending June 7. The motion passed unanimously.

2. Re-Exposed Amendment Proposal 2020-12

Brian Bayerle (ACLI) said the ACLI comment letter (Attachment Eight-D) proposes a few changes, including restoring the reference to immaterial hedging strategies, which seems to have been inadvertently dropped from an earlier version. He said the ACLI is recommending deferring the effective date to Jan. 1, 2024, or providing a 1-year deferral of aspects of the proposal.

Mr. Reedy noted that the amendment proposal was edited to add the following phrase to Section 9.E of VM-21, Requirements for Principle-Based Reserves for Variable Annuities: “The company may also consider historical experience for similar current or past hedging programs on similar products to support the error factor determined for the projection.”

Mr. Slutsker made a motion, seconded by Mr. Chupp, to re-expose amendment 2020-12 (Attachment Eight-E) for a 7-day public comment period ending June 1. The motion passed unanimously.

3. Heard an Update on the ESG Field Test

Scott O’Neal (NAIC) said the economic scenario generator field test includes an equity model, a Treasury model, and a corporate model. He gave a brief overview of the field test instructions (Attachment Eight-F), including what is to be tested for each model, and the required and optional field test runs. Mr. Bayerle suggested several clarifying edits for Mr. O’Neal’s consideration. Link Richardson (Academy) said test #7 should be revised to use a 3.25 mean reversion parameter with the Academy Interest Rate Generator (AIRG).

4. Discussed VM-20 and C3 Phase I Alternative Discounting Methodology

Mr. O’Neal said VM-20 stochastic reserves and C-3 Phase I use a discount method based on applying a 105% factor to the 1-year U.S. Treasury rate. He said that due to the inclusion of negative interest rates in the field test, the method must be adjusted to avoid making a negative interest rate even more negative. He said the proposed solution is to have companies provide undiscounted values for scenarios and projection periods with negative interest rates. NAIC staff will later apply the proper discounting method, using a 95% discounting factor to negative rates.

5. Discussed Comments on ESG Field Test Specifications, Instructions, and Templates

Mr. Bayerle shared the ACLI comments (Attachment Eight-G), which provided a few suggestions, including having more varied scenario sets to see how the generator will move under a number of conditions.

Mark Tenney (Mathematical Finance Company) commented (Attachment Eight-H) that the original parameterization of the Conning model should be included in the field test. He said the original parameterization helps to explain the excessive risk premium in the current market.

Having no further business, the Life Actuarial (A) Task Force adjourned.

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Brian Bayerle
Senior Actuary

April 22, 2022

Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Re: APF 2022-04

Dear Mr. Boerner:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments on APF 2022-04. ACLI supports this necessary effort to accommodate the eventual cessation of LIBOR.

We have several suggestions around the APF and the publishing of rates:

- It would be beneficial to produce both LIBOR and SOFR based spreads for 2022. We anticipate majority of in-force derivatives will still be on LIBOR until transition in 2023. Ideally, both rates could be published until 7/1/2023 provided data is available.
- Due to some of the operational changes that may be presented for both NAIC preparing the tables and for companies to implement them, it may be preferable to implement approach 2.A outlined in the Academy deck allowing for actuarial judgment.
- ACLI supports using a single spread adjustment instead of date-specific adjustments. This approach is straightforward operationally and does not produce a materially different result.
- We agree with the recommendation to defer day count conventions for a future APF.

Thank you for your consideration of our comments.

A handwritten signature in black ink, appearing to read 'B Bayerle', is positioned above the distribution list.

cc: Reggie Mazyck, NAIC

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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MEMORANDUM

TO: Life Actuarial (A) Task Force

FROM: Pat Allison, NAIC Staff

DATE: May 26, 2022

RE: Recommended replacement related to APF 2022-04 Swap Spreads and LIBOR transition to SOFR

Background

The purpose of this memo is to recommend: 1) Secured Overnight Financing Rate (SOFR) swap spreads as the replacement for LIBOR swap spreads upon adoption by LATF, and 2) The approach to be used in calculating current and long-term swap spread curves from the date of this adoption through the remainder of 2022. These recommendations are consistent with APF 2022-04 (which would be effective for the 2023 *Valuation Manual*), which identifies the SOFR as the replacement for LIBOR, and the VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads, cited below:

A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between. The three-month and six-month points on the swap spread curves shall be the market-observable values for these tenors. Currently, this shall be the corresponding London Interbank Offered Rate (LIBOR) spreads over Treasuries. When the NAIC determines LIBOR is no longer effective, the NAIC shall recommend a replacement to the Life Actuarial (A) Task Force which shall be effective upon adoption by the Task Force.

The last sentence above notes that the NAIC shall recommend “a replacement”, which indicates an intent to replace the prescribed current and long-term swap spread curves with a single replacement, as opposed to continuing the NAIC’s prescription of LIBOR beyond the adoption date.

Determination that LIBOR is no longer effective

An American Academy of Actuaries’ extrapolation of data published on April 13 by the International Swaps and Derivatives Association (ISDA) Clarus Financial Technology¹ shows that SOFR-based transactions are growing in popularity and can be expected to reach in July or August a two-thirds majority of newly executed USD interest rate derivatives (based on a risk-based DV01 metric). A Bloomberg February 9 article² states that over two-thirds of newly executed USD interest rate swaps in

¹ See “The Percentage of DV01” chart accessible via “The Charts” link within this ISDA-Clarus 2022-04-13 publication: <https://www.clarusft.com/latest-data-shows-sofr-trading-soaring/>

² See “Growth in SOFR Swaps Volume” within this 2022-02-09 Bloomberg article: <https://www.bloomberg.com/professional/blog/sofr-liquidity-eclipses-libor/>

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January 2022 were SOFR swaps (with the floating rate based on SOFR) rather than LIBOR swaps (with the floating rate based on LIBOR). Based on the information provided in these publications, NAIC staff has determined that LIBOR is no longer effective.

Actuarial judgment may be required in the use of prescribed swap spreads (for example, in the case where companies have a combination of SOFR and LIBOR-based swaps). VM-20 Section 9.F.8.d states, in part “Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model *wherever appropriate* for transactions and operations...” (emphasis added).

Recommended Replacement for Current Benchmark Swap Spreads

Effective [TBD, potentially June 30, 2022] and through December 31, 2022, NAIC staff recommends that for each month-end date, LIBOR swap spreads shall be replaced with SOFR swap spreads³:

- 3-month LIBOR spread should be replaced with 3m SOFR swap⁴ spread
- 6-month LIBOR spread should be replaced with 6m SOFR swap spread
- 1-year swap spread should be replaced with 1y SOFR swap spread
- ...
- 30-year swap spread should be replaced with 30y SOFR swap spread

Recommended Replacement for Long-Term Benchmark Swap Spreads

Effective on the adoption date by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed and through December 31, 2022, NAIC staff recommends the following approach for the calculation of long-term benchmark swap spreads, consistent with APF 2022-04:

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. If the data source provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.
2. Calculate SOFR swap spreads as follows for each business day “u” on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:
 - a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:
SOFR swap spread(m,u) = SOFR swap rate(m,u) - Treasury yield(m,u).
3. Calculate SOFR swap spreads as follows for each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilizing Bloomberg’s 2021-03-05 published USD Spread Adjustments:
 - a. For each maturity “m” = 3 or 6 months, and business day “u”,
 - i. SOFR swap spread(3 months,u) = LIBOR swap spread(3 months,u) - 0.26161% (the USD 3-month Spread Adjustment)
 - ii. SOFR swap spread(6 months,u) = LIBOR swap spread(6 months,u) - 0.42826% (the USD 6-month Spread Adjustment)

³ During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap from the LIBOR swap.

⁴ 3-month and 6-month SOFR swap rates are defined herein as the fixed rate one party pays at the end of three months or six months in exchange for receiving at such time 3-month SOFR or 6-month SOFR, calculated on a compounded in arrears basis.

- b. For each maturity “m” = 1 ... 30 years, and business day “u”:
SOFR swap spread(m,u) = LIBOR swap spread(m,u) - 0.26161% (the USD 3-month Spread Adjustment)
4. Average the swap spread data from the data sources by maturity over the prescribed observation (rolling 15-year period).
 5. Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
 6. Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), Table J shows Long-Term Benchmark Swap Spreads

In Table J, NAIC staff shall clarify that from the adoption date forward, current and long-term benchmark swap spreads are SOFR swap spreads. [Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.

Life Actuarial (A) Task Force
Updated Exposure of APF 2022-04

Swap Spreads and London Inter-Bank Offered Rate (LIBOR)
Transition to the Secured Overnight Financing Rate (SOFR)

Note this revised APF is complemented by a May 26, 2022 memo from NAIC staff to LATF on a recommended replacement to LIBOR swap spreads effective [TBD, potentially June 30, 2022].

Please send comments to Reggie Mazyck @ RMazyck@NAIC.Org by close of business on June [], 2022.

Dates: Received	Reviewed by Staff	Distributed	Considered
03/08/22	RM	03/08/22	03/10/22
Notes: APF 2022-04			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form**

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Alan Routhenstein, on behalf of the American Academy of Actuaries’ Life Reserves Work Group, Annuity Reserves and Capital Work Group, and Variable Annuity Reserves and Capital Work Group

Pat Allison, NAIC staff

Title of the Issue:

Swap Spreads and London Inter-Bank Offered Rate (LIBOR) transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance in light of the LIBOR transition to SOFR.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-20 Section 9.F.8.d, VM-20 Appendix 2.F, VM-20 Appendix 2.G
 January 1, 2022 NAIC *Valuation Manual*

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

Proposed edits to VM-20 for LIBOR transition to SOFR are shown in the attached Appendix

4. State the reason for the proposed amendment? (You may do this through an attachment.)

- a. Bank regulators and a group of swap market participants have agreed that for interbank interest rate swaps executed after 2021, the floating rate needs to be based on an index other than LIBOR.
- b. During 2021 the swap market evolved such that the definition of a standard n-year interest rate swap changed in January 2022 to be a SOFR swap (for which the floating rate is based on SOFR) from the historical LIBOR swap (for which the floating rate is LIBOR).
- c. As a result, VM-20 instructions for how the NAIC will calculate and publish swap spreads needs to be updated for:
 - i. Current Benchmark swap spreads (as of each month end); and
 - ii. Long-Term Benchmark swap spreads (as of each quarter end)
- d. The associated presentation provides further background and rationale for this proposal.

NAIC Staff Comments:

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Appendix

Proposed amendments to VM-20 for APF 2022-04 on Swap Spreads and LIBOR transition to SOFR

VM-20 Section 9.F.8.d Procedure for Setting Prescribed Gross Asset Spreads.....:

- d. Interest rate swap spreads over Treasuries shall be prescribed by the NAIC for use throughout the cash-flow model wherever appropriate for transactions and operations including, but not limited to, purchase, sale, settlement, cash flows of derivative positions and reset of floating rate investments. A current and long-term swap spread curve shall be prescribed for year one and years four and after, respectively, with yearly grading in between.
 - i. The current prescribed swap spread curve shall be the Secured Overnight Financing Rate (SOFR) swap curve.
 - ii. The long term SOFR swap spread curve, given that the SOFR swap market did not emerge before late 2021 and that SOFR is an index for which there is no official data before April 2, 2018, shall be calculated based on 15 year moving averages of prescribed estimates of historical SOFR swap spreads.

VM-20 Appendix 2.F Current Benchmark Swap Spreads:

F. Current Benchmark Swap Spreads

1. For tenors of 3 months, 6 months, and one year to 30 years, extract swap spread data determined as of the last business day of the month by maturity from at least two reputable data sources. If the data source provides swap rates rather than swap spreads, convert the swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.
2. Average the swap spreads from the data sources by maturity determined as of the last business day of the month.
3. Publish the Current Benchmark Swap Spreads by maturity in a table.

[Drafting Note: The tables will be labeled to indicate they contain SOFR swap spreads.]

VM-20 Appendix 2.G Long-Term Benchmark Swap Spreads:

G. Long-Term Benchmark Swap Spreads

1. Extract daily swap spread data over the prescribed observation period (rolling 15-year period) ending on the last business day of the quarter from at least two reputable data sources. If the data source

provides swap rates rather than swap spreads, convert the daily swap rate for each maturity to a swap spread by subtracting the corresponding maturity Treasury yield from the swap rate.

2. Starting in 2023 and before 2037, calculate SOFR swap spreads as follows for each business day “u” on or after the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed:

- a. For each maturity “m” = 0.25, 0.5, 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

3. For each business day before the effective date of the adoption by the Life Actuarial (A) Task Force of SOFR swap spreads as the replacement for swap spreads previously prescribed, utilize Bloomberg’s 2021-03-05 published USD Spread Adjustments as follows:

- a. For each maturity “m” = 3 or 6 months, and business day “u”:

- i. $\text{SOFR swap spread}(3 \text{ months},u) = \text{LIBOR swap spread}(3 \text{ months},u) - 0.26161\%$
(the USD 3-month Spread Adjustment)

- ii. $\text{SOFR swap spread}(6 \text{ months},u) = \text{LIBOR swap spread}(6 \text{ months},u) - 0.42826\%$
(the USD 6-month Spread Adjustment)

- b. For each maturity “m” = 1 ... 30 years, and business day “u”:

$$\text{SOFR swap spread}(m,u) = \text{LIBOR swap spread}(m,u) - 0.26161\% \text{ (the USD 3-month Spread Adjustment)}$$

4. During and after 2037, calculate SOFR swap spreads as follows for each maturity “m” = 0.25, 0.5, 1 ... 30 years:

$$\text{SOFR swap spread}(m,u) = \text{SOFR swap rate}(m,u) - \text{Treasury yield}(m,u).$$

5. Average the swap spread data from the data sources by maturity over the prescribed observation (rolling 15-year period).
6. Calculate the Long-Term Benchmark Swap Spreads as the 85% conditional mean for each of the 32 maturity categories (three-month, six-month, one-year, two-year, ... 30-year) using the same business trading days as were used in the 85% conditional mean for long-term bonds spreads.
7. Publish the Long-Term Benchmark Swap Spreads in a table. Among tables published on the NAIC website (See Subsection H), Table J shows Long-Term Benchmark Swap Spreads.



Brian Bayerle
Senior Actuary

May 3, 2022

Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Re: March Exposure of APF 2020-12

Dear Mr. Boerner:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments on the 3/31 re-exposure of APF 2020-12 (the APF).

ACLI is appreciative of LATF for the continued effort to improve the APF. We believe this draft is a significant step forward to address the regulator concern around modeling of hedges while reducing the potential unintended consequences of the proposal. ACLI has several suggestions to improve upon the APF for the next and hopefully final exposure.

Addressing the inadvertent exclusion of immaterial hedging strategies

In at least one prior draft of the APF, explicit language was included to address immaterial hedging strategies. The APF currently does not contain this language. Based on the verbal comments on the 3/31 call, we believe this was an unintentional omission during redrafting. We support excluding immaterial hedging strategies from the requirements of the APF and have provided a markup of the language in Appendix A.

Improvements in text regarding new and changed hedging strategies in VM-21 Section 9.C.7

ACLI is suggesting a redrafting of this section for completeness and to promote consistent application. Our review of the exposure indicated (1) new hedging strategies were not explicitly addressed, (2) current VM-21 references to experience from a hedging strategy on similar annuity products had been omitted, and (3) there was no explicit instruction to use the results of mock testing in establishing the E factor. Moreover, given that the construct involves multiple layers of nested conditions, we felt that restructuring these provisions in an outline form would be beneficial.

We have provided a revised VM-21 Section 9.C.7 (Appendix B) that reflects all of the above improvements.

Editorial consistency for E-Factors

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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Through the Valuation Manual, there is an inconsistency with E-Factors, and are sometimes numeric and sometimes percentages. We would suggest revising this consistently, which is inherently an editorial change.

Implementation Date

We respectfully request a January 1, 2024 effective date or an optional 1-year deferral of aspects of the proposal if approved by the domestic regulator. If the former request is not feasible, we would propose an exception under the definition of “future hedging strategy” that, at the option of the company and with domestic regulator approval, hedging strategies that were not CDHS’s under the 2022 Valuation Manual do not need to be considered future hedging strategies, however limit this request to 2023 Valuation Manual only (this could perhaps be addressed via a drafting note).

Companies that have hedge programs but not a CDHS, particularly those using the option found in VM-21 Section 4.A.4.a.ii.b, may need significant time and effort to integrate their hedge programs into statutory valuation modeling systems. Along with the large work effort needed to code the hedges into the software, significant additional time will be needed to vet the robustness and integrity of the model and to understand the impact and volatility of results. Many hedge programs are currently designed for and monitored under multiple metrics and we believe that a 2023 implementation will not allow sufficient time for coding plus critical review work to be effectively completed. A rushed implementation could unnecessarily expose companies to potential unexpected financial results, reporting errors, or both. The adoption of VM-21 was thoughtfully preceded by a long period of investigation, testing, and refinement. Rapidly changing a fundamental aspect of VM-21 without adequate lead time could be highly disruptive.

Thank you for your consideration.



cc: Reggie Mazyck, NAIC

Appendix A: Markup to exclude immaterial hedging strategies

VM-20 Section 2.H

The company shall establish, for the DR and SR, a standard containing the criteria for determining whether an assumption, risk factor, future hedging strategy, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks under VM-20 Section 9.B.1. Such a standard shall also apply to the NPR with respect to VM-20 Section 2.G and when determining whether a future hedging strategy must be modeled.

VM-20 Section 6.A.1.b

A company may not exclude a group of policies for which there is one or more future hedging strategies supporting the policies from SR requirements, except in the case where all future hedging strategies supporting the policies are solely associated with product features that are determined to not be material under Section 7.B.1 due to low utilization or when all future hedging strategies are not required to be modeled as per 7.K.2.

VM-20 Section 7.K

K. Modeling of Derivative Programs

1. When determining the DR and the SR, the company shall include in the projections the appropriate costs and benefits of derivative instruments that are currently held by the company in support of the policies subject to these requirements. The company shall also include the appropriate costs and benefits of anticipated future derivative instrument transactions associated with the execution of future hedging strategies supporting the policies, as well as the appropriate costs and benefits of anticipated future derivative instrument transactions associated with non-hedging derivative programs (e.g., replication, income generation) undertaken as part of the investment strategy supporting the policies, provided they are normally modeled as part of the company's risk assessment and evaluation processes.
2. Notwithstanding the above requirements, a company may elect to not model a future hedging strategy if it can demonstrate that not modeling such a strategy does not understate the reserve by a material amount as defined in Section 2.H.

VM-21 1.E

Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, future hedging strategy, or other element of the principle-based valuation has a material impact on the size of the reserve or TAR. This standard shall be applied when identifying material risks and whether a future hedging strategy must be modeled.

VM-21 Section 4.A.4

Modeling of Hedges

- a. For a company that does not have a future hedging strategy supporting the contracts:
 - i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling, since they are not included in the company's investment strategy supporting the contracts.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets.
- b. For a company with one or more future hedging strategies supporting the contracts, the detailed requirements for the modeling of hedges are defined in Section 9. The following paragraphs are a high-level summary and do not supersede the detailed requirements.
 - i. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the SR.
 - ii. The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future through the execution of the future hedging strategies supporting the contracts. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a SR as the weighted average of two CTE70 values; first, a CTE70 ("best efforts") representing the company's projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 ("adjusted") which shall use only hedge assets held by the company on the valuation date and no future hedge purchases. These are discussed in greater detail in Section 9. The SR shall be the weighted average of the two CTE70 values, where the weights reflect the error factor (E) I determined following the guidance of Section 9.C.4.
 - iii. The company is responsible for verifying compliance with all requirements in Section 9 for all hedging instruments included in the projections.
 - iv. The use of products not falling under the scope of these requirements (e.g., equity-indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.
 - v. Notwithstanding the above requirements, a company may elect to not model a future hedging strategy when determining the SR if it can demonstrate that not modeling such a strategy does not understate TAR by a material amount as defined in Section 1.E.

VM-31 Section 3.D.11.k

Non-modeled Future Hedging Strategies due to Immateriality – A description of each future hedging strategy that is not modeled due to immateriality, and a statement that the required VM-20 Section 7.K.2 demonstration is available upon request and shows that not modeling the future hedging strategy does not understate the reserve by a material amount.

VM-31 Section 3.F.2.f

Non-modeled Future Hedging Strategies due to Immateriality – A description of each future hedging strategy that is not modeled due to immateriality, and a statement that the required VM-21 Section 4.A.4.b.v demonstration is available upon request and shows that not modeling the future hedging strategy does not understate TAR by a material amount.

Appendix B: Revised language for new and materially changed hedging strategies

(Note: The additions for completeness are highlighted in green.)

VM-21 Section 9.C.7

7. When there is a new hedging strategy or a change to an existing hedging strategy, the E factor shall be set based on the materiality of the change, the amount of experience under the new or changed strategy, the existence of robust mock testing, and various principles and limits, as follows:
- a. For a new or materially changed hedging strategy with less than 12 months of experience, the E factor shall be determined on the following basis.
 - i. When the new or materially changed hedging has less than 12 months of experience but not less than 3 months of experience
 1. If there is robust mock testing, the E factor should reflect the amount of experience available, the results of mock testing, and the limits of Section 9.C.4. For new strategies, the E factor should also reflect any historical experience with the strategy on similar products. For materially changed strategies, the E factor should also reflect the degree and nature of change, as applicable; the results of mock testing; the limits of Section 9.C.4; and a margin to including a margin to reflect uncertainty in future hedge effectiveness based on the degree and nature of change, as applicable.
 2. Otherwise, the E factor shall be 1.0.
 - ii. When the new or materially changed hedging strategy has less than 3 months of experience
 1. If the hedging is associated with a new product or newly acquired block and there is robust mock testing, the E factor should reflect the amount of experience available, the results of mock testing, and the limits of Section 9.C.4. For new strategies, the E factor should also reflect any historical experience with the strategy on similar products. For materially changed strategies, the E factor should also reflect the degree and nature of change, as applicable; the results of mock testing; the limits of Section 9.C.4; and a margin to including a margin to reflect uncertainty in future hedge effectiveness based on the degree and nature of change, as applicable. For both new and materially changed strategies, the E factor shall also be subject to a floor of 0.3 unless prior approval is obtained from a domestic regulator to use a lower E factor.
 2. Otherwise, the E factor shall be 1.0 unless prior approval is obtained from a domestic regulator use a lower E factor, in which case the E factor approved by the domestic regulator should reflect the above considerations and limits.
 - b. For a minor refinement within a hedging strategy, the E factor may need to reflect a margin to reflect any additional uncertainty associated with the refinement.

Dates: Received	Reviewed by Staff	Distributed	Considered
11/16/20	RM		
Notes: APF 2020-12			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form***

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

Identification:

Hedging Drafting Group of LATF

Title of the Issue:

Reflect all future hedging strategies in VM-20 and VM-21. Revise hedge modeling to increase E factor (VM-21) or residual risk (VM-20) when future hedging strategies are not clearly defined.

2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

VM-01, VM-20 Section 6.A.1.b, VM-20 Section 7.E.1.g, VM-20 Section 7.K, VM-20 Section 7.L, VM-21 Section 1.D.2, VM-21 Section 4.A.4, VM-21 Section 4.D.4.b, VM-21 Section 6.B.3.a.ii, VM-21 Section 6.B.3.b.ii, VM-21 Section 6.B.5, VM-21 Section 9, VM-31 Section 3.C.5, VM-31 Section 3.D.6.f, VM-31 Section 3.D.14.a and 3.D.14.b, VM-31 Section 3.E.5, VM-31 Section 3.F.8, VM-31 Section 3.F.12.c, VM-31 Section 3.F.16.a and Section 3.F.16.b

January 1, 2022 NAIC Valuation Manual

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

See attached.

4. State the reason for the proposed amendment? (You may do this through an attachment.)
 1. Consistent definition of CDHS for use in VM-20 and VM-21.
 2. Add a definition for “future hedging strategy,” consistent with the definition for CDHS and the current VM-01 definition of “derivative program”, which VM-01 notes includes hedging programs.
 3. Add a definition for “hedging transactions,” taken from the APPM but modified slightly to be consistent with Valuation Manual terminology.
 4. Reflect all of a company’s future hedging strategies, but reflect the additional error (VM-21) or residual risk (VM-20) that is presented by a future hedging strategy not being clearly defined.
 5. Remove optionality for liquidating currently held hedges if the company does not have a future hedging strategy. Language has been added for consideration to keep this optionality for the adjusted run for a company that does have a future hedging strategy (which would not be modeled in the adjusted run), as the drafting group is interested in additional input on this item. A reporting item to disclose the impact of any such liquidation is added, to provide additional regulator comfort if this optionality is included in the final adopted edits.
 6. New hedging strategies (those without at least 12 months experience or 3 months of experience and robust mock testing) have an E factor of 1.0 for VM-21, unless they are new hedging strategies backing a newly introduced or newly acquired product or block of business, which may have an E factor as low as 0.3. Moreover, with prior domestic regulator approval, which should mitigate regulator concerns that strategy changes implemented just before year end may allow for manipulation of results, robust

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mock testing is sufficient to allow an E factor lower than 1.0. Note that the current draft VM-22 only allows modeling hedges after they have been in place for 6 months, and we would recommend that be revised to be in line with these changes. When only CDHS were modeled in VM-21, new hedging strategies with no experience had E factors as low as 0.5 even without meaningful analysis. This treatment was much too lenient for new hedging strategies.

* This form is not intended for minor corrections, such as formatting, grammar, cross-references or spelling. Those types of changes do not require action by the entire group and may be submitted via letter or email to the NAIC staff support person for the NAIC group where the document originated.

NAIC Staff Comments:

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- The term “clearly defined hedging strategy” (CDHS) means a future hedging strategy for which the following attributes are clearly documented:
 - a. The specific risks being hedged (e.g., cash flow, fee income, policy interest credits, delta, rho, vega, etc.).
 - b. The hedging objectives.
 - c. The material risks that are not hedged (e.g., variation from expected mortality, withdrawal, and other utilization or decrement rates assumed in the hedging strategy, etc.).
 - d. The financial instruments used to hedge the risks.
 - e. The hedging strategy’s trading rules, including the permitted tolerances from hedging objectives.
 - f. The metrics, criteria, and frequency for measuring hedging effectiveness.
 - g. The conditions under which hedging will not take place and for how long the lack of hedging can persist.
 - h. The group or area, including whether internal or external, responsible for implementing the hedging strategy.
 - i. Areas where basis, gap or assumption risk related to the hedging strategy have been identified.
 - j. The circumstances under which hedging strategy will not be effective in hedging the risks.

Guidance Note: For purposes of the CDHS documented attributes, “effectiveness” need not be measured in a manner as defined in *SSAP No. 86—Derivatives* in the AP&P Manual.

- The term “future hedging strategy” is a derivative program undertaken by a company to manage risks through one or more future hedging transactions, including the future purchase or sale of hedging instruments and the opening and closing of hedging positions.

A future hedging strategy may be dynamic, static or a combination thereof. A strategy involving the offsetting of the risks associated with products falling under the scope of different requirements within the *Valuation Manual* (e.g., VM-20, VM-21, or VM-22) does not qualify as a future hedging strategy.

- The term “hedging transaction” means a derivative(s) transaction which is entered into and maintained to reduce:
 - a. The risk of a change in the fair value, the value on a statutory, GAAP, or other basis, or cash flow of assets and liabilities which the company has acquired or incurred or has a firm commitment to acquire or incur or for which the company has a forecasted acquisition or incurrence; or
 - b. The currency exchange rate risk or the degree of foreign currency exposure in assets and liabilities which the company has acquired or incurred or has a firm commitment to acquire or incur or for which the company has forecasted acquisition or incurrence.

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VM-20 Section 6.A.1.b

A company may not exclude a group of policies for which there is one or more future hedging strategies supporting the policies from SR requirements, except in the case where all future hedging strategies supporting the policies are solely associated with product features that are determined to not be material under Section 7.B.1 due to low utilization.

VM-20 Section 7.E.1.g

Notwithstanding the above requirements, the modeled reserve shall be the higher of that produced by the modeled company investment strategy and that produced by substituting an alternative investment strategy in which the fixed income reinvestment assets have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs and investment expenses by projection year that are consistent with a credit quality blend of 50% PBR credit rating 6 (A2/A) and 50% PBR credit rating 3 (Aa2/AA).

Policy loans, equities and derivative instruments associated with the execution of future hedging strategies supporting the policies are not affected by this requirement.

VM-20 Section 7.K

K. Modeling of Derivative Programs

1. When determining the DR and the SR, the company shall include in the projections the appropriate costs and benefits of derivative instruments that are currently held by the company in support of the policies subject to these requirements. The company shall also include the appropriate costs and benefits of anticipated future derivative instrument transactions associated with the execution of future hedging strategies supporting the policies, as well as the appropriate costs and benefits of anticipated future derivative instrument transactions associated with non-hedging derivative programs (e.g., replication, income generation) undertaken as part of the investment strategy supporting the policies, provided they are normally modeled as part of the company's risk assessment and evaluation processes.
2. For each derivative program that is modeled, the company shall reflect the company's established investment policy and procedures for that program; project expected program performance along each scenario; and recognize all benefits, residual risks and associated frictional costs. The residual risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, etc.). Frictional costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. For future hedging strategies supporting the policies, the company may not assume that residual risks and frictional costs have a value of zero, unless the company demonstrates in the PBR Actuarial Report that "zero" is an appropriate expectation. VM-21 Section 1.B Principle 5 applies as a general principle for the modeling of future hedging strategies.
3. In circumstances where one or more material risk factors related to a derivative program are not fully captured within the cash-flow model used to calculate CTE 70, the company shall reflect such risk factors by increasing the SR as described in Section 5.E.

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4. In circumstances where documentation outlining the future hedging strategies is incomplete, the company shall reflect the future hedging strategies not being clearly defined by increasing the SR as described in Section 5.E. To support no increase to the SR, there should be very robust documentation outlining each future hedging strategy. In particular, the SR shall be at least as great as the SR that would result if a future hedging strategy were not reflected in the SR, if the documentation is materially incomplete for any of the individual CDHS attributes (a) through (j), as listed in VM-01.

Any increases required to the SR to reflect that documentation is not available to support that the future hedging strategies are clearly defined shall be in addition to increases to the SR pursuant to Section 7.K.3 above.

Guidance Note: Section 5.E requires that the company “Determine any additional amount needed to capture any material risk included in the scope of these requirements but not already reflected in the cash-flow models using an appropriate and supportable method and supporting rationale.” In the case of a derivative program that is a future hedging strategy, Section 7.K.3 requires such an increase for disconnects between the hedge modeling and the future hedging strategy, while Section 7.K.4 requires such an increase for disconnects between the loosely defined future hedging strategy and what may actually take place.

VM-20 Section 7.L (Remove entire Section 7.L)

VM-21 Section 1.D.2 (Delete entire definition and renumber subsequent sections VM-21 Section 1.D.3 and VM-21 Section 1.D.4)

VM-21 Section 4.A.4

Modeling of Hedges

- a. For a company that does not have a future hedging strategy supporting the contracts:
 - i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling, since they are not included in the company’s investment strategy supporting the contracts.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets.
- b. For a company with one or more future hedging strategies supporting the contracts, the detailed requirements for the modeling of hedges are defined in Section 9. The following paragraphs are a high-level summary and do not supersede the detailed requirements.

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- i. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the SR.
- ii. The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future through the execution of the future hedging strategies supporting the contracts. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and no future hedge purchases. These are discussed in greater detail in Section 9. The SR shall be the weighted average of the two CTE70 values, where the weights reflect the error factor I determined following the guidance of Section 9.C.4.
- iii. The company is responsible for verifying compliance with all requirements in Section 9 for all hedging instruments included in the projections.
- iv. The use of products not falling under the scope of these requirements (e.g., equity-indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

VM-21 Section 4.D.4.b

Notwithstanding the above requirements, the SR shall be the higher of that produced by the modeled company investment strategy and that produced by substituting an alternative investment strategy in which the fixed income reinvestment assets have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of 50% PBR credit rating 6 (A2/A) and 50% PBR credit rating 3 (Aa2/AA).

Policy loans, equities and derivative instruments associated with the execution of future hedging strategies supporting the contracts are not affected by this requirement.

VM-21 Section 6.B.3.a.ii – Footnote (Footnote at Bottom of Page 21-23)

Throughout this Section 6, references to CTE70 (adjusted) shall also mean the SR for a company that does not have a future hedging strategy supporting the contracts as discussed in Section 4.A.4.a.

VM-21 Section 6.B.3.b.ii

Calculate the Prescribed Projections Amount as the CTE70 (adjusted) using the same method as that outlined in Section 9.C (which is the same as SR following Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts) but substituting the assumptions prescribed by Section 6.C. The calculation of this Prescribed Projections Amount also requires that the scenario reserve for any given scenario be equal to or in excess of the cash surrender value in aggregate on the valuation date for the group of contracts modeled in the projection.

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VM-21 Section 6.B.5

Cash flows associated with hedging shall be projected in the same manner as that used in the calculation of the CTE70 (adjusted) as discussed in Section 9.C or Section 4.A.4.a for a company without a future hedging strategy supporting the contracts.

VM-21 Section 9

Section 9: Modeling of Hedges under a Future Hedging Strategy

A. Initial Considerations

1. Subject to Section 9.C.2, the appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the SR, determined in accordance with Section 3.D and Section 4.D.
2. If the company is following one or more future hedging strategies supporting the contracts, in accordance with an investment policy adopted by the board of directors, or a committee of board members, the company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario based on the execution of the hedging strategy, and it is eligible to reduce the amount of the SR using projections otherwise calculated. The investment policy must clearly articulate the company’s hedging objectives, including the metrics that drive rebalancing/trading. This specification could include maximum tolerable values for investment losses, earnings, volatility, exposure, etc. in either absolute or relative terms over one or more investment horizons vis-à-vis the chance of occurrence. Company management is responsible for developing, documenting, executing and evaluating the investment strategy, including the hedging strategy, used to implement the investment policy.
3. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
4. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result

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in an increase in the amount of the SR otherwise calculated. Particular attention should be given to VM-21 Section 1.B Principle 5 for the modeling of future hedging strategies.

2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.
3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or mock tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta. Another example is that financial indices underlying typical hedging instruments typically do not perform exactly like the separate account funds, and hence the use of hedging instruments has the potential for introducing basis risk

A safe harbor approach is permitted for reflection of future hedging strategies supporting the contracts for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio. Calculation of SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the future hedging strategies supporting the contracts (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to execute the future hedging strategies supporting the contracts (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no future hedging strategies supporting the contracts, therefore following the requirements of Section 4.A.4.a.

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However, for a company with a future hedging strategy supporting the contracts, existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements may be considered in one of two ways for the CTE70 (adjusted):

- a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
- b) No hedge positions – in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company’s investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the SR is given by:

$$SR = CTE70 \text{ (best efforts)} + E \times \max[0, CTE70 \text{ (adjusted)} - CTE70 \text{ (best efforts)}]$$
4. The company shall specify a value for *E* (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of *E*. The value of *E* may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, *E* must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent 12 months, to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for *E*.
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge strategy and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of *E*, the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The

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company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.

b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:

i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.

ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.

iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.

v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.

vi. To support the company’s choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.

vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).

c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.

7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with less than 12 months of experience and without robust mock testing, E should be 1.0. For a material change in strategy, with less than 3 months of history, E should be 1.0. However, when a material change in hedging strategy with less than 3 months history is the introduction of hedging for a newly introduced product or newly acquired block of business and is supplemented by robust mock testing, E should instead be at least 0.3. Moreover, with prior approval from the domestic regulator, material changes in hedge strategy with less than 3 months history but with robust mock testing may have error factors less than 1.0, though still subject to the minimum error factor specified in Section 9.C.4 and with an

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appropriate prudent estimate to account for additional uncertainty in anticipated hedging experience beyond that of a robust hedging program already in existence. E may also be lower than 1.0 if the change in strategy is a minor refinement rather than a material change in strategy, though still subject to the minimum error factor specified in Section 9.C.4 and with an appropriate prudent estimate to account for any additional uncertainty associated with the refinement.

The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program. These examples are not intended to be exhaustive, and a company must support the determination of whether a hedge methodology change is material based on a review of the company’s specific change in methodology.

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) without robust mock testing.
 - An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).
8. The company shall set the value of E reflecting the extent to which the hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining all future hedging strategies. To the extent that documentation outlining any of the future hedging strategies is incomplete, the value of E shall be increased. In particular, the value of E shall be 1.0 if documentation is materially incomplete for any of the individual CDHS attributes (a) through (j), as listed in VM-01.

Any increases required to the value of E to reflect that documentation is not available to support that the future hedging strategies are clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results, subject to an overall ceiling of 1.0 for E.

Guidance Note: Companies must use judgment both in determining an E factor and in applying this requirement in the case where there are multiple future hedging strategies, particularly where some may be CDHS and some may not be CDHS. In this case, the SR should be ensured to be no less than the CTE(70) reflecting the future hedging strategies that are CDHS and not reflecting those that are not CDHS. Companies with multiple future hedging strategies with very different levels of effectiveness or with multiple future hedging strategies that include both CDHS and non-CDHS should discuss with their domestic regulator.

D. Additional Considerations for CTE70 (best efforts)

If the company is following one or more future hedging strategies supporting the contracts, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

E. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This

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includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the variable annuity account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the SR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the SR otherwise calculated.
6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.
7. The company may also consider historical experience for similar current or past hedging programs on similar products to support the error factor determined for the projection.

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VM-31 Section 3.C.5

Assets and Risk Management – A brief description of the asset portfolio, and the approach used to model risk management strategies, such as hedging, and other derivative programs, including a description of any future hedging strategies supporting the policies, and any material changes to the hedging strategies from the prior year.

VM-31 Section 3.D.6.f

Risk Management – Detailed description of model risk management strategies, such as hedging and other derivative programs, including any future hedging strategies supporting the policies and any adjustments to the SR pursuant to VM-20 Section 7.K3 and VM-20 Section 7.K.4, specific to the groups of policies covered in this sub-report and not discussed in the Life Summary Section 3.C.5. Documentation of any future hedging strategies should include documentation addressing each of the CDHS documentation attributes.

VM-31 Section 3.D.14.a and 3.D.14.b

- a. Investment Officer on Investments – A certification from a duly authorized investment officer that the modeled company investment strategy, including any future hedging strategies supporting the policies, is representative of and consistent with the company’s investment policy and that documentation of the CDHS attributes for any future hedging strategies supporting the policies are accurate.
- b. Qualified Actuary on Investments – A certification by a qualified actuary, not necessarily the same qualified actuary that has been assigned responsibility for the PBR Actuarial Report or this sub-report, that the modeling of any future hedging strategies supporting the policies is consistent with the company’s actual future hedging strategies and was performed in accordance with VM-20 and in compliance with all applicable ASOPs, and the alternative investment strategy as defined in VM-20 Section 7.E.1.g reflects the prescribed mix of assets with the same WAL as the reinvestment assets in the company investment strategy.

VM-31 Section 3.E.5

Assets and Risk Management – A brief description of the general account asset portfolio, and the approach used to model risk management strategies, such as hedging and other derivative programs, including a description of any future hedging strategies supporting the contracts, and any material changes to the hedging strategies from the prior year.

VM-31 Section 3.F.8

Hedging and Risk Management – The following information regarding the hedging and risk management assumptions used by the company in performing a principle-based valuation under VM-21:

- a. Strategies – Detailed description of risk management strategies, such as hedging and other derivative programs, including any future hedging strategies supporting the contracts, specific to the groups of contracts covered in this sub-report.

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- i. Descriptions of basis risk, gap risk, price risk and assumption risk.
 - ii. Methods and criteria for estimating the a priori effectiveness of the strategy.
 - iii. Results of any reviews of actual historical hedging effectiveness.
- b. CDHS – Documentation addressing each of the CDHS documentation attributes for any future hedging strategies supporting the contracts.
- c. Strategy Changes – Discussion of any changes to the hedging strategy during the past 12 months, including identification of the change, reasons for the change, and the implementation date of the change.
- d. Hedge Modeling – Description of how the hedge strategy was incorporated into modeling, including:
- i. Differences in timing between model and actual strategy implementation.
 - ii. For a company that does not have a future hedging strategy supporting the contracts, confirmation that currently held hedge assets were included in the starting assets.
 - iii. Evaluations of the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, and other items that are likely to result in materially adverse results.
 - iv. Discussion of the projection horizon for the future hedge strategy as modeled and a comparison to the timeline for any anticipated future changes in the company’s hedge strategy.
 - v. If residual risks and frictional costs are assumed to have a value of zero, a demonstration that a value of zero is an appropriate expectation.
 - vi. Any discontinuous hedging strategies modeled, and where such discontinuous hedging strategies contribute materially to a reduction in the SR, any evaluations of the interaction of future trigger definitions and the discontinuous hedging strategy, including any analyses of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
 - vii. Disclosure of any situations where the modeled hedging strategies make money in some scenarios without losing a reasonable amount in some other scenarios, and an explanation of why the situations are not material for determining the CTE 70 (best efforts).
 - viii. Results of any testing of the method used to determine prices of financial instruments for trading in scenarios against actual initial market prices, including how the testing considered historical relationships. If there are substantial discrepancies, disclosure of the substantial discrepancies and documentation as to why the model-based prices are appropriate for determining the SR.
 - ix. Any model adjustments made when calculating CTE 70 (adjusted), in particular, any liquidation or substitution of assets for currently held hedges. If there is liquidation or substitution of assets for currently held hedges, disclosure of the impact on the adjusted run.
- e. Error Factor (E) and Back-Testing – Description of *E*, the error factor, and formal back-tests performed, including:
- i. The value of *E*, and the approach and rationale for the value of *E* used in the reserve calculation.
 - ii. For companies that model hedge cash flows using the explicit method, as described in VM-21 Section 9.C.6.a, and have 12 months of experience, an analysis of at least the most recent 12 months of experience and the results of a back-test showing that the model is able to replicate the hedging results experienced in a way that justifies the value used for *E*. Include at least a ratio of the actual change in market value of the hedges to the modeled change in market value of the hedges at least quarterly.
 - iii. For companies that model hedge cash flows using the implicit method, and have 12 months of experience, as described in VM-21 Section 9.C.6.b, the results of a back-test in which (a) actual hedge asset gains and losses are compared against (b) proportional fair value movements in hedged liability, including:

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- a) Delta, rho and vega coverage ratios in each month over the back-testing period, which may be presented in a chart or graph.
 - b) The implied volatility level used to quantify the fair value of the hedged item, as well as the methodology undertaken to determine the appropriate level used.
 - iv. For companies that do not model hedge cash flows using either the explicit method or the implicit method, as described in VM-21 Section 9.C.6.c, and have 12 months of experience, the results of the formal back-test conducted to validate the appropriateness of the selected method and value used for E.
 - v. For companies that do not have 12 months of experience, the basis for the value of E that is chosen based on the guidance provided in VM-21 Section 9.C.7, considering the actual history available, mock testing performed, and the degree and nature of any changes made to the hedge strategy.
 - vi. The basis for the magnitude of adjustment or lack of adjustment for the value of E chosen based on the robustness of the documentation outlining the future hedging strategy.
- f. Safe Harbor for Future Hedging Strategies – If electing the safe harbor approach for a future hedging strategy supporting the contracts, as discussed in VM-21 Section 9.C.8, a description of the linear instruments used to model the option portfolio.
- g. Hedge Model Results – Disclosure of whether the calculated CTE 70 (best efforts) is below both the fair value and CTE 70 (adjusted), and if so, justification for why that result is reasonable, as discussed in VM-21 Section 9.D.

VM-31 Section 3.F.12.c

CTEPA – If using the CTEPA method, a summary including:

- i. Disclosure (in tabular form) of the scenario reserves using the same method and assumptions as those used by the company to calculate CTE 70 (adjusted) as outlined in VM-21 Section 9.C (or the SR following VM-21 Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts), as well as the corresponding scenarios reserves substituting the assumptions prescribed by VM-21 Section 6.C.
- ii. Summary of results from a cumulative decrement projection along the scenario whose reserve value is closest to the CTE 70 (adjusted), as outlined in VM-21 Section 9.C (or the SR following VM-21 Section 4.A.4.a for a company that does not have a future hedging strategy supporting the contracts), under the assumptions outlined in VM-21 Section 6.C. Such a cumulative decrement projection shall include, at the end of each projection year, the projected proportion (expressed as a percent of the total projected account value) of persisting contracts as well as the allocation of projected decrements across death, full surrender, account value depletion, elective annuitization, and other benefit election.
- iii. Summary of results from a cumulative decrement projection, identical to (ii) above, but replacing all assumptions outlined in VM-21 Section 6.C with the corresponding assumptions used in calculating the SR.

VM-31 Section 3.F.16.a and Section 3.F.16.b

- a. Investment Officer on Investments – A certification from a duly authorized investment officer that the modeled asset investment strategy, including any future hedging strategies supporting the contracts, is consistent with the company’s current investment strategy except where the modeled reinvestment strategy

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may have been substituted with the alternative investment strategy, and that documentation of the CDHS attributes for any future hedging strategies supporting the contracts are accurate.

- b. Qualified Actuary on Investments – A certification by a qualified actuary, not necessarily the same qualified actuary that has been assigned responsibility for the PBR Actuarial Report or this sub-report, that the modeling of any future hedging strategies supporting the contracts is consistent with the company’s actual future hedging strategies and was performed in accordance with VM-21 and in compliance with all applicable ASOPs.

DRAFT

TO: Company Field Test Contact
FROM: Mike Boerner, Texas Department of Insurance
Chair of the Life Actuarial (A) Task Force
DATE: TBD
RE: Economic Scenario Generator (ESG) Field Test Instructions, Results Templates, and Qualitative Survey

The Texas Department of Insurance is reaching out to all companies participating in the ESG field test to be conducted from June through August. Thank you for participating in the field test. Please follow the field test instructions contained in Appendix A, and use the templates provided to submit your results. Also, please complete the Qualitative Survey contained in Appendix B as applicable for the product types tested.

Confidentiality

This information is being requested under both the authority of the general examination authority of the Texas Department of Insurance pursuant to Tex. Ins. Code §§ 401.051, *et seq.*, and the Standard Valuation Law, Tex. Ins. Code §§ 425.051, *et seq.*, and is considered to be confidential under these provisions. These provisions also permit the Texas Department of Insurance to share this confidential information with other state regulators and the NAIC, including the Life Actuarial (A) Task Force (LATF), the Life RBC (E) Working Group, the Valuation Analysis (E) Working Group (VAWG), and NAIC staff. Your company specific information will remain confidential pursuant to these statutory provisions.

Additional Instructions

Prior to 6/1/22, please confirm receipt of this email.

If you have questions regarding the field test instructions or templates, please contact Scott O’Neal at soneal@naic.org.

Your field test results are requested by 8/31/2022. The subject line should start with the company’s NAIC number, followed by “ESG Field Test”. Email your response to: Actuarialdivision@tdi.texas.gov, and CC Rachel.Hemphill@tdi.texas.gov and Yujie.Huang@tdi.texas.gov.

Thanks,

Mike

Appendix A

Economic Scenario Generator (ESG) Field Test Instructions

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I. Introduction

A. Background

Work is in progress to develop a new ESG to be prescribed for use in calculations of life and annuity Statutory reserves according to the *Valuation Manual* (e.g. VM-20, VM-21) and capital under the NAIC RBC requirements (e.g. C3 Phase 1, C3 Phase 2). Based on preliminary AAA model office testing, the implementation of a new ESG may materially increase life and annuity reserves and capital. The purpose of the ESG field test is to assess the impacts for different product types, gain a better understanding of the drivers of reserve and capital differences, and determine potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

This document should be read in conjunction with the document titled “Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications”. Some of the information from that document is repeated here, but with greater detail.

B. Communication of Field Test Results

NAIC staff will compile aggregated results in a report that will not contain any company-specific or other company-identifiable information. Assuming that companies have completed the field test by the end of August, the compilation of results is expected to be completed by the end of September, 2022. Joint LATF/LRBC WG open meetings will then be held to discuss aggregate field test results, and to determine whether ESG modifications should be made based on the results of the field test.

C. Next Steps

1. After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)
2. A second field test is expected to be conducted in early 2023. This field test may include:
 - Calibration changes for the Treasury, Equity, and Corporate Bond models desired by regulators.
 - Testing of alternative simplified models. For example, the Academy is currently developing a simplified Corporate Bond model. The ACLI is also developing an alternative model.
 - Any structural changes to the Conning Treasury, Equity, and Corporate Bond models desired by regulators after a review of results from the first field test. Structural ESG changes will require a programming effort, and the amount of time needed to complete this will depend on the nature of the changes. Examples of structural changes would include any modification to the linkage between the Treasury model and the Equity model, and implementation of an alternative simplified Corporate model.
3. Prior to ESG implementation, related *Valuation Manual* and RBC instruction changes will be drafted for consideration and adoption.

II. General Field Test Instructions

A. Summary of Field Test Runs

The runs needed for the field test are summarized in the table below. The Baseline #1 results already exist; they should match the values from year-end 2021 statutory reporting. The Baseline #1 and Baseline #2 results should reflect the ESG the company used for statutory reporting, whether it was a version of the Academy ESG or a proprietary ESG. Similarly, the Baseline runs should reflect the models companies used for year-end reporting, whether they were as of 12/31/21 or 9/30/21. For companies that typically produce results as of 9/30 (e.g. for C3 Phase I), 9/30 scenarios will be provided Tests 1a, 1b, 5a, and 6.

The table below lists the elements of the field test and identifies them as either “required” or “optional”. Required results are considered most important to the success of the field test. It is hoped that participating companies will provide results for these items, and as many of the optional items as possible. However, it is recognized that companies may not have the capacity to produce everything due to resource constraints. If this is the case, it is preferable that companies provide partial results rather than not participate in the field test at all. Further technical details behind the ESG calibration are provided in the PowerPoint embedded below.



Alternative Run
Discussion.pptx

Field Test Runs**	Scenario Sets	Inforce Assets and Liabilities	Priority	Required or Optional
Baseline #1 Already exists; no new runs needed.	Scenario set(s) the company used for 12/31/21 statutory reporting of reserves and RBC	As of 12/31/21	N/A	Required
Baseline #2	ESG the company used for 12/31/21 statutory reporting of reserves and RBC, but modified to produce scenario sets with a 12/31/19 yield curve modified using a 200 BP increase across all maturities	As of 12/31/21 with appropriate adjustments to inforce*	10	Optional
Test #1a	GEMS Baseline Equity and Corporate model scenarios as of 12/31/21, and Conning Treasury model calibration with generalized fractional floor as of 12/31/21	As of 12/31/21	1	Required
Test #1b	Same as Test #1a, but with Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	2	Required
Test #2a Sensitivity Test with Higher Interest Rates	Same as Test #1a, but with Equity, Corporate, and Treasury models with a 12/31/19 starting yield curve modified using a 200 BP increase across all maturities	As of 12/31/21 with appropriate adjustments to inforce*	3	Required
Test #2b Sensitivity Test with Higher Interest Rates	Same as Test #1b, but with Equity, Corporate, and Treasury models with a 12/31/19 starting yield curve using a 200 BP increase across all maturities	As of 12/31/21 with appropriate adjustments to inforce*	4	Required
Test #3: Attribution Analysis Run	Conning Treasury model calibration with generalized fractional floor as of 12/31/21, GEMS Corporate model as of 12/31/21, and GEMS Equity model corresponding to a	As of 12/31/21	7	Optional

	12/31/19 yield curve with a 200 BP increase across all maturities			
Test #4: Attribution Analysis Run	Same as Test #3, but using Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	8	Optional
Test #5a: Conning Original Equity Calibration	Same as #1a, but with Conning’s original Equity model calibration that had significantly lower Gross Wealth Factor’s than the AIRG Equity.	As of 12/31/21	5	Required
Test #5b: Conning Original Equity Calibration	Same as #2a, but with Conning’s original Equity model calibration that had significantly lower Gross Wealth Factor’s than the AIRG Equity.	As of 12/31/21 with appropriate adjustments to enforce*	6	Required
Test #6: ACLI Alternative Equity Calibration	Same as #1a, but with the ACLI’s Alternative Equity Calibration	As of 12/31/21	9	Optional
Test #7: C3 Phase I Specific Attribution	12/31/21 scenarios from the prescribed C3 Phase I generator modified to set the Mean Reversion Parameter to 3.25%	As of 12/31/21	11	Optional

*More information on adjustments to be added later

**After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)

B. Framework Specific Required and Optional Quantitative Results

The table below illustrates the framework specific results that are required to be produced as part of the field test along with optional components that companies may elect to provide.

Field Test Element	Required for VM-21 and C3 Phase II	Required for VM-20	Required for C3 Phase 1	Optional
Post reinsurance ceded results	X	X	X	
Pre-reinsurance ceded results				X
Stochastic Reserve	X	X		
Scenario Reserves, before cash surrender value floor	X	X		
Scenario Reserves, after cash surrender value floor	X	X		
CTE70 Best Efforts	X			
CTE70 Adjusted	X			
Additional Standard Projection Amount	X			
CTE98 (for C3 Phase II)	X			
Deterministic Reserve		X		
NPR		X		

Results from each of the 16 SERT Scenarios, and SERT ratio		X		For VM-21 and C3P1
--	--	---	--	--------------------

C. Number of Scenarios

For each product type to be tested, the number of scenarios used for field testing should match the number the company used for statutory reporting on 12/31/21. The number of scenarios used may vary by product type, as long as it is consistent with the number used for statutory reporting. For example, if 1,000 scenarios were run for variable annuity reserves reported as of 12/31/21, then 1,000 scenarios should be run as of that valuation date for the field test. Similarly, if 200 scenarios were run for life insurance reserves reported as of 12/31/21, then 200 scenarios should be run for the field test as of that valuation date. If it is not possible for participants to run at least as many scenarios for the field test runs corresponding to the relevant 12/31/21 valuation, participants may elect to complete the field test runs using less scenarios. If participants use a different number of scenarios between the baseline and field test runs, this should be explained in the survey questions.

D. Scenario Sets

1. Scenario files – The scenario sets to be used for the field test, along with descriptions of the file formats, will be available for download at <https://naic.conning.com/scenariofiles>. Statistical summaries of the projections will also be provided, along with the parameters used for the ESG.
2. Scenario subsets - A full scenario file containing 10,000 scenarios will be provided for each model run to be tested. Scenario subsets of 1,000, 500, 200, and 40 scenarios will also be available.
3. Monthly Timestep – all scenario files will be provided using a monthly projection timestep
4. Additional scenario sets – The following additional scenarios are available:
 - 16 Stochastic Exclusion Ratio Test (SERT) scenarios
 - TBD - Company-Specific Market Path (CSMP) scenarios

E. Projection Period

Each scenario file contains monthly projections for 100 years. For each product type to be tested, the length of the projection period used for field testing should match the projection period the company used for statutory reporting as of 12/31/21.

F. Negative Interest Rates

The two ESG Treasury models used for the field test include scenarios with negative interest rates, so companies will need to consider whether any modeling or assumption changes are needed to handle this. It is recommended that companies read and consider the information in the paper below:

[Potential Modeling Challenges in a Negative Interest Rate Environment](#)

Author: Zohair Motiwalla, FSA, MAAA
 Principal and Consulting Actuary, Milliman

For purposes of the field test, companies may make assumption changes as appropriate to reflect negative interest rates, but this is not required given the amount of time this may take. The Qualitative Survey asks companies to provide details on whether assumption changes were made, and the nature of the changes. It also asks companies to comment on any changes anticipated to be made when the new ESG is adopted.

G. Model Simplifications

If the company is not able to provide model results that match reported values, the company may run a representative model or inforce population. The company should then either adjust the final results to align with their reported amount, or alternatively, they should adjust their reported amount to align with the representative business that is being field tested.

H. Hedging (as applicable)

The hedging strategy the company used as of 12/31/21 for statutory reporting should be used for the field test runs.

I. Fund Mapping (as applicable)

The company’s fund mapping used as of 12/31/21 for statutory reporting should be used for the field test to allow for a more direct comparison of results from the Academy ESG (or proprietary ESG) vs. the GEMS ESG. Although the GEMS ESG contains additional equity and bond fund returns for a more refined mapping of funds, these should not be used for the field test. However, if certain company circumstances (e.g. company reports using a proprietary ESG) exist where it is not practical or possible to use the same fund mapping, companies may use judgement to determine an appropriate fund mapping for the field test. Please see the survey question related to the fund mapping to provide more information.

The tables below show the equity and bond returns available from the Academy ESG and the comparable returns offered in the GEMS equity and corporate bond models. For the field test, companies should use the appropriate GEMS returns that correspond to their fund mapping as of each valuation date.

Further information on fund mapping can be found in the results templates

AAA ESG Returns	Market Proxy Used to Produce AAA ESG Returns*	Field Test GEMS® Fund Mapping**
Diversified Large Capitalized U.S. Equity	S&P500 Total Return Index	Large Cap
Diversified International Equity	MSCI-EAFE \$USD Total Return Index	International Diversified Equity
Intermediate Risk Equity	U.S. Small Capitalization Index	Small Cap
Aggressive Equity**	25% Emerging Markets, 12.5% NASDAQ, 62.5% Hang Seng***	2/3 Aggressive Foreign Equity, 1/3 Aggressive US Equity
Money Market	3 Month Treasury returns	Money Market
U.S. Intermediate Term Government Bonds	U.S. Intermediate Term Government Bonds	Int Govt Bonds
U.S. Long Term Corporate Bonds	U.S. Long Term Corporate Bonds	Long Inv Corp Bonds
Diversified Fixed Income	65% ITGVT + 35% LTCORP	65% Int Govt Bonds, 35% Long Inv Corp Bonds
Diversified Balanced Allocation	60% Diversified Equity + 40% Fixed Income	60% Large Cap, 26% Int Govt Bonds, 14% Long Inv Corp Bonds

*Source: AAA LCAS C3 Phase II RBC for Variable Annuities: Pre-Packaged Scenarios January 2006

** See [Basic Data Columns](#) for more information on the returns available in the GEMS® scenario files

***The Academy Equity Model Aggressive Equity proxy is not meant to suggest a representative asset profile for this class but used merely to build an historic index with high volatility and sufficient history.

III. Additional Instructions for VM-21

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-21 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Aggregation

Business should be aggregated according to the requirements under VM-21, consistent with how this was done for statutory reporting on 12/31/21. For example, if RILAs were aggregated with variable annuities for statutory reporting, they should be aggregated for the field test.

IV. Additional Instructions for VM-20

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-20 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Exclusion Tests

1. Deterministic Exclusion Test - This is not applicable for purposes of the field test and should not be performed.
2. Stochastic Exclusion Ratio Test – The SERT should be performed unless the company has not built out that functionality in their models. The results may help determine whether the SERT still performs as intended using the new ESG.

C. Stochastic Reserve Calculation

1. The Stochastic Reserve should be calculated unless the company has not built out that functionality in their models.
2. Participants will be asked to provide the annual projected accumulation of deficiencies by scenario for each year included in the projection. When the NAIC is reviewing the results, they will implement an alternative discounting methodology that applies a 95% factor to the 1-year UST when negative. The alternatively discounted scenario level results will be compared against the company provided results using the prescribed discounting methodology and aggregate results will be shared publicly.

V. Additional Instructions for C-3 Phase I

A. Methodology

1. Companies should use the current C-3 Phase I methodology for the field test, with the exception noted in Section B below. A future VM-22 field test will include both the new ESG and new C-3 Phase I methodology.
2. Participants will be asked to provide the annual projected surplus values by scenario for each year included in the projection. When the NAIC is reviewing the results, they will implement an

alternative discounting methodology that applies a 95% factor to the 1-year UST when negative. The alternatively discounted scenario level results will be compared against the company provided results using the prescribed discounting methodology and aggregate results will be shared publicly.

B. Number of Scenarios

For Tests 1a – Test 4 (see the table in Section II.A), companies should run a minimum of 200 scenarios.

VI. Attribution Analysis

Attribution analyses are included in the field test in the following runs:

- Test #3 and #4
 - Test #3 serves to identify the ESG model drivers (Equity, or Treasury and Corporate) for the reserve/capital changes between Test #1a and #2a. Test #4 serves a similar purpose to attribute the change in results between Test #1b and #2b.
- Test #7: C3 Phase I Specific Attribution
 - This test will evaluate the impact of lowering the mean reversion parameter (MRP) in the currently prescribed C3 Phase I generator to be consistent to the MRP used in the ESG prescribed in VM-20. The results of this test will serve as an interim point of comparison between the baseline and field test runs.

VII. Reporting of Field Test Results

A. Results Templates

Companies should provide quantitative field test results using the Excel templates that have been developed for this purpose. Instructions are included in the templates. The spreadsheet tabs may be copied as needed within the workbook to reflect any additional products/models not included.

B. Qualitative Survey

Companies are asked to complete the Qualitative Survey contained in Appendix B to the extent possible for the product types tested.

C. NAIC Aggregation of Company Results

NAIC staff will be aggregating quantitative results across companies and producing a variety of metrics using SAS. For ease of aggregation, please do not add rows or columns to the results templates.

Field test participants' responses to the Qualitative Survey will also be aggregated where appropriate.

Appendix B

Economic Scenario Generator (ESG) Field Test Qualitative Survey

All companies are asked to provide responses to the survey questions below to the extent possible for the types of results submitted. The responses will aid in understanding how each company performed their modeling, and potential drivers of reserve and RBC differences by product type. The responses will also be used to identify potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

I. VM-21 and C3 Phase II

1. Which valuation date was used for Baseline #1 (i.e. for year-end statutory reporting)?
 12/31/21 9/30/21
2. How many scenarios were used for Baseline and field test runs?
 10,000 1,000 500 Other (please describe)
3. Baseline #1 should match what was reported in the Variable Annuities Supplement for Individual and Group business. Is this the case? Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used to determine values for the Baseline runs? Yes No
5. Did the company make any changes to assumptions or modeling approach for the field test runs because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did you use an implicit method or explicit method to model hedging?
 Implicit method Explicit method Did not model hedging Other If Other, please explain.
8. If your company uses an implicit methodology to quantify the impacts of hedging, have you reassessed whether it is still appropriate in light of the field test scenario sets?
9. Did the new ESG impact hedge effectiveness? If so, can you tell what is driving this?
10. Where possible, please explain the change between the field test runs and the Baseline runs for the Post-Reinsurance-Ceded Reserve for Guaranteed Benefits, and optionally for Pre-Reinsurance-Ceded Reserve for Guaranteed Benefits. As part of your response, please address each of the following questions.
 - a. What were the drivers of the change?

- b. How did the drivers interplay to result in the overall change? Were they additive, compounding, offsetting, etc.?
 - c. How did the VA product guarantees affect the Baseline and field test results differently? In what way did the product guarantees contribute to the change in results?
 - d. When comparing the field test runs to the Baseline, how did the sensitivities to equities vs. interest rates drive the magnitude of the change in results? In other words, how sensitive was the company's portfolio to the change in the interest rate scenarios? Or, if the reserve amount is driven more by the equity levels, how would you characterize that relationship or dependence?
 - e. Did the impact of hedging differ between the baseline and the Field Test? If so, in what way?
11. Where possible, please explain the change between the field test runs and the Baseline for the **Risk-Based Capital**. Please address the following as part of your response.
- a. Compare the impacts of the field test scenarios on the CTE 70 vs. CTE 98 tail metrics. Discuss the interplay and resulting impact on Risk-Based Capital.
 - b. Are there distinct drivers that create different movements in the 30% vs. 2% tail?
 - c. Are the impacts of hedging different when calculating the reserve vs. risk-based capital? Why or why not?
12. Does your company use the specific tax recognition or a macro-tax adjustment to determine post-tax capital amounts?
13. If the fund mapping for the field test scenarios had to change from what was included in the ESG used for reporting, please describe the new fund mapping and why it was necessary.

II. VM-20

1. Which valuation date was used for the Baseline run (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline and field test runs?
10,000 1,000 500 200 40 Differs by product type
Specify the details if selected "Differs by product type": _____
3. The Baseline should match what was reported in the VM-20 Reserves Supplement. Is this the case?
Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used for calculating the baseline? Yes No
5. Did the company make any changes to assumptions or modeling approach because the ESG produces negative interest rates?
a. If so, please describe the changes that were made.
b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did your dominant PBR reserve change?

8. If the fund mapping for the field test scenarios had to change from what was included in the ESG used for reporting, please describe the new fund mapping and why it was necessary.

III. C3 Phase I

1. Which valuation date was used for the Baseline (i.e. for year-end statutory reporting)?
 12/31/21 9/30/21
2. How many scenarios were used for the Baseline run?
 50 12 Other (please describe)
3. How many scenarios were used for field test runs?
 200 Other (please provide the number)

IV. All Products

1. All amounts populated in the templates should be shown in dollars. Is this the case? Yes No
 If No, what units did you use?
2. If the inforce files were adjusted for the field test runs, please describe the changes that were made.
3. To what extent did the field test runs capture the potential impact of the scenarios on results? Were there areas that could not be tested/assessed (e.g., due to the need for additional scenario sets, new or existing simplifications)?
4. What additional information / analysis or scenario refinements would your company recommend?
5. Please provide any additional perspectives and information that could be relevant in the post-field test assessment. This information could include observations, unexpected results, insights and desirable properties from alternative models/scenarios, etc. To allow for aggregation of company responses to this question, please categorize each of your comments as relating to "capital/reserves," "product specific issues," "attribution," or "other issues".
6. Would your company need to create a more refined mapping to equity and bond funds given the expanded set of returns offered by the GEMS ESG? If yes, please provide a quantitative or qualitative explanation of how it might impact your results.
7. If your company elected to run a representative set of models or inforce, please describe any adjustments made to account for the difference between the representative models or inforce and the reported values. Also please provide an explanation as to why the models or inforce that was used in field testing is expected to be representative.
8. If a different number of scenarios was used for field test results as compared to the number of scenarios used in reporting, please provide information on which results are impacted.
9. Does your company use the specific tax recognition or a macro-tax adjustment to determine post-tax capital amounts?



Brian Bayerle
Senior Actuary

May 16, 2022

Mike Boerner
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

Re: ESG Field Study Exposures

Dear Messrs. Boerner and Barlow:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments on the ESG Field Testing exposures (Exposures). We have the following comments:

User Group

ACLI suggests a participant user group start as soon as possible to assist with technical questions related to the field test. Some of the questions may be scenario related, but many others may be clarification of the modeling runs or consistent ways for companies to address actuarial (liability) model limitations (e.g., AXIS, Prophet, Poly). A number of very technical and practical questions have come up already, e.g., several items which are specific to certain aspects of VM-20. We believe that regular participant calls (both group calls and calls with individual companies) should start as soon as possible and continue throughout the field test, coordinated by the NAIC. This will help to provide a forum for raising and resolving questions quickly to enable companies to participate effectively in the field test.

Feedback by Section:

Confidentiality

We'd like to better understand the role of the domestic regulator and other regulators in receiving and reviewing results. We would recommend that domestic regulators be directly involved in receiving and reviewing their companies' submissions. In addition, we would like clarification about who will be handling the iterative results discussions that are common in field testing.

Section I.A. Background

We believe the document would be stronger if the field test were positioned as neutral rather than appearing to presuppose a specific outcome. For this reason, we suggest that the comment in Section I.A. be edited to read:

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

“Based on preliminary AAA model office testing, the implementation of the new ESG may materially increase life and annuity reserves and capital. The purpose of the ESG field test is to assess the impacts and appropriateness for....”.

Section II. A. Summary of Field Test Runs

Some companies may have resource constraints that prevent the completion of all requested runs, we would encourage regulators accepting whatever results companies are able to provide to get the most company participation in the field study.

Section II. B. Required and Optional Quantitative Results

Part of the purpose of field test is to identify any anomalous behavior in the scenario sets. While 12/31/2019 is higher than 12/31/2021, we think a more severe test would be appropriate. We would suggest for runs 2a, 2b, 3, and 4, to increase the 12/31/2019 yield curve by 200bps.

We support making the SERT a required VM-20 test but note that VM-20 allows companies to run the SERT tests within 12 months of the valuation date, meaning that not all companies will have used a 12/31/2021 model for 2021 year-end testing. We would request providing the necessary off-cycle scenario sets or other guidance around how to approach off-cycle SERT runs.

Section II. C. Number of Scenarios

ACLI suggests that companies be allowed to use a smaller subset of scenarios than were used for reporting, as long as they are representative of the larger set and are used consistently across all field test runs, in order to reduce runtime and resource strain. While we recognize this may introduce some concern about convergence of any given set of results, the comparability of the results across the various requested sensitivities should remain applicable, allowing the generators to be adequately evaluated. In addition, the revised Baseline results using the smaller scenario set can be compared to report results to provide an indication of the impact of the smaller set.

Section II. D. Scenario Sets

In addition to providing the scenario files, parameters, and distribution statistics, we also recommend providing the actual, targeted (based on the flooring methodology), and fitted initial yield curves.

We also recommend providing scenario statistics for each of the scenario subsets to understand potential operational implications of scenario differences on use of subsets. (e.g., whether the new scenarios may require the use of larger subsets in order to capture extreme scenarios that impact on reserve / capital CTEs).

Section II.I. Fund Mapping

We agree with maintaining maximum alignment with the model used to produce reported results in order to isolate the impact of the new scenario generator. However, fund mapping is a model input that is often tailored to the scenario generator being evaluated, and we recommend allowing this input to be updated with an accompanying survey question disclosing the approach and rationale for the update. For example, some companies may be using a proprietary generator that produces index returns that are not available in the new scenario sets and a fund remapping could be necessary to align projected fund returns with the new scenario information, and disallowing this could create model misalignment with the scenarios, resulting in less helpful field test results.

Appendix Economic Scenario Generator (ESG) Field Test Qualitative Survey IV. All products

To understand the range of results, it might be necessary to collect more information about inforce characteristics (e.g., product / benefit mix, ITM of guarantees / current vs. guaranteed rate differences, age of the business, etc.) and hedging strategy (e.g., targets, modeling). We would also like to understand any analysis planned to provide more insight into the range of results.

Requests for additional data:

We would like to request additional scenario sets which could be used to better understand the proposed ESG and calibrations and perhaps suggest areas for further testing and analysis. These scenario sets could be made available during the field test.

- Year-end 2020 scenarios since interest rate targets have been expressed based on 12/31/2021 conditions.
- Unfloored scenarios corresponding to Runs #1a and #2a to better understand underlying interest rate model dynamics
- Scenario sets for different dates (e.g.,) and controlled sensitivities (e.g., parallel +/-[50] bps rate shock, non-parallel and/or key rate duration-type shocks, initial volatility shock, MRP change) to better understand how scenarios will behave as market conditions change.
- Providing all scenario sets, whether required or optional, sooner rather than later would be much appreciated as resources begin to become scarce in 3Q due to preparation for year-end.

We appreciate the consideration of our comments. Thank you.



cc: Reggie Mazyck, NAIC, Dave Fleming, NAIC, Scott O'Neal, NAIC

Mathematical Finance Company
QTSM CIR Green's Function Multifactor CIR and Affine Options SIRP ESG RS-ESG DMRP RS-DMRP

May 17, 2022

Mr. Mike Boerner
Chair, Life Actuarial (A) Task Force (LATF)
Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)
National Association of Insurance Commissioners

Re: Economic Scenario Generators

Dear Mr. Mike Boerner and Mr. Philip Barlow,

Please accept this comment on the NAIC LATF Economic Scenario Generator field tests.

Sincerely yours,

Mark S. Tenney

Mr. William Carmello said the original parameterization of the vendor, Conning, should be part of at least the first field test. This was in the context of equities, but can apply to interest rates as well. I support this recommendation. The original set before any contact with the NAIC has value. The set or sets that were then revised based on interaction with LATF but before the shadow rate models are also of value.

Although heavily criticized, these scenarios are important to understand. Steeper negative interest rate scenarios and much lower equity return scenarios where the wealth ratios are substantially below one are important to study and include in risk management from a regulator point of view.

<https://voxeu.org/article/negative-interest-rate-policy-post-covid-19-world>

<https://voxeu.org/article/swedish-experience-negative-central-bank-rates#:~:text=The%20Swedish%20Riksbank%20was%20the,lowered%20it%20to%20%2Do.10%25.>

These scenarios can be used to make arrangements with banking and securities regulators so that insurance companies are able to borrow at negative interest rates if those occur. Even if rates are negative and an insurance company owns a bank, it is not automatic it can borrow at negative interest rates from the Federal Reserve. This is because of tiering.

The Narrow Bank applied for receiving interest on excess reserves but was turned down by the banking regulators. This was an application of tiering in the US already. Tiering is used already in negative interest rate countries. Some bank reserves are charged a negative rate but not all. Alternatively, some can borrow at negative rates but not all. Or they can borrow at a negative rate but not as negative a rate as others. Paul Kupiec of AEI has criticized the banking regulators for playing favorites and not having an equal access to tiering rates from the Federal Reserve.

A bad tier day for insurance companies could mean bank regulators saying no to borrowing at negative rates through banks they own or through other banks. Bank regulators and the SEC could also interpret existing rules to make it hard or harder for insurance companies to use corporate bonds as collateral for negative interest rate loans from banks or in the repo market.

The NAIC ESG scenarios with negative rates and low equity returns can be used now to head off such bad regulatory rulings. They can be used now to get some favorable regulatory action in advance from banking regulators and possibly the SEC for insurance companies if negative rates happen. There is extensive interest in negative interest rate among economists and central banks. This includes developing mechanisms to prevent arbitrage by hoarding paper currency. They are going fast to get somewhere on this.

The equity premium puzzle is the name given to equity return premiums being too high for conventional economic theory to support. One possibility discussed widely is that equity premiums will drop to what traditional economic theory says they should be. In this case, downward scenarios can involve very substantial losses.

One formula for the equity risk premium based on standard economic theory is illustrated numerically. See Theory of Financial Decision Making, Jonathan Ingersoll. See formula 22 page 275 and formula 25 page 276.

Assume gamma is $1/2$, a measure of risk aversion. Assume the ratio of risky wealth is $1/2$. Assume a stock market annual log volatility of $.2$. In that case, the equity risk premium is $1/2 * 1/2 * .2 * .2 = .01$. A more typical annual volatility is $.15$ or $.16$. This would result in a lower value.

What do we add the $.01$ to? The inflation rate target plus r-star. The inflation target in the US has been 2

percent, but experience prior to the current episode is 1 percent. R-star is now considered to be likely negative, say -1 percent. If we take the 1 percent inflation and add minus one for rstar, we get a nominal short rate target of 0. Adding the equity risk premium of .01, gives us an expected nominal equity return of .01 i.e. 1 percent per year.

Using an annual standard deviation of .2, then over 25 years, we get a standard deviation of square root of 25 times .2 or 5 times .2. So 1. The mean over 25 years is .25. Two standard deviations down would be .25 - 2 = -1.75. This would be .17 or a wealth ratio of 17 percent of the starting value. This is including reinvesting dividends.

If we used .15 for the standard deviation, then over 25 years we still get .75 for the standard deviation. Suppose for that period we used an equity expected return of 4 percent per year. Then we get $25 * .04$ or 1.0. If we now have 3 standard deviations down, we get $.04 * 25 - 3 * .75$. Taking the exponential of that we get .28. This is the wealth ratio including reinvested dividends.

<https://www.credit-suisse.com/about-us-news/en/articles/media-releases/credit-suisse-global-investment-returns-yearbook-2022-202202.html#:~:text=Over%20the%20last%2012%20years,bonds%20by%203.2%25%20per%20year.>

Projecting the US to continue to have its high realized equity returns is to take one of the best periods of the best countries and extend it into the future. The 21st century is unlikely to be as favorable to the US relative to the rest of the world as the 20th century was. So to continue to project the US in the 20th century as normal is not something a prudent regulator should do.

Credit Suisse is using a 3.5 percent equity risk premium. So .035 annually. If the nominal target is zero, then the .035 is the total equity expected return. Prudent regulators should be looking at a number close to this. If the inflation target was 2 percent and rstar was minus one, this would give a total return of .045 expected. Regulators should consider the real possibility that equity risk premiums move substantially in the direction of traditional economic theory, i.e. become substantially lower.

6 percent nominal expected return for equities from some reasonable perspectives could be the upper bound for regulators to count on for long horizons. The nominal target for the short term interest rate should have an upper bound of 2 percent is also sensible. Zero as the short term nominal target is a reasonable value. That would then give an equity expected return of no more than 4 percent. That includes dividends. The total expected equity return could be as low as one percent. This is using a low equity risk premium based on standard utility functions and a zero percent nominal target yield. Although this number seems ridiculous to some, it does have a basis in economic theory.

<https://www.nbim.no/contentassets/2b92009ffa9440f98eec8f32a0996ca2/discussion-note-1-16---equity-risk-premium.pdf>

" The average World Equity Risk Premium (ERP) based on data from 1970 to 2015 is 6.4 percent. Adjusting the average for repricing over the period lowers the average to 3.9 percent. "

" The expected World ERP from the discount models may be closer to 4 percent if expectations of interest rate normalisation are taken into account. "

" Estimates from cross-sectional and time-series models also suggest an expected World ERP of 3 to 4 percent. "

<https://www.cfainstitute.org/-/media/documents/book/rlit-review/2017/rflrv12n11.pdf> <https://blogs.cfainstitute.org/investor/2022/04/08/equity-risk-premium-forum-dont-bet-against-a-bubble/>

<https://ourworldindata.org/grapher/world-gdp-over-the-last-two-millennia?yScale=log>

A 10 percent annual growth rate for 100 years gives a log return of $.1 * 100 = 10$. The exponential of this is 22026. We can check this number and make it more intuitive with the rule of 72. In 7 years at 10 percent, money doubles. So in 100 years there are $7 * 14 = 98$ years, so 14 doublings. The doublings go 2, 4, 8, 16, 32 for the first 5. 32 squared is around 1000. That leaves 4 more doublings, 16 so we get to 16,000 which is roughly the 22,026.

Higher returns need large consumption out of wealth to justify them. Particularly with environmental exhaustion showing up everywhere.

<https://inequality.org/great-divide/updates-billionaire-pandemic/>

<https://fortune.com/2021/12/07/worlds-richest-inequality-richer-during-pandemic/#:~:text=World's%20richest%20people%20now%20own%2011%25%20of%20global%20wealth%2C%20marking,biggest%20leap%20in%20recent%20history&text=Subscribe%20to%20Fortune%20Daily%20to,during%20the%20COVID%2D19%20crisis.>

<https://wir2022.wid.world/>

https://wir2022.wid.world/www-site/uploads/2022/03/0098-21_WIL_RIM_RAPPORT_A4.pdf

(Watch out a4 at that link won't print well on US sized paper.)

If a single billionaire leaves his money in the market and avoids taxes, then in 100 years it is worth 22 trillion dollars. Billionaire wealth of 1 trillion that accumulated at 10 percent for 100 years would then reach 22000 times 1 trillion or 22 quadrillion.

The last 100 years or 500 years is not the normal growth pattern for humans or for the environment. It isn't possible to sustain such growth. At some point, the laws of physics, chemistry, and biology rule out such growth.

A corporation doesn't have to pay death taxes and is not required to pay out any dividends. So a C corp that invests in stocks on buy and hold can earn at least 2/3 of the equity return and more likely close to it. So 1 billion in a C corp that just invests would grow at close to these ratios. A total of 1 trillion in corporations growing on such terms would then explode to enormous levels. Levels impossible to achieve in practice. Ten percent annual return on the wealth of the wealthiest people or corporations is not sustainable.

Monarchs of countries like Saudi Arabia don't have to pay inheritance tax presumably. There are rich people around the world who don't have to pay inheritance tax in their country. So if they put away some billions in the US stock market just grow it accumulates to absurd levels.

<https://taxsummaries.pwc.com/saudi-arabia/individual/other-taxes#:~:text=There%20are%20no%20inheritance%2C%20estate,gift%20taxes%20in%20Saudi%20Arabia.>

"There are no inheritance, estate, or gift taxes in Saudi Arabia."

So a single billionaire in Saudi Arabia who puts a billion in the US market to accumulate at 10 percent, would see his money worth 20 trillion dollars or so in a century. Presumably, they would pay some US dividend tax.

<https://fiscaldata.treasury.gov/datasets/debt-to-the-penny/debt-to-the-penny>

Debt of the US government currently held by the public is about 24 trillion. So in a century, a single Saudi billionaire would have that much money in the US stock market.

The World Bank has figures on the growth rate of US GDP per capita in real terms.

<https://data.worldbank.org/indicator/NY.GDP.PCAP.KD.ZG?locations=US>

This fluctuates and is currently negative. But even at 1 percent per year it is far below a 10 percent stock market return. With inflation averaging 1 percent before the recent spike these numbers would suggest a divergence of GDP per capita and stock market value from a century of 10 percent stock market growth. Currently, total factor productivity in the US has a zero growth rate.

If we look at the last 2000 years or 10,000 years, human societies that build up huge wealth then collapse. So the growth of the last 100 years might imply that negative returns are more likely. The higher the unsustainable peak, the greater the probability of negative returns from that high peak. It may be that this negative scenario is already showing up in interest rates. These may be a better canary in the coal mine than are equity returns.

If the US stock market is doing well because it is a refuge for investors in a world that is doing badly, then how far can that go? The American Economics Association had a panel of several former chief economists of the World Bank a few years ago. They painted a stark picture of crisis for the developing world. If the US is a giant Switzerland for a world swimming in a sea of problems, then how long can that giant Switzerland's stock market keep going up at 10 percent a year?

If humans are at a bubble stage of growth, it is plausible that short term relatively safer country government interest rates would turn negative first. If we think of the bubble as worst in the developing world and spreading, then negative short term government rates in the safest countries turning negative first is a plausible early stage of the bubble bursting. In a rising storm at sea, the last boat still afloat might project itself to rise at 10 feet a year for the next century. But it might also be prudent to make sure everyone on board has their life preserver on. Which translates into using low expected equity returns for regulated insurance.

Draft: 7/7/22

Life Actuarial (A) Task Force
Virtual Meeting
May 19, 2022

The Life Actuarial (A) Task Force met May 19, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ben Bock, Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Discussed Actuarial Guideline AAT

Mr. Andersen reviewed the March 31 exposure (Attachment Nine-A) of the Actuarial Guideline on asset adequacy testing (AAT) and summarized the comments received from Transamerica (Attachment Nine-B), the American Academy of Actuaries (Academy) (Attachment Nine-C), the American Council of Life Insurers (ACLI) dated May 2 (Attachment Nine-D), the ACLI comment dated May 16 (Attachment Nine-E) focusing on sensitivity testing, and three comment letters from the Utah Department of Insurance (DOI) on behalf of companies domiciled in Utah (Attachments Nine-F, Nine-G, and Nine-H). He said the scope of the guideline will be expanded to ensure that companies with pension risk transfer (PRT) assets, sometimes held in non-unitized separate accounts, are included. He recommended that the Task Force not accept the Transamerica comment asking that companies not be scoped in solely because they have more than \$5 billion in general account reserves. He said the guideline is structured so that companies that meet the size criteria, but have no high yielding assets, should be able to make that case to their state insurance regulator. He noted that the Academy concern related to the need to scope in medium-sized companies that currently have no high-yield assets but are projecting future high-yield investments is too challenging to address in the proposed guideline. Mr. Yanacheak said that from a risk perspective, he is more concerned about the smaller, less sophisticated companies that may attempt to mimic the asset management practices of larger companies. He said the focus of the guideline should be more on risk. Mr. Chang suggested removing the \$500 million criteria from Section 2.B. Brian Bayerle (ACLI) said the scope criteria is too broad and should be tailored to identify the companies that are problematic. Leonard Mangini (Academy) suggested an approach similar to the principle-based reserving (PBR) company-wide exemption, where the company could be exempted by its domiciliary commissioner if certain criteria are met.

Mr. Andersen said commenters suggested that the determination of the investment grade net yield benchmark be changed from a book value approach to a market value approach, where assets are compared against the current market values and U.S. Treasury rates to determine whether to consider them high-yielding assets. Commenters said the book value approach is inefficient and difficult to implement. Task Force members agreed to the change. They also agreed to exclude unitized separate accounts from the scope of the AG.

Mr. Andersen said that, for all assets supporting reserves, Section 4.A.iii requires the company to show the components that are deducted from the gross yield to get to the net yield. Mr. Leung said the requirement should apply to all companies but noted that it would require a change in the scope of the guideline. Mr. Mangini said using an exemption approach could require that all companies provide the component information.

Mr. Andersen said most comments were related to sensitivity testing. He said the ACLI recommended grouping the reinvestment assets at the level they are grouped for asset adequacy testing. He said there are concerns that grouping in that manner would allow assets with high yields to be offset by assets with lower yields. He asked Task Force members to consider three options: 1) continue to disallow grouping; 2) allow some grouping at the level assets are modeled for AAT; and 3) allow grouping only within the universe of high-yield assets. The Task Force agreed to allow grouping only within the universe of high-yield assets.

Mr. Andersen said the ACLI proposed testing multiple benchmark spreads to allow state insurance regulators to gather more information and better understand the risk. He said the concept will be included in the guideline, but companies will have the option of using a single benchmark spread. He emphasized that the test is not intended to be a stress test but rather to help identify outliers. He suggested that for reinvestments, the drop and recovery test does not work well. He suggested eliminating the 10% drop from the equity sensitivity test. He proposed the rates used in the recovery test be 4% for the first 10 years and 5% thereafter. He noted that the change opens the door for more assets that are not common stocks, nor have fixed asset components, to be considered equity-like instruments.

The Task Force agreed that attribution analysis can be completed by reinvestment category, instead of asset by asset. Mr. Andersen said industry companies plan to use a best-efforts approach in the first year of compliance with the guideline, with a goal of refining the analysis over time. Mr. Bayerle suggested adding a guidance note to that effect.

Mr. Andersen said the guideline will be edited to include the revisions agreed to by the Task Force. The revised guideline was re-exposed on May 20 for a public comment period ending May 31.

2. Discussed the Field Test Runs

Scott O'Neal (NAIC) gave a brief overview of the field test specifications (Attachment Nine-I) before reviewing the field test instructions (Attachment Nine-J). He delineated the runs that are required and the runs that are optional. Mr. Boerner noted that Baseline run #2 will use the Dec. 31, 2019, U.S. Treasury yield curve increased by 200 basis points (bps) across all maturities. Mr. O'Neal said that run #5 has been changed from an optional run to a required run. He said the field test participants will be asked to indicate which optional runs they plan to execute. Jason Kehrberg (Academy) said that to understand the impact of holding the mean reversion parameter (MRP) constant from one date to another, test #5 must be run on two dates. He said running on two dates will also provide insights on the equity/Treasury linkage. William Wilton (SBCGlobal) asked if adding 200 bps to the Dec. 31, 2019, yield curve for run #2a and run #2b requires companies to reprice their asset portfolio for that date. Mr. O'Neal said companies already have the capabilities for testing sensitivities. He said that process could be used for run #2a and run #2b. Link Richardson (Academy) said the use of Sept. 30 models was previously discussed but does not appear among field test runs. He said going from the 6.55 MRP for C-3 Phase I to the current scenario as an interim step before shifting to the Conning scenarios was also previously discussed but is omitted from the field test run. Mr. O'Neal said the field test scenarios allow companies to use Sept. 30 data if applicable. He said the shifting of the MRP was deferred to the VM-22 field test. Mr. Boerner said the discussions of the shifting MRP and the potential for an additional run #5 with a different date will be taken back to the field test drafting group. No Task Force member objected to the proposed field test runs, with the required runs listed first in priority order, followed by the optional runs in priority order.

Having no further business, the Life Actuarial (A) Task Force adjourned.

4/4/2022

Actuarial Guideline AAT – 2nd Exposure**APPLICATION OF THE VALUATION MANUAL FOR TESTING THE ADEQUACY OF LIFE INSURER RESERVES****Background**

The *NAIC Valuation Manual (VM-30)* contains actuarial opinion and supporting actuarial memorandum requirements, including requirements for asset adequacy analysis. Regulators have observed a lack of uniform practice in the implementation of asset adequacy analysis. The variety of practice in incorporating the risk of complex assets into testing does not provide regulators comfort as to reserve adequacy. Examples of complex assets are structured securities, including asset-backed securities and collateralized loan obligations, as well as assets originated by the company or affiliated or contracted entity. An initial increase of this activity has been noted in support of general account annuity blocks; however, recent activity was noted in other life insurer blocks.

This Guideline is intended to provide uniform guidance and clarification of requirements for the appropriate support of certain assumptions for asset adequacy analysis performed by life insurers. In particular, this Guideline:

- (1) Helps identify reserve adequacy and claims-paying ability in moderately adverse conditions, including conditions negatively impacting cash flows from complex assets;
- (2) Clarifies how margins for uncertainty are established such that the greater the uncertainty the larger the margin and resulting reserve;
- (3) Ensures recognition that higher expected gross returns from assets are, to some extent, associated with higher risk, and that assumptions fit reasonably within the risk-return spectrum;
- (4) Requires sensitivity testing regarding complex assets currently supporting or assumed to provide future support for life insurer business;
- (5) Identifies expectations in practice regarding the valuation of complex assets;
- (6) Establishes a process for researching and monitoring the risks associated with complex assets;
- (7) Reflects that while complex assets tend to have higher uncertainty regarding timing and amount of cash flows than in more traditional investments, because complex assets are difficult to classify, and the regulatory concern is regarding the projected net yields and cash flows from those assets, the focus of the Guideline will be on assets deemed to be high-yield assets; and
- (8) Requires additional documentation of investment fee income relationships with affiliated entities or entities close to the company.

Note: It is anticipated that the requirements contained in this Guideline will be incorporated into the *NAIC Valuation Manual (VM-30)* at a future date, effective for a future valuation year. This Guideline will cease to apply to annual statutory financial statements at the time the corresponding VM-30 requirements become effective.

Text

1. Effective Date

This Guideline shall be effective for reserves reported in the December 31, 2022 and subsequent annual statutory financial statements.

2. Scope

This Guideline shall apply to all life insurers with:

- A. Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) or
- B. Over \$500 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.C.

Actuarial reserve amounts are included in the amounts in A and B whether directly written or assumed through reinsurance and are determined before any reinsurance ceded credit.

3. Definitions

- A. Equity-like Instrument. Any asset that, for purposes of risk-based capital C-1 reporting, is in the category of common stock, i.e., has a 30% or higher risk-based capital charge as of year-end 2021.
- B. Investment Grade Net Yield Benchmark. For assets that are not Equity-like Instruments, a net yield calculated as i + ii – iii:
 - i. For current assets, the Treasury rate at the asset purchase date for the time to maturity associated with the asset; for reinvestment assets, the Treasury rate related to the projected interest rate scenario at the projected asset purchase date for the time to maturity associated with the asset.
 - ii. The spread found in Table F for existing assets and Table H for reinvestment assets, found in the VM-20 / VM-21 / VM-22 Tables tab on the principle-based reserve page of the NAIC website (NAIC website), using PBR Credit Rating 9 and the weighted average life of the associated asset.
 - iii. The default cost found in Table A on the NAIC website, using PBR Credit Rating 10 and the weighted average life of the associated asset.
- C. Projected High Net Yield Assets. Assets where assumed, future net yields (net of default risk and other risk impacting timing and amount of cash flows) are higher than the Investment Grade Net Yield Benchmark. Included are currently held assets and reinvestment assets, excluding Equity-like Instruments.
 - i. Aggregation of the comparison between assumed net yields from each asset and the Investment Grade Net Yield Benchmark shall be done at a level of granularity that is consistent with or more granular than how the assets are grouped, i.e., compressed, in the asset adequacy analysis model.
 - ii. For applicable assets that do not have an explicit weighted average life or term to maturity, the company shall disclose the method used to determine the appropriate weighted average life used for comparing to the Investment Grade Net Yield Benchmark.
 - iii. For purposes of the comparison between assumed net yields from each asset and the Investment Grade Net Yield Benchmark, investment expenses shall be excluded.

4. Asset Adequacy Considerations and Documentation Expectations

- A. **Net return and risk documentation.** For Projected High Net Yield Assets, either currently held or in assumed reinvestments, provide:

- i. A detailed explanation describing the extent to which higher expected gross returns from these assets are associated with higher risk. It shall also include, for the aspect of any higher expected gross returns not assumed to be associated with higher risk, an explanation of how overperforming assets with expected returns lying outside the risk-return spectrum can be assumed to persist and be available for reinvestments throughout the projection period in moderately adverse conditions.
 - ii. Commentary on how there is consistency with the Standard Valuation Law concept which dictates margins for uncertainty should be established such that the greater the uncertainty, the larger the margin and resulting reserve, including explanation of how asset-related factors identified as being volatile and impactful through sensitivity testing or other means contain an appropriate margin to reflect this volatility and impact.
 - iii. Identification of the assumed gross asset yield and the key components (for example, default and investment expenses) deducted to arrive at the assumed net asset yield.
 - iv. Explanation of any future reinvestment strategy assumptions that differ from current practices and experience.
- B. **Model rigor.** Where significant risks associated with a complex asset are not adequately captured with traditional modeling techniques associated with simple assets like corporate bonds, more rigorous modeling of those risks should occur.
- i. Where necessary to adequately reflect the risk, multi-scenario testing of those risks specific to complex assets should be performed.
 - (a) For example, investments that may provide a higher expected return in part due to limited information, niche skill sets, or other factors may require unique scenarios (for instance to adequately capture credit or liquidity risk) to fully encompass potential sources of loss.
 - (b) Asset cash flows should be appropriately projected to reflect anticipated liquidity in a stressed market. If current models do not support analysis of this type of risk, then new model aspects should be developed; otherwise, if such model aspects are not developed, sufficient additional conservatism to reflect this risk shall be applied.
 - (c) To the extent that the process for modeling or otherwise evaluating the risks is complex, and the potential for disconnect between reality and modeling increases, an additional margin to assumption(s) should be applied. Any such margin shall be applied in the direction of asset adequacy analysis results being less favorable.
 - ii. Note that a robust conditional tail expectation calculation considering all key risks specific to complex assets would likely show that tail losses (from low probability, high impact events) affect asset adequacy results.
 - iii. A company may use simplifications, approximations, and modeling efficiency techniques if the company can demonstrate that the use of such techniques does not make asset adequacy analysis results more favorable. These techniques may be less appropriate if the amount of complex, high-yielding assets becomes a higher percentage of total assets.
 - iv. Actuarial Standards of Practice (ASOPs), including ASOP No. 7 and No. 56 contain additional guidance on the use of models in the analysis of cash flows.
- C. **Fair value determination.** In asset adequacy analysis, when an asset is projected to be available for sale, a fair value of that asset is established. Per fair value methodology, fair value should represent the price at which the security

could be sold, based on market information. Fair value should only be determined internally (by the insurance or investment management company) when the market-based value of the asset or similar asset cannot be obtained.

- i. When the fair value of a material portion of supporting assets is determined internally, the company shall provide a step-by-step description of the approach used to calculate the fair value of such assets.
- ii. Provide the total value of assets that have values determined internally.
- iii. When the fair value of a material portion of assets is determined internally, a sensitivity test should be performed (and the impact on asset adequacy analysis results presented) assuming a haircut to internally derived fair values that the company deems reasonable given the commensurate level of anticipated uncertainty.

- D. **Privately-originated assets.** With respect to privately-originated assets, such as assets originated by the company, within the company's group, or within an entity closely tied to a company's group (inclusive of the company's investment manager), practices to help ensure accurate valuation of those assets should be documented in the actuarial memorandum. Also, assumed net cash flows from assets should be net of all explicit or implicit fees or expenses, such as origination fees, as well as reflective of other asset-related risks including credit risk, illiquidity risk, and other market risks.

In particular, related to privately-originated assets, provide the total value of such assets and disclose and detail how the following are appropriately reflected in the net cash flows:

- i. Contractual agreements in place between such entities.
- ii. Any measures related to the valuation of such privately-originated assets resulting from practices to ensure that the valuation is appropriate and accurate.
- iii. Revenue sharing, e.g., performance fees, between the entity responsible for providing investment or other types of services and the insurer, if applicable.

- E. **Investments expenses (fees).** Assumed investment expenses, whether paid to an external asset manager or to internal investment management staff, as well as additional expenses that are directly attributable to the specific investments, should be commensurate with the complexity of the assets.

- F. **Trends.** The actuarial memorandum should contain a detailed description of research and monitoring conducted related to trends impacting risks associated with the insurer's complex assets or industry-wide or market-wide assets of similar type.

- G. **Reinsurance modeling.** Related to reinsurance, relevant communications and disclosures from ASOP No. 11, for instance commentary on collectability and counterparty risk, should be presented in the memorandum.

- H. **Borrowing.** Please identify if any borrowing is modeled besides to address very short-term liquidity needs. Also, please verify borrowing and reinvestment rates to ensure that projections are not materially benefiting from arbitrage advantages.

5. Sensitivity Tests and Attribution Analysis related to Assumptions on Projected High Net Yield Assets

A. Sensitivity testing

- i. For the year-end 2022 and subsequent VM-30 actuarial memoranda, perform and disclose the asset adequacy analysis results from the following sensitivity test.

(a) For the sensitivity test for assets other than Equity-like Instruments (as defined in Section

- 3), assume individual asset (or asset group when there is asset compression) net yields for projected reinvestment assets do not exceed the Investment Grade Net Yield Benchmark. For Equity-like Instruments, the sensitivity test should assume an initial drop in value of 10%, followed by 5.5% annual returns.
- ii. Strict technical compliance for each asset may not be practical for reasons including model limitations. Professional judgment should be applied to produce sensitivity testing results that are consistent with the spirit of the test. A variety of alternative methods may be acceptable. Appropriate explanation and justification should be provided for the method that was employed.
 - iii. The NAIC Valuation Analysis (E) Working Group (VAWG) shall serve as a resource in the targeted review of asset adequacy analysis related to modeling of business supported with Projected High Net Yield Assets. VAWG shall provide periodic reports identifying outliers and concerns regarding the analysis to help inform regulators on the effectiveness of the Guideline in meeting the eight objectives stated in the Background section.
- B. For assets other than Equity-like Instruments (as defined in Section 3), perform an attribution analysis for any current assets or projected reinvestment assets assumed to produce net returns in excess of the Investment Grade Net Yield Benchmark, as follows:
- i. State the assumed excess net return, e.g., 1.2% if the assumed annual net return is 5.7% and the Investment Grade Net Yield Benchmark is 4.5%.
 - ii. Please estimate the proportion of the assumed excess net returns attributable to the following factors:
 - (a) Credit risk (in excess of credit risk on corporate bonds with PBR Credit Rating 9, if not already reflected in the default assumption)
 - (b) Illiquidity risk
 - (c) Volatility and other risks (please identify and describe these risks in detail)
 - iii. For each of the factors contributing to assumed net returns in excess of the Investment Grade Net Yield Benchmark, please explain why the factor is not assumed to contribute to additional losses (tail or otherwise) related to the risks.
 - iv. Where appropriate, apply judgment and provide commentary on the supporting rationale of how the expected excess return is estimated across the various risk components.



May 2, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

via email to Reggie Mazyck rmazyck@naic.org

Re: March Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The Transamerica Companies welcome the opportunity to comment on the March 31st exposure of Actuarial Guideline on Asset Adequacy Testing (Guideline). We support efforts to address unduly aggressive AAT asset modeling practices. Our comments are limited to the scope of companies subject to the Guideline.

According to Section 2 of the exposure, the Actuarial Guideline is applicable to all life insurers with:

- A. *Over \$5 billion of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) [emphasis added] or*
- B. *Over \$500 million of general account actuarial reserves (from Exhibits 5, 6, 7, and 8 of the annual statement) and over 5% of supporting assets (selected for asset adequacy analysis) in the category of Projected High Net Yield Assets, as defined in Section 3.C.*

We have a concern that Section 2.A scopes in all life insurers with over \$5 billion of reserves, regardless of whether they make *material use* of Projected High Net Yield Assets in AAT. In the extreme, the Guideline would subject a large insurer that models a single, small Projected High Net Yield Asset to a variety of company-wide reporting, documentation, and sensitivity requirements.

To address this anomaly, we recommend **eliminating Section 2.A, leaving Section 2.B to define the scope**. Using Section 2.B alone creates a risk focused approach, as it addresses the *material use* of certain assets within AAT. Moreover, using Section 2.B alone would align the Guideline with Actuarial Guideline 51. AG51 applies extra AAT requirements only to insurers with more than 10,000 in-force long-term care policies, not to all large insurers regardless of the size of their LTC blocks.

We understand that regulators want sufficient industry information to identify assumption outliers. We suggest this still would be possible if the Guideline were applicable only to those insurers that make *material use* of Projected Net High Yield Assets.

Lastly, if the scope were limited to Section 2.B, companies with more than \$500 million of assets will still need to assess their AAT asset mix in relation to the 5% materiality threshold. We can support a requirement to provide a materiality demonstration to regulators. Considering the potential transitory nature of the Guideline, however, we are unsure whether this can be placed within the Guideline, whether this should be within VM-31, or whether it is best left to domestic regulators to request a demonstration, at least for now.

We hope the Task Force finds our comments helpful.

Bill Schwegler
Senior Director, Financial Policy
(319) 355-2667
bill.schwegler@transamerica.com

cc: Mike Yanacheak, Iowa Insurance Division



AMERICAN ACADEMY *of* ACTUARIES

May 2, 2022

Mr. Mike Boerner,
Chair
Life Actuarial (A) Task Force (LATF)
National Association of Insurance Commissioners (NAIC)

Re: Comments on the Revised Exposure Draft Actuarial Guideline on Asset Adequacy Testing

Dear Mr. Boerner,

The Asset Modeling and Reporting Task Force of the American Academy of Actuaries (“the task force”) is pleased to provide the following comments on the revised exposure draft actuarial guideline (AG) on asset adequacy testing (AAT) that was exposed during LATF’s March 31 meeting.

The task force supports many of the changes made in the revised exposure draft—e.g., the changes made to the treatment of equity and reinsurance, and keeping the sensitivity test a disclosure beyond year-end 2022. However, the task force has concerns that the BBB threshold for the scope definition and sensitivity test may miss some complex but highly rated structured securities, such as collateralized loan obligations (CLOs). The task force notes that the NAIC’s Statutory Accounting Principles Working Group (SAPWG) has a simultaneous exposure to add additional columns of information to Schedule D, including Option Adjusted Spread (OAS), duration, etc. LATF may want to consider whether any of this additional information can supplement credit rating as an additional principle-based basis for identifying complex, high-net-yield assets.

The revised exposure draft maintains the requirement for Committee on Uniform Securities Identification Procedures (CUSIP)-level attribution analysis of excess returns on projected high-net-yield assets. As expressed in our [prior comment letter](#), the task force questions the value of this attribution analysis given the relatively high amount of both judgment and effort that would be involved. The task force suggests considering a materiality trigger for such analysis such as only requiring it if the sensitivity in Section 5.A produces materially different results from the baseline. The task force also suggests considering additional guidance and/or safe havens for the attribution analysis, such as setting the portion of the excess spread due to defaults equal to the spread-related default factor from VM-20; i.e., equal to one-quarter of the difference between prescribed current and ultimate spreads, capped (floored) at double the positive (negative) baseline default factor. For the portion of the excess spread due to liquidity, the task force recommends considering whether guidance on an acceptable procedure could be provided, perhaps based on determining comparable assets at different points on the liquidity spectrum.

Section 2.B of the revised exposure draft states the AG is applicable for medium-sized life insurers (i.e., general account actuarial reserves between \$500 million and \$5 billion) with over 5% of supporting assets (selected for asset adequacy analysis) in the category of projected high net yield assets. In addition to considering assets on the valuation date, the task force suggests regulators contemplate whether Section 2.B should also consider the impact of reinvestments, which could materially increase the percentage of projected high net yield assets over the course of the projection.

Thank you for your consideration of these comments. Please contact Amanda Barry-Moilanen (barrymoilanen@actuary.org), the Academy's life policy analyst, with any questions.

Sincerely,

Jason Kehrberg, MAAA, FSA
Chairperson
Asset Modeling and Reporting Task Force
American Academy of Actuaries



Brian Bayerle
Senior Actuary

May 2, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

Re: March Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the March 31st exposure of Actuarial Guideline on Asset Adequacy Testing (AAT, collectively Guideline). Our comments will be limited to scope of the assets and calculation of the benchmark yield, and additional comments will be provided on Sensitivity Testing at a future date.

Scope of the assets:

We recommend removing the following asset types from the scope of the Guideline:

- Insulated Separate Accounts
- “Vanilla” Bonds (default risk is primary risk, and cashflows are predictable)
- Direct Mortgage Loans (Commercial, Agricultural, Residential)
- Real Estate
- Mortgage Pass-Through Securities (not complex Mortgage-Backed Securities)

Calculation of benchmark yield:

We recommend the following:

- Benchmark requirements should not be applied seriatim, but rather at the level of the reinvestment categories; otherwise, you could double count extra default charges (e.g., if higher yielding assets receive an additional haircut, lower yielding assets not receiving the haircut will still receive the average default cost which would be overstated);
- There could also be double counting of default charges for securities where certain risks are modeled directly in the cash flows. For example, if a callable bond is called in a decreasing interest rate scenario, then that risk is already accounted for.

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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- Summary attribution on inforce assets by reinvestment categories, and allow companies to determine how to apply against the benchmark (if not aligned, do something reasonable and provide rationale in the Memorandum);
- Apply PBR CR 10 consistently in the requirements.

Approach:

- Use a market yield approach (if market yield not available, use a reasonable approach and provide rationale in the Memorandum); for inforce assets, use Treasury rates as of the valuation date not as of the purchase date;
- We believe a long-term spread should still be used as the benchmark whether the market yield approach uses purchase date or valuation date. The use of current spreads in the benchmark calculation would create a lot of volatility, bringing assets in and out of scope as market conditions change. Since the attribution would be more theoretically correct to use current spreads, we suggest the following addition in Section 5.B.ii: “(d) Deviations of current spreads from long-term spreads.”
- For floating rate assets, treasury rate to be based on tenor to reset investment income (e.g., if the investment income is reset quarterly based on the 90-day Treasury plus a fixed specified spread, use 90-day rate) rather than time to maturity;
 - We would support the NY Special Considerations spread capping methodology to address our concerns related to WAL for floating rate assets. The next is 2021 NY Special Considerations Letter, Item 7, Page 9:
 “For this purpose, net yield pick-up is defined as the yield pick-up versus comparable investments that are generally regarded as “risk free” with respect to default risk (e.g., U.S. Treasuries) minus default provision based on current market values. For floating rate assets, the comparable U.S. Treasury is that with a time to maturity equal to the time until the next reset date for the floating rate asset. For fixed and floating rate notes the weighted average life is defined as the weighted average number of years until 100% of the outstanding principal is expected to be repaid, rounded to the nearest whole number but not less than 1. For assets that mature after 30 years, the weighted average life for determining the net yield pick-up shall be 30.”
- The requirements should be internally consistent; to the extent the Appointed Actuary identifies something is not, provide rationale on how addressed in the Memorandum.

Other:

- Does not apply to RBC C3 testing.

ACLI will contemplate additional recommendations and edits to these considerations on the benchmark yield.

ACLI is appreciative of your consideration of our comments and looks forward to a future discussion.

Thank you for your consideration,



cc: Reggie Mazyck, NAIC



Brian Bayerle
Senior Actuary

May 16, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chief Life Actuary, Minnesota Department of Commerce

Re: March Exposure of Actuarial Guideline Asset Adequacy Testing

Dear Messrs. Boerner and Andersen:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the March 31st exposure of Actuarial Guideline on Asset Adequacy Testing (AAT, collectively Guideline). Our comments will elaborate on some prior comments but will generally focus on the sensitivity testing.

Scope of the assets:

Reiterating our prior letter, we recommend removing the following asset types from the scope of the Guideline:

- Insulated Separate Accounts
- “Vanilla” Bonds (default risk is primary risk, and cashflows are predictable)
- Direct Mortgage Loans (Commercial, Agricultural, Residential)
- Real Estate
- Mortgage Pass-Through Securities (not complex Mortgage-Backed Securities)

We wanted to elaborate on the rationale for this reduction in scope. The stated asset classes and their associated risks are well understood by both companies and regulators. Further, inclusion of such assets takes attention away from the assets of concern to regulators and creates significant work for companies that does not appear to provide any insights to regulators.

Sensitivity Testing:

While the Guideline addresses important concerns, industry believes some materials (potentially sensitivities, attribution, and template) should be allowed to be provided after the Opinion is submitted. Preparing these materials will take significant time, and it should not interfere with the normal process of development and submission of the Opinion. Allowing additional time to provide

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these materials will hopefully improve the quality of what is submitted and foster dynamic conversations between the domestic regulator and their companies.

Regarding the sensitivity tests, we believe that common stock, real estate (were it to be in scope) and other equity-oriented assets should be sensitivity tested separately from Bonds. ACLI supports applicability to reinvested assets only and apply only the level scenario for fixed income; this approach would reduce the complexity of the sensitivity and still allow for meaningful insights into the concerns around these assets.

ACLI also would support exemption from the sensitivity test for companies that have demonstrated adequate sufficiency in a more conservative scenario (e.g., the equity sensitivity if performing the CA equity scenario).

We have the following comments regarding the sensitivities, separated between bond and non-bond sensitivities:

Bond sensitivities:

- ACLI would support a NY-style benchmark spread approach applicable for reinvestment assets rather than a benchmark yield approach. Such an approach is operationally easier.
- ACLI suggests 3 consistent sensitivities across companies – benchmark spread, benchmark spread [+50], benchmark spread [+150].
- Perform the capping of future reinvestment yields at the level of aggregation used in the asset adequacy analysis model (rather than applying seriatim).

Non-bond sensitivities:

- ACLI suggests a simple equity sensitivity, which ACLI is still contemplating and will provide suggestions at a future date.

Attribution Analysis:

- Attribution is an open and challenging investment problem: how to attribute excess yield into different components. As far as we know, there is no agreed and defensible approach, either from academia or Wall Street, to achieve such attribution. The components of excess yield could include real (credit convexity) or perceived (new asset classes) credit risks, liquidity risk, product complexity, operational risk (uncertainty on future realized CFs vs initial expectations), etc. Even if we use some subjective way to do certain attribution, it is unclear how the final work product would be used.
- 2022 attributions may be more qualitative vs quantitative in nature; credit may be easier to quantify; other components (illiquidity, complexity, etc.) may need to be qualitative. 2022 requirements should let companies decide how to best do the attribution, acknowledging this approach would not have consistency between companies.
- We recommend revisiting the attribution analysis after the first year and periodically thereafter in order to confirm that it is providing regulatory value. In any case, year 1 should be on a “best efforts” basis as this will be a challenging exercise.

Template:

- It would be beneficial to develop instructions to assist in the population of the template. Specifically, the instructions should address definitions (and how to separate equity-like assets from Schedule BA assets)
- Our preference would be that the template only include those assets that are in scope and have yields in excess of the benchmark. Companies could provide a column (by categories) showing all assets; a column showing the assets included in the analysis; and a column

that is a subset of the assets included in the analysis column with the assets in scope of the Guideline.

- ‘Asset Summary’: “Amount” maybe more appropriate than “count”. Asset Counts might double count due to how assets are allocated to portfolios. Is there a standardized mapping around “asset type” from the blue books? Otherwise, allocation may be arbitrary. This could potentially be addressed in instructions.
- “Asset Yields – Initial Assets”: Suggest removing max gross/net yield since mostly will reflect the rate environment when things were purchased vs. any risk signaling. Further, some companies may have loss assumptions at the collateral level rather than bond level, which may create situations in which investments appear to have “0 defaults”.
- “Asset Yields – Reinvestments”: It is not clear why this should have the same level of specificity as initial assets. We would suggest, if there is a “cap spread” concept, simplifying this approach to be more similar to how it’s generally done today (a blended rate from VM-20/VM-21 spreads).
- “Sensitivity Test”: “Amount” may be more appropriate than “count”. This approach may not properly capture the rate environment in which the business being backed was written (e.g. it is more punitive for high yields stemming from high interest rate environment). Codifying this approach may lead to non-economically justified investment behaviors.
- “Attribution Initial Assets”: The current version seems reliant on how assets were bucketed. If we want to have market vs market approach, the key categories to focus on are 1) credit risk, 2) illiquidity risk, and 3) prepayment risk.
- “Attribution – Reinvestment Assets”: Not clear why this should have the same level of specificity as initial assets.

ACLI is appreciative of your consideration of our comments and looks forward to a future discussion.

Thank you for your consideration,



cc: Reggie Mazyck, NAIC

Utah Insurance Department received the following comments on the second exposure draft of the proposed guideline from one of the insurers domiciled in the state.

Section 4B

The guideline requires more rigorous modeling of “significant risks associated with a complex asset [that] are not adequately captured with traditional modeling techniques associated with simple assets like corporate bonds.” Complex assets are not defined. It would be helpful to provide some examples of “significant risks” that would necessitate this more rigorous modeling and the source of those risks (in terms of asset structure/characteristics).

Subsection 4B.i

More specific examples would be helpful.

What is meant by reflecting “anticipated liquidity in a stressed market”? Is this referring to a potential loss/haircut if the asset needs to be sold quickly in a stressed market?

Subsection 5A.(i)

This type of sensitivity test will cause issues for any company that offers fixed annuities with crediting rates in excess of the coupon rate on a BBB corporate bond. For smaller companies and companies with lower ratings, the cost of liabilities (e.g., crediting rate plus annualized commission plus variable expenses) may exceed the coupon rate on a BBB corporate bond, which would certainly result in negative surplus values under this sensitivity.

Section 5B

Completing this attribution analysis for each individual asset will be extremely onerous, especially for smaller companies with less actuarial resources. Some form of aggregation by asset category should be acceptable.

Subsection 5B.ii

It would be helpful to provide some methods of quantifying illiquidity risk. If an asset is deemed to be illiquid, what is preferable way to model it? The model could assume longer time required to sell, or a haircut to value otherwise. Would that be acceptable?

It would be helpful to define volatility risk and provide examples of “other risks”. Is volatility referring to volatility of asset cash flows with respect to interest rates, or to some other economic factors? If the latter, an example would be useful.

Mazyck, Reggie

From: Tomasz Serbinowski <tserbinowski@utah.gov>
Sent: Friday, April 29, 2022 6:19 PM
To: Mazyck, Reggie
Cc: Andersen, Fred
Subject: Additional comments on the second exposure draft of AG AAT

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Reggie, I'd like to pass along the following additional comments I have received on the second exposure draft of AG AAT.

1. The definition of the Complex Asset is too broad. It should be refined. For example, it could be defined as “Complex Assets” are assets that are included in Schedule DB of the Blue Book or similarly complex assets.
2. The definition of the Investment Grade Net Yield for existing assets uses current spreads from Table F. This does not appear to make sense. For existing assets, with purchase dates which may be far in the past, the long term spreads are much more relevant than the current spreads. So long term spreads from Table H should be used for the existing assets.
3. The definition of the Investment Grade Net Yield for reinvestment assets uses long term spreads from Table H. It would appear to make more sense to grade the applicable spread based on how much in the future the reinvestment asset is to be purchased. Grading should be from the current spreads in Table F for assets purchased shortly after the valuation date, to the long term spreads in Table H for assets purchased many years after the valuation date.

Sincerely,

–
Tomasz Serbinowski
, Actuary
Utah Insurance Department
4315 S. 2700 West, Ste. 2300 | Salt Lake City, UT 84129
P: 801-957-9324 | tserbinowski@utah.gov

Utah Insurance Department received the following comments on the second exposure draft of the proposed guideline from one of the insurers domiciled in the state.

Overall comments:

As stated previously, the purpose of the proposed guideline is to incorporate appropriate risks of complex assets. While we agree that complex assets are difficult to classify, the simplification to target high-yield assets would group together any asset whose assumed return is greater than an investment grade bond. For example, why would we assume that a stable real estate investment with a high yield has the same risk profile as a collateralized loan obligation asset.

Asset Adequacy Testing (Cash Flow Testing) is performed so that an actuary can determine whether or not the reserves and related actuarial items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted ASOPs, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The proposed guideline in the 1st exposure draft produced results far away from a reasonable modeling of the assets held by the company and their associated investment earnings and in these (almost all) instances would render the proposed test useless towards the actuary forming an opinion in this regard and should be ignored as being irrelevant and perhaps far more than moderately adverse. The actuary would still be in the current position of using other tests to form their opinions, except having spent some valuable resources to conduct the proposed test.

The company has reviewed and modeled the effect of the 2nd exposure draft of the proposed regulation and found that it is not as severe as the first because the cap on investment returns only applies to reinvestment assets. However, the company still believes that a better sensitivity test for the riskiness of the assets held by the company would be to use the assets held by the company and test default costs that are higher than in the base assumptions, say 150% of those, which we already do.

The company would be agreeable with running this as a sensitivity test, as it seems to be a reasonable stress test of the reinvestment assumptions; however, the company opposes this procedure becoming the basis for all future testing.

Suggested Improvements:

There appears to be an error in 3. B. ii, regarding the Investment Grade Net Yield Benchmark. It should be Table H, Long-term spreads for existing assets, and Table F, Current spreads grading to Table H, Long-term spreads for reinvestment assets. The reason being that long-term spreads are much more relevant to the actual spreads at the asset purchase dates which may be far in the past, whereas current spreads are more relevant to what is available for immediate asset purchases, and long-term spreads being more relevant to asset purchases longer in the future. At most times tables F and H should be close, but when they differ the current spreads will only be reasonable for periods of time near the current time.

Also, the definition of “Complex Asset” is too broad brush. It should be refined. For example, “Complex Assets” are assets that are included in Schedule DB of the Blue Book or similarly complex assets.



DRAFT

Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications

Primary Contact:
Scott O’Neal, FSA, MAAA (soneal@naic.org)

Section I: Overview

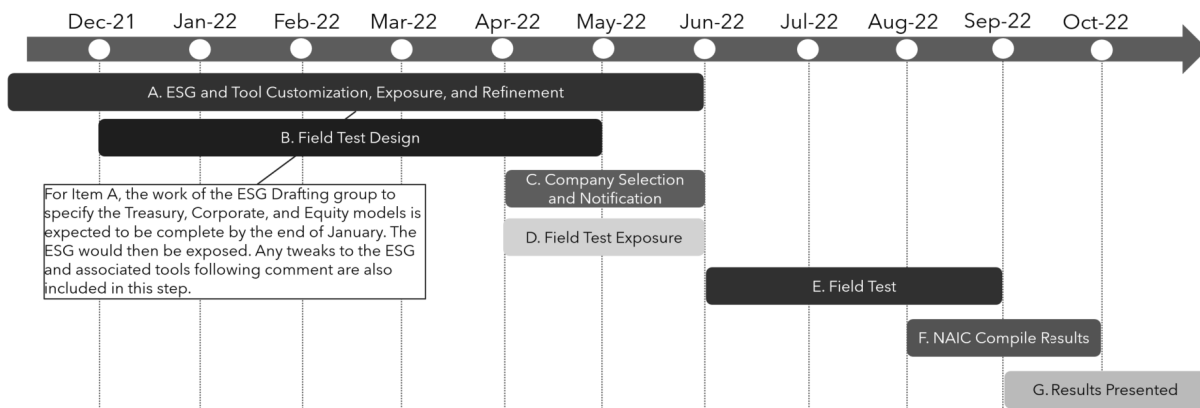
A. Objectives

The ESG Field Test should be able to address the following questions:

<p>1. Reserve and Capital Impact</p>	<ul style="list-style-type: none"> • How does the new ESG impact industry reserves and capital in different economic environments? • How do reserve and capital impacts vary by product type? • What is the impact of the changes to each ESG model (i.e. interest rate model, equity model, corporate model)? <p>The impact will be determined by comparing reserves and capital calculated using the field test ESG scenario sets against results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting.</p>
<p>2. Range of Results</p>	<ul style="list-style-type: none"> • What is the range of reserve and capital impacts across companies (e.g. percentage increase/decrease)? • Which particular companies and product types have the highest and lowest impacts, and why?
<p>3. Metrics</p>	<ul style="list-style-type: none"> • Which particular interest rate and equity scenarios cause the greatest stress? • How do results compare for CTE70 vs. CTE98? Calculate different CTE levels (e.g., CTE70, CTE98, CTE90) to compare to existing requirements. • How do the metrics perform with different scenario set sizes?
<p>4. Stability Over Time</p>	<ul style="list-style-type: none"> • How do the reserve and capital results change across scenarios produced for different economic environments?
<p>5. Exclusion Testing and Reserve Components</p>	<ul style="list-style-type: none"> • Does the new ESG change the likelihood of the SR being the dominant reserve? • Do the exclusion tests still perform as intended? • Does the VM-20 DR scenario still capture risk appropriately? <p>Note: Companies that currently pass the stochastic exclusion test will not have a stochastic reserve model.</p>
<p>6. Hedging Impact</p>	<ul style="list-style-type: none"> • Does the new ESG impact hedge effectiveness? If so, what feature is driving this (e.g. the new ESG produces additional yield curve shapes, such as humps)?

7. Sensitivity Tests and Attribution	<ul style="list-style-type: none"> Do baseline results and/or sensitivity tests indicate that the field-tested ESG calibration needs to be modified? What are the drivers of reserve and capital changes as determined from attribution analysis?
---	---

B. Tentative Timeline



Note: Dotted lines represent the beginning of the month.

C. Structure

- NAIC to collaborate with the American Academy of Actuaries’ ESG Field Testing Subgroup and American Council of Life Insurer’s ESG Field testing group to design the NAIC ESG Field test. Field test recommendations will be brought to a joint meeting of the Life Actuarial (A) Task Force and the Life RBC (E) Working Group.
- Field Test Participants
 - The NAIC has solicited volunteer companies to participate in the ESG field testing.
 - Further analysis needs to be completed to assess product coverage.
 - Additional participants may be requested if desired by regulators.
- The NAIC will work with state regulators to coordinate the following:
 - Communicating with field test participants and providing ESG Field Test instructions and result templates.
 - Collecting, aggregating, and summarizing company results

D. Reserve and Capital Frameworks Covered

VM-20	<ul style="list-style-type: none"> All individual life insurance policies issued on or after the operative date of VM-20, or issued during the transition period, if elected by the company. Smaller insurance companies may obtain an exemption from VM-20 calculations.
--------------	--

	<ul style="list-style-type: none"> Stochastic reserves, Deterministic reserves, and stochastic exclusion ratio test (SERT) values will need to be field tested
VM-21/C3 Phase II	<ul style="list-style-type: none"> Variable deferred or immediate annuity contracts whether or not they have GMDBs or VAGLBs, group annuity contracts containing GMDBs or VAGLBs, and policies or contracts with guarantees similar in nature to GMDBs or VAGLBs where there is no other explicit reserve requirement Stochastic Reserves and the Additional Standard Projection Amount will need to be field tested. Different CTE levels will need to be tested for reserves and capital
C3 Phase I	<ul style="list-style-type: none"> Include certain annuities (with the exception of indexed annuities) and single premium life insurance for C3 Phase I testing. Reported C3 Phase I capital will be compared against results produced using the field test scenario sets. Participants that are testing products according to the C3 Phase I methodology will be asked to use a choose a scenario set with at least 200 scenarios for the ESG field test candidates rather than scenario sets with 50 or 12 scenarios as used in reported C3 Phase I results.
VM-22 (Out of Scope)	<ul style="list-style-type: none"> VM-22 methodology changes will be deferred to the VM-22 field test, and therefore VM-22 calculations are out of scope for this field test.

E. Survey Questions

In addition to providing quantitative results, field test participants will also be asked to respond to a series of survey questions. These questions will be designed to help further understand the companies field test results or help provide additional insight beyond what the quantitative results will show. Survey questions are contained in the Field Test Instructions document.

Section II: Assumption and Model Specifications

A. Population

- Use the actual inforce assets and liabilities corresponding to the 12/31/21 valuation date. For model runs that adjust the starting conditions from the 12/31/21 environment, make adjustments to the inforce assets and liabilities as appropriate. The types of adjustments will be detailed in the Field Test Instructions document. .
- To the extent that it is not possible for a company to run all relevant statutory reserve and capital models for the field test, a company may elect to run a representative set of their models or inforce. Companies should then either adjust the final results to

align with their reported reserve and/or capital amounts, or alternatively, they should adjust their reported amounts to align with the representative business that is being field tested.

B. Reserve/Capital Model Type

- Models should be capable of projecting asset and liability cashflows across numerous stochastic scenarios according to the requirements of the respective reserve or capital framework.

C. Asset/Liability Assumptions

- Utilize company and/or prescribed assumptions relevant to each respective reserve or capital framework.

D. ESG Models and Scenarios

Model	Field Test Recommendation
Treasury	1. Field test two Treasury model candidates
	a. Conning Calibration and Generalized Fractional Floor (“Non-shadow”)
	b. Alternative Calibration and Shadow Floor (“Shadow”)
Equity	2. Equity Utilize the existing GEMS® equity model with equity-Treasury linkage based on the short Treasury rate for field testing. The following calibrations will be tested:
	a. A baseline calibration that has been modified for increased alignment with the gross wealth factors produced by the AIRG Equity model
	b. The original Conning equity model calibration that had significantly lower gross wealth factors than the AIRG Equity model
	c. An alternative calibration developed by the ACLI
Corporate	3. Include GEMS® corporate model in initial field testing with the calibration updated for consistency with other generated returns on a risk/reward basis

- Field test participants will be provided scenario sets from the new ESG for field testing via the <https://naic.conning.com/scenariofiles> website.
- Parameters for the ESG and statistical summaries will be released alongside the scenarios
- 10,000 scenarios will be provided along with 1,000, 500, 200, and 40 scenario subsets. The subsets will be produced using the existing AAA Scenario Picking Tool methodology (see “Resources” section below for more information)

- As part of the field test, participants will be asked to compare results using the scenario sets from the new ESG to results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting. Field test participants will be responsible for obtaining scenario sets used for their reported results.
- Participants should run the same number of scenarios corresponding to their reported numbers for each respective reserve or capital model, with the exception of C3 Phase I which has alternative instructions. Any discrepancies between the number of scenarios used in the reported as compared to the field test should be addressed in a qualitative survey question. .
- Participants will also be asked to run the 16 SERT scenarios. This step will be optional for VM-21 and C3 Phase I, but required where companies already have the SERT implemented in their VM-20 models. This will be used to facilitate the results analysis. Since the SERT scenarios cover a range of interest rate and equity combinations, the results could be used to help explain and validate the stochastic results.
 - Reasoning: When evaluating results from stochastic scenarios, one challenge is how to identify the drivers of reserve/capital change. Individual stochastic scenarios can be hard to describe, but the SERT scenarios were designed to capture changing economic environments that are easy to explain.

E. Summary of Field Test Runs

The field test runs are described in the Field Test Instructions document.

F. Metrics/Output

- Reserve/Capital Framework specific results
 - VM-20
 - Stochastic reserve
 - Deterministic reserve
 - Stochastic Exclusion Ratio Test results
 - VM-21
 - Stochastic reserve
 - VM-21 CTE70 Best Efforts and CTE 70 Adjusted
 - Additional Standard Projection Amount
 - TBD: Company-Specific Market Path (CSMP) scenarios
 - C3 Phase II
 - Total Asset Requirement
 - C3 Charge
 - C3 Phase I
 - Reserves that were cash flow tested for asset adequacy
 - The C3 Phase I results should be summarized by applying the weights in the table below to the respective percentiles.

----- Percentile Weighting ----->

92 92.5 93 93.5 94 94.5 95 95.5 96 96.5 97 97.5 98
.02 .04 .06 .08 .10 .12 .16 .12 .10 .08 .06 .04 .02

- Reinsurance
 - Companies should provide results on a post-reinsurance basis. Optionally, companies may provide results on a pre-reinsurance basis in addition to providing on a post-reinsurance basis.
- Participants will also be asked to provide scenario level results by projection timestep according to the respective reserve or capital framework. For example, companies will be asked to provide the present value of accumulated deficiencies at time zero and future timesteps for the VM-20 stochastic reserve calculation.

G. Aggregation

- Field test participants are allowed to aggregate business according to the requirements of each respective reserve or capital framework. For example, participants electing to include whole life insurance and term insurance in their testing may aggregate within the established VM-20 Reserving Categories, but not across the categories.

H. Fund Mapping

- The GEMS ESG contains additional equity and bond fund returns that would allow for a more refined mapping of funds. Companies shall use their fund mapping as of 12/31/21 rather than create a more refined fund mapping. A survey question will ask participants to qualitatively or quantitatively address how their results would be impacted by including a more refined fund mapping.

Section III: Attribution Analysis

Note: We are seeking comment on how attribution analyses could be incorporated into the ESG Field Test along with recommendations for particular areas of focus.

Section IV: Resources

- A. AIRG used for C-3 Phase I
 - Life Risk-Based Capital (E) Working Group
- B. AIRG used for C-3 Phase II, VM-20, and VM-21
 - Society of Actuaries Resource Page for Economic Scenario Generators
- C. Proposed SERT Scenario Methodology

- D. Proposed Scenario Subset Selection Methodology
- E. ESG Landing Page (source for NAIC scenarios, documentation, etc.)

DRAFT

TO: Company Field Test Contact

FROM: Mike Boerner, Texas Department of Insurance
Chair of the Life Actuarial (A) Task Force

DATE: TBD

RE: Economic Scenario Generator (ESG) Field Test Instructions, Results Templates, and Qualitative Survey

The Texas Department of Insurance is reaching out to all companies participating in the ESG field test to be conducted from June through August. Thank you for participating in the field test. Please follow the field test instructions contained in Appendix A, and use the templates provided to submit your results. Also, please complete the Qualitative Survey contained in Appendix B as applicable for the product types tested.

Confidentiality

This information is being requested under both the authority of the general examination authority of the Texas Department of Insurance pursuant to Tex. Ins. Code §§ 401.051, *et seq.*, and the Standard Valuation Law, Tex. Ins. Code §§ 425.051, *et seq.*, and is considered to be confidential under these provisions. These provisions also permit the Texas Department of Insurance to share this confidential information with other state regulators and the NAIC, including the Life Actuarial (A) Task Force (LATF), the Life RBC (E) Working Group, the Valuation Analysis (E) Working Group (VAWG), and NAIC staff. Your company specific information will remain confidential pursuant to these statutory provisions.

Additional Instructions

Prior to 6/1/22, please confirm receipt of this email.

If you have questions regarding the field test instructions or templates, please contact Scott O’Neal at soneal@naic.org.

Your field test results are requested by 8/31/2022. The subject line should start with the company’s NAIC number, followed by “ESG Field Test”. Email your response to: Actuarialdivision@tdi.texas.gov, and CC Rachel.Hemphill@tdi.texas.gov and Yujie.Huang@tdi.texas.gov.

Thanks,

Mike

Appendix A

Economic Scenario Generator (ESG) Field Test Instructions

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I. Introduction

A. Background

Work is in progress to develop a new ESG to be prescribed for use in calculations of life and annuity Statutory reserves according to the *Valuation Manual* (e.g. VM-20, VM-21) and capital under the NAIC RBC requirements (e.g. C3 Phase 1, C3 Phase 2). Based on preliminary AAA model office testing, the implementation of a new ESG may materially increase life and annuity reserves and capital. The purpose of the ESG field test is to assess the impacts for different product types, gain a better understanding of the drivers of reserve and capital differences, and determine potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

This document should be read in conjunction with the document titled “Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications”. Some of the information from that document is repeated here, but with greater detail.

B. Communication of Field Test Results

NAIC staff will compile aggregated results in a report that will not contain any company-specific or other company-identifiable information. Assuming that companies have completed the field test by the end of August, the compilation of results is expected to be completed by the end of September, 2022. Joint LATF/LRBC WG open meetings will then be held to discuss aggregate field test results, and to determine whether ESG modifications should be made based on the results of the field test.

C. Next Steps

1. After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)
2. A second field test is expected to be conducted in early 2023. This field test may include:
 - Calibration changes for the Treasury, Equity, and Corporate Bond models desired by regulators.
 - Testing of alternative simplified models. For example, the Academy is currently developing a simplified Corporate Bond model. The ACLI is also developing an alternative model.
 - Any structural changes to the Conning Treasury, Equity, and Corporate Bond models desired by regulators after a review of results from the first field test. Structural ESG changes will require a programming effort, and the amount of time needed to complete this will depend on the nature of the changes. Examples of structural changes would include any modification to the linkage between the Treasury model and the Equity model, and implementation of an alternative simplified Corporate model.
3. Prior to ESG implementation, related *Valuation Manual* and RBC instruction changes will be drafted for consideration and adoption.

II. General Field Test Instructions

A. Summary of Field Test Runs

The runs needed for the field test are summarized in the table below. The Baseline #1 results already exist; they should match the values from year-end 2021 statutory reporting. The Baseline #1 and Baseline #2 results should reflect the ESG the company used for statutory reporting, whether it was a version of the Academy ESG or a proprietary ESG. Similarly, the Baseline runs should reflect the models companies used for year-end reporting, whether they were as of 12/31/21 or 9/30/21. For companies that typically produce results as of 9/30 (e.g. for C3 Phase I), 9/30 scenarios will be provided for the Baseline #2, and Tests 1a and 1b.

The table below lists the elements of the field test and identifies them as either “required” or “optional”. Required results are considered most important to the success of the field test. It is hoped that participating companies will provide results for these items, and as many of the optional items as possible. However, it is recognized that companies may not have the capacity to produce everything due to resource constraints. If this is the case, it is preferable that companies provide partial results rather than not participate in the field test at all. Further technical details behind the ESG calibration are provided in the powerpoint embedded below.



Alternative Run Discussion.pptx

Field Test Runs**	Scenario Sets	Inforce Assets and Liabilities	Priority	Required or Optional
Baseline #1 Already exists; no new runs needed.	Scenario set(s) the company used for 12/31/21 statutory reporting of reserves and RBC	As of 12/31/21	N/A	Required
Baseline #2	ESG the company used for 12/31/21 statutory reporting of reserves and RBC, but modified to produce scenario sets with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*	9	Optional
Test #1a	GEMS Baseline Equity and Corporate model scenarios as of 12/31/21, and Conning Treasury model calibration with generalized fractional floor as of 12/31/21	As of 12/31/21	1	Required
Test #1b	Same as Test #1a, but with Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	2	Required
Test #2a Sensitivity Test with Higher Interest Rates	Same as Test #1a, but with Equity, Corporate, and Treasury models with a 12/31/19 starting yield curve modified using a 200 BP increase across all maturities	As of 12/31/21 with appropriate adjustments to inforce*	3	Required
Test #2b Sensitivity Test with Higher Interest Rates	Same as Test #1b, but with Equity, Corporate, and Treasury models with a 12/31/19 starting yield curve using a 200 BP increase across all maturities	As of 12/31/21 with appropriate adjustments to inforce*	4	Required
Test #3: Attribution Analysis Run	Conning Treasury model calibration with generalized fractional floor as of 12/31/21, GEMS Corporate model as of 12/31/21, and GEMS Equity model corresponding to a	As of 12/31/21	5	Optional

	12/31/19 yield curve with a 200 BP increase across all maturities			
Test #4: Attribution Analysis Run	Same as Test #3, but using Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	6	Optional
Test #5: Conning Original Equity Calibration	Same as #1a, but with Conning's original Equity model calibration that had significantly lower Gross Wealth Factor's than the AIRG Equity.	As of 12/31/21	7	Required
Test #6: ACLI Alternative Equity Calibration	Same as #1a, but with the ACLI's Alternative Equity Calibration	As of 12/31/21	8	Optional

*More information on adjustments to be added later

**After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)

B. Framework Specific Required and Optional Quantitative Results

The table below illustrates the framework specific results that are required to be produced as part of the field test along with optional components that companies may elect to provide.

Field Test Element	Required for VM-21 and C3 Phase II	Required for VM-20	Required for C3 Phase 1	Optional
Post reinsurance ceded results	X	X	X	
Pre-reinsurance ceded results				X
Stochastic Reserve	X	X		
Scenario Reserves, before cash surrender value floor	X	X		
Scenario Reserves, after cash surrender value floor	X	X		
CTE70 Best Efforts	X			
CTE70 Adjusted	X			
Additional Standard Projection Amount	X			
CTE98 (for C3 Phase II)	X			
Deterministic Reserve		X		
NPR		X		
Results from each of the 16 SERT Scenarios, and SERT ratio		X		For VM-21 and C3P1

C. Number of Scenarios

For each product type to be tested, the number of scenarios used for field testing should match the number the company used for statutory reporting on 12/31/21. The number of scenarios used may

vary by product type, as long as it is consistent with the number used for statutory reporting. For example, if 1,000 scenarios were run for variable annuity reserves reported as of 12/31/21, then 1,000 scenarios should be run as of that valuation date for the field test. Similarly, if 200 scenarios were run for life insurance reserves reported as of 12/31/21, then 200 scenarios should be run for the field test as of that valuation date.

D. Scenario Sets

1. Scenario files – The scenario sets to be used for the field test, along with descriptions of the file formats, will be available for download at <https://naic.conning.com/scenariofiles>. Statistical summaries of the projections will also be provided, along with the parameters used for the ESG.
2. Scenario subsets - A full scenario file containing 10,000 scenarios will be provided for each model run to be tested. Scenario subsets of 1,000, 500, 200, and 40 scenarios will also be available.
3. Monthly Timestep – all scenario files will be provided using a monthly projection timestep
4. Additional scenario sets – The following additional scenarios are available:
 - 16 Stochastic Exclusion Ratio Test (SERT) scenarios
 - TBD - Company-Specific Market Path (CSMP) scenarios

E. Projection Period

Each scenario file contains monthly projections for 100 years. For each product type to be tested, the projection period used for field testing should match the projection period the company used for statutory reporting as of 12/31/21.

F. Negative Interest Rates

The two ESG Treasury models used for the field test include scenarios with negative interest rates, so companies will need to consider whether any modeling or assumption changes are needed to handle this. It is recommended that companies read and consider the information in the paper below:

Potential Modeling Challenges in a Negative Interest Rate Environment

Author: Zohair Motiwalla, FSA, MAAA
Principal and Consulting Actuary, Milliman

For purposes of the field test, companies may make assumption changes as appropriate to reflect negative interest rates, but this is not required given the amount of time this may take. The Qualitative Survey asks companies to provide details on whether assumption changes were made, and the nature of the changes. It also asks companies to comment on any changes anticipated to be made when the new ESG is adopted.

G. Model Simplifications

If the company is not able to provide model results that match reported values, the company may run a representative model or inforce population. The company should then either adjust the final results to align with their reported amount, or alternatively, they should adjust their reported amount to align with the representative business that is being field tested.

H. Hedging (as applicable)

The hedging strategy the company used as of 12/31/21 for statutory reporting should be used for the field test runs.

i. Fund Mapping (as applicable)

The company's fund mapping used as of 12/31/21 for statutory reporting should be used for the field test to allow for a more direct comparison of results from the Academy ESG (or proprietary ESG) vs. the GEMS ESG. Although the GEMS ESG contains additional equity and bond fund returns for a more refined mapping of funds, these should not be used for the field test. However, if certain company circumstances (e.g. company reports using a proprietary ESG) exist where it is not practical or possible to use the same fund mapping, companies may use judgement to determine an appropriate fund mapping for the field test. Please see the survey question related to the fund mapping to provide more information.

The tables below show the equity and bond returns available from the Academy ESG and the comparable returns offered in the GEMS equity and corporate bond models. For the field test, companies should use the appropriate GEMS returns that correspond to their fund mapping as of each valuation date.

Further information on fund mapping can be found in the results templates

AAA ESG Returns	Market Proxy Used to Produce AAA ESG Returns*	Field Test GEMS® Fund Mapping**
Diversified Large Capitalized U.S. Equity	S&P500 Total Return Index	Large Cap
Diversified International Equity	MSCI-EAFE \$USD Total Return Index	International Diversified Equity
Intermediate Risk Equity	U.S. Small Capitalization Index	Small Cap
Aggressive Equity**	25% Emerging Markets, 12.5% NASDAQ, 62.5% Hang Seng***	2/3 Aggressive Foreign Equity, 1/3 Aggressive US Equity
Money Market	3 Month Treasury returns	Money Market
U.S. Intermediate Term Government Bonds	U.S. Intermediate Term Government Bonds	Int Govt Bonds
U.S. Long Term Corporate Bonds	U.S. Long Term Corporate Bonds	Long Inv Corp Bonds
Diversified Fixed Income	65% ITGVT + 35% LTCORP	65% Int Govt Bonds, 35% Long Inv Corp Bonds
Diversified Balanced Allocation	60% Diversified Equity + 40% Fixed Income	60% Large Cap, 26% Int Govt Bonds, 14% Long Inv Corp Bonds

*Source: AAA LCAS C3 Phase II RBC for Variable Annuities: Pre-Packaged Scenarios January 2006

** See [Basic Data Columns](#) for more information on the returns available in the GEMS® scenario files

***The Academy Equity Model Aggressive Equity proxy is not meant to suggest a representative asset profile for this class but used merely to build an historic index with high volatility and sufficient history.

III. Additional Instructions for VM-21

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-21 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Aggregation

Business should be aggregated according to the requirements under VM-21, consistent with how this was done for statutory reporting on 12/31/21. For example, if RILAs were aggregated with variable annuities for statutory reporting, they should be aggregated for the field test.

IV. Additional Instructions for VM-20

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-20 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Exclusion Tests

1. Deterministic Exclusion Test - This is not applicable for purposes of the field test and should not be performed.
2. Stochastic Exclusion Ratio Test – The SERT should be performed unless the company has not built out that functionality in their models. The results may help determine whether the SERT still performs as intended using the new ESG.

C. Stochastic Reserve Calculation

The Stochastic Reserve should be calculated unless the company has not built out that functionality in their models.

V. Additional Instructions for C-3 Phase I

A. Methodology

Companies should use the current C-3 Phase I methodology for the field test, with the exception noted in Section B below. A future VM-22 field test will include both the new ESG and new C-3 Phase I methodology.

B. Number of Scenarios

For Tests 1a – Test 4 (see the table in Section II.A), companies should run a minimum of 200 scenarios.

VI. Attribution Analysis

TBD – Details to be added to this document when provided by the Academy

VII. Reporting of Field Test Results

A. Results Templates

Companies should provide quantitative field test results using the Excel templates that have been developed for this purpose. Instructions are included in the templates. The spreadsheet tabs may be copied as needed within the workbook to reflect any additional products/models not included.

.

B. Qualitative Survey

Companies are asked to complete the Qualitative Survey contained in Appendix B to the extent possible for the product types tested.

C. NAIC Aggregation of Company Results

NAIC staff will be aggregating quantitative results across companies and producing a variety of metrics using SAS. For ease of aggregation, please do not add rows or columns to the results templates.

Field test participants' responses to the Qualitative Survey will also be aggregated where appropriate.

Appendix B

Economic Scenario Generator (ESG) Field Test Qualitative Survey

All companies are asked to provide responses to the survey questions below to the extent possible for the types of results submitted. The responses will aid in understanding how each company performed their modeling, and potential drivers of reserve and RBC differences by product type. The responses will also be used to identify potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

I. VM-21 and C3 Phase II

1. Which valuation date was used for Baseline #1 (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for Baseline and field test runs?
10,000 1,000 500 Other (please describe)
3. Baseline #1 should match what was reported in the Variable Annuities Supplement for Individual and Group business. Is this the case? Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used to determine values for the Baseline runs? Yes No
5. Did the company make any changes to assumptions or modeling approach for the field test runs because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did you use an implicit method or explicit method to model hedging?
Implicit method Explicit method Did not model hedging Other If Other, please explain.
8. If your company uses an implicit methodology to quantify the impacts of hedging, have you reassessed whether it is still appropriate in light of the field test scenario sets?
9. Did the new ESG impact hedge effectiveness? If so, can you tell what is driving this?
10. Where possible, please explain the change between the field test runs and the Baseline runs for the Post-Reinsurance-Ceded Reserve for Guaranteed Benefits, and optionally for Pre-Reinsurance-Ceded Reserve for Guaranteed Benefits. As part of your response, please address each of the following questions.

- a. What were the drivers of the change?
 - b. How did the drivers interplay to result in the overall change? Were they additive, compounding, offsetting, etc.?
 - c. How did the VA product guarantees affect the Baseline and field test results differently? In what way did the product guarantees contribute to the change in results?
 - d. When comparing the field test runs to the Baseline, how did the sensitivities to equities vs. interest rates drive the magnitude of the change in results? In other words, how sensitive was the company's portfolio to the change in the interest rate scenarios? Or, if the reserve amount is driven more by the equity levels, how would you characterize that relationship or dependence?
 - e. Did the impact of hedging differ between the baseline and the Field Test? If so, in what way?
11. Where possible, please explain the change between the field test runs and the Baseline for the **Risk-Based Capital**. Please address the following as part of your response.
- a. Compare the impacts of the field test scenarios on the CTE 70 vs. CTE 98 tail metrics. Discuss the interplay and resulting impact on Risk-Based Capital.
 - b. Are there distinct drivers that create different movements in the 30% vs. 2% tail?
 - c. Are the impacts of hedging different when calculating the reserve vs. risk-based capital? Why or why not?
12. Does your company use the specific tax recognition or a macro-tax adjustment to determine post-tax capital amounts?
13. If the fund mapping for the field test scenarios had to change from what was included in the ESG used for reporting, please describe the new fund mapping and why it was necessary.

II. VM-20

1. Which valuation date was used for the Baseline run (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline and field test runs?
10,000 1,000 500 200 40 Differs by product type
 Specify the details if selected "Differs by product type": _____
3. The Baseline should match what was reported in the VM-20 Reserves Supplement. Is this the case?
Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used for calculating the baseline? Yes No
5. Did the company make any changes to assumptions or modeling approach because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.

7. Did your dominant PBR reserve change?
8. If the fund mapping for the field test scenarios had to change from what was included in the ESG used for reporting, please describe the new fund mapping and why it was necessary.

III. C3 Phase I

1. Which valuation date was used for the Baseline (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline run?
50 12 Other (please describe)
3. How many scenarios were used for field test runs?
200 Other (please provide the number)

IV. All Products

1. All amounts populated in the templates should be shown in dollars. Is this the case? Yes No
If No, what units did you use?
2. If the inforce files were adjusted for the field test runs, please describe the changes that were made.
3. To what extent did the field test runs capture the potential impact of the scenarios on results? Were there areas that could not be tested/assessed (e.g., due to the need for additional scenario sets, new or existing simplifications)?
4. What additional information / analysis or scenario refinements would your company recommend?
5. Please provide any additional perspectives and information that could be relevant in the post-field test assessment. This information could include observations, unexpected results, insights and desirable properties from alternative models/scenarios, etc. To allow for aggregation of company responses to this question, please categorize each of your comments as relating to "capital/reserves," "product specific issues," "attribution," or "other issues".
6. Would your company need to create a more refined mapping to equity and bond funds given the expanded set of returns offered by the GEMS ESG? If yes, please provide a quantitative or qualitative explanation of how it might impact your results.
7. If your company elected to run a representative set of models or inforce, please describe any adjustments made to account for the difference between the representative models or inforce and the reported values. Also please provide an explanation as to why the models or inforce that was used in field testing is expected to be representative.
8. If a different number of scenarios was used for field test results as compared to the number of scenarios used in reporting, please provide information on which results are impacted.
9. Does your company use the specific tax recognition or a macro-tax adjustment to determine post-tax capital amounts?

Draft: 6/29/22

Life Actuarial (A) Task Force
Virtual Meeting
May 12, 2022

The Life Actuarial (A) Task Force met May 12, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ben Bock, Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Heard an Update on the LIBOR to SOFR Transition

Pat Allison (NAIC) provided an overview of the current process for calculating the swap spreads prescribed in the *Valuation Manual*. She said the swap spreads are the average of London Interbank Offered Rates (LIBOR) generated from two data sources; i.e., J.P. Morgan and Bank of America. She said LIBOR will be published through June 2023. The replacement for LIBOR is the Secured Overnight Financing Rate (SOFR). She said the NAIC was recently informed by one of the data sources that it has been basing the swap spread data sent to the NAIC on the SOFR since Dec. 31, 2021. Consequently, since that time, swaps published for all tenors, except the three-month and six-month, have been inadvertently based on an average of LIBOR-based rates and SOFR-based rates, which is contrary to the intent of the *Valuation Manual*.

Ms. Allison proposed that NAIC staff inform all parties, via email and posting a statement on the NAIC website, of the inclusion of the SOFR in the published swap spreads. She said NAIC staff will pursue discussions with the data sources to ask if they can provide both LIBOR and SOFR-based swap rates. She said getting both sets of rates will allow the NAIC to separately publish rates based on both rates for as long as the LIBOR swap spreads are available. Mr. Carmello asked if companies would be required to use one or the other. Ms. Allison said that issue needs to be discussed with the Task Force, but the current thinking is that companies would have the discretion to use the rates that best represent the portfolio supporting their reserves. Task Force members posed no objections to the plan for communicating to companies.

2. Discussed ESG Field Test Specifications, Instructions, and Templates

Scott O'Neal (NAIC) said the public comment period for the field test specifications, field test instructions, and field test template ended May 10. He said no formal comments were received, but the American Academy of Actuaries (Academy) and the American Council of Life Insurers (ACLI) provided feedback during a recent Economic Scenario Generator (ESG) Field Test Planning Group meeting. He said based on the feedback, each of the field test documents was revised as shown by the redlined attachments. Mr. Carmello said run #5 in Section II.A of the field test instructions should be a mandatory run. Mr. Boerner said the document will be re-exposed.

The Task Force exposed the field test specifications (Attachment Ten-A), field test instructions (with run #5 mandatory) (Attachment Ten-B), and field test template (Attachment Ten-C) for a public comment period ending May 17.

3. Discussed the Academy ESG Field Test C-3 Phase I Template

Link Richardson (Academy) said the Academy C-3 Spreadsheet cover letter describes the C-3 Phase 1 spreadsheet. He said the spreadsheet is an extension of the one used in the 2015 C-3 Phase 1 field test. He said the updated version allows for the running of 1,000 scenarios instead of 200 scenarios, which was allowed by the 2015 version and accommodates conditional tail expectation (CTE)-70 and CTE-98. He said the Academy is providing the spreadsheet to the NAIC for use in the ESG field test.

The Task Force exposed the Academy ESG field test C-3 Phase 1 cover letter (Attachment Ten-D) and template (Attachment Ten-E) for a public comment period ending May 17.

4. Discussed the Equity Model Parameters

Mr. O’Neal reviewed the table of gross wealth factors (Attachment Ten-F), comparing the results of the Conning and ACLI calibrations to the results of the Academy Interest Rate Generator (AIRG). He said the NAIC staff recommended calibration is shown in column (H2). He said sensitivities will also be run for the Conning equity baseline calibration in column (A) and the ACLI alternative calibration in column (J).

Brian Bayerle (ACLI) discussed the ACLI proposed alternative equity calibration. He said the distribution of gross wealth factors across multiple projection horizons has been a traditional criterion for equity valuations in the U.S. and Canada. He said given the nature of life and annuity liabilities, looking at single year returns is not as useful or relevant as looking at gross wealth factors. He referred to a slide in the ACLI presentation (Attachment Ten-G) that compares the results from the Conning baseline calibration to the results of the AIRG calibration. He pointed out that there are significant differences in both the right and left tails of the distribution. He said the Conning baseline calibration significantly increases reserves and the total asset requirement (TAR). He posited that the differences are due mostly to unintended side effects in the Conning model, as opposed to underlying model changes. He said there do not seem to be any intentional changes proposed by state insurance regulators, such as the “low for long” requirement, that are causing the differences. He added that Conning has other options at its disposal for adjusting the model. He suggested that Conning make more of its documentation publicly available.

Mr. Bayerle said it will be important for the Task Force to have a substantive discussion on the Standard & Poor’s (S&P’s) equity scenario properties and behavior to develop comprehensive targets and acceptance criteria. He said the ACLI alternative equity calibration produces results that are intuitive and interpretable and reflects historical attributes better than the Conning H2 calibration. He advocated for the inclusion of the ACLI calibration in the field test.

5. Adopted Amendment Proposal 2022-05

Angela McNabb (NAIC) said amendment proposal 2022-05 adds plan codes, corrects language, and implements a code for death claims due to COVID-19. She said the COVID-19 code was added in response to a request from the Society of Actuaries (SOA). Mr. Bayerle said the ACLI supports most of the changes but suggests that the amendment should clarify whether the COVID-19 code would be used only when COVID-19 is the primary cause of death or if it is meant for use when COVID-19 is a contributing cause of death. He noted that due to the medical judgment involved, obtaining accurate cause of death information can be difficult. He said COVID-19 deaths may be undercounted if companies do not require death certificates for smaller policies. Cindy MacDonald (SOA) said the SOA understands that the data collected on COVID-19 deaths may not be perfect, but it will help with the analysis of data from sources other than the NAIC that is currently being worked. Ms. Allison said rather than putting the specifics of identifying COVID-19 deaths in the amendment proposal, the specifics will be provided in

the data dictionary NAIC staff are developing. Ms. McNabb said the intent will also be conveyed through the company training planned for June.

Mr. Chupp made a motion, seconded by Mr. Leung, to adopt amendment proposal 2022-05 (Attachment Ten-H). The motion passed unanimously.

6. Discussed Mortality Improvement

Marianne Purushotham (SOA Preferred Mortality Project Oversight Group) said the 2022 mortality improvement recommendation (Attachment Ten-I) comprises a historical mortality improvement recommendation and a future mortality improvement recommendation. She said the study is based on general population mortality. She said applying socioeconomic class data to the general population mortality will help get closer to an estimate for insured population mortality. She said it is recognized that starting with population mortality provides an additional margin. She said the SOA Preferred Mortality Project Oversight Group is looking at margins and direct adjustments as ways to incorporate the impact of COVID-19. She said a series of model office scenarios are being run to get an estimate of the impact of COVID-19 on future mortality. She said information will be shared with the Task Force to help as it considers approval of the historical and future mortality proposals.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/05 12/May 12 Minutes.docx



DRAFT

Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications

Primary Contact:
Scott O’Neal, FSA, MAAA (soneal@naic.org)

Section I: Overview

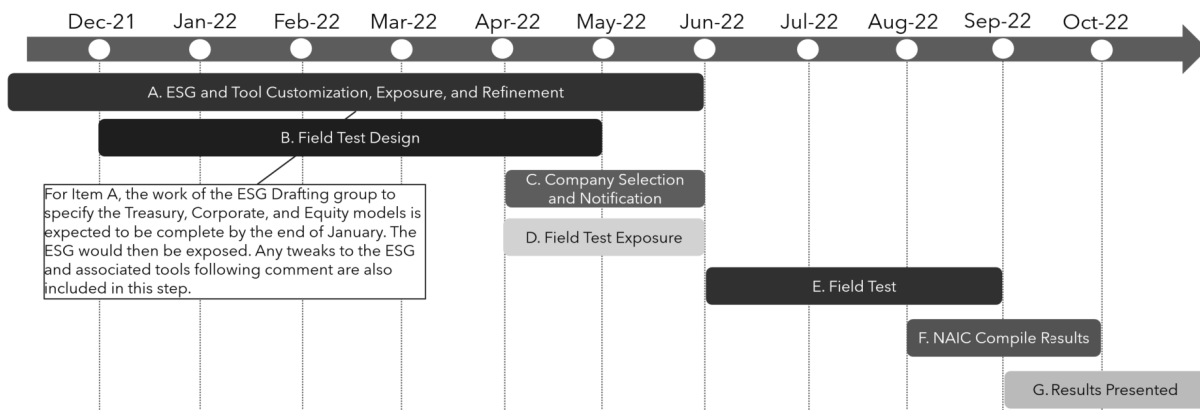
A. Objectives

The ESG Field Test should be able to address the following questions:

<p>1. Reserve and Capital Impact</p>	<ul style="list-style-type: none"> • How does the new ESG impact industry reserves and capital in different economic environments? • How do reserve and capital impacts vary by product type? • What is the impact of the changes to each ESG model (i.e. interest rate model, equity model, corporate model)? <p>The impact will be determined by comparing reserves and capital calculated using the field test ESG scenario sets against results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting.</p>
<p>2. Range of Results</p>	<ul style="list-style-type: none"> • What is the range of reserve and capital impacts across companies (e.g. percentage increase/decrease)? • Which particular companies and product types have the highest and lowest impacts, and why?
<p>3. Metrics</p>	<ul style="list-style-type: none"> • Which particular interest rate and equity scenarios cause the greatest stress? • How do results compare for CTE70 vs. CTE98? Calculate different CTE levels (e.g., CTE70, CTE98, CTE90) to compare to existing requirements. • How do the metrics perform with different scenario set sizes?
<p>4. Stability Over Time</p>	<ul style="list-style-type: none"> • How do the reserve and capital results change across scenarios produced for different economic environments?
<p>5. Exclusion Testing and Reserve Components</p>	<ul style="list-style-type: none"> • Does the new ESG change the likelihood of the SR being the dominant reserve? • Do the exclusion tests still perform as intended? • Does the VM-20 DR scenario still capture risk appropriately? <p>Note: Companies that currently pass the stochastic exclusion test will not have a stochastic reserve model.</p>
<p>6. Hedging Impact</p>	<ul style="list-style-type: none"> • Does the new ESG impact hedge effectiveness? If so, what feature is driving this (e.g. the new ESG produces additional yield curve shapes, such as humps)?

7. Sensitivity Tests and Attribution	<ul style="list-style-type: none"> Do baseline results and/or sensitivity tests indicate that the field-tested ESG calibration needs to be modified? What are the drivers of reserve and capital changes as determined from attribution analysis?
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B. Tentative Timeline



Note: Dotted lines represent the beginning of the month.

C. Structure

- NAIC to collaborate with the American Academy of Actuaries’ ESG Field Testing Subgroup and American Council of Life Insurer’s ESG Field testing group to design the NAIC ESG Field test. Field test recommendations will be brought to a joint meeting of the Life Actuarial (A) Task Force and the Life RBC (E) Working Group.
- Field Test Participants
 - The NAIC has solicited volunteer companies to participate in the ESG field testing.
 - Further analysis needs to be completed to assess product coverage.
 - Additional participants may be requested if desired by regulators.
- The NAIC will work with state regulators to coordinate the following:
 - Communicating with field test participants and providing ESG Field Test instructions and result templates.
 - Collecting, aggregating, and summarizing company results

D. Reserve and Capital Frameworks Covered

VM-20	<ul style="list-style-type: none"> All individual life insurance policies issued on or after the operative date of VM-20, or issued during the transition period, if elected by the company. Smaller insurance companies may obtain an exemption from VM-20 calculations.
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	<ul style="list-style-type: none"> Stochastic reserves, Deterministic reserves, and stochastic exclusion ratio test (SERT) values will need to be field tested
VM-21/C3 Phase II	<ul style="list-style-type: none"> Variable deferred or immediate annuity contracts whether or not they have GMDBs or VAGLBs, group annuity contracts containing GMDBs or VAGLBs, and policies or contracts with guarantees similar in nature to GMDBs or VAGLBs where there is no other explicit reserve requirement Stochastic Reserves and the Additional Standard Projection Amount will need to be field tested. Different CTE levels will need to be tested for reserves and capital
C3 Phase I	<ul style="list-style-type: none"> Include certain annuities (with the exception of indexed annuities) and single premium life insurance for C3 Phase I testing. Reported C3 Phase I capital will be compared against results produced using the field test scenario sets. Participants that are testing products according to the C3 Phase I methodology will be asked to use a choose a scenario set with at least 200 scenarios for the ESG field test candidates rather than scenario sets with 50 or 12 scenarios as used in reported C3 Phase I results.
VM-22 (Out of Scope)	<ul style="list-style-type: none"> VM-22 methodology changes will be deferred to the VM-22 field test, and therefore VM-22 calculations are out of scope for this field test.

E. Survey Questions

In addition to providing quantitative results, field test participants will also be asked to respond to a series of survey questions. These questions will be designed to help further understand the companies field test results or help provide additional insight beyond what the quantitative results will show. Survey questions are contained in the Field Test Instructions document.

Section II: Assumption and Model Specifications

A. Population

- Use the actual inforce assets and liabilities corresponding to the 12/31/21 valuation date. For model runs that adjust the starting conditions from the 12/31/21 environment, make adjustments to the inforce assets and liabilities as appropriate. The types of adjustments will be detailed in the Field Test Instructions document. .
- To the extent that it is not possible for a company to run all relevant statutory reserve and capital models for the field test, a company may elect to run a representative set of their models or inforce. Companies should then either adjust the final results to

align with their reported reserve and/or capital amounts, or alternatively, they should adjust their reported amounts to align with the representative business that is being field tested.

B. Reserve/Capital Model Type

- Models should be capable of projecting asset and liability cashflows across numerous stochastic scenarios according to the requirements of the respective reserve or capital framework.

C. Asset/Liability Assumptions

- Utilize company and/or prescribed assumptions relevant to each respective reserve or capital framework.

D. ESG Models and Scenarios

Model	Field Test Recommendation
Treasury	1. Field test two Treasury model candidates
	a. Conning Calibration and Generalized Fractional Floor (“Non-shadow”)
	b. Alternative Calibration and Shadow Floor (“Shadow”)
Equity	2. Equity Utilize the existing GEMS® equity model with equity-Treasury linkage based on the short Treasury rate for field testing. The following calibrations will be tested:
	a. A baseline calibration that has been modified for increased alignment with the gross wealth factors produced by the AIRG Equity model
	b. The original Conning equity model calibration that had significantly lower gross wealth factors than the AIRG Equity model
	c. An alternative calibration developed by the ACLI
Corporate	3. Include GEMS® corporate model in initial field testing with the calibration updated for consistency with other generated returns on a risk/reward basis

- Field test participants will be provided scenario sets from the new ESG for field testing via the <https://naic.conning.com/scenariofiles> website.
- Parameters for the ESG and statistical summaries will be released alongside the scenarios
- 10,000 scenarios will be provided along with 1,000, 500, 200, and 40 scenario subsets. The subsets will be produced using the existing AAA Scenario Picking Tool methodology (see “Resources” section below for more information)

- As part of the field test, participants will be asked to compare results using the scenario sets from the new ESG to results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting. Field test participants will be responsible for obtaining scenario sets used for their reported results.
- Participants should run the same number of scenarios corresponding to their reported numbers for each respective reserve or capital model, with the exception of C3 Phase I which has alternative instructions. Any discrepancies between the number of scenarios used in the reported as compared to the field test should be addressed in a qualitative survey question. .
- Participants will also be asked to run the 16 SERT scenarios. This step will be optional for VM-21 and C3 Phase I, but required where companies already have the SERT implemented in their VM-20 models. This will be used to facilitate the results analysis. Since the SERT scenarios cover a range of interest rate and equity combinations, the results could be used to help explain and validate the stochastic results.
 - Reasoning: When evaluating results from stochastic scenarios, one challenge is how to identify the drivers of reserve/capital change. Individual stochastic scenarios can be hard to describe, but the SERT scenarios were designed to capture changing economic environments that are easy to explain.

E. Summary of Field Test Runs

The field test runs are described in the Field Test Instructions document.

F. Metrics/Output

- Reserve/Capital Framework specific results
 - VM-20
 - Stochastic reserve
 - Deterministic reserve
 - Stochastic Exclusion Ratio Test results
 - VM-21
 - Stochastic reserve
 - VM-21 CTE70 Best Efforts and CTE 70 Adjusted
 - Additional Standard Projection Amount
 - TBD: Company-Specific Market Path (CSMP) scenarios
 - C3 Phase II
 - Total Asset Requirement
 - C3 Charge
 - C3 Phase I
 - Reserves that were cash flow tested for asset adequacy
 - The C3 Phase I results should be summarized by applying the weights in the table below to the respective percentiles.

----- Percentile Weighting ----->

92	92.5	93	93.5	94	94.5	95	95.5	96	96.5	97	97.5	98
.02	.04	.06	.08	.10	.12	.16	.12	.10	.08	.06	.04	.02

- Reinsurance
 - Companies should provide results on a post-reinsurance basis. Optionally, companies may provide results on a pre-reinsurance basis in addition to providing on a post-reinsurance basis.
- Participants will also be asked to provide scenario level results by projection timestep according to the respective reserve or capital framework. For example, companies will be asked to provide the present value of accumulated deficiencies at time zero and future timesteps for the VM-20 stochastic reserve calculation.

G. Aggregation

- Field test participants are allowed to aggregate business according to the requirements of each respective reserve or capital framework. For example, participants electing to include whole life insurance and term insurance in their testing may aggregate within the established VM-20 Reserving Categories, but not across the categories.

H. Fund Mapping

- The GEMS ESG contains additional equity and bond fund returns that would allow for a more refined mapping of funds. Companies shall use their fund mapping as of 12/31/21 rather than create a more refined fund mapping. A survey question will ask participants to qualitatively or quantitatively address how their results would be impacted by including a more refined fund mapping.

Section III: Attribution Analysis

Note: We are seeking comment on how attribution analyses could be incorporated into the ESG Field Test along with recommendations for particular areas of focus.

Section IV: Resources

- A. AIRG used for C-3 Phase I
 - Life Risk-Based Capital (E) Working Group
- B. AIRG used for C-3 Phase II, VM-20, and VM-21
 - Society of Actuaries Resource Page for Economic Scenario Generators
- C. Proposed SERT Scenario Methodology

- D. Proposed Scenario Subset Selection Methodology
- E. ESG Landing Page (source for NAIC scenarios, documentation, etc.)

DRAFT

TO: Company Field Test Contact
FROM: Mike Boerner, Texas Department of Insurance
Chair of the Life Actuarial (A) Task Force
DATE: TBD
RE: Economic Scenario Generator (ESG) Field Test Instructions, Results Templates, and Qualitative Survey

The Texas Department of Insurance is reaching out to all companies participating in the ESG field test to be conducted from June through August. Thank you for participating in the field test. Please follow the field test instructions contained in Appendix A, and use the templates provided to submit your results. Also, please complete the Qualitative Survey contained in Appendix B as applicable for the product types tested.

Confidentiality

This information is being requested under both the authority of the general examination authority of the Texas Department of Insurance pursuant to Tex. Ins. Code §§ 401.051, *et seq.*, and the Standard Valuation Law, Tex. Ins. Code §§ 425.051, *et seq.*, and is considered to be confidential under these provisions. These provisions also permit the Texas Department of Insurance to share this confidential information with other state regulators and the NAIC, including the Life Actuarial (A) Task Force (LATF), the Life RBC (E) Working Group, the Valuation Analysis (E) Working Group (VAWG), and NAIC staff. Your company specific information will remain confidential pursuant to these statutory provisions.

Additional Instructions

Prior to 6/1/22, please confirm receipt of this email.

If you have questions regarding the field test instructions or templates, please contact Scott O’Neal at soneal@naic.org.

Your field test results are requested by 8/31/2022. The subject line should start with the company’s NAIC number, followed by “ESG Field Test”. Email your response to: Actuarialdivision@tdi.texas.gov, and CC Rachel.Hemphill@tdi.texas.gov and Yujie.Huang@tdi.texas.gov.

Thanks,

Mike

Appendix A

Economic Scenario Generator (ESG) Field Test Instructions

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I. Introduction

A. Background

Work is in progress to develop a new ESG to be prescribed for use in calculations of life and annuity Statutory reserves according to the *Valuation Manual* (e.g. VM-20, VM-21) and capital under the NAIC RBC requirements (e.g. C3 Phase 1, C3 Phase 2). Implementation of a new ESG is expected to materially increase life and annuity reserves and capital. The purpose of the ESG field test is to assess the impacts for different product types, gain a better understanding of the drivers of reserve and capital differences, and determine potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

This document should be read in conjunction with the document titled “Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications”. Some of the information from that document is repeated here, but with greater detail.

B. Communication of Field Test Results

NAIC staff will compile aggregated results in a report that will not contain any company-specific or other company-identifiable information. Assuming that companies have completed the field test by the end of August, the compilation of results is expected to be completed by the end of September, 2022. Joint LATF/LRBC WG open meetings will then be held to discuss aggregate field test results, and to determine whether ESG modifications should be made based on the results of the field test.

C. Next Steps

1. After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)
2. A second field test is expected to be conducted in early 2023. This field test may include:
 - Calibration changes for the Treasury, Equity, and Corporate Bond models desired by regulators.
 - Testing of alternative simplified models. For example, the Academy is currently developing a simplified Corporate Bond model. The ACLI is also developing an alternative model.
 - Any structural changes to the Conning Treasury, Equity, and Corporate Bond models desired by regulators after a review of results from the first field test. Structural ESG changes will require a programming effort, and the amount of time needed to complete this will depend on the nature of the changes. Examples of structural changes would include any modification to the linkage between the Treasury model and the Equity model, and implementation of an alternative simplified Corporate model.
3. Prior to ESG implementation, related *Valuation Manual* and RBC instruction changes will be drafted for consideration and adoption.

II. General Field Test Instructions

A. Summary of Field Test Runs

The runs needed for the field test are summarized in the table below. The Baseline #1 results already exist; they should match the values from year-end 2021 statutory reporting. The Baseline #1 and Baseline #2 results should reflect the ESG the company used for statutory reporting, whether it was a version of the Academy ESG or a proprietary ESG. Similarly, the Baseline runs should reflect the models companies used for year-end reporting, whether they were as of 12/31/21 or 9/30/21. For companies that typically produce results as of 9/30 (e.g. for C3 Phase I), 9/30 scenarios will be provided for the Baseline #2, and Tests 1a and 1b.

Field Test Runs**	Scenario Sets	Inforce Assets and Liabilities	Priority
<u>Baseline #1</u> Already exists; no new runs needed.	Scenario set(s) the company used for 12/31/21 statutory reporting of reserves and RBC	As of 12/31/21	N/A, companies should already have
Baseline #2	ESG the company used for 12/31/21 statutory reporting of reserves and RBC, but modified to produce scenario sets with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*	9
Test #1a	GEMS Equity and Corporate model scenarios as of 12/31/21, and Conning Treasury model calibration with generalized fractional floor as of 12/31/21	As of 12/31/21	1
Test #1b	Same as Test #1a, but with Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	2
Test #2a Sensitivity Test with Higher Interest Rates	Same as Test #1a, but with Equity, Corporate, and Treasury models with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*	3
Test #2b Sensitivity Test with Higher Interest Rates	Same as Test #1b, but with Equity, Corporate, and Treasury models with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*	4
Test #3: Attribution Analysis Run	Conning Treasury model calibration with generalized fractional floor as of 12/31/21, GEMS Corporate model as of 12/31/21, and GEMS Equity model as of 12/31/19	As of 12/31/21	5
Test #4: Attribution Analysis Run	Same as Test #3, but using Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21	6
Test #5: Conning Original Equity Calibration	Same as #1a, but with Conning's original Equity model calibration that had significantly lower Gross Wealth Factor's than the AIRG Equity.	As of 12/31/21	7
Test #6: ACLI Alternative Equity Calibration	Same as #1a, but with the ACLI's Alternative Equity Calibration	As of 12/31/21	8

*More information on adjustments to be added later

**After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)

B. Required and Optional Quantitative Results

The table below lists the elements of the field test and identifies them as either “required” or “optional”. Required results are considered most important to the success of the field test. It is hoped that participating companies will provide results for these items, and as many of the optional items as possible. However, it is recognized that companies may not have the capacity to produce everything due to resource constraints. If this is the case, it is preferable that companies provide partial results rather than not participate in the field test at all.

Field Test Element	Required for VM-21 and C3 Phase II	Required for VM-20	Required for C3 Phase 1	Optional
Baseline 1, Tests 1a and 1b, Tests 2a and 2b, and Test 5 (see table above)	X	X	X	
Baseline 2				X
Tests 3 – 4 and 6 (see table above)				X
Post reinsurance ceded results	X	X	X	
Pre-reinsurance ceded results				X
Stochastic Reserve	X	X		
Scenario Reserves, before cash surrender value floor	X	X		
Scenario Reserves, after cash surrender value floor	X	X		
CTE70 Best Efforts	X			
CTE70 Adjusted	X			
Additional Standard Projection Amount	X			
CTE98 (for C3 Phase II)	X			
Deterministic Reserve		X		
NPR		X		
Results from each of the 16 SERT Scenarios, and SERT ratio		X		For VM-21 and C3P1

C. Number of Scenarios

For each product type to be tested, the number of scenarios used for field testing should match the number the company used for statutory reporting on 12/31/21. The number of scenarios used may vary by product type, as long as it is consistent with the number used for statutory reporting. For example, if 1,000 scenarios were run for variable annuity reserves reported as of 12/31/21, then 1,000 scenarios should be run as of that valuation date for the field test. Similarly, if 200 scenarios were run for life insurance reserves reported as of 12/31/21, then 200 scenarios should be run for the field test as of that valuation date.

D. Scenario Sets

1. Scenario files – The scenario sets to be used for the field test, along with descriptions of the file formats, will be available for download at <https://naic.conning.com/scenariofiles>. Statistical summaries of the projections will also be provided, along with the parameters used for the ESG.
2. Scenario subsets - A full scenario file containing 10,000 scenarios will be provided for each model run to be tested. Scenario subsets of 1,000, 500, 200, and 40 scenarios will also be available.
3. Monthly Timestep – all scenario files will be provided using a monthly projection timestep
4. Additional scenario sets – The following additional scenarios are available:
 - 16 Stochastic Exclusion Ratio Test (SERT) scenarios
 - TBD - Company-Specific Market Path (CSMP) scenarios

E. Projection Period

Each scenario file contains monthly projections for 100 years. For each product type to be tested, the projection period used for field testing should match the projection period the company used for statutory reporting as of 12/31/21.

F. Negative Interest Rates

The two ESG Treasury models used for the field test include scenarios with negative interest rates, so companies will need to consider whether any modeling or assumption changes are needed to handle this. It is recommended that companies read and consider the information in the paper below:

[Potential Modeling Challenges in a Negative Interest Rate Environment](#)

Author: Zohair Motiwalla, FSA, MAAA
Principal and Consulting Actuary, Milliman

For purposes of the field test, companies may make assumption changes as appropriate to reflect negative interest rates, but this is not required given the amount of time this may take. The Qualitative Survey asks companies to provide details on whether assumption changes were made, and the nature of the changes. It also asks companies to comment on any changes anticipated to be made when the new ESG is adopted.

G. Model Simplifications

If the company is not able to provide model results that match reported values, the company may run a representative model or inforce population. The company should then either adjust the final results to align with their reported amount, or alternatively, they should adjust their reported amount to align with the representative business that is being field tested.

H. Hedging (as applicable)

The hedging strategy the company used as of 12/31/21 for statutory reporting should be used for the field test runs.

I. Fund Mapping (as applicable)

The company's fund mapping used as of 12/31/21 for statutory reporting should be used for the field test to allow for a more direct comparison of results from the Academy ESG (or proprietary ESG) vs. the GEMS ESG. Although the GEMS ESG contains additional equity and bond fund returns for a more refined mapping of funds, these should not be used for the field test.

The tables below show the equity and bond returns available from the Academy ESG and the comparable returns offered in the GEMS equity and corporate bond models. For the field test, companies should use the appropriate GEMS returns that correspond to their fund mapping as of each valuation date.

Further information on fund mapping can be found in the results templates

AAA ESG Returns	Market Proxy Used to Produce AAA ESG Returns*	Field Test GEMS® Fund Mapping**
Diversified Large Capitalized U.S. Equity	S&P500 Total Return Index	Large Cap
Diversified International Equity	MSCI-EAFE \$USD Total Return Index	International Diversified Equity
Intermediate Risk Equity	U.S. Small Capitalization Index	Small Cap
Aggressive Equity**	25% Emerging Markets, 12.5% NASDAQ, 62.5% Hang Seng***	2/3 Aggressive Foreign Equity, 1/3 Aggressive US Equity
Money Market	3 Month Treasury returns	Money Market
U.S. Intermediate Term Government Bonds	U.S. Intermediate Term Government Bonds	Int Govt Bonds
U.S. Long Term Corporate Bonds	U.S. Long Term Corporate Bonds	Long Inv Corp Bonds
Diversified Fixed Income	65% ITGVT + 35% LTCORP	65% Int Govt Bonds, 35% Long Inv Corp Bonds
Diversified Balanced Allocation	60% Diversified Equity + 40% Fixed Income	60% Large Cap, 26% Int Govt Bonds, 14% Long Inv Corp Bonds

*Source: AAA LCAS C3 Phase II RBC for Variable Annuities: Pre-Packaged Scenarios January 2006

** See [Basic Data Columns](#) for more information on the returns available in the GEMS® scenario files

***The Academy Equity Model Aggressive Equity proxy is not meant to suggest a representative asset profile for this class but used merely to build an historic index with high volatility and sufficient history.

III. Additional Instructions for VM-21

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-21 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Aggregation

Business should be aggregated according to the requirements under VM-21, consistent with how this was done for statutory reporting on 12/31/21. For example, if RILAs were aggregated with variable annuities for statutory reporting, they should be aggregated for the field test.

IV. Additional Instructions for VM-20

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-20 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Exclusion Tests

1. Deterministic Exclusion Test - This is not applicable for purposes of the field test and should not be performed.
2. Stochastic Exclusion Ratio Test – The SERT should be performed unless the company has not built out that functionality in their models. The results may help determine whether the SERT still performs as intended using the new ESG.

C. Stochastic Reserve Calculation

1. The Stochastic Reserve should be calculated unless the company has not built out that functionality in their models.
2. VM-20 stochastic reserve discount rate – VM-20 Section 7.H.4 states that “The company shall use the path of one-year Treasury interest rates in effect at the beginning of each projection year multiplied by 1.05 for each model segment within each scenario as the discount rates in the stochastic reserve calculations.” However, for purposes of the field test, companies should multiply the one-year Treasury rate by 1.05 whenever the one-year Treasury rate is greater than zero, and multiply the one-year Treasury rate by 0.95 whenever the one-year Treasury rate is zero or negative. This adjustment is being made because the new ESG will produce negative interest rates, and this was not the case when VM=20 Section 7.H.4 was drafted.

V. Additional Instructions for C-3 Phase I

A. Methodology

Companies should use the current C-3 Phase I methodology for the field test, with the exception noted in Section B below. A future VM-22 field test will include both the new ESG and new C-3 Phase I methodology.

B. Number of Scenarios

For Tests 1a – Test 4 (see the table in Section II.A), companies should run a minimum of 200 scenarios.

VI. Attribution Analysis

TBD – Details to be added to this document when provided by the Academy

VII. Reporting of Field Test Results

A. Results Templates

Companies should provide quantitative field test results using the Excel templates that have been developed for this purpose. Instructions are included in the templates. The spreadsheet tabs may be copied as needed within the workbook to reflect any additional products/models not included.

TBD – An additional template is under review and will be added when provided by the Academy.

B. Qualitative Survey

Companies are asked to complete the Qualitative Survey contained in Appendix B to the extent possible for the product types tested.

C. NAIC Aggregation of Company Results

NAIC staff will be aggregating quantitative results across companies and producing a variety of metrics using SAS. For ease of aggregation, please do not add rows or columns to the results templates.

Field test participants' responses to the Qualitative Survey will also be aggregated where appropriate.

Appendix B**Economic Scenario Generator (ESG) Field Test
Qualitative Survey**

All companies are asked to provide responses to the survey questions below to the extent possible for the types of results submitted. The responses will aid in understanding how each company performed their modeling, and potential drivers of reserve and RBC differences by product type. The responses will also be used to identify potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

I. VM-21 and C3 Phase II

1. Which valuation date was used for Baseline #1 (i.e. for year-end statutory reporting)?
 12/31/21 9/30/21
2. How many scenarios were used for Baseline and field test runs?
 10,000 1,000 500 Other (please describe)
3. Baseline #1 should match what was reported in the Variable Annuities Supplement for Individual and Group business. Is this the case? Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used to determine values for the Baseline runs? Yes No
5. Did the company make any changes to assumptions or modeling approach for the field test runs because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did you use an implicit method or explicit method to model hedging?
 Implicit method Explicit method Did not model hedging Other If Other, please explain.
8. If your company uses an implicit methodology to quantify the impacts of hedging, have you reassessed whether it is still appropriate in light of the field test scenario sets?
9. Did the new ESG impact hedge effectiveness? If so, can you tell what is driving this?
10. Where possible, please explain the change between the field test runs and the Baseline runs for the Post-Reinsurance-Ceded Reserve for Guaranteed Benefits, and optionally for Pre-Reinsurance-Ceded Reserve for Guaranteed Benefits. As part of your response, please address each of the following questions.

- a. What were the drivers of the change?
 - b. How did the drivers interplay to result in the overall change? Were they additive, compounding, offsetting, etc.?
 - c. How did the VA product guarantees affect the Baseline and field test results differently? In what way did the product guarantees contribute to the change in results?
 - d. When comparing the field test runs to the Baseline, how did the sensitivities to equities vs. interest rates drive the magnitude of the change in results? In other words, how sensitive was the company's portfolio to the change in the interest rate scenarios? Or, if the reserve amount is driven more by the equity levels, how would you characterize that relationship or dependence?
 - e. Did the impact of hedging differ between the baseline and the Field Test? If so, in what way?
11. Where possible, please explain the change between the field test runs and the Baseline for the **Risk-Based Capital**. Please address the following as part of your response.
- a. Compare the impacts of the field test scenarios on the CTE 70 vs. CTE 98 tail metrics. Discuss the interplay and resulting impact on Risk-Based Capital.
 - b. Are there distinct drivers that create different movements in the 30% vs. 2% tail?
 - c. Are the impacts of hedging different when calculating the reserve vs. risk-based capital? Why or why not?

II. VM-20

1. Which valuation date was used for the Baseline run (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline and field test runs?
10,000 1,000 500 200 40 Differs by product type
Specify the details if selected "Differs by product type": _____
3. The Baseline should match what was reported in the VM-20 Reserves Supplement. Is this the case?
Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used for calculating the baseline? Yes No
5. Did the company make any changes to assumptions or modeling approach because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did your dominant PBR reserve change?

III. C3 Phase I

1. Which valuation date was used for the Baseline (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline run?
50 12 Other (please describe)
3. How many scenarios were used for field test runs?
200 Other (please provide the number)

IV. All Products

1. All amounts populated in the templates should be shown in dollars. Is this the case? Yes No
If No, what units did you use?
2. If the inforce files were adjusted for the field test runs, please describe the changes that were made.
3. To what extent did the field test runs capture the potential impact of the scenarios on results? Were there areas that could not be tested/assessed (e.g., due to the need for additional scenario sets, new or existing simplifications)?
4. What additional information / analysis or scenario refinements would your company recommend?
5. Please provide any additional perspectives and information that could be relevant in the post-field test assessment. This information could include observations, unexpected results, insights and desirable properties from alternative models/scenarios, etc. To allow for aggregation of company responses to this question, please categorize each of your comments as relating to "capital/reserves," "product specific issues," "attribution," or "other issues".
6. Would your company need to create a more refined mapping to equity and bond funds given the expanded set of returns offered by the GEMS ESG? If yes, please provide a quantitative or qualitative explanation of how it might impact your results.
7. If your company elected to run a representative set of models or inforce, please describe any adjustments made to account for the difference between the representative models or inforce and the reported values. Also please provide an explanation as to why the models or inforce that was used in field testing is expected to be representative.
8. If a different number of scenarios was used for field test results as compared to the number of scenarios used in reporting, please provide information on which results are impacted.
- 9.

Company Name: ABC Life Insurance Company
 NAIC Company Code: 99999
 Product Type: Variable Annuities

Guaranteed Benefit Type	Post-Reinsurance-Ceded Basis Approximate Distribution as a Percentage of Separate Account Value as of 12/31/21	Pre-Reinsurance-Ceded Basis Approximate Distribution as a Percentage of Separate Account Value as of 12/31/21	Post-Reinsurance-Ceded Basis Approximate Distribution as a Percentage of Net-Amount-at-Risk as of 12/31/21	Pre-Reinsurance-Ceded Basis Approximate Distribution as a Percentage of Net-Amount-at-Risk as of 12/31/21
GMDB				
GMDB/GMIB Combo				
GMDB/GMWB Combo				
GMDB/GMAB Combo				
Other Benefit Combo (please describe below)				
Total	100%	100%		
	Account Value Distribution			
Separate Account Value as of 12/31/21				
Fixed Account Value as of 12/31/21				
Total	100%	100%		
Description of Other Benefit Combo				



AMERICAN ACADEMY of ACTUARIES

Objective. Independent. Effective.™

May 10, 2022

Mr. Philip Barlow
Chair, National Association of Insurance Commissioners (NAIC)
Life Risk-Based Capital (E) Working Group (“LRBC WG”)

Mr. Michael Boerner
Chair, NAIC
Life Actuarial (A) Task Force (“LATF”)

Dear Philip and Mike:

This cover letter describes an accompanying updated spreadsheet that the American Academy of Actuaries¹ (Academy) Economic Scenario Generator Work Group Field Test Subgroup has developed.

The spreadsheet is primarily an extension of the one used in the 2015 C-3 Phase 1 field test. That field test spreadsheet had been expanded to accommodate 200 scenarios, in addition to the standard 50 scenarios used in C-3 Phase 1, and to calculate a conditional tail expectation (CTE) 90 metric, in addition to the C-3 Phase 1 metric that spans the 92nd through 98th percentiles, with the heaviest weight at the 95th percentile. As you know, the CTE 90 metric was the metric in use for C-3 Phase 2 back in 2015.

The new spreadsheet has been further extended to accommodate 1,000 scenarios and 100 projection years, and to calculate additional CTE metrics, namely CTE 70 and CTE 98. While the spreadsheet originated in a C-3 Phase 1 framework, it might be used with some other frameworks if the relevant surplus positions and semiannual interest rates for discounting are loaded into the spreadsheet. This would not be the case for the Direct Iteration approach for VM-21 and C-3 Phase 2. If Direct Iteration is used, regulators may wish to gather a single result for each scenario, in place of a stream of surplus positions and corresponding discount rates.

The new spreadsheet also includes some additional documentation. Though the spreadsheet has been peer reviewed, it is provided on an “as is” basis with no warranty or guarantees of completeness, accuracy, reliability, or usefulness. Use of this spreadsheet is at the user’s own risk. We assume no responsibility or liability for any errors or omissions. Under no circumstance shall the Academy or its volunteers be liable for any damages arising out of your access to or use of the spreadsheet, whether or not the damages were foreseeable and whether or not the Academy was advised of the possibility of such damages.

Sincerely,

Link Richardson, MAAA, FSA, CERA
Chairperson, ESG Field Test Subgroup
American Academy of Actuaries

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

2030	1.00%	85.72%	110
	1.00%	85.37%	113
	1.00%	85.02%	112
	1.00%	84.67%	115
	1.00%	84.32%	116
	1.00%	83.97%	118
	1.00%	83.62%	119
	1.00%	83.27%	121
	1.00%	82.92%	122
	1.00%	82.57%	123
	1.00%	82.22%	124
	1.00%	81.87%	125
	1.00%	81.52%	127
	1.00%	81.17%	128
	1.00%	80.82%	130
	1.00%	80.47%	131
	1.00%	80.12%	133
	1.00%	79.77%	134
	1.00%	79.42%	135
	1.00%	79.07%	136
	1.00%	78.72%	137
	1.00%	78.37%	138
	1.00%	78.02%	139
	1.00%	77.67%	140
	1.00%	77.32%	141
	1.00%	76.97%	142
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	1.00%	74.17%	151
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	1.00%	73.47%	153
	1.00%	73.12%	154
	1.00%	72.77%	155
	1.00%	72.42%	156
	1.00%	72.07%	157
	1.00%	71.72%	158
	1.00%	71.37%	159
	1.00%	71.02%	160
	1.00%	70.67%	161
	1.00%	70.32%	162
	1.00%	69.97%	163
	1.00%	69.62%	164
	1.00%	69.27%	165
	1.00%	68.92%	166
	1.00%	68.57%	167
	1.00%	68.22%	168
	1.00%	67.87%	169
	1.00%	67.52%	170
	1.00%	67.17%	171
	1.00%	66.82%	172
	1.00%	66.47%	173
	1.00%	66.12%	174
	1.00%	65.77%	175
	1.00%	65.42%	176
	1.00%	65.07%	177
	1.00%	64.72%	178
	1.00%	64.37%	179
	1.00%	64.02%	180
	1.00%	63.67%	181
	1.00%	63.32%	182
	1.00%	62.97%	183
	1.00%	62.62%	184
	1.00%	62.27%	185
	1.00%	61.92%	186
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Name		(H) (G) + Serial Correlation Shift	(H2) (G) + Serial Correlation Shift	(J) ACLI Calibration
Scen	AIRG			
Mean	1258.66%	1465.28%	1500.06%	1491.16%
St Dev	1204.05%	2138.74%	2212.39%	2067.36%
Wealth CV	95.66%	145.96%	147.49%	138.64%
Percentile				
1%	122.79%	86.52%	116.44%	126.77%
5%	229.86%	178.47%	214.33%	224.85%
25%	523.88%	474.34%	493.34%	523.53%
50%	896.98%	890.72%	894.66%	939.27%
75%	1570.65%	1647.95%	1667.01%	1735.92%
95%	3480.18%	4467.48%	4625.56%	4339.29%
99%	5852.07%	9712.71%	10379.36%	9233.24%

Summary

- Based on preliminary research, pre-2020 calibration criteria and AIRG returns appear to be a reasonable reference point, and improving the alignment of cumulative wealth factors may improve the interpretability of field test results.
 - Updated acceptance criteria should be developed concurrently to the field test.
- Comparing GEMS equity calibrations to AAA returns using cumulative wealth factors:
 - Significant increase in severity of down and up outcomes over the long term (see slide 3)
 - Even with use of jump diffusion, GEMS does not produce more severe tails over the short term (see slide 5)
- Historical calibration suggests higher mean reversion of variance, and lower frequency of jumps, both of which would help mitigate extreme outcomes over the long term.
 - Higher mean reversion of variance is present regardless of modeled jumps process
 - Reducing the frequency of jumps has meaningful improvement to MLE log-likelihood, and suggests more of the monthly equity return can be explained using stochastic variance process
 - Proposed ACLI GEMS calibration would produce more reasonable distribution and align with current Academy scenarios (as well as other standard models calibrated to history) in the low tails
- Rate/ERP relationship in GEMS drives substantial impact on long term wealth factors especially in high tail scenarios.
 - See Slide 4 for details.
 - Further modifications to modeled ERP/rate relationship, such as targeting constant return/inverse rate-ERP might help produce more reasonable and stable distribution of outcomes but are not in scope for this alternative GEMS calibration.

Calibration and Parameters

	<i>Calibrated to monthly data 3/1957-12/2020</i>									
	GEMS A	GEMS G	GEMS H	No Jumps	GEMS Jumps	GEMS Jump Size	Adjusted Mu1	ACLI Alternative		
mu0	0.05193	0.06507	0.05312	0.03637	0.02022	0.03669	0.02945	0.04040		
mu1	0.09257	0.09708	1.09708	0.06825	0.00000	0.06097	1.50000	1.50000		
alpha	0.00556	0.00586	0.00586	0.02118	0.01419	0.02130	0.02192	0.02192		
beta	0.39711	0.49081	0.49081	1.01197	1.02388	1.11078	1.22990	1.22990		
sigma	0.08187	0.07160	0.07160	0.13505	0.08896	0.12709	0.12478	0.12478		
ret/var correl.	-0.48000	-0.48000	-0.48000	-0.58194	-0.60011	-0.61919	-0.63185	-0.63185		
mu_jump	-0.05558	-0.05558	-0.05558	0.00000	-0.05558	-0.05558	-0.05558	-0.05558		
sigma_jump	0.05750	0.05750	0.05750	0.00000	0.05750	0.05750	0.05750	0.05750		
lambda_jump	139.58820	139.58820	139.58820	0.00000	139.58820	15.05324	15.10181	15.10181		
initial vol	0.09434	0.10909	0.10909	0.14469	0.11772	0.13847	0.13351	0.13351		
Log Likelihood	1375	1378	1377	1389	1382	1394	1393			

ACLI Alternative GEMS calibration considerations:

- Model parameters calibrated to historical data
- mu1 risk premium coefficient was set to 1.5, as a calibration constraint, to help mitigate long term tails
- Jump size parameters (mu_jump and sigma_jump) were set equal to GEMS original
 - mu0 parameter was set to target 9.5% mean cumulative wealth ratio over 30 years
 - More severe than historical data
 - Similar to GEMS G/H sensitivities

- GEMS model parameters were calibrated to historical monthly ERP (S&P price return less monthly return on 3m Treasury rate) from 3/1957 to 12/2020, using generalized MLE.

- Historical calibration points to:
 - Higher mean reversion of variance, or higher beta parameter
 - Lower frequency of jumps – lower lambda_jump parameter

Distribution of Cumulative Wealth Factors

Comming w/ GFF 12.31.20 Wealth Factors (H)		ACLI Alternative w GFF 1m Rates		AAA Prepackaged CSV (Dec. 2005)		
	12	60	120	240	360	600
S&P 500	1Yr	5Yr	10 Yr	20 Yr	30 Yr	50 Yr
Min	0.44	0.19	0.20	0.24	0.21	0.32
1.0%	0.70	0.54	0.52	0.65	0.90	2.12
2.5%	0.76	0.65	0.68	0.90	1.34	3.74
5.0%	0.81	0.75	0.83	1.15	1.85	5.60
10.0%	0.87	0.87	1.02	1.59	2.67	9.13
25.0%	0.97	1.11	1.42	2.52	4.79	19.39
50.0%	1.07	1.39	1.98	4.20	9.20	48.16
75.0%	1.17	1.72	2.68	6.79	17.57	122.47
90.0%	1.26	2.02	3.48	10.37	31.47	294.37
95.0%	1.32	2.23	4.10	13.29	45.61	527.96
97.5%	1.36	2.41	4.68	17.05	62.32	853.21
99.0%	1.41	2.67	5.58	23.01	92.93	1,718.15
Max	1.65	4.41	14.58	67.33	588.35	26,117.11

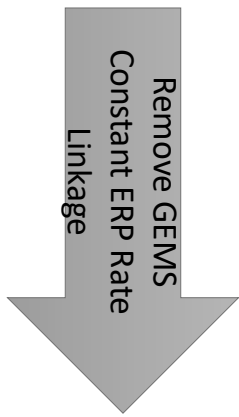
ACLI Alternative w GFF 1m Rates		AAA Prepackaged CSV (Dec. 2005)				
	12	60	120	240	360	600
S&P 500	1Yr	5Yr	10 Yr	20 Yr	30 Yr	50 Yr
Min	0.44	0.29	0.25	0.32	0.26	0.49
1.0%	0.72	0.60	0.64	0.82	1.25	3.43
2.5%	0.78	0.71	0.77	1.09	1.74	5.22
5.0%	0.83	0.81	0.92	1.39	2.35	7.58
10.0%	0.89	0.92	1.12	1.81	3.20	11.57
25.0%	0.98	1.14	1.50	2.75	5.34	23.09
50.0%	1.07	1.40	2.00	4.31	9.63	52.76
75.0%	1.17	1.69	2.65	6.76	17.46	125.59
90.0%	1.25	1.98	3.36	10.13	30.83	299.21
95.0%	1.30	2.16	3.93	12.98	45.25	531.09
97.5%	1.34	2.32	4.42	16.81	63.17	887.59
99.0%	1.39	2.55	5.07	22.04	96.36	1,620.42
Max	1.59	3.34	9.59	70.80	1,066.70	16,847.51

AAA Prepackaged CSV (Dec. 2005)						
	12	60	120	240	360	600
S&P 500	1Yr	5Yr	10 Yr	20 Yr	30 Yr	50 Yr
Min	0.41	0.32	0.26	0.35	0.38	0.38
1.0%	0.70	0.62	0.66	0.83	1.22	1.22
2.5%	0.76	0.72	0.77	1.10	1.69	1.69
5.0%	0.82	0.81	0.92	1.41	2.25	2.25
10.0%	0.89	0.93	1.12	1.83	3.09	3.09
25.0%	0.98	1.16	1.51	2.74	5.11	5.11
50.0%	1.09	1.45	2.09	4.27	8.84	8.84
75.0%	1.19	1.81	2.88	6.80	15.35	15.35
90.0%	1.30	2.22	3.81	10.15	24.98	24.98
95.0%	1.37	2.48	4.44	12.92	34.25	34.25
97.5%	1.44	2.72	5.17	15.65	45.88	45.88
99.0%	1.52	3.06	6.18	20.49	60.45	60.45
Max	1.92	4.77	11.86	66.94	235.95	235.95

- ACLI Alternative Calibration produces low tails that are closer to AIRG, due to higher mean reversion of variance and lower frequency of jumps
- Both, GEMS H, and ACLI wealth factors include GFF treasury rates as portion of the return, and were modeled under best-efforts interpretation of GEMS equity model
- Much higher wealth factors in upper tails vs AIRG are due to the treasury rate component of the return

GEMS Constant ERP Rate Linkage Widens Long Term Wealth Factor Tails

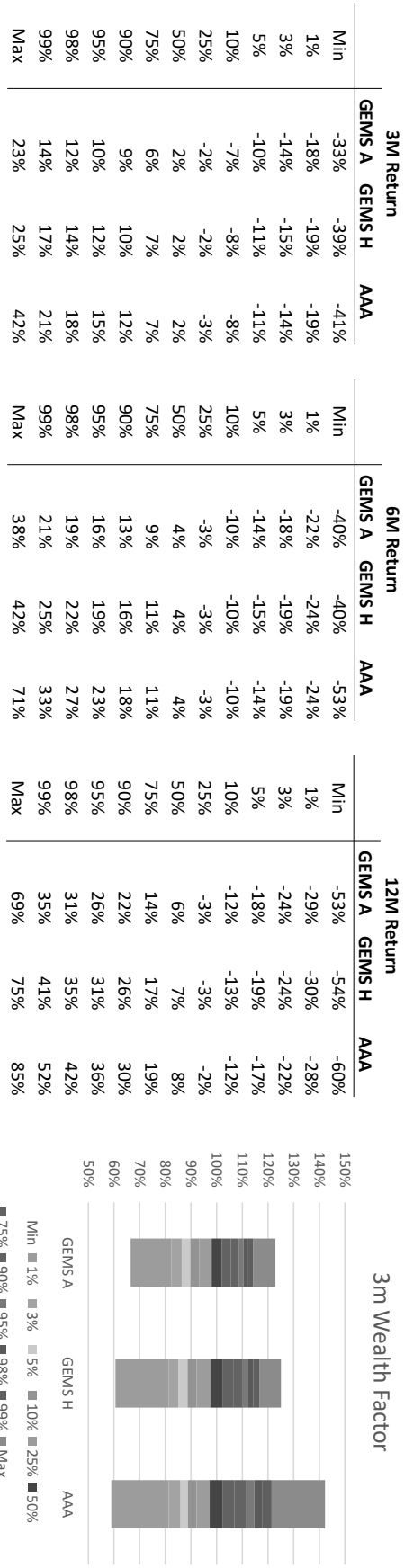
WF30: GEMS ERP/Rates			
S&P 500	GEMS H	ACU	Alternative
Min	0.21	0.26	0.26
1.0%	0.90	1.25	1.25
2.5%	1.34	1.74	1.74
5.0%	1.85	2.35	2.35
10.0%	2.67	3.20	3.20
25.0%	4.79	5.34	5.34
50.0%	9.20	9.63	9.63
75.0%	17.57	17.46	17.46
90.0%	31.47	30.83	30.83
95.0%	45.61	45.25	45.25
97.5%	62.32	63.17	63.17
99.0%	92.93	96.36	96.36
Max	588.35	1,066.70	1,066.70
average	9.43%	9.50%	9.50%



WF30: Constant Return			
S&P 500	GEMS H	ACU	AAA
Min	0.27	0.33	0.38
1.0%	1.06	1.62	1.22
2.5%	1.67	2.16	1.69
5.0%	2.23	2.82	2.25
10.0%	3.12	3.74	3.09
25.0%	5.32	6.00	5.11
50.0%	9.47	9.92	8.84
75.0%	16.02	16.01	15.35
90.0%	25.09	23.98	24.98
95.0%	32.43	29.94	34.25
97.5%	40.72	36.44	45.88
99.0%	53.51	46.33	60.45
Max	153.26	103.23	235.95
average	8.75%	8.75%	8.80%

* Return drift adjusted to match 8.75% average wealth factor

Short Term Equity Returns



- Academy equity returns are more disperse and produce more severe high and low wealth factors compared to GEMS
- GEMS use of jump diffusion under proposed parameterization does not translate into more sever tails over the short term

Dates: Received	Reviewed by Staff	Distributed	Considered
5/4/2022	RM		
Notes: APF 2022-05			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form***

1. Identify yourself, your affiliation and a very brief description (title) of the issue.
 Angela McNabb & Pat Allison – NAIC staff support. Changes to VM-51 Appendix 1 & Appendix 4.
2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:
 January 1, 2023 version of the Valuation Manual – VM-51 Appendix 1 and Appendix 4
3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)
 See attached
4. State the reason for the proposed amendment? (You may do this through an attachment.)
 1. Additional insurance purchased with dividends do not currently have a distinct plan code. This is needed to perform more complete analysis of the data.
 2. Society of Actuaries would like to have a COVID-19 indicator. We are adding a new termination code to specify death due to COVID-19.
 3. The field previously identified as “State of Domicile” is being changed to “Owner’s State of Residence” to eliminate confusion.
 4. The questionnaire in Appendix 1 incorrectly identifies some values as dates to be filled in.

Note: These changes do not impact the layout of the data file.

* This form is not intended for minor corrections, such as formatting, grammar, cross-references or spelling. Those types of changes do not require action by the entire group and may be submitted via letter or email to the NAIC staff support person for the NAIC group where the document originated.

NAIC Staff Comments:

W:\National Meetings\2010\...\TF\LHA\

Appendix 1: Preferred Class Structure Questionnaire

PREFERRED CLASS STRUCTURE QUESTIONNAIRE

Fill out this preferred class structure questionnaire based on companywide summaries, such as underwriting guideline manuals, compilations of issue instructions or other documentation.

*The purpose of this preferred class structure questionnaire is to gather information on different preferred class structures. This questionnaire varies between nonsmoker/non-tobacco and smoker/tobacco users and provides for variations by issue year, face amount and plan. If the company has the standard Relative Risk Score (RR Score) information available, the company should map its set of preferred class structure to sets of RR Scores. **Except for new preferred class structures or new sets of RR Scores applied to existing preferred class structure(s), the response to the questionnaire should remain the same from year to year.***

If a company has determined sets of RR Scores for its preferred class structures, it should provide separate preferred class structure responses for each set of RR Scores applied to a preferred class structure. If a company has not determined sets of RR Scores for its preferred class structures, it should fill out this questionnaire with its preferred class structures and update the preferred class structure questionnaire at such future time that sets of RR Scores for the preferred class structures are determined. When sets of RR Scores are used, there is to be a one-to-one correspondence between a preferred class structure and a set of RR Scores.

The information given in this questionnaire will be used both to map a set of RR Scores to policy level data and as a check on the policy-level data submission. Submit this questionnaire along with the initial data submission to the Experience Reporting Agent.

Each preferred class structure must include at least two classes (e.g., one preferred class and one standard class). Make as many copies of this preferred class structure questionnaire as necessary for your individual life business and submit in addition to policy-level detail information.

Company	NAIC Company Code
---------	-------------------

Name	Date
------	------

PREFERRED CLASS STRUCTURE – Part 1 Nonsmokers/Non-Tobacco Users

Preferred class structure must have at least one preferred and one standard class. Use multiple copies of this page if needed for nonsmokers/non-tobacco users

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

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Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

PREFERRED CLASS STRUCTURE – Part 2 Smokers/Tobacco Users

Preferred class structure must have at least one preferred and one standard class. Use multiple copies of this page if needed for smokers/tobacco users

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

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Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

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Appendix 4: Mortality Data Elements and Format

ITEM	COLUMN	L	DATA ELEMENT	DESCRIPTION
19	65–67	3	Plan	<p>Exclude from contribution: spouse and children under family policies or riders. If Form for Additional Plan Codes was submitted for this policy, enter unique three-digit plan number(s) that differ from the plan numbers below:</p> <p>000 = If unable to distinguish among plan types listed below</p> <p>100 = Joint life plan unable to distinguish among joint life plan types listed below</p> <p>Permanent Plans:</p> <p>010 = Traditional fixed premium fixed benefit permanent plan</p> <p>011 = Permanent life (traditional) with term</p> <p>012 = Single premium whole life</p> <p>013 = Econolife (permanent life with lower premiums in the early durations)</p> <p>014 = Excess interest whole life</p> <p>015 = First to die whole life plan (submit separate records for each life)</p> <p>016 = Second to die whole life plan (submit separate records for each life)</p> <p>017 = Joint whole life plan – unknown whether 015 or 016 (submit separate records for each life)</p> <p>018 = Permanent products with non-level death benefits</p> <p>019 = Permanent plans 010, 011, 012, 013, 014, 015, 016, 017, 018 combined (i.e. unable to separate)</p> <p>Term Insurance Plans:</p> <p>020 = Term (traditional level benefit and attained age premium)</p> <p>021 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for five years)</p> <p>211 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 10 years)</p> <p>212 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 15 years)</p> <p>213 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 20 years)</p> <p>214 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 25 years)</p> <p>215 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 30 years)</p> <p>022 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 10 years)</p> <p>221 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 15 years)</p> <p>222 = Term (level death benefit with guaranteed level</p>

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				<p>premium for 10 years and anticipated level term period for 20 years)</p> <p>223 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 25 years)</p> <p>224 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 30 years)</p> <p>023 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 15 years)</p> <p>231 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 20 years)</p> <p>232 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 25 years)</p> <p>233 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 30 years)</p> <p>024 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 20 years)</p> <p>241 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 25 years)</p> <p>242 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 30 year)</p> <p>025 = Term (level death benefit with guaranteed level premium for 25 years and anticipated level term period for 25 years)</p> <p>251 = Term (level death benefit with guaranteed level premium for 25 years and anticipated level term period for 30 year)</p> <p>026 = Term (level death benefit with guaranteed level premium for 30 years and anticipated level term period for 30 years)</p> <p>027 = Term (level death benefit with guaranteed level premium period equal to anticipated level term period where the period is other than five, 10, 15, 20, 25 or 30 years)</p> <p>271 = Term (level death benefit with guaranteed level premium period not equal to anticipated level term period, where the periods are other than five, 10, 15, 20, 25 or 30 years)</p> <p>028 = Term (decreasing benefit)</p> <p>040 = Select ultimate term (premium depends on issue age and duration)</p> <p>041 = Return of Premium Term (level death benefit with guaranteed level premium for 15 years)</p> <p>042 = Return of Premium Term (level death benefit with guaranteed level premium for 20 years)</p> <p>043 = Return of Premium Term (level death benefit with guaranteed level premium for 25 years)</p> <p>044 = Return of Premium Term (level death benefit with guaranteed level premium for 30 years)</p> <p>045 = Return of Premium Term (level death benefit with guaranteed level premium for period other</p>
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				<p>than 15, 20, 25 or 30 years)</p> <p>046 = Economatic term</p> <p>059 = Term plan, unable to classify</p> <p>101 = First to die term plan (submit separate records for each life)</p> <p>102 = Second to die term plan (submit separate records for each life)</p> <p>103 = Joint term plan – unknown whether 101 or 102 (submit separate records for each life)</p> <p>Universal Life Plans (Other than Variable), issued without a Secondary Guarantee:</p> <p>061 = Single premium universal life</p> <p>062 = Universal life (decreasing risk amount)</p> <p>063 = Universal life (level risk amount)</p> <p>064 = Universal life – unknown whether code 062 or 063</p> <p>065 = First to die universal life plan (submit separate records for each life)</p> <p>066 = Second to die universal life plan (submit separate records for each life)</p> <p>067 = Joint life universal life plan – unknown whether code 065 or 066 (submit separate records for each life)</p> <p>068 = Indexed universal life</p> <p>Universal Life Plans (Other than Variable) with Secondary Guarantees:</p> <p>071 = Single premium universal life with secondary guarantees</p> <p>072 = Universal life with secondary guarantees (decreasing risk amount)</p> <p>073 = Universal life with secondary guarantees (level risk amount)</p> <p>074 = Universal life with secondary guarantees – unknown whether code 072 or 073</p> <p>075 = First to die universal life plan with secondary guarantees (submit separate records for each life)</p> <p>076 = Second to die universal life plan with secondary guarantees (submit separate records for each life)</p> <p>077 = Joint life universal life plan with secondary guarantees unknown whether code 075 or 076 (submit separate records for each life)</p> <p>078 = Indexed universal life with secondary guarantees</p> <p>Variable Life Plans issued without a Secondary Guarantee:</p> <p>080 = Variable life</p> <p>081 = Variable universal life (decreasing risk amount)</p> <p>082 = Variable universal life (level risk amount)</p> <p>083 = Variable universal life – unknown whether code 081 or 082</p> <p>084 = First to die variable universal life plan (submit separate records for each life)</p> <p>085 = Second to die variable universal life plan (submit separate records for each life)</p> <p>086 = Joint life variable universal life plan – unknown whether 084 or 085 (submit separate records for</p>
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				<p>each life)</p> <p>Variable Life Plans with Secondary Guarantees: 090 = Variable life with secondary guarantees 091 = Variable universal life with secondary guarantees (decreasing risk amount) 092 = Variable universal life with secondary guarantees (level risk amount) 093 = Variable universal life with secondary guarantees –unknown whether code 091 or 092 094 = First to die variable universal life plan with secondary guarantees (submit separate records for each life) 095 = Second to die variable universal life plan with secondary guarantees (submit separate records for each life) 096 = Joint life variable universal life plan with secondary guarantees – unknown whether code 094 or 095 (submit separate records for each life)</p> <p>Coverage purchased with dividends: 196 = Paid Up Additions 197 = One Year Term</p> <p>Nonforfeiture: 098 = Extended term 099 = Reduced paid-up 198 = Extended term for joint life (submit separate records for each life) 199 = Reduced paid-up for joint life (submit separate records for each life)</p>
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27	133–134	2	Cause of Termination	If Inforce Indicator is 1, leave blank. 00 = Termination type unknown or unable to subdivide 01 = Reduced paid-up 02 = Extended term 03 = Voluntary; unable to subdivide among 01, 02, 07, 09, 10, 11 or 13 04 = Death 05 = Death due to COVID-19 07 = 1035 exchange 09 = Term conversion – unknown whether attained age or original age 10 = Attained age term conversion 11 = Original age term conversion 12 = Coverage expired or contract reached end of the mortality table 13 = Surrendered for full cash value 14 = Lapse (other than to Reduced Paid Up or Extended Term) 15 = Termination via payment of a discounted face amount while still alive, pursuant to an accelerated death benefit provision
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46	275-276	2	State of Domicile Owner’s State of Residence	Use standard, two-letter state abbreviations codes (e.g., FL for Florida) for the policy owner’s state of residence If unknown or outside of the U.S., leave blank.
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Future Mortality Improvement Scale Development (VM-20) LATF Update #1



Mortality Improvements Life Work Group (MILWG), the Academy's Life Experience Committee and the SOA's Preferred Mortality Project Oversight Group ("Joint Committee")

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Life Actuarial Task Force (LATF) Meeting—May 2022

Agenda

- Items to be addressed in the 2022 scale recommendation
- COVID-19 approach
- Update on scale development timeline
- Next steps/discussion



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Items to be addressed in 2022 scale recommendation

Develop HMI (historical mortality improvement) and FMI (future mortality improvement) scales for use in 2022 valuation year.

The 2022 scales will address the following:

- ▣ Reflecting COVID-19 impacts
- ▣ Margin development
- ▣ Modification to smoothing method



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Approach to COVID-19 impact

- ▣ Quantification of COVID-19 impact
 - ▣ Data sources
 - ▣ Short- vs. medium- vs. longer-term impacts
 - ▣ Return to previously projected mortality level over time or residual excess mortality
 - ▣ Insured vs. general population considerations
 - ▣ Direct adjustment to MI rates or reflected in additional margins
- ▣ Implicit margins in MI scale development
 - ▣ Data source—general population data unadjusted for insured population differences (largest source of margin)
 - ▣ Starting MI level (HMI)
 - ▣ Long-term rate (FMI)
 - ▣ Limit on FMI assumption (20 years)



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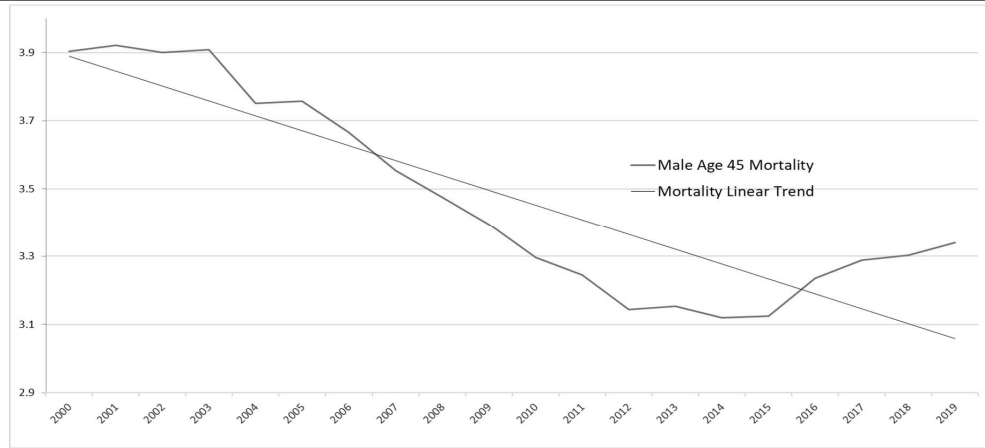


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Approach to COVID-19 impact

Example: Male Age 45—Social Security Administration (SSA) Mortality Rates—Pre-COVID-19



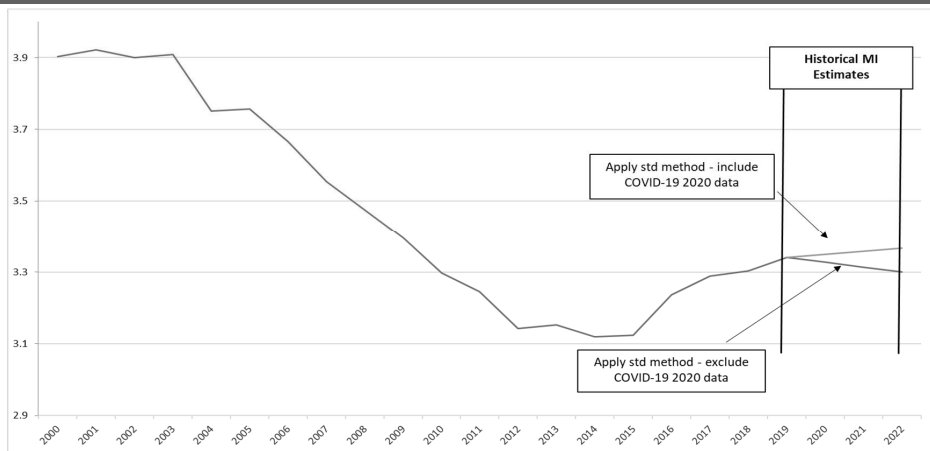
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Approach to COVID-19 impact

Example: Male Age 45—SSA Mortality Rates
 w/ HMI estimates both including and excluding 2020 COVID-19 impact in data

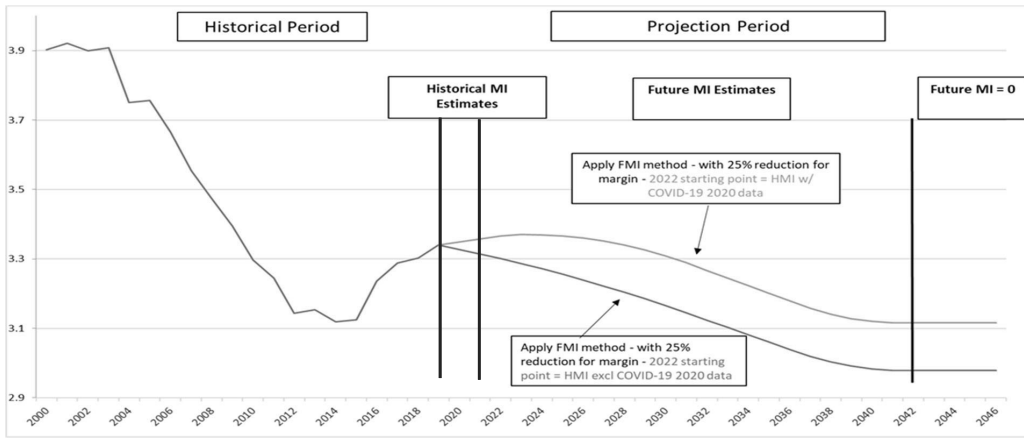


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Approach to COVID-19 impact
Example: Male Age 45—SSA Mortality Rates
w/ HMI estimates and FMI estimates

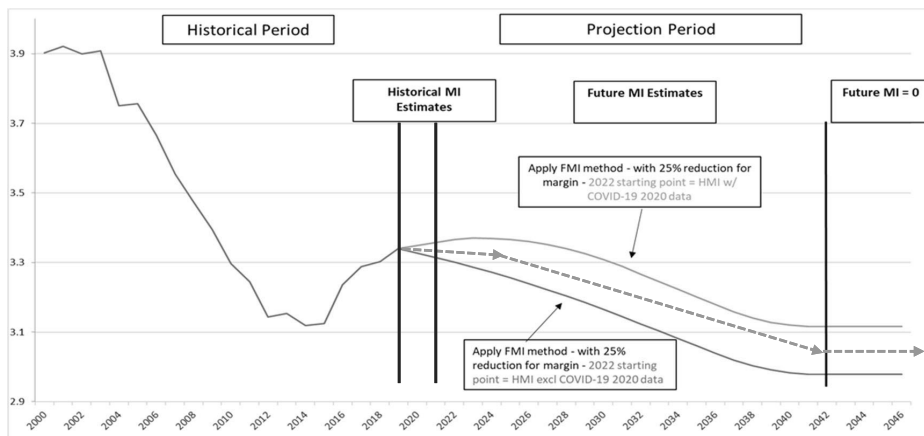


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Approach to COVID-19 impact
Example: Male Age 45—SSA Mortality Rates
w/ HMI estimates and FMI estimates and Expected Recommendation



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COVID-19 Impact—Modeling Scenarios

Historical MI—Scenarios being assessed	Description
1. 10-year historical average ending in 2020	including full deterioration for 2020 (most conservative)
2. 10-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (most optimistic)
3. 9-year historical average ending in 2019	exclude COVID-19 shock impact in 2020 (alternate)
4. 10-year historical average ending in 2020 (assuming no improvement from 2019 to 2020)	muted impact of 2020 (intermediate)

Future MI—Scenarios being assessed	Description
1. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty around the future trend (= 25% reduction of Basic FMI rates in all years)
2. Basic FMI scale = Use grading to LT average based on SSA Alt 2 (recommended method)	Loaded MI scale = Basic plus explicit margin for uncertainty in future trend (= 25% reduction of Basic FMI rates in all years) <u>and an additional explicit margin for uncertainty around the COVID-19 medium-/long-term impacts that grades off over time.</u> Additional COVID-19 explicit margin—options for model testing: 1. 50% margin grades to normal margin of 25% over 5 years. 2. Decrease mortality improvement by 1% in year 1 grading linearly down to 0% in year 5.



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Slide 9

CH [2]10 added hyphens
 Craig Hanna, 5/11/2022

2022 MI scale development timeline (VM-20)

Updated May 2022

Milestones	Target Date
1. Receive 2020 data from the Centers for Medicare and Medicaid Services (CMS). SOA creates preliminary mortality estimates for 2020.	2/28/2022 (completed)
2. Define options for reflecting COVID-19 impact on HMI and FMI scale recommendations including margin.	4/28/2022 (completed)
3. Assess reserve impact of COVID-19 adjustment recommendation—run National Association of Insurance Commissioners (NAIC) model office under several scenarios.	6/1/2022 (in progress)
4. Determine smoothing method for FMI and HMI scales.	6/1/2022
5. Finalize recommendation for reflecting COVID-19 based on NAIC model office results.	7/1/2022
6. Present to LATF for exposure. <i>Assumes 60-day exposure period.</i>	7/15/2022
7. Receive SSA mortality estimates for 2020 from SOA (final SOA estimates).	8/15/2022
8. Receive SSA Trustees Report—Intermediate Projections for 2022.	8/15/2022
10. Respond to exposure comments obtain LATF approval of 2022 HMI and FMI.	9/15/2022
11. Publish 2022 HMI and FMI scales on SOA website.	9/30/2022



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Questions?



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Slide 12

CH [2]9 filled in Amanda's info
Craig Hanna, 5/10/2022

Draft: 6/28/22

Life Actuarial (A) Task Force
Virtual Meeting
May 5, 2022

The Life Actuarial (A) Task Force met May 5, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ben Bock, Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT).

1. Exposed Amendment Proposal 2022-05

Angela McNabb (NAIC) said amendment proposal 2022-05 proposes the following modifications to VM-51, Experience Reporting Formats: 1) adding distinct plan codes for dividend additions; 2) adding a termination code to specify deaths due to COVID-19; 3) changing the “State of Domicile” field to “Owner’s State of Residence” to eliminate confusion; and 4) revising the questionnaire in Appendix 1 to correctly identify some values currently listed as dates to be filled in. She said companies will be asked to voluntarily use the proposed codes for the 2022 data submission. She added that if adopted for the 2023 *Valuation Manual*, the proposed amendment will make the codes mandatory for the 2023 data submission. Mr. Chupp asked whether there may be confusion if COVID-19 is a secondary cause of death. Ms. McNabb said a data dictionary is being developed to serve as guidance for companies. She said it will indicate that there should be no distinction based on whether COVID-19 is a primary or secondary cause of death. Ms. Fenwick said not all New York domiciled companies are capturing COVID-19 as a cause of death.

Mr. Leung made a motion, seconded by Mr. Weber, to deem amendment proposal 2022-05 non-substantive. The motion passed unanimously.

Mr. Weber made a motion, seconded by Mr. Leung, to expose amendment proposal 2022-05 (Attachment Eleven-A) for a seven-day public comment period. The motion passed unanimously.

2. Exposed ESG Field Test Files

Scott O’Neal (NAIC) gave a presentation (Attachment Eleven-B) on company participation in the economic scenario generator (ESG) field test scheduled for June. He showed the number of participants for each of the 13 products being tested. He said while product level detail for some products will not be shown due to low levels of participation, he is happy with the number of companies choosing to participate. Mr. Weber asked what products make up the “Other Annuities” category. Mr. O’Neal said some companies indicated that they put registered index-linked annuities (RILAs) in the “Other Annuities” category, and some companies included RILAs in the “Indexed Annuities” category.

Pat Allison (NAIC) discussed the field test instructions document (Attachment Eleven-C). She said comments received from the American Council of Life Insurers (ACLI) (Attachment Eleven-D) and William Wilton (unaffiliated)

(Attachment Eleven-E) on the exposure of the specifications document were incorporated into the field test instructions document. She noted that Appendix B of the document will be a qualitative survey. She said the general examination authority of the Texas Department of Insurance (TDI) will be used to request the information. She said using the TDI authority will ensure that the confidentiality of the information is maintained. The information will be shared with NAIC staff, who will compile and aggregate the information. Ms. Allison provided an overview of each section of the field test instructions document.

Brian Bayerle (ACLI) suggested adding a run of an equity scenario produced by the American Academy of Actuaries (Academy) Interest Rate Generator (AIRG) in addition to the Conning equity model to assist in developing more attribution information. Ms. Allison said the suggestion could be discussed in the Field Test Planning Group meeting. Mr. Bayerle also suggested adding a survey question related to company availability for a second field test in February 2023.

The ESG field test instructions document and the field test template (Attachment Eleven-F) were exposed for a public comment period ending May 10.

3. Discussed Calibration of the Conning Equity Model

Mr. O’Neal said the ESG Planning Group has compared gross wealth factors produced using the Conning equity model with those produced using the AIRG equity model. He noted that the Conning model produced more conservative results. He said a series of sensitivities have been run to isolate key differences in the models and foster a better understanding of the disparities in the models’ results. He said adjustments were made to the Conning model to generate results that are closer to the AIRG results. Those adjustments included lowering the volatility parameter, increasing the expected returns parameter, aligning the median returns, aligning the serial correlations, and removing the jump process.

Mr. Boerner referred to an earlier ACLI discussion of having an alternative equity model that could be used instead of the Conning model. He said there is not enough time to work on an alternative model. He said he would prefer to see the field test results of the Conning model. Mr. Bayerle said the ACLI is proposing alternative equity calibrations, not an alternative equity model. He said the ACLI is asking that the Conning model be run using the ACLI alternative calibrations instead of the Conning calibrations. He said the goal is to produce a more reasonable field test. Mr. Boerner said the Task Force will continue to discuss the issue during its next call.

Having no further business, the Life Actuarial (A) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 NAIC Meetings/Summer National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/LATF Calls/05 05/May 5 Minutes.docx

Dates: Received	Reviewed by Staff	Distributed	Considered
5/4/2022	RM		
Notes: APF 2022-05			

**Life Actuarial (A) Task Force/ Health Actuarial (B) Task Force
 Amendment Proposal Form***

1. Identify yourself, your affiliation and a very brief description (title) of the issue.

 Angela McNabb & Pat Allison – NAIC staff support. Changes to VM-51 Appendix 1 & Appendix 4.
2. Identify the document, including the date if the document is “released for comment,” and the location in the document where the amendment is proposed:

 January 1, 2023 version of the Valuation Manual – VM-51 Appendix 1 and Appendix 4
3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted or changed by providing a red-line (turn on “track changes” in Word®) version of the verbiage. (You may do this through an attachment.)

 See attached
4. State the reason for the proposed amendment? (You may do this through an attachment.)
 1. Additional insurance purchased with dividends do not currently have a distinct plan code. This is needed to perform more complete analysis of the data.
 2. Society of Actuaries would like to have a COVID-19 indicator. We are adding a new termination code to specify death due to COVID-19.
 3. The field previously identified as “State of Domicile” is being changed to “Owner’s State of Residence” to eliminate confusion.
 4. The questionnaire in Appendix 1 incorrectly identifies some values as dates to be filled in.

Note: These changes do not impact the layout of the data file.

* This form is not intended for minor corrections, such as formatting, grammar, cross-references or spelling. Those types of changes do not require action by the entire group and may be submitted via letter or email to the NAIC staff support person for the NAIC group where the document originated.

NAIC Staff Comments:

W:\National Meetings\2010\...\TF\LHA\

Experience Reporting Formats

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Appendix 1: Preferred Class Structure Questionnaire

PREFERRED CLASS STRUCTURE QUESTIONNAIRE

Fill out this preferred class structure questionnaire based on companywide summaries, such as underwriting guideline manuals, compilations of issue instructions or other documentation.

*The purpose of this preferred class structure questionnaire is to gather information on different preferred class structures. This questionnaire varies between nonsmoker/non-tobacco and smoker/tobacco users and provides for variations by issue year, face amount and plan. If the company has the standard Relative Risk Score (RR Score) information available, the company should map its set of preferred class structure to sets of RR Scores. **Except for new preferred class structures or new sets of RR Scores applied to existing preferred class structure(s), the response to the questionnaire should remain the same from year to year.***

If a company has determined sets of RR Scores for its preferred class structures, it should provide separate preferred class structure responses for each set of RR Scores applied to a preferred class structure. If a company has not determined sets of RR Scores for its preferred class structures, it should fill out this questionnaire with its preferred class structures and update the preferred class structure questionnaire at such future time that sets of RR Scores for the preferred class structures are determined. When sets of RR Scores are used, there is to be a one-to-one correspondence between a preferred class structure and a set of RR Scores.

The information given in this questionnaire will be used both to map a set of RR Scores to policy level data and as a check on the policy-level data submission. Submit this questionnaire along with the initial data submission to the Experience Reporting Agent.

Each preferred class structure must include at least two classes (e.g., one preferred class and one standard class). Make as many copies of this preferred class structure questionnaire as necessary for your individual life business and submit in addition to policy-level detail information.

Company	NAIC Company Code
---------	-------------------

Name	Date
------	------

PREFERRED CLASS STRUCTURE – Part 1 Nonsmokers/Non-Tobacco Users

Preferred class structure must have at least one preferred and one standard class. Use multiple copies of this page if needed for nonsmokers/non-tobacco users

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

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Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Nonsmoker/Non-Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

PREFERRED CLASS STRUCTURE – Part 2 Smokers/Tobacco Users

Preferred class structure must have at least one preferred and one standard class. Use multiple copies of this page if needed for smokers/tobacco users

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range Date through Date
- b) Issue Age Range Date Age through Date Age
- c) Face Amount Range Date Amount through Date Amount
- d) Plan Types (use three-digit codes from item 19, Plan)

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Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

Number of Smoker/Tobacco User Risk Classes

- a) Issue Date Range ~~Date~~ through ~~Date~~
- b) Issue Age Range ~~Date Age~~ through ~~Date Age~~
- c) Face Amount Range ~~Date Amount~~ through ~~Date Amount~~
- d) Plan Types (use three-digit codes from item 19, Plan)

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Appendix 4: Mortality Data Elements and Format

ITEM	COLUMN	L	DATA ELEMENT	DESCRIPTION
19	65–67	3	Plan	<p>Exclude from contribution: spouse and children under family policies or riders. If Form for Additional Plan Codes was submitted for this policy, enter unique three-digit plan number(s) that differ from the plan numbers below:</p> <p>000 = If unable to distinguish among plan types listed below</p> <p>100 = Joint life plan unable to distinguish among joint life plan types listed below</p> <p>Permanent Plans:</p> <p>010 = Traditional fixed premium fixed benefit permanent plan</p> <p>011 = Permanent life (traditional) with term</p> <p>012 = Single premium whole life</p> <p>013 = Econolife (permanent life with lower premiums in the early durations)</p> <p>014 = Excess interest whole life</p> <p>015 = First to die whole life plan (submit separate records for each life)</p> <p>016 = Second to die whole life plan (submit separate records for each life)</p> <p>017 = Joint whole life plan – unknown whether 015 or 016 (submit separate records for each life)</p> <p>018 = Permanent products with non-level death benefits</p> <p>019 = Permanent plans 010, 011, 012, 013, 014, 015, 016, 017, 018 combined (i.e. unable to separate)</p> <p>Term Insurance Plans:</p> <p>020 = Term (traditional level benefit and attained age premium)</p> <p>021 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for five years)</p> <p>211 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 10 years)</p> <p>212 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 15 years)</p> <p>213 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 20 years)</p> <p>214 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 25 years)</p> <p>215 = Term (level death benefit with guaranteed level premium for five years and anticipated level term period for 30 years)</p> <p>022 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 10 years)</p> <p>221 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 15 years)</p> <p>222 = Term (level death benefit with guaranteed level</p>

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				<p>premium for 10 years and anticipated level term period for 20 years)</p> <p>223 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 25 years)</p> <p>224 = Term (level death benefit with guaranteed level premium for 10 years and anticipated level term period for 30 years)</p> <p>023 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 15 years)</p> <p>231 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 20 years)</p> <p>232 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 25 years)</p> <p>233 = Term (level death benefit with guaranteed level premium for 15 years and anticipated level term period for 30 years)</p> <p>024 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 20 years)</p> <p>241 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 25 years)</p> <p>242 = Term (level death benefit with guaranteed level premium for 20 years and anticipated level term period for 30 year)</p> <p>025 = Term (level death benefit with guaranteed level premium for 25 years and anticipated level term period for 25 years)</p> <p>251 = Term (level death benefit with guaranteed level premium for 25 years and anticipated level term period for 30 year)</p> <p>026 = Term (level death benefit with guaranteed level premium for 30 years and anticipated level term period for 30 years)</p> <p>027 = Term (level death benefit with guaranteed level premium period equal to anticipated level term period where the period is other than five, 10, 15, 20, 25 or 30 years)</p> <p>271 = Term (level death benefit with guaranteed level premium period not equal to anticipated level term period, where the periods are other than five, 10, 15, 20, 25 or 30 years)</p> <p>028 = Term (decreasing benefit)</p> <p>040 = Select ultimate term (premium depends on issue age and duration)</p> <p>041 = Return of Premium Term (level death benefit with guaranteed level premium for 15 years)</p> <p>042 = Return of Premium Term (level death benefit with guaranteed level premium for 20 years)</p> <p>043 = Return of Premium Term (level death benefit with guaranteed level premium for 25 years)</p> <p>044 = Return of Premium Term (level death benefit with guaranteed level premium for 30 years)</p> <p>045 = Return of Premium Term (level death benefit with guaranteed level premium for period other</p>
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				<p>than 15, 20, 25 or 30 years)</p> <p>046 = Economatic term 059 = Term plan, unable to classify 101 = First to die term plan (submit separate records for each life) 102 = Second to die term plan (submit separate records for each life) 103 = Joint term plan – unknown whether 101 or 102 (submit separate records for each life)</p> <p>Universal Life Plans (Other than Variable), issued without a Secondary Guarantee: 061 = Single premium universal life 062 = Universal life (decreasing risk amount) 063 = Universal life (level risk amount) 064 = Universal life – unknown whether code 062 or 063 065 = First to die universal life plan (submit separate records for each life) 066 = Second to die universal life plan (submit separate records for each life) 067 = Joint life universal life plan – unknown whether code 065 or 066 (submit separate records for each life) 068 = Indexed universal life</p> <p>Universal Life Plans (Other than Variable) with Secondary Guarantees: 071 = Single premium universal life with secondary guarantees 072 = Universal life with secondary guarantees (decreasing risk amount) 073 = Universal life with secondary guarantees (level risk amount) 074 = Universal life with secondary guarantees – unknown whether code 072 or 073 075 = First to die universal life plan with secondary guarantees (submit separate records for each life) 076 = Second to die universal life plan with secondary guarantees (submit separate records for each life) 077 = Joint life universal life plan with secondary guarantees unknown whether code 075 or 076 (submit separate records for each life) 078 = Indexed universal life with secondary guarantees</p> <p>Variable Life Plans issued without a Secondary Guarantee: 080 = Variable life 081 = Variable universal life (decreasing risk amount) 082 = Variable universal life (level risk amount) 083 = Variable universal life – unknown whether code 081 or 082 084 = First to die variable universal life plan (submit separate records for each life) 085 = Second to die variable universal life plan (submit separate records for each life) 086 = Joint life variable universal life plan – unknown whether 084 or 085 (submit separate records for</p>
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				<p>each life)</p> <p>Variable Life Plans with Secondary Guarantees: 090 = Variable life with secondary guarantees 091 = Variable universal life with secondary guarantees (decreasing risk amount) 092 = Variable universal life with secondary guarantees (level risk amount) 093 = Variable universal life with secondary guarantees –unknown whether code 091 or 092 094 = First to die variable universal life plan with secondary guarantees (submit separate records for each life) 095 = Second to die variable universal life plan with secondary guarantees (submit separate records for each life) 096 = Joint life variable universal life plan with secondary guarantees – unknown whether code 094 or 095 (submit separate records for each life)</p> <p>Coverage purchased with dividends: 196 = Paid Up Additions 197 = One Year Term</p> <p>Nonforfeiture: 098 = Extended term 099 = Reduced paid-up 198 = Extended term for joint life (submit separate records for each life) 199 = Reduced paid-up for joint life (submit separate records for each life)</p>
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27	133–134	2	Cause of Termination	If Inforce Indicator is 1, leave blank. 00 = Termination type unknown or unable to subdivide 01 = Reduced paid-up 02 = Extended term 03 = Voluntary; unable to subdivide among 01, 02, 07, 09, 10, 11 or 13 04 = Death 05 = Death due to COVID-19 07 = 1035 exchange 09 = Term conversion – unknown whether attained age or original age 10 = Attained age term conversion 11 = Original age term conversion 12 = Coverage expired or contract reached end of the mortality table 13 = Surrendered for full cash value 14 = Lapse (other than to Reduced Paid Up or Extended Term) 15 = Termination via payment of a discounted face amount while still alive, pursuant to an accelerated death benefit provision
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46	275-276	2	State of Domicile Owner’s State of Residence	Use standard, two-letter state abbreviations codes (e.g., FL for Florida) for the state of the policy owner’s domicile. If unknown or outside of the U.S., leave blank.
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Product	Number of Participants
Whole Life	5
Term Life	13
Indexed Life	8
Universal Life	5
Universal Life with Secondary Guarantees	12
Variable Life	0
Variable Universal Life	6
Fixed Annuities	28
Indexed Annuities	5
Variable Annuities with Guarantees	28
Variable Annuities without Guarantees	16
Life Contingent Payout (Immediate and Annuityizations)	30
Other Annuities	14

DRAFT

TO: Company Field Test Contact
FROM: Mike Boerner, Texas Department of Insurance
Chair of the Life Actuarial (A) Task Force
DATE: TBD
RE: Economic Scenario Generator (ESG) Field Test Instructions, Results Templates, and Qualitative Survey

The Texas Department of Insurance is reaching out to all companies participating in the ESG field test to be conducted from June through August. Thank you for participating in the field test. Please follow the field test instructions contained in Appendix A, and use the templates provided to submit your results. Also, please complete the Qualitative Survey contained in Appendix B as applicable for the product types tested.

Confidentiality

This information is being requested under both the authority of the general examination authority of the Texas Department of Insurance pursuant to Tex. Ins. Code §§ 401.051, *et seq.*, and the Standard Valuation Law, Tex. Ins. Code §§ 425.051, *et seq.*, and is considered to be confidential under these provisions. These provisions also permit the Texas Department of Insurance to share this confidential information with other state regulators and the NAIC, including the Life Actuarial (A) Task Force (LATF), the Life RBC (E) Working Group, the Valuation Analysis (E) Working Group (VAWG), and NAIC staff. Your company specific information will remain confidential pursuant to these statutory provisions.

Additional Instructions

Prior to 6/1/22, please confirm receipt of this email.

If you have questions regarding the field test instructions or templates, please contact Scott O’Neal at soneal@naic.org.

Your field test results are requested by 8/31/2022. The subject line should start with the company’s NAIC number, followed by “ESG Field Test”. Email your response to: Actuarialdivision@tdi.texas.gov, and CC Rachel.Hemphill@tdi.texas.gov and Yujie.Huang@tdi.texas.gov.

Thanks,

Mike

Appendix A**Economic Scenario Generator (ESG) Field Test Instructions**

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I. Introduction

A. Background

Work is in progress to develop a new ESG to be prescribed for use in calculations of life and annuity Statutory reserves according to the *Valuation Manual* (e.g. VM-20, VM-21) and capital under the NAIC RBC requirements (e.g. C3 Phase 1, C3 Phase 2). Implementation of a new ESG is expected to materially increase life and annuity reserves and capital. The purpose of the ESG field test is to assess the impacts for different product types, gain a better understanding of the drivers of reserve and capital differences, and determine potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

This document should be read in conjunction with the document titled “Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications”. Some of the information from that document is repeated here, but with greater detail.

B. Communication of Field Test Results

NAIC staff will compile aggregated results in a report that will not contain any company-specific or other company-identifiable information. Assuming that companies have completed the field test by the end of August, the compilation of results is expected to be completed by the end of September, 2022. Joint LATF/LRBC WG open meetings will then be held to discuss aggregate field test results, and to determine whether ESG modifications should be made based on the results of the field test.

C. Next Steps

1. After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)
2. A second field test is expected to be conducted in early 2023. This field test may include:
 - Calibration changes for the Treasury, Equity, and Corporate Bond models desired by regulators.
 - Testing of alternative simplified models. For example, the Academy is currently developing a simplified Corporate Bond model. The ACLI is also developing an alternative model.
 - Any structural changes to the Conning Treasury, Equity, and Corporate Bond models desired by regulators after a review of results from the first field test. Structural ESG changes will require a programming effort, and the amount of time needed to complete this will depend on the nature of the changes. Examples of structural changes would include any modification to the linkage between the Treasury model and the Equity model, and implementation of an alternative simplified Corporate model.
3. Prior to ESG implementation, related *Valuation Manual* and RBC instruction changes will be drafted for consideration and adoption.

II. General Field Test Instructions

A. Summary of Field Test Runs

The runs needed for the field test are summarized in the table below. The Baseline #1 results already exist; they should match the values from year-end 2021 statutory reporting. The Baseline #1 and Baseline #2 results should reflect the ESG the company used for statutory reporting, whether it was a version of the Academy ESG or a proprietary ESG. Similarly, the Baseline runs should reflect the models companies used for year-end reporting, whether they were as of 12/31/21 or 9/30/21. For companies that typically produce results as of 9/30 (e.g. for C3 Phase I), 9/30 scenarios will be provided for the Baseline #2, and Tests 1a and 1b.

Field Test Runs**	Scenario Sets	Inforce Assets and Liabilities
<u>Baseline #1</u> Already exists; no new runs needed.	Scenario set(s) the company used for 12/31/21 statutory reporting of reserves and RBC	As of 12/31/21
Baseline #2	ESG the company used for 12/31/21 statutory reporting of reserves and RBC, but modified to produce scenario sets with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*
Test #1a	GEMS Equity and Corporate model scenarios as of 12/31/21, and Conning Treasury model calibration with generalized fractional floor as of 12/31/21	As of 12/31/21
Test #1b	Same as Test #1a, but with Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21
Test #2a Sensitivity Test with Higher Interest Rates	Same as Test #1a, but with Equity, Corporate, and Treasury models with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*
Test #2b Sensitivity Test with Higher Interest Rates	Same as Test #1b, but with Equity, Corporate, and Treasury models with 12/31/19 starting conditions	As of 12/31/21 with appropriate adjustments to inforce*
Test #3: Attribution Analysis Run	Conning Treasury model calibration with generalized fractional floor as of 12/31/21, GEMS Corporate model as of 12/31/21, and GEMS Equity model as of 12/31/19	As of 12/31/21 with appropriate adjustments to inforce*
Test #4: Attribution Analysis Run	Same as Test #3, but using Alternative Treasury model calibration with shadow floor as of 12/31/21	As of 12/31/21 with appropriate adjustments to inforce*

*More information on adjustments to be added later

**After the June field test begins, there may be additional optional runs requested (e.g. an alternative equity model calibration from the ACLI)

B. Required and Optional Quantitative Results

The table below lists the elements of the field test and identifies them as either “required” or “optional”. Required results are considered most important to the success of the field test. It is hoped that participating companies will provide results for these items, and as many of the optional items as possible. However, it is recognized that companies may not have the capacity to produce everything due to resource constraints. If this is the case, it is preferable that companies provide partial results rather than not participate in the field test at all.

Field Test Element	Required for VM-21 and C3 Phase II	Required for VM-20	Required for C3 Phase 1	Optional
Baselines 1 and 2, Tests 1a and 1b, Tests 2a and 2b (see table above)	X	X	X	
Tests 3 and 4 (see table above)				X
Post reinsurance ceded results	X	X	X	
Pre-reinsurance ceded results				X
Stochastic Reserve	X	X		
Scenario Reserves, before cash surrender value floor	X	X		
Scenario Reserves, after cash surrender value floor	X	X		
CTE70 Best Efforts	X			
CTE70 Adjusted	X			
Additional Standard Projection Amount	X			
CTE98 (for C3 Phase II)	X			
Deterministic Reserve		X		
NPR		X		
Results from each of the 16 SERT Scenarios, and SERT ratio		X		For VM-21 and C3P1

C. Number of Scenarios

For each product type to be tested, the number of scenarios used for field testing should match the number the company used for statutory reporting on 12/31/21. The number of scenarios used may vary by product type, as long as it is consistent with the number used for statutory reporting. For example, if 1,000 scenarios were run for variable annuity reserves reported as of 12/31/21, then 1,000 scenarios should be run as of that valuation date for the field test. Similarly, if 200 scenarios were run for life insurance reserves reported as of 12/31/21, then 200 scenarios should be run for the field test as of that valuation date.

D. Scenario Sets

1. Scenario files – The scenario sets to be used for the field test, along with descriptions of the file formats, will be available for download at <https://naic.conning.com/scenariofiles>. Statistical summaries of the projections will also be provided, along with the parameters used for the ESG.
2. Scenario subsets - A full scenario file containing 10,000 scenarios will be provided for each model run to be tested. Scenario subsets of 1,000, 500, 200, and 40 scenarios will also be available.
3. Additional scenario sets – The following additional scenarios are available:
 - 16 Stochastic Exclusion Ratio Test (SERT) scenarios
 - TBD - Company-Specific Market Path (CSMP) scenarios

E. Projection Period

Each scenario file contains monthly projections for 100 years. For each product type to be tested, the projection period used for field testing should match the projection period the company used for statutory reporting as of 12/31/21.

F. Negative Interest Rates

The two ESG Treasury models used for the field test include scenarios with negative interest rates, so companies will need to consider whether any modeling or assumption changes are needed to handle this. It is recommended that companies read and consider the information in the paper below:

Potential Modeling Challenges in a Negative Interest Rate Environment

Author: Zohair Motiwalla, FSA, MAAA
Principal and Consulting Actuary, Milliman

For purposes of the field test, companies may make assumption changes as appropriate to reflect negative interest rates, but this is not required given the amount of time this may take. The Qualitative Survey asks companies to provide details on whether assumption changes were made, and the nature of the changes. It also asks companies to comment on any changes anticipated to be made when the new ESG is adopted.

G. Model Simplifications

If the company is not able to provide model results that match reported values, the company may run a representative model or inforce population. The company should then either adjust the final results to align with their reported amount, or alternatively, they should adjust their reported amount to align with the representative business that is being field tested.

H. Hedging (as applicable)

The hedging strategy the company used as of 12/31/21 for statutory reporting should be used for the field test runs.

I. Fund Mapping (as applicable)

The company's fund mapping used as of 12/31/21 for statutory reporting should be used for the field test to allow for a more direct comparison of results from the Academy ESG (or proprietary ESG) vs. the GEMS ESG. Although the GEMS ESG contains additional equity and bond fund returns for a more refined mapping of funds, these should not be used for the field test.

The tables below show the equity and bond returns available from the Academy ESG and the comparable returns offered in the GEMS equity and corporate bond models. For the field test, companies should use the appropriate GEMS returns that correspond to their fund mapping as of each valuation date.

Further information on fund mapping can be found in the results templates

Equity Scenarios: AAA ESG compared to GEMS®

AAA ESG Returns*	Market Proxy Used to Produce AAA ESG Returns*	Corresponding GEMS Returns
Diversified Large Capitalized U.S. Equity	S&P500 Total Return Index	S&P 500
Diversified International Equity	MSCI-EAFE \$USD Total Return Index	MSCI EAFE
Intermediate Risk Equity	U.S. Small Capitalization Index	Russell 2000
Aggressive Equity**	25% Emerging Markets, 12.5% NASDAQ, 62.5% Hang Seng	MSCI Emerging Market, NASDAQ

Additional GEMS® Returns: Russell Midcap (Diversified Midcap U.S. Equity)

The AAA ESG Model produces total returns.

GEMS® returns will be split between income and price, which can be combined to get total returns. Dividends are linked to the 10 -Year Treasury yield and are negatively correlated with S&P price movements. Dividends do not affect total returns.

*Source: AAALCAS C3 Phase II RBC for Variable Annuities: Pre-Packaged Scenarios January 2006

**The Academy Equity Model Aggressive Equity proxy is not meant to suggest a representative asset profile for this class but used merely to build an historic index with high volatility and sufficient history.



Bond Fund Scenarios: AAA ESG compared to GEMS®

AAA ESG Returns*	Market Proxy used to produce AAA ESG Returns*	Corresponding GEMS® Returns
Money Market	3 Month Treasury returns	Money Market
U.S. Intermediate Term Government Bonds	U.S. Intermediate Term Government Bonds	U.S. Intermediate Term Government Bonds
U.S. Long Term Corporate Bonds	U.S. Long Term Corporate Bonds	U.S. Long Term Investment Grade Corporate Bonds
Diversified Fixed Income	65% ITGVT + 35% LTCORP	GEMS® produces corresponding components
Diversified Balanced Allocation	60% Diversified Equity + 40% Fixed Income	GEMS® produces corresponding components

Additional GEMS® Returns: U.S. Short - and Long -Term Government Bonds, Short - and Intermediate -Term U.S. Investment Grade, High Yield Corporates

*Source: AAALCAS C3 Phase II RBC for Variable Annuities: Pre-Packaged Scenarios January 2006



III. Additional Instructions for VM-21

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-21 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Aggregation

Business should be aggregated according to the requirements under VM-21, consistent with how this was done for statutory reporting on 12/31/21. For example, if RILAs were aggregated with variable annuities for statutory reporting, they should be aggregated for the field test.

IV. Additional Instructions for VM-20

A. Model Assumptions

Models should utilize company and/or prescribed assumptions relevant to VM-20 for 12/31/21 statutory reporting unless otherwise specified. All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

B. Exclusion Tests

1. Deterministic Exclusion Test - This is not applicable for purposes of the field test and should not be performed.
2. Stochastic Exclusion Ratio Test – The SERT should be performed unless the company has not built out that functionality in their models. The results may help determine whether the SERT still performs as intended using the new ESG.

C. Stochastic Reserve Calculation

1. The Stochastic Reserve should be calculated unless the company has not built out that functionality in their models.
2. VM-20 stochastic reserve discount rate – VM-20 Section 7.H.4 states that “The company shall use the path of one-year Treasury interest rates in effect at the beginning of each projection year multiplied by 1.05 for each model segment within each scenario as the discount rates in the stochastic reserve calculations.” However, for purposes of the field test, companies should multiply the one-year Treasury rate by 1.05 whenever the one-year Treasury rate is greater than zero, and multiply the one-year Treasury rate by 0.95 whenever the one-year Treasury rate is zero or negative. This adjustment is being made because the new ESG will produce negative interest rates, and this was not the case when VM=20 Section 7.H.4 was drafted.

V. Additional Instructions for C-3 Phase I

A. Methodology

Companies should use the current C-3 Phase I methodology for the field test, with the exception noted in Section B below. A future VM-22 field test will include both the new ESG and new C-3 Phase I methodology.

B. Number of Scenarios

For Tests 1a – Test 4 (see the table in Section II.A), companies should run a minimum of 200 scenarios.

VI. Attribution Analysis

TBD – Details to be added to this document when provided by the Academy

VII. Reporting of Field Test Results

A. Results Templates

Companies should provide quantitative field test results using the Excel templates that have been developed for this purpose. Instructions are included in the templates. The spreadsheet tabs may be copied as needed within the workbook to reflect any additional products/models not included.

TBD – An additional template is under review and will be added when provided by the Academy.

B. Qualitative Survey

Companies are asked to complete the Qualitative Survey contained in Appendix B to the extent possible for the product types tested.

C. NAIC Aggregation of Company Results

NAIC staff will be aggregating quantitative results across companies and producing a variety of metrics using SAS. For ease of aggregation, please do not add rows or columns to the results templates.

Field test participants' responses to the Qualitative Survey will also be aggregated where appropriate.

Appendix B

Economic Scenario Generator (ESG) Field Test Qualitative Survey

All companies are asked to provide responses to the survey questions below to the extent possible for the types of results submitted. The responses will aid in understanding how each company performed their modeling, and potential drivers of reserve and RBC differences by product type. The responses will also be used to identify potential ESG modifications that may be desirable for a second field test tentatively planned for early 2023.

I. VM-21 and C3 Phase II

1. Which valuation date was used for Baseline #1 (i.e. for year-end statutory reporting)?
 12/31/21 9/30/21
2. How many scenarios were used for Baseline and field test runs?
 10,000 1,000 500 Other (please describe)
3. Baseline #1 should match what was reported in the Variable Annuities Supplement for Individual and Group business. Is this the case? Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used to determine values for the Baseline runs? Yes No
5. Did the company make any changes to assumptions or modeling approach for the field test runs because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did you use an implicit method or explicit method to model hedging?
 Implicit method Explicit method Did not model hedging Other If Other, please explain.
8. If your company uses an implicit methodology to quantify the impacts of hedging, have you reassessed whether it is still appropriate in light of the field test scenario sets?
9. Did the new ESG impact hedge effectiveness? If so, can you tell what is driving this?
10. Where possible, please explain the change between the field test runs and the Baseline runs for the Post-Reinsurance-Ceded Reserve for Guaranteed Benefits, and optionally for Pre-Reinsurance-Ceded Reserve for Guaranteed Benefits. As part of your response, please address each of the following questions.

- a. What were the drivers of the change?
 - b. How did the drivers interplay to result in the overall change? Were they additive, compounding, offsetting, etc.?
 - c. How did the VA product guarantees affect the Baseline and field test results differently? In what way did the product guarantees contribute to the change in results?
 - d. When comparing the field test runs to the Baseline, how did the sensitivities to equities vs. interest rates drive the magnitude of the change in results? In other words, how sensitive was the company's portfolio to the change in the interest rate scenarios? Or, if the reserve amount is driven more by the equity levels, how would you characterize that relationship or dependence?
 - e. Did the impact of hedging differ between the baseline and the Field Test? If so, in what way?
11. Where possible, please explain the change between the field test runs and the Baseline for the **Risk-Based Capital**. Please address the following as part of your response.
- a. Compare the impacts of the field test scenarios on the CTE 70 vs. CTE 98 tail metrics. Discuss the interplay and resulting impact on Risk-Based Capital.
 - b. Are there distinct drivers that create different movements in the 30% vs. 2% tail?
 - c. Are the impacts of hedging different when calculating the reserve vs. risk-based capital? Why or why not?

II. VM-20

1. Which valuation date was used for the Baseline run (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline and field test runs?
10,000 1,000 500 200 40 Differs by product type
Specify the details if selected "Differs by product type": _____
3. The Baseline should match what was reported in the VM-20 Reserves Supplement. Is this the case?
Yes No If No, please explain (e.g., describe any subsets of contracts that were excluded or added for the Baseline, describe any simplifications used).
4. Was a proprietary ESG used for calculating the baseline? Yes No
5. Did the company make any changes to assumptions or modeling approach because the ESG produces negative interest rates?
 - a. If so, please describe the changes that were made.
 - b. If not, please describe the changes anticipated to be made when the new ESG is adopted.
6. Were any other changes to assumptions or modeling made for the field test runs? Yes No If Yes, please explain.
7. Did your dominant PBR reserve change?

III. C3 Phase I

1. Which valuation date was used for the Baseline (i.e. for year-end statutory reporting)?
12/31/21 9/30/21
2. How many scenarios were used for the Baseline run?
50 12 Other (please describe)
3. How many scenarios were used for field test runs?
200 Other (please provide the number)

IV. All Products

1. All amounts populated in the templates should be shown in dollars. Is this the case? Yes No
If No, what units did you use?
2. If the inforce files were adjusted for the field test runs, please describe the changes that were made.
3. To what extent did the field test runs capture the potential impact of the scenarios on results? Were there areas that could not be tested/assessed (e.g., due to the need for additional scenario sets, new or existing simplifications)?
4. What additional information / analysis or scenario refinements would your company recommend?
5. Please provide any additional perspectives and information that could be relevant in the post-field test assessment. This information could include observations, unexpected results, insights and desirable properties from alternative models/scenarios, etc.

To allow for aggregation of company responses to this question, please categorize each of your comments as relating to "capital/reserves," "product specific issues," "attribution," or "other issues".



Brian Bayerle
Senior Actuary

May 2, 2022

Mike Boerner
Chair, NAIC Life Actuarial (A) Task Force (LATF)

Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

Re: ESG Field Study Specifications

Dear Messrs. Boerner and Barlow:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments on the exposed ESG Field Testing Specifications (Specifications). We have the following suggestions:

Section I

- A.1. Reserve and Capital Impact / A.2. Range of Results: To better measure the new ESG impact on reserves and capital and to capture the actual range of results, we suggest providing reserves and capital results both with floors (consistent with reporting) and without floors (such as CSV). This approach more fully reveals the impact from the change in the generator than provided by the floored results alone.
- A.5. Exclusion Testing and Reserve Components: We would like to request that Conning provide the breakdown and formulas used to create the SERT scenarios from a full scenario set. Particularly, we would like to see how Conning creates the variables (Treasury rates, Equity, and Bond Fund returns) based on the percentiles of the 1- and 20-year treasury rates and the equity performance.
- A.5. Exclusion Testing and Reserve Components: Optional field to show the NPR as a benchmark to compare against the other reserves.
- E. Survey questions: We believe there should be a free form question for the survey for companies to provide additional perspectives and information that could be relevant in the post-field test assessment. This information could include observations, unexpected results, etc. In order to group, these could be categorized as “capital/reserves,” “product-specific issues,” “attribution,” and “other issues. Free form questions also allow for insights from alternative models/scenarios and allow identification of good properties in other models/scenarios for future iterations.
- E. Survey Questions: Additional survey question of “did your dominant PBR reserve change?”. Also:

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

- To what extent did the field test runs capture the potential impact of the scenarios on results? Were there areas that could not be tested / assessed (e.g., due to the need for additional scenario sets, new or existing simplifications)?
- What additional information / analysis or scenario refinements would your company recommend?
- F. Valuation Dates: The selected valuation dates may not be effective for understanding the impact of GEMS's formulaic equity/rate relationship since the short-term rates that drive the relationship are very similar at year-end 2020 and 2021 and only modestly higher on March 31, 2022. Other valuation dates (e.g., year-end 2019) or sensitivities based on shocks from the baseline valuation date would be needed to fully understand the impact of using this relationship.

Section II

- D. ESG Models and Scenarios: ACLI would suggest prioritizing one of the valuation dates for testing the two proposed treasury models. For other valuation date(s), prioritizing one of the two proposed Treasury models to reduce the expected work for companies. We would defer to Conning as to which of the floors (generalized fractional floor or shadow floor) would be preferable for field testing.
- E. Metrics / Output: We would like to better understand how the NAIC intends to evaluate the total impact of the new ESG, i.e., combined impact of changes in reserve and capital levels. Similar to VA Reform, we believe there should be a methodology developed to assess the combined impact on reserves and capital.

Section III

- We support inclusion of attribution and sensitivity tests in field testing but would prioritize the baseline results first. There should be a structure for the attribution, and we would like additional time to develop a recommendation around that approach. One suggested attribution analysis individual sensitivities for each initial market condition (e.g., +/- 50 bps parallel interest rate shock, key rate duration shocks, initial volatility shocks) and long term assumption that will be subject to automatic updates (e.g., interest rate MRP) as of the baseline valuation date so companies can better understand how the scenarios will behave. We also recommend the generation of a wider set of valuation date scenarios. Analysis of the scenario sets will provide insights into ESG behavior, and while companies are unlikely to be able to do full field testing runs, selective runs (e.g., using subsets of the business or illustrative models) may be possible. Other testing could include testing when guarantees are at different levels of moneyness and/or evolve over time (e.g., ORSA projection). (Given time constraints, these additional scenario sets could be discussed and generated concurrent to the field test and made available sometime during the testing.)

Other

- The results template should be released for exposure as soon as it is available.
- How is confidentiality being handled for the field study? Will companies be submitting to their domestic regulator?

We appreciate the consideration of our comments. Thank you.

A handwritten signature in cursive script, appearing to read "B. Banerji".

cc: Reggie Mazyck, NAIC, Dave Fleming, NAIC

William H. Wilton

Wilton579@sbcglobal.net

April 20, 2022

Reggie Mazyck
 National Association of Insurance Commissioners
 1100 Walnut Street – Suite 1500
 Kansas City, MO 64106-2197

Re: ESG Field Test Specifications

I appreciate the opportunity to provide comments and some additional thoughts on the Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications. The implementation of a new generator potentially has a significant impact on consumers, companies and the industry and we should make sure we do all the analysis necessary to fully understand its impact on companies and the products they will be able to offer to consumers.

Section 1: A. 3 Metrics

3. Metrics	<ul style="list-style-type: none"> • Which particular interest rate and equity scenarios cause the greatest stress? • How do results compare for CTE70 vs. CTE98? Calculate different CTE levels (e.g., CTE70, CTE98, CTE90) to compare to existing requirements. • How do the metrics perform with different scenario set sizes?
-------------------	--

What is envisioned for “different scenario set sizes”? Is this to test the number of scenarios for convergence or is it to test the adequacy / inadequacy of the scenario picking tool?

Section II: D. ESG Models and Scenarios, 3rd bullet

- 10,000 scenarios will be provided along with 1,000, 500, 200, and 40 scenario subsets

Section II: E. ESG Models and Scenarios, 7th bullet

- Field test participants may choose the number of scenarios included in their calculation of reserves or capital for each line of business, with the exception of C3 Phase I where runs will be subject to a minimum of 200 scenarios.

Are the scenario subsets based on the scenario-picker tool? Is the scenario picker tool still based on the 20-year Treasury? If so, are we getting what we want? If the objective of the field test is to validate the generator, are we diluting the analysis with artificial variability and precision due to the scenario picker? It would seem that for a field test you would want consistency among companies using different scenario set sizes. The companies that are running 10,000 scenarios could easily report results if the 200, 500 or 1000 scenario subsets were sequentially the first x

scenarios of the 10,000. I see minimal value with a 40-scenario subset in meeting the field test objectives.

For VM-21, are the scenario subsets appropriate? Will the scenario subsets for VM-21 be based on the 20-year Treasury and not equity markets?

In my opinion, the use of any scenario reduction techniques should be left to the company to validate and not be part of this ESG field test. Once the parameterization of the scenario generator is established, we can test if the scenario picker is still acceptable for use as permitted in Section 7.G.2.c. of VM-20.

3. Metrics	<ul style="list-style-type: none"> • Which particular interest rate and equity scenarios cause the greatest stress? • How do results compare for CTE70 vs. CTE98? Calculate different CTE levels (e.g., CTE70, CTE98, CTE90) to compare to existing requirements. • How do the metrics perform with different scenario set sizes?
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Do we want to capture more than just the CTE metrics? Do we want to have a “picture” of the distribution in the tail? Would percentile metrics for some of the key components add additional value? For example, percentiles 65 – 95 at 5% increments with 1% increments from 95% to 100%? One of the underlying questions may be is CTE still the best metric to quantify reserves and capital? Are we concerned about the average loss in the tail or should we be focused on the level of reserves or capital required to be x% confident that they are sufficient? Should reserves be determined based on negative interest rate scenarios? Is an 80th percentile value a better representative of an appropriate reserve for moderately adverse conditions? Collecting more data than just the CTE may provide insight into the numerous questions about the tail that will likely arise.

For example, sample metrics to collect may include:

	Component (e.g. Scenario Reserve)			
	Scenario Set			
Metric	1-200	1-500	1-1000	1-10000
Percentile				
65				
70				
75				
80				
85				
90				
95				
96				
97				
98				
99				
100				
CTE 70				
CTE 90				
CTE 98				

Section II: E. Metrics/Output 1st bullet, 4th sub-bullet:

- C3 Phase I
 - Reserves that were cash flow tested for asset adequacy
 - The C3 Phase I results should be summarized by applying the weights in the table below to the respective percentiles.

----- Percentile Weighting -----													
92	92.5	93	93.5	94	94.5	95	95.5	96	96.5	97	97.5	98	
.02	.04	.06	.08	.10	.12	.16	.12	.10	.08	.06	.04	.02	

For C3 Phase I, it would seem that the current scenario subset (generally 50) and the full 200 scenario set should be run. This would facilitate the attribution analysis that may be ultimately desired.

1. 50 Scenario – weighted 95th percentile (C3P1 Generator)
2. 200 Scenarios – weighted 95th percentile, 95th %-ile, & CTE90 (C3P1 Generator)
3. 200 Scenarios – 95th %-ile, & CTE90 with VM prescribed scenario generator
4. 200 Scenarios – 95th %-ile, & CTE90 with Treasury model - “Non-shadow”
5. 200 Scenarios – 95th %-ile, & CTE90 with Treasury model - “Shadow”
6. >200 Scenarios – 95th %-ile, & CTE90 with Treasury model - “Non-shadow”
7. >200 Scenarios – 95th %-ile, & CTE90 with Treasury model - “Shadow”

The 50 scenario set is currently used by many companies for their C3 Phase I calculation. The 200 scenario set will highlight the use of the full distribution, as opposed to a scenario subset designed to capture the tail, and also highlight the potential impact of a movement to a CTE metric. The VM prescribed economic scenario generator will illustrate the impact the current AIRG would have on the current methodology. The last 4 scenario sets would highlight the impact a new scenario generator would have on the results that would otherwise be produced, including the impact of running more than 200 scenarios.

I thank you for the opportunity to provide these comments and thoughts on this exposure.

Sincerely,

A handwritten signature in cursive script, appearing to read "William H. Wilton".

William H. Wilton, FSA, MAAA

DRAFT ESG FIELD TEST TEMPLATES

General Instructions for Completion of Templates

- 1 For companies that are part of a group of companies, submit a separate set of templates for each legal entity.
- 2 Complete only the templates that are applicable for the business being field tested. Leave the other templates blank if they are not applicable.
- 3 Do not change the templates by adding rows or columns. A consistent format will allow faster aggregation of results across all participating companies.
- 4 Copy tabs as needed to provide results for each of the company's models. For example, if for statutory reporting the company reports two sets of Term results, copy the VM-20 Term Reserves tab to provide results for each model.
- 5 Provide all results in dollars.
- 6 All input cells are shown in blue.
- 7 The baseline runs are labeled Baseline #1 and Baseline #2, the field test runs are labeled as Test #1a, Test #1b, Test #2a, Test #2b, Test #3, and Test #4. Please refer to the instructions document for a description of each run.
- 8 The templates are listed below. Please follow the instructions provided for each template.

Template Spreadsheet Tab

- 1 Company Info
- 2 Guaranteed Benefit Distribution
- 3 Fund Mapping
- 4 VM-21 Reserve Summary
- 5 VM-21 & CAP2 CTE
- 6 CAP2 RBC
- 7 CAP2 Tax Scenarios
- 8 VM-21 Scenario Vx before CV floor
- 9 VM-21 Scenario Vx after CV floor
- 10 VM-20 Term Reserves
- 11 VM-20 ULISG Reserves
- 12 VM-20 Other Reserves
- 13 VM-20 Scenario Vx before CV floor
- 14 VM-20 Scenario Vx after CV floor
- 15 VM-20 Term SEFT
- 16 VM-20 ULISG SEFT
- 17 VM-20 Other SEFT

Instructions

Enter the company name and NAIC company code. The information will automatically populate in the other template tabs. For products offering guaranteed benefits, provide an approximate distribution of business based on account value. This is intended to be a high-level summary with less detail than the VA Supplement. Also provide the account value split between Separate Accounts and General Accounts. For Variable Annuities and any other products that have fund mapping, provide an approximate distribution by fund. Duplicate this tab as needed for each product type (e.g., VA, VUL).

This template provides information similar to the VA Supplement. Individual and Group should be combined. This template includes selected items from the table found in VM-31 Section 3.E.3. Pre-reinsurance ceded values are optional. Results should be shown on a Pre-Tax basis.

If the company uses the Macro Tax Adjustment, leave this template blank, but please confirm that there was a single set of scenario reserves used to calculate both reserves and RBC for each field test run.

If the company uses the Specific Tax Recognition, please provide the two separate sets of scenario reserves for the scenarios used. Populate the scenario reserve and PVAD by projection month for each scenario before applying the cash surrender value floor. Do not rank order the scenarios; keep them in the same order provided in the full scenario set or the subset used for the field test. The template is set up to handle 10,000 scenarios for 100 projection years. If less scenarios or a shorter projection period is used, leave the unused rows and columns blank.

Populate the scenario reserve and PVAD by projection month for each scenario after applying the cash surrender value floor. Do not rank order the scenarios; keep them in the same order provided in the full scenario set or the subset used for the field test. The template is set up to handle 10,000 scenarios for 100 projection years. If less scenarios or a shorter projection period is used, leave the unused rows and columns blank.

Populate the NPR, DR, and SR for each Baseline and Field Test run. Note that the NPR for the Field Test runs should match the Baseline #1 result since the NPR results do not vary with changes to the ESG scenarios. Duplicate this tab as needed for each VM-20 model.

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Populate the scenario reserve and PVAD by projection month for each scenario after applying the cash surrender value floor. Do not rank order the scenarios; keep them in the same order provided in the full scenario set or the subset used for the field test. The template is set up to handle 10,000 scenarios for 100 projection years. If less scenarios or a shorter projection period is used, leave the unused rows and columns blank. Duplicate this tab as needed for each VM-20 model.

Complete the table. Duplicate this tab as needed for each VM-20 model.

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Draft: 5/10/22

Life Actuarial (A) Task Force and the
Life Risk-Based Capital (E) Working Group
Virtual Meeting
April 14, 2022

The Life Actuarial (A) Task Force met April 14, 2022, in joint session with the Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force. The following Task Force members participated: Cassie Brown, Chair, represented by Mike Boerner and Rachel Hemphill (TX); Scott A. White, Vice Chair, represented by Craig Chupp (VA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ben Bock, Ted Chang, Ahmad Kamil, and Thomas Reedy (CA); Michael Conway represented by Eric Unger (CO); Andrew N. Mais represented by Wanchin Chou (CT); Trinidad Navarro represented by Charles Santana (DE); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Nicole Boyd (KS); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Derek Wallman (NE); Marlene Caride represented by Seong-min Eom (NJ); Adrienne A. Harris represented by Bill Carmello and Amanda Fenwick (NY); Judith L. French represented by Peter Weber (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Steve Boston (PA); and Jon Pike represented by Tomasz Serbinowski (UT). The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Thomas Reedy (CA); Wanchin Chou (CT); Mike Yanacheak (IA); Vincent Tsang (IL); Fred Andersen (MN); William Leung (MO); Derek Wallman (NE); Seong-min Eom (NJ); Bill Carmello (NY); Andrew Schallhorn (OK); Mike Boerner and Rachel Hemphill (TX); and Tomasz Serbinowski (UT).

1. Exposed the Field Test Specification Document

Colin Masterson (American Council of Life Insurers—ACLI) said the ACLI is withdrawing its request to have its economic scenario generator (ESG) included as part of the June field test. He said the ACLI supports NAIC efforts to replace the American Academy of Actuaries (Academy) ESG. He said the ACLI comment letter (Attachment Twelve-A) lists its concerns with the GEMS equity model and recommends modifications to the GEMS calibration for implementation in the field test. Pat Allison (NAIC) said a field test planning group meets weekly. She said the ACLI request for a different calibration of the equity model to get a more reasonable distribution of equity scenarios will be discussed during the planning group's next meeting. She said Conning has made changes that improve the equity returns. Those changes and the impacts they have on growth wealth factors will be released today for Academy and ACLI feedback. Ms. Allison said the ACLI recommendation to use a single set of interest scenarios could reduce the workload of companies participating in the field test.

Jason Kehrberg (Academy) expressed the Academy's support of the field test, evidenced by its participation on the field test planning group. He said the Academy's alternate calibration and its shadow rate floor are slated for inclusion in the first round of the field test. He said further discussion of the GEMS equity/Treasury link is necessary. He said he expects the field test to provide a better understanding of the effects of the link on pro-cyclical volatility. Mr. Kehrberg said the Academy supports consideration of its alternative/simplified corporate model but understands that it may not be included in the June field test. He suggested that additional reference models would be useful. He said the Academy is working on robust stylized facts and related acceptance criteria. Ms. Allison said the alternative/simplified corporate model will more than likely not be included in the June field test.

Elizabeth Braswell (Lincoln Financial Group—Lincoln) said the Lincoln comment letter (Attachment Twelve-B) conveys its support for the development of a new ESG that incorporates long periods of low interest rates and

higher rates. She expressed concern with the number of negative interest rates produced by the unfloored GEMS model. She noted that the floor mitigates the negative rates but said she remains concerned that the majority of rates are affected by the floor and that the frequency and severity of negative rates still appear elevated after the floor is applied. She pointed out that using flooring in the model potentially introduces other distortions. Ms. Braswell said the equity model appears to change the calibration criteria and moves away from the previous return and growth wealth factor targets. She questioned the justification for the equity model changes. She said the long-term gross equities' growth rate should be disconnected from the interest rate targets. Ms. Allison said the Lincoln comment letter stated that the Conning model was designed to serve the property/casualty (P/C) insurance industry. She said that the request for proposal (RFP) process required companies to provide the number of life insurance and annuity companies using their ESG and to provide at least three references. She said Conning has a large number of life and annuity companies using their ESG for risk management and asset allocation long-term projections.

Steven Tizzoni (Equitable) said Equitable supports using the Conning model. He said the Equitable comment letter (Attachment Twelve-C) notes that the ACLI rate model has favorable properties, satisfies the Task Force view of "low for long," and is more similar to the existing ESG and suggests it could be included in a second field test, if one becomes necessary. He said the comments recommend that the absolute number of "low for long" scenarios should increase when rates are dropping and decrease when rates are rising. He conveyed Equitable's support for the Conning equity/Treasury linkage.

Mark Tenny (Unaffiliated) gave a presentation (Attachment Twelve-D) on negative interest rates. He said academicians and economists believe negative interest rates are not sufficiently represented in insurance company portfolios.

Jack Cheyne (Moody's Analytics) said the Moody's Analytics comment letter (Attachment Twelve-E) commends the Task Force for developing and using acceptance criteria in the model validation process. He encouraged the Task Force to refrain from making post processing or ad hoc adjustments to the model to meet the acceptance criteria. He said such adjustments can disrupt the fundamental properties of the model and affect the consistency of the scenario outputs.

Scott O'Neal (NAIC) discussed a new request for field test participation (Attachment Twelve-F) and an associated pre-field test survey (Attachment Twelve-G). He said the initial field test participation request was distributed last year. He said the new request allows companies that agreed to participate last year an opportunity to indicate that they are still interested in participating. He said the pre-field test survey helped to obtain more information that can be used to enhance the design of the field test and its components. He noted that the pre-field test survey is not limited to participating companies; non-participating companies can also assist by indicating their willingness to provide qualitative information. Responses to the field test participation request are due by April 28.

Mr. O'Neal discussed the field test specification document (Attachment Twelve-H). He said the document provides a high-level definition of the ESG field test. He said the expected start date of the field test is June 1. He said that the ESG calibration for the field test is being refined and that field test tools are being finalized. He noted that the proposed statutory reserve framework for non-variable annuities is not in scope for the June field test.

The field test specification document was exposed for a 14-day public comment period ending April 29.

Having no further business, the Life Actuarial (A) Task Force and Life Risk-Based Capital (E) Working Group adjourned.



Comments on Economic Scenario Generator Progress

February 17, 2022



ACLI Principles of ESG Effort

- NAIC prescribed scenario generator should be “fit for purpose” and produce a reasonable baseline set of economic scenarios.
- There should be a balance between complexity, transparency, ease of use, and stability of scenario generator parameters.
- Scenarios should reflect “history plus”: a reflection of economic dynamics from relevant history as well as an appropriate distribution of worse-than-history tail events, particularly around low-for-long interest rate conditions.



Concerns Surrounding the Models

- 1) General concerns
 - “Fit for Purpose”
 - Potential volatility
- 2) Treasury Model
 - Negative Interest Rates
 - Curve Shapes
- 3) Equity Model
 - Linkage to Interest Rates
 - Incomplete Recalibration of Equity Model Parameters
- 4) Corporate Model
 - Conning Simplified Model Limitations
 - Transparency



Treasury Model



Treasury Model – Negative Interest Rates

- GEMS-type models are known for producing excessively frequent and severe negative interest rates, particularly in low-rate environments.
- GEMS is producing an unreasonable number of negative interest rates.
 - Before including a floor, more than half the rates were negative in the near-term and up to 30% of rates were negative in the steady-state as of 12/31/20.
- Further, the model (without a floor) is producing rates near -9%.
- Floors are generally used to address outliers. ACLI has serious reservations about a floor that overrides rates at some point in nearly every scenario and will have significant implications elsewhere.



Treasury Model – Negative Interest Rates (Unfloored)

- Direct flooring approaches are likely to affect all scenarios and override up to half of the rates in a given month.
- Approaches that start with a "shadow" rate curve would generate even more negative scenarios to floor.
- The choice of floor is likely to be a key driver of rate levels used to calculate reserves and capital.

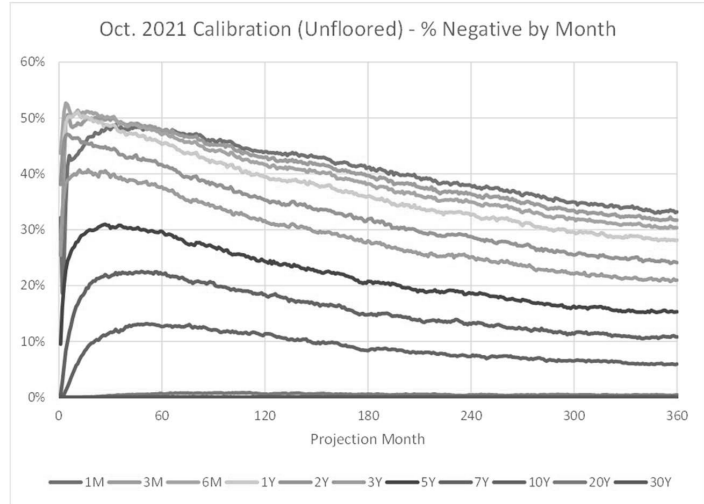
360 month minimum	1M	3M	6M	1Y	2Y	3Y	5Y	7Y	10Y	20Y	30Y
YE2020	-8.6%	-7.9%	-7.4%	-6.8%	-6.1%	-5.4%	-4.4%	-3.5%	-2.6%	-0.8%	0.1%

% of Scenarios with Negative Rates in											
	1M	3M	6M	1Y	2Y	3Y	5Y	7Y	10Y	20Y	30Y
at least 1 month	98%	99%	99%	98%	98%	96%	91%	83%	66%	11%	0%
>= 12 months	94%	94%	93%	93%	90%	87%	78%	66%	47%	5%	0%
>= 24 months	90%	89%	89%	88%	84%	80%	68%	56%	37%	3%	0%
>= 36 months	86%	85%	85%	83%	78%	73%	61%	48%	30%	1%	0%
>= 48 months	81%	81%	80%	78%	72%	67%	54%	41%	25%	1%	0%
>= 60 months	77%	77%	75%	73%	67%	61%	48%	35%	20%	0%	0%
>= 120 months	56%	55%	53%	50%	44%	38%	26%	16%	7%	0%	0%
>= 180 months	36%	35%	34%	31%	25%	20%	12%	6%	2%	0%	0%
>= 240 months	20%	19%	18%	16%	12%	9%	4%	2%	0%	0%	0%
Max neg months	360	360	360	360	360	360	357	352	347	115	-



Treasury Model – Negative Interest Rates

- In the unfloored scenarios, about 50% of rates are negative in the initial months and 30% of rates are negative in the steady state.
- In the subset of available Conning floored scenarios, up to 60% of rates are negative in the initial months, 30% of rates are negative in the early years, and 20% of rates are negative in the steady state.



Treasury Model – Yield Curve Shapes

- Curve shapes, including frequency and severity of inversions, are inconsistent with historical dynamics and economics.
- This is problematic as it could:
 - Create significant non-economic costs to companies whose investment and hedging strategies are sound in real world applications but might generate significant reserves due to the differences.
 - Incent ALM mismatches.



Treasury Model – Yield Curve Shapes

- The frequency of yield curve inversions generally varies by rate levels. Controlling for rate level differences, inversions may be roughly twice as frequent in the 10/2021 scenarios as in historical data.
- Conning floored results show similar inversion frequencies.

Inversions: 10Y vs. 2Y		(Rate buckets are for the 2Y UST)													
% Inverted		< -1%	[-1%, 0%]	[0%, 1%]	[1%, 2%]	[2%, 3%]	[3%, 4%]	[4%, 5%]	[5%, 6%]	[6%, 7%]	[7%, 8%]	[8%, 9%]	[9%, 10%]	>=10%	All Yields
Years 1-5		0%	0%	0%	6%	32%	59%	75%	86%	92%	96%	99%	99%	100%	10%
Years 6-10		0%	0%	0%	5%	20%	38%	54%	67%	77%	85%	89%	91%	93%	16%
Years 11-15		0%	0%	0%	3%	13%	26%	40%	52%	61%	70%	73%	79%	87%	16%
Years 16-20		0%	0%	0%	2%	10%	21%	31%	41%	50%	57%	64%	69%	80%	16%
Years 21-25		0%	0%	0%	2%	8%	17%	27%	36%	45%	52%	56%	63%	73%	16%
Years 26-30		0%	0%	0%	2%	7%	16%	25%	33%	41%	47%	53%	58%	69%	17%
Years 1-30		0%	0%	0%	3%	15%	26%	37%	45%	53%	59%	63%	67%	75%	15%
Hist %				0%	0%	0%	9%	28%	27%	20%	28%	39%	54%	46%	7%



Treasury Model – Yield Curve Shapes

- The magnitude of yield curve inversions also appears to be significantly higher than history when reflecting rate levels.
- Conning floored results show similar magnitudes of inversions.

10Y vs. 2Y - Inverted Spread Distribution (Years 1-30)		< -1%	[-1%, 0%]	[0%, 1%]	[1%, 2%]	[2%, 3%]	[3%, 4%]	[4%, 5%]	[5%, 6%]	[6%, 7%]	[7%, 8%]	[8%, 9%]	[9%, 10%]	>=10%	All Yields
Min				-0.1%	-0.6%	-1.1%	-1.5%	-2.0%	-2.4%	-2.9%	-3.3%	-3.7%	-4.1%	-7.2%	-7.2%
1%				-0.1%	-0.4%	-0.8%	-1.2%	-1.6%	-2.0%	-2.3%	-2.7%	-3.1%	-3.4%	-4.9%	-3.5%
5%				-0.1%	-0.4%	-0.6%	-1.0%	-1.3%	-1.6%	-2.0%	-2.3%	-2.6%	-2.9%	-3.8%	-2.4%
10%				-0.1%	-0.3%	-0.5%	-0.8%	-1.1%	-1.4%	-1.7%	-2.0%	-2.3%	-2.6%	-3.3%	-1.9%
25%				-0.1%	-0.2%	-0.4%	-0.6%	-0.8%	-1.1%	-1.3%	-1.5%	-1.7%	-1.9%	-2.5%	-1.2%
50%				0.0%	-0.1%	-0.2%	-0.4%	-0.5%	-0.7%	-0.8%	-1.0%	-1.1%	-1.2%	-1.6%	-0.6%
75%				0.0%	0.0%	-0.1%	-0.2%	-0.2%	-0.3%	-0.4%	-0.5%	-0.5%	-0.6%	-0.8%	-0.3%
90%				0.0%	0.0%	0.0%	-0.1%	-0.1%	-0.1%	-0.2%	-0.2%	-0.2%	-0.2%	-0.3%	-0.1%
95%				0.0%	0.0%	0.0%	0.0%	0.0%	-0.1%	-0.1%	-0.1%	-0.1%	-0.1%	-0.2%	0.0%
99%				0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Max				0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Avg				0.0%	-0.1%	-0.3%	-0.4%	-0.6%	-0.7%	-0.9%	-1.0%	-1.2%	-1.3%	-1.7%	-0.8%
Hist Min				0.0%	0.0%	0.0%	-0.2%	-0.3%	-0.6%	-0.5%	-0.9%	-1.1%	-1.2%	-2.0%	
Hist Median				0.0%	0.0%	0.0%	-0.1%	-0.1%	-0.2%	-0.3%	-0.4%	-0.6%	-0.6%	-0.7%	
Hist Average				0.0%	0.0%	0.0%	-0.1%	-0.1%	-0.2%	-0.3%	-0.4%	-0.6%	-0.5%	-0.7%	

Worst inversions are ~3 to 5+ times larger than history

Median inversions are more than double historical relationships



Equity Model



Equity Model – Concerns with the Linkage to Interest Rates

- Conning assumes a constant mean relationship between equities and interest rates in each individual month (i.e., Expected equity return = Expected short-term interest rate + a random component).
 - This simplification is not supported by historical data or economic research.

- This simplification results in counterintuitive results and creates:
 1. “Mark to Model” relationships that can result in artificial volatility
 2. Procyclical results
 3. Scenario distributions that vary in their level of conservatism/aggressiveness from reporting period to period



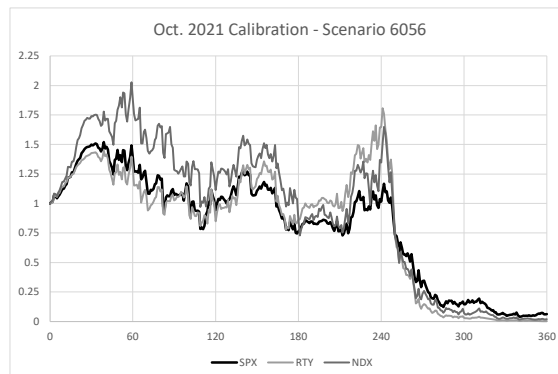
Equity Model – Concerns with the Incomplete Recalibration of Equity Model Parameters

- Interest rates are a key input in Conning’s equity model.
 - Current interest rate models under consideration have significant differences vs. Conning’s standard calibration.
- Defaulting to Conning’s calibration for other parameters (after changing the underpinnings of the model) has led to an unsupported ~45% decrease in median 30-year cumulative equity returns (and more extreme decreases in lower percentiles) based on 12/31/20 conditions.
- Conning’s incomplete recalibration also includes scenarios where broad equity indices become worthless.



Equity Model – Concerns with the Incomplete Recalibration of Equity Model Parameters

- While theoretically possible, projecting that equity indices become essentially worthless in some scenarios is extreme for reserve and capital projections and may cause operational issues (e.g., scenario selection).



Scen	Cumulative Return - 30 years
6056	
SPX	-93.7%
RTY	-99.7%
NDX	-98.1%

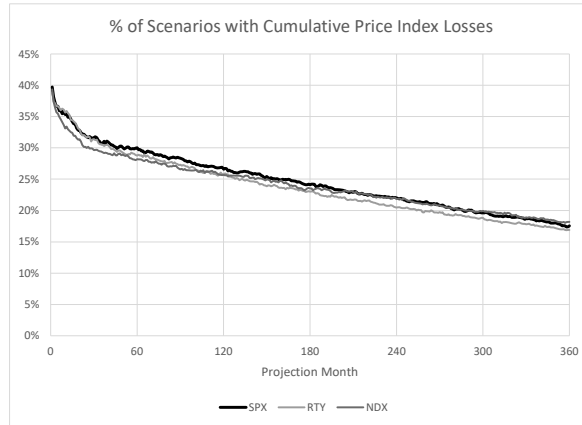


Equity Model – Concerns with the Incomplete Recalibration of Equity Model Parameters

- The S&P 500 (price index) has negative returns over 30 years in ~18% scenarios even though this has never been observed in history, even using data since 1928.

Longest Negative cumulative return period

Index	Duration	
	Months	Years
S&P 500	164	13.67
Russell	140	11.67
Mid	108	9.00
Nasdaq	193	16.08
EAFE	149	12.42



Corporate Model



Corporate Model – Concerns

- Limited substantive documentation is currently available for the GEMS corporate model, and there are structural issues with the Conning proposed simplified model (including contradictions with prescribed VM credit assumptions and credit market dynamics and excessive cumulative credit related returns).
- Experts have offered a transparent and understandable alternative that appears to track closely with the GEMS corporate model.
- Since we are unaware of a meaningful implementation limitation on such a model, we would favor the transparent approach.



Recommendations

- Develop appropriate acceptance criteria (including contemplation of reference models) to facilitate an industry field study for maximal return on effort. Current criteria are not sufficient to assess economic scenarios, including potential non-economic behavior.
- Engage in a substantive discussion of model limitations and consider structural modifications (interest rates, corporate) and calibration refinements (equity) in the existing model form once more robust criteria are established.
- If continued analysis suggests untenable characteristics of the model remain, we believe it is critical that LATF begin contemplating alternatives.



Appendix: Equity Result Comparison YE2019 to YE2020

- 141 bp decrease in initial overnight rates ~10% lower price index levels though 30 years (= -0.4% annualized)
 - Patterns are similar for total return accumulation factors and for other indices.
 - Differences in the extreme tails may be from differences in the # of scenarios with multiple large jumps (e.g., ±20% or 25%).

S&P 500 Price Accumulation Factors																	
YE2020						YE2019						YE2020 / YE2019					
	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr		1 Yr	5 Yr	10 Yr	20 Yr	30 Yr		1 Yr	5 Yr	10 Yr	20 Yr	30 Yr
Min	0.46	0.10	0.04	0.02	0.02	Min	0.45	0.15	0.06	0.05	0.01	Min	101%	71%	75%	44%	183%
1.0%	0.70	0.42	0.28	0.24	0.20	1.0%	0.69	0.43	0.30	0.26	0.23	1.0%	103%	97%	94%	91%	88%
2.5%	0.75	0.52	0.39	0.34	0.34	2.5%	0.75	0.53	0.42	0.38	0.35	2.5%	100%	99%	92%	88%	96%
5.0%	0.81	0.62	0.51	0.48	0.49	5.0%	0.80	0.63	0.55	0.52	0.54	5.0%	101%	98%	93%	91%	91%
10.0%	0.87	0.74	0.68	0.68	0.77	10.0%	0.87	0.76	0.72	0.73	0.86	10.0%	100%	97%	95%	93%	90%
25.0%	0.96	0.94	1.00	1.21	1.57	25.0%	0.96	0.98	1.05	1.31	1.74	25.0%	100%	96%	95%	92%	90%
50.0%	1.05	1.20	1.42	2.07	3.09	50.0%	1.06	1.25	1.52	2.26	3.44	50.0%	99%	96%	93%	92%	90%
75.0%	1.13	1.47	1.96	3.36	5.80	75.0%	1.15	1.54	2.09	3.71	6.55	75.0%	98%	95%	94%	90%	89%
90.0%	1.21	1.74	2.55	5.06	9.98	90.0%	1.23	1.83	2.74	5.56	11.30	90.0%	98%	95%	93%	91%	88%
95.0%	1.25	1.91	2.95	6.38	13.68	95.0%	1.28	2.03	3.17	7.11	15.73	95.0%	98%	94%	93%	90%	87%
97.5%	1.29	2.11	3.35	7.90	18.06	97.5%	1.33	2.23	3.62	8.74	20.79	97.5%	98%	95%	93%	90%	87%
99.0%	1.34	2.35	3.93	9.90	24.43	99.0%	1.37	2.46	4.24	11.33	28.39	99.0%	98%	96%	93%	87%	86%
Max	1.67	3.55	7.88	21.70	129.38	Max	1.72	3.63	7.62	26.61	101.61	Max	97%	98%	103%	82%	127%

S&P 500 Annualized Cumulative Returns																	
YE2020						YE2019						YE2020 - YE2019					
	1 Yr	5 Yr	10 Yr	20 Yr	30 Yr		1 Yr	5 Yr	10 Yr	20 Yr	30 Yr		1 Yr	5 Yr	10 Yr	20 Yr	30 Yr
Min	-54.3%	-36.3%	-27.0%	-17.1%	-11.9%	Min	-54.6%	-31.8%	-24.8%	-13.6%	-13.7%	Min	0.3%	-4.5%	-2.1%	-3.4%	1.8%
1.0%	-29.6%	-16.1%	-11.9%	-7.0%	-5.2%	1.0%	-31.5%	-15.5%	-11.3%	-6.5%	-4.8%	1.0%	1.9%	-0.6%	-0.6%	-0.5%	-0.4%
2.5%	-25.0%	-12.1%	-9.0%	-5.3%	-3.6%	2.5%	-25.0%	-11.9%	-8.3%	-4.7%	-3.4%	2.5%	0.0%	-0.2%	-0.8%	-0.6%	-0.1%
5.0%	-19.1%	-9.2%	-6.5%	-3.6%	-2.3%	5.0%	-19.5%	-8.9%	-5.9%	-3.2%	-2.0%	5.0%	0.5%	-0.3%	-0.7%	-0.4%	-0.3%
10.0%	-13.3%	-5.9%	-3.8%	-1.9%	-0.9%	10.0%	-13.5%	-5.4%	-3.2%	-1.5%	-0.5%	10.0%	0.1%	-0.5%	-0.5%	-0.4%	-0.4%
25.0%	-4.5%	-1.1%	0.0%	0.9%	1.5%	25.0%	-4.1%	-0.3%	0.5%	1.4%	1.9%	25.0%	-0.4%	-0.8%	-0.5%	-0.4%	-0.4%
50.0%	4.8%	3.7%	3.5%	3.7%	3.8%	50.0%	5.8%	4.6%	4.3%	4.2%	4.2%	50.0%	-1.0%	-0.9%	-0.8%	-0.5%	-0.4%
75.0%	13.4%	8.0%	6.9%	6.2%	6.0%	75.0%	15.3%	9.0%	7.6%	6.8%	6.5%	75.0%	-2.0%	-1.0%	-0.7%	-0.5%	-0.4%
90.0%	20.7%	11.7%	9.8%	8.4%	8.0%	90.0%	23.3%	12.8%	10.6%	9.0%	8.4%	90.0%	-2.5%	-1.2%	-0.8%	-0.5%	-0.4%
95.0%	25.3%	13.9%	11.4%	9.7%	9.1%	95.0%	28.0%	15.2%	12.2%	10.3%	9.6%	95.0%	-2.7%	-1.4%	-0.8%	-0.6%	-0.5%
97.5%	29.5%	16.1%	12.9%	10.9%	10.1%	97.5%	32.5%	17.4%	13.7%	11.4%	10.6%	97.5%	-3.0%	-1.3%	-0.9%	-0.6%	-0.5%
99.0%	34.4%	18.7%	14.7%	12.1%	11.2%	99.0%	37.4%	19.7%	15.5%	12.9%	11.8%	99.0%	-3.0%	-1.0%	-0.9%	-0.8%	-0.6%
Max	66.8%	28.8%	22.9%	16.6%	17.6%	Max	72.4%	29.4%	22.5%	17.8%	16.7%	Max	-5.5%	-0.6%	0.4%	-1.2%	0.9%



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April 7, 2022

Mike Boerner

Chair, NAIC Life Actuarial (A) Task Force (LATF)

Philip Barlow

Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

RE: Recommended Models for ESG Field Testing

Dear Mr. Boerner & Mr. Barlow:

Lincoln Financial Group (Lincoln) appreciates the opportunity to comment on the presentation for Recommended Models for ESG Field Testing. We support the NAIC effort to replace the American Academy of Actuaries Interest Rate Generator (AIRG) with one that is fit-for-purpose for US statutory reserves and capital. Our views are closely aligned with the ACLI. In particular, we continue to have significant concerns about:

- The appropriateness of the scenarios being generated by Conning's model (GEMs) driven by the current calibration methodology
- The scope of the field test being too narrow if it is limited solely to output from different variations of the Conning model. Including the ACLI alternative model in the field test is critical to meeting the project's goals, as its inclusion provides helpful insights toward refining the Conning model and addressing the notable concerns identified below.

A wide variety of ESG models exist, and each model is designed for a specific purpose. The Conning model was originally designed to serve the Property/Casualty industry, which has a short-term view, unlike the Life/Annuity industry, which is long-term and path-dependent in nature. Certain aspects of the Conning model and calibration process do not appear to be well suited for the Life/Annuity industry, so it is important that we correctly identify the issues and work collectively to find appropriate solutions. Our primary focus is consistent with the NAIC goal of ensuring that the new ESG model be fit for the intended purpose and produce reasonable scenarios.

Key Concerns with models currently proposed to be used in Field Testing

We encourage the development of an ESG that addresses the shortcomings in the current model, particularly by reflecting more "low-for-long" and high interest rates without going so far that it becomes disconnected from relevant historical experience and sound economic theory.

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March 31, 2022

As seen in the Academy's model office results, drastic changes in the scenarios can have dramatic impacts on the industry's reserve and capital requirements. Ideally, we would support developing a model that both reflects additional low-for-long rates while maintaining the reasonableness of the scenario set, which we believe has been accomplished with the ACLI alternative model. We continue to have significant concerns as to the reasonableness of the scenarios being produced by Conning's model (GEMs) as currently calibrated, given the below significant shortcomings:

Interest Rates

We are concerned about the tendency of the Conning model to produce excessively frequent and severe negative rates, distorted terms premiums, frequent and severe yield curve inversions, extreme high rates, etc. For example, as noted in the ACLI's Comments on ESG for the Feb 17, 2022, LATF meeting, over the first 30 years of the projection:

- 98% of unfloored scenarios produce at least 1 month of negative 1-year UST rates
- 73% of unfloored scenarios produce at least 5 years of negative 1-year UST rates
- 50% of unfloored scenarios produce at least 10 years of negative 1-year UST rates

This has never occurred in history. We are comfortable including a reasonable number of negative rates, but the frequency and severity needs to be reasonable in light of historical experience.

We appreciate regulators including a floor in order to mitigate the frequency and severity of negative rates, but we have concerns both that the floor affects the majority of the distribution and that the frequency and severity of negative rates still appears elevated after flooring. In addition, a model requiring significant flooring has the potential to introduce other distortions and introducing floors to such an extreme degree has the potential to introduce unintended and material impacts.

Equities

We are concerned that the Conning model appears to be changing calibration criteria and moving away from previous cumulative return / Gross Wealth Factor (GWF) targets, which were grounded in relevant history and used for AIRG. Unlike the interest rate scenarios' lack of low rates, we do not see the need for significant change on the equity side and believe the proposed changes are unjustified. In addition, we are not aware of any basis for the addition of low-for-long rate scenarios to result in significantly more severe low equity performance distributions. We believe the long-term equity growth rate should be disconnected from the interest rate targets. Specifically,

- The Conning equity model should be calibrated to align relatively closely with the GWFs used in AIRG (although more frequent recalibrations are likely needed to maintain that relationship). GWFs are more appropriate for this purpose than any single year results given the long-term, path dependent nature of liabilities.
- We do not believe that it is appropriate to allow the equity calibration points to move up / down based on changes in risk free rates due to the potential for a significant increase in procyclicality and artificial volatility. This is supported by historical evidence that the Equity Risk Premium (ERP) tends to move inversely to changes in Treasury rates, particularly in the deep tails as noted in the ERP materials ACLI shared with the ESG Drafting Group.

March 31, 2022

- If the Conning model cannot maintain calibration points based on GWFs aligned with the prior approach used for the AIRG, then another approach that aligns with history / academic theory should be used, i.e. using a constant mean return similar to the current generator (ERP moves inversely to changes in risk-free rate) versus a constant ERP. For example, in 2020, the risk-free rate dropped more than 1%. Under Conning’s constant ERP approach, this would have reduced the average cumulative equity return more than 20% over a 20-year horizon.

The current version of GEMS has equity returns that are much more severe than what was deemed conservative when used by the AIRG, which will introduce excessive conservatism into the reserve and capital projections. GEMS distribution of annualized returns become more distorted relative to history the longer the time horizon. For example, the worst 30-year period in US history yielded a GWF of more than 800%, which is better than half of the scenarios produced by GEMS under both the Conning calibration proposals.

Year 30 GWF Percentile	GEMS Calibration	GEMS Recalibrated to Target Lower AIRG Volatility	AIRG
1%	39.1%	55.3%	122.7%
5%	95.9%	118.7%	229.9%
25%	295.1%	317.7%	523.9%
50%	588.2%	610.3%	897.0%

- Regarding the inclusion of the Great Depression, we reiterate the comments from ACLI in their March 2018 Comment Letter to the VAIWG on the relevance of including S&P return data prior 1954 in the calibration. Specifically, the modernization of the legal, financial, and regulatory architecture, evolution of macro-prudential responses to economic and financial crises (implementation of expansionary fiscal and monetary policies in response to shocks), and expansion of the S&P index makes data from this time period much less relevant to use for calibrating the ESG for this purpose
- A robust ESG should have some scenarios that go well beyond historical experience (e.g. negative total returns / GWF over 30Y), but with less frequency and severity than is currently proposed by the Conning model. Such scenarios should comprise a much smaller portion of the distribution, i.e. a portion of the scenarios driving capital, and scenarios where US equity indices lose almost all their value in the worst case is too severe. We also question the appropriate calibration of the proposed jump process, given the extreme tails produced by the Conning model.

Corporate Model

We support refinements to align the scenarios from this model more closely with historical dynamics and VM-20 rates / spreads, but we believe it is important to have transparent model.

Stochastic Exclusion Ratio (SERT) and Deterministic Reserve (DR)

We believe further study is needed on these items. The scenario behavior could change if the prior methodology or the methodology proposed in January 2021 is applied to a scenario distribution with marked differently characteristics, e.g. dispersion, volatility, low for long, etc. in way that causes these scenarios to no longer be aligned with the original intent. We support revisiting the methodology for the Stochastic Exclusion Ratio (SERT) and Deterministic Reserve (DR) scenarios given the change in ESG

March 31, 2022

to ensure that the scenario properties still align with the original intention / risks they are intended to capture.

We support the inclusion of the ACLI model to make the field test more informative

We support holding a field test this summer to gain a better understanding of how the new ESG could affect companies blocks of business. However, to maximize the value of such a time and resource intensive effort, we also urge the NAIC to include both the Conning model and an alternative model developed by the ACLI as a part of this exercise to maximize the information obtained in the initial iteration. We believe that the inclusion of the ACLI alternative model will be beneficial to everyone in this process because it will provide an alternative model/scenario set with different trade-offs than the Conning model for analysis to facilitate meeting the project's goals.

Further, in order to bring this process more in line with actuarial best practices on the selection of an economic scenario generator, we strongly support the following ACLI-suggested steps:

- As part of the field test, regulators develop a comprehensive set of properties and acceptance criteria across different economic conditions. We would appreciate the opportunity to work with regulators to develop such metrics.
- After the field test, regulators have a comprehensive and clearly defined assessment process, including final acceptance criteria across all 3 model forms, quantitative assessments of the impacts, and qualitative assessments based on the survey.

This is essential to ensure timely implementation of scenarios that appropriately reflect risks and avoid non-economic requirements or artificial volatility. Inappropriately onerous, exaggerated, and procyclical risk measurement would ultimately hurt consumers by reducing industry's ability to provide valuable guaranteed benefits. Including the ACLI alternative model reduces the likelihood of needing additional field test(s), leading to further delay.

We remain committed to helping the NAIC develop and implement an improved ESG and thank you for your time and consideration of our comments. We are happy to discuss them in more detail.

Regards,

Elizabeth Ann Braswell

Elizabeth Ann Braswell
Vice President, Appointed Actuary

Elizabeth.braswell@lfg.com
678-867-1090



EQUITABLE

DATE: April 11, 2022

FROM: Steve Tizzoni, Head of Actuarial Regulatory Affairs

SUBJECT: Economic Scenario Generator (ESG) Field Test Exposure

Equitable appreciates the opportunity to comment on the recommended models for the Economic Scenario Generator (ESG) field test. Below are our views on the exposure.

Treasury Model: Recommend testing ACLI Treasury Model as well as GEMS. Equitable supports the NAIC’s desire to test multiple treasury models, as the models each have advantages and disadvantages. As noted in the exposure, the GEMS model presents technical challenges, including the large number of severe negative interest rates and the large frequency and severity of inversions (even in the steady state). The ESG Drafting Group has developed two separate methodologies¹ to mitigate these challenges. While we are optimistic that field testing will prove at least one of these model calibrations will result in a viable interest rate generator, the risk to this outcome merits including the ACLI treasury model in the field test. The analysis presented by the ACLI shows that this model ameliorates certain technical concerns with the GEMS model while still satisfying key regulator criteria (e.g., the number of low-for-long scenarios). Additionally, the ACLI treasury model structurally differs from the two Conning models and closely resembles the current Academy generator, which allows the model to be easily understood and serve as a useful comparative basis relative to the Conning models.

Because adding another model to the field test creates more data to analyze, we suggest a slight extension to the field test to allow more time for insurers to perform analysis on each model. While this would add a small amount of time to the current field test, including the ACLI treasury model further protects against the risk of not having an acceptable interest rate model at the conclusion of field testing, an outcome which could create more significant delays in the ESG project timeline. Alternatively, if regulator preference is to perform more analysis on the ACLI treasury model before potential inclusion in field testing, we would support further discussion of this model in advance of inclusion in a potential second round of field testing.

Equity Model: Support GEMS Constant ERP Approach. Modify ACLI Model to include an equity / interest rate linkage (if testing alternative models): Equitable continues to support a structural linkage between interest rates and equity returns via an equity risk premium. The constant equity risk premium (ERP) approach, as utilized in the GEMS model, reflects the fact that a rational investor would demand expected equity returns in excess of those offered by risk-

¹ Conning Calibration with Generalized Fractional Floor (“GFF”) and Alternative Calibration with Shadow Floor.

² Measuring the prevalence of Low-for-Long scenarios on an absolute basis means comparing the geometric average long term UST rate for each scenario relative to a fixed benchmark, such as 1% or 1.5%, rather than the long term UST rate on a particular valuation date as was done for the 12/31/20 acceptance criteria.

free assets to compensate for bearing such risk. Additionally, this approach is consistent with industry fair value principles and promotes sound risk management, as it increases alignment between liability and hedging instrument valuation.

The ACLI reference model as currently formulated does not have any equity / interest rate linkage. If the NAIC selects the ACLI interest rate model, we would seek to refine the equity component of that model to reflect an equity / interest rate linkage closer to what is in the Conning models currently. Our understanding is that implementing the equity / interest rate linkage requires a very modest code change. We would not support utilizing the ACLI reference model without such adjustments.

Finally, we understand that the NAIC intends to test several different starting conditions as part of the field test. We think this is paramount, as it is necessary to understand (1) how the model behaves across time and (2) industry balance sheet impacts under various starting conditions. As the NAIC works to develop acceptance criteria for time periods other than 12/31/20, one other key consideration to share is that we would expect that under lower starting interest rate environments, scenario sets would exhibit more low-for-long scenarios on an absolute basis². Likewise, under higher starting interest rate environments, scenario sets would exhibit less, but still a meaningful amount, of low-for-long scenarios.

* * * * *

Equitable appreciates the opportunity to comment on this exposed proposal. We are available to discuss our comments further as desired.

Sincerely,


Stephen M. Tizzoni, FSA, MAAA

Head of Actuarial Methodology and Regulatory Affairs, Equitable

¹ Conning Calibration with Generalized Fractional Floor (“GFF”) and Alternative Calibration with Shadow Floor.

² Measuring the prevalence of Low-for-Long scenarios on an absolute basis means comparing the geometric average long term UST rate for each scenario relative to a fixed benchmark, such as 1% or 1.5%, rather than the long term UST rate on a particular valuation date as was done for the 12/31/20 acceptance criteria.

Negative Interest Rates Currency Mechanism Design

Comment on Economic Scenario Generators
to the Life Annuity Task Force of
The National Association of Insurance Commissioners
Mark S. Tenney
Mathematical Finance Company

Mechanism Design Currency Choices

- Central Bank Digital Cash (CBDC)
- Pegged exchange rate from paper currency to bank accounts
- Floating exchange rate paper currency to bank accounts
- Above options with a floor of par

Central Bank Digital Cash

- Paper money is withdrawn or limited in supply. Possibly slowly going down in amount.
- Digital cash is simply credited the same rate as bank reserves at the central bank.
- This can be positive or negative.
- In this scheme, digital cash is always par.
- It is just like a bank account with the central bank.

Pegged Exchange Rate

- The exchange rate from paper currency to bank account dollars is multiplied by $1 + \text{daily interest rate on bank reserves at central bank}$.
- If this is started out when rates are positive, the index will build above par.
- This helps low income people who use cash more. This stimulates the economy and helps reduce inequality.
- Inequality itself is one cause of low for long.

Peg Rate Floored at Par

- The pegged rate can't go below par.
- So one dollar of cash always gets at least one dollar of bank account dollars.
- If the exchange rate falls to par, the central bank can jump the exchange rate up to 1.10 to 1.25 to give it room to have negative rates.
- 1.25 Would give it 5 years of minus 5 percent.
- The jump is itself a stimulus that also helps the poor the most, which gives the most stimulus as well.

Floating exchange rate

- The bank does not have to give you any paper money if it doesn't want.
- No more runs on the bank.
- The bank will sell or buy paper money at whatever price it wants.
- The central bank adjusts the supply of both paper dollars and bank reserves at the central bank.
- No one else, not banks, not people can change the supply of paper dollars or of bank reserves at the central bank.

Determinants of Floating Exchange Rate

- Supply and demand for paper money.
- The interest rate credited on bank reserves at the central bank.
- There is no explicit interest on paper money.
- The central bank can adjust the supplies to maintain any level or trend of the exchange rate.

No arbitrage of negative rates

- If a hedge fund with a billion dollars at the bank asks for its money in paper, the bank just says no.
- Or the bank says, hold on, I have to ask the central bank if it will give me a billion dollars in paper for you.
- Sorry, the central bank said no.
- Paper dollars for lemon stands, yes, for billion dollar hedge funds, no.

Could the Fed start negative rates now?

- Always a tricky question.
- If it just stopped printing money when it wants negative rates, and told banks they don't have to give out paper money, the answer might be yes.

Could a judge stop it?

- A judge could possibly order a bank to give out paper dollars.
- But what if it ran out?
- Could a judge order the Federal Reserve to print paper dollars?
- Less likely.

Without new paper dollars, arbitrage difficult

- Without new paper dollars from the central bank, it is hard for a hedge fund to get rolling.
- Everyone will want to keep their paper dollars if bank accounts get negative rates but paper dollars don't.
- So the Fed could possibly start deep negative rates just by stop printing more paper dollars and charging negative rates or fees on bank reserves at the Fed.

Call it a fee

- The Federal Reserve can simply charge banks fees for reserves at the central bank.
- Banks can only sell or lend reserves at the central bank to each other. They can't change the total by themselves.
- So the Fed could charge fees on bank reserves at the Fed and stop printing money.
- It might be difficult for a judge to order the Fed to not reduce the balance of reserves of banks at the Fed by a fee.

Why negative rates?

- Bernanke says the Fed needs room of 5 percent (maybe 6) below the inflation target for nominal rates.
- If the inflation target were zero, that would mean 5 below zero or -5.
- This is to stimulate the economy.
- Bernanke AEA Presidential Address
- <https://www.brookings.edu/blog/ben-bernanke/2020/01/04/the-new-tools-of-monetary-policy/>

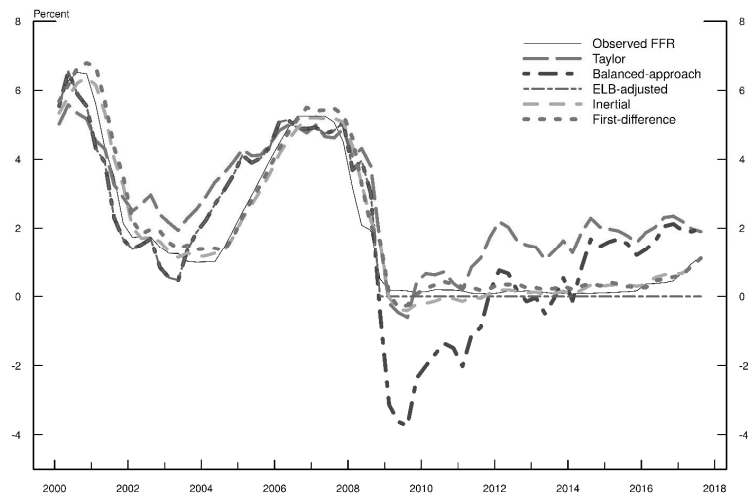
Zero Lower Bound

- Nominal rates are at zero.
- But actual output is below potential output.
- Even if inflation is only zero, the Balanced Rule and sometimes the original Taylor Rule require negative rates.
- The balanced rule moves rates down one for one with each percentage point actual GDP is below potential GDP.

Policy Rules

- The central bank rate on bank reserves is one point lower for each percentage point actual GDP is below potential GDP. (Balanced Rule)
- The central bank rate is 1.5 points lower for each point inflation is below its target.
- If inflation is at zero and the target is 2 percent, 2 - 3 gives -1 percent.
- If the output gap is -5, the total is -6 percent as the nominal rate the Fed charges bank reserves at the Fed.

Federal Reserve Policy Rules 2000s



Assumptions for Federal Reserve Chart

- Rstar is 2 percent.
- Inflation Target is 2 percent.
- <https://www.federalreserve.gov/monetarypolicy/policy-rules-and-how-policymakers-use-them.htm>
- Assumptions in detail here.
- <https://www.federalreserve.gov/monetarypolicy/principles-for-the-conduct-of-monetary-policy.htm>

Current Assumptions

- What about now?
- Current Estimates of Rstar range from 1 to -2.
- <https://thehill.com/opinion/finance/560710-near-zero-interest-rates-can-go-lower-the-question-is-should-they/>
- At rstar of -1, the Taylor and Balance rule shift down by -3.
- This would produce a negative rate for the 2009 to 2018 period for both the Taylor Rule and Balanced Rule.
- The Balanced Rule would have had an extreme negative rate of -7.
- The Taylor Rule minimum would be -3.5.

Unfloored CIR

- The unfloored CIR model would give negative rate scenarios that are reflective of 2008 to 2018 and even later.
- It is calibrated closer to the current view of Rstar as negative.

Recommend include unfloored CIR in tests

- Unfloored CIR would help to see what the post 2008 episode would be like with a more recent value of rstar.
- The Total Factor Productivity (TFP) growth rate adjusted for capacity utilization is also lower and is estimated to about zero currently.
- This is consistent with the lower Rstar.

Blanchard AEA Presidential Address

- The Blanchard American Economics Association should be a source of calibrating the model.
- The Blanchard Rule is that the median maturity government bond yield is less than the nominal growth rate of GDP.
- If the population growth rate is zero, and Rstar and TFP have zero to negative growth rates, and the inflation rate is below 2 percent, then the nominal GDP growth rate will be below 2 percent.
- So the nominal GDP growth rate could be 1 or even 0 percent.
- So the nominal interest rate at 7 years might be -1 as its target.
- <https://www.piie.com/commentary/speeches-papers/public-debt-and-low-interest-rates>

Life companies could borrow at negative rates

- Borrow directly from the Fed at the prevailing negative rate.
- Borrow from the Fed through a bank subsidiary.
- Borrow from an arms length bank at negative rates using corporate bonds as collateral.

Possible problems

- Fed unwilling or unable to lend directly to insurance companies.
- Bank liquidity coverage ratio might require work arounds for using corporate bonds as collateral. Or the Fed could adjust the rule.
- Treasury bond funds might be able to swap with insurance companies. But this might require an SEC rule change.

Field Test borrowing at negative rates

- The field test should include one model with deeper negative rates like the unfloored CIR.
- This should test the results with borrowing at the negative rate for all cash needs of the companies during the negative rate period.
- They would not sell any bonds to fund cash needs while rates were negative.
- The results could be presented to the Fed, FDIC, SEC, Treasury FSOC, and Congress to get any needed rule changes in advance.

Appendix

- Glossary
- References
- Further reading

Glossary

- Rstar
- “Their approach defines r-star as the real short-term interest rate expected to prevail when an economy is at full strength and inflation is stable.”
- <https://www.newyorkfed.org/research/policy/rstar>

Total Factor Productivity

- Y = output
- K = Capital
- L = Labor
- A = TFP
- $Y = A K^{\{1/3\}} L^{\{2/3\}}$
- $W = \text{wage} = Y_K = A/3 (L/K)^{\{2/3\}}$
- <https://www.cbo.gov/publication/19992>

IMF Staff Papers on Currency Design

- [Ux fkl#jdudz dddgg Vljgh#Nurjvwxs](https://blogs.imf.org/2019/02/05/cashing-in-how-to-make-negative-interest-rates-work/)
- <https://blogs.imf.org/2019/02/05/cashing-in-how-to-make-negative-interest-rates-work/>
- [Katrin Assenmacher ; Signe Krogstrup](https://www.imf.org/en/Publications/WP/Issues/2018/08/27/Monetary-Policy-with-Negative-Interest-Rates-Decoupling-Cash-from-Electronic-Money-46076)
- <https://www.imf.org/en/Publications/WP/Issues/2018/08/27/Monetary-Policy-with-Negative-Interest-Rates-Decoupling-Cash-from-Electronic-Money-46076>

IMF Staff Papers low for long

- <https://www.imf.org/en/Publications/WP/Issues/2017/03/22/Lower-Bound-Beliefs-and-Long-Term-Interest-Rates-44755>

IMF Negative Rates

- <https://blogs.imf.org/tag/negative-interest-rates/>

William Buiter

- <https://willembuiter.com/zlb.pdf>
- **NEGATIVE NOMINAL INTEREST RATES: THREE WAYS TO OVERCOME THE ZERO LOWER BOUND**
- <https://willembuiter.com/>

ECB Dual Interest Rates

- Another approach to negative rates is being tried by the European Central Bank, ECB.
- <https://voxeu.org/article/dual-interest-rates-give-central-banks-limitless-fire-power>

George Selgin Target Negative Inflation

- <https://www.cato.org/policy-report/may/june-1999/plea-mild-deflation>
- If negative inflation is targeted, even lower negative rates are needed to keep it at its target.
- If the negative target is -1, and it slips to -3, nominal rates need to be below -3 to push it up.
- If the inflation target is -1 and R^* is -1, the nominal rate target is -2.
- Also Milton Friedman's 1967 AEA Presidential Address. (no equations)



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7 April, 2022

To: Scott O'Neal
From: Jack Cheyne, Senior Director - Scenario Generator Product Management
Subject: Comments and Feedback on the "Recommended Models for ESG Field Testing"

Moody's Analytics appreciates the opportunity to provide comments on the Treasury Model, Equity Model and Corporate Model candidates under consideration for field testing in June 2022 as described in "Recommended-Models-for-ESG-field-testing_031722.pdf".

This note provides comments and feedback on the proposed models that will form part of the NAIC field test in June 2022. In particular we present the following main comments for consideration:

- » The NAIC has proposed adjustment to the underlying Cox-Ingersoll-Ross (CIR) methodology to address limitations of this model and calibration approach. These adjustments include the "Generalized Fractional Floor" or the "Alternative Calibration and Shadow Floor", to allow the modeling to meet the required acceptance criteria as defined by the NAIC and regulators.
- » In our experience, these types of 'ad-hoc' adjustments to mathematical models are not common practice among insurers. It is our view that such adjustments are undesirable as, in effect, they alter the model structure in a way that is not transparent. A simple model with well-understood limitations is generally preferable to a model which is more complex, but not fully understood.
- » Additionally, we do not believe that such an approach is required. There are alternative short rate models that can meet the NAIC's calibration criteria without the need for ad-hoc modeling adjustments to the stochastic model.
- » The choice of Treasury model (and in particular these adjustments proposed to the CIR model) will have an impact on the capital and reserves held by Insurers. The NAIC could consider including a wider selection of model/calibrations in the field test to gain a deeper understanding of the impact of model/calibration choices on these key results.
- » If the NAIC is considering a model-adjustment to introduce a floor and move away from a standard 3-Factor CIR model, then it is important to note that these model adjustments may affect some of the model's fundamental characteristics. A full validation of the key model output and properties should be considered, for example:
 - What level of arbitrage do these adjustments introduce?
 - Does this have a fundamental impact on reserves or capital?
 - How do these adjustments impact the stability of the model and the stability of the reserves and capital?
- » The level and frequency of negative long maturity rates may have a strong impact on reserving calculations, particularly when firms are using long-term bond portfolios to back their liabilities with a guaranteed level of return. The NAIC could consider carefully the calibration criteria with respect to 10, 20 or 30 maturity rates distribution and may benefit from looking at alternative calibrations with different severities of long maturity negative rates as part of the field test. We have observed that this part of the model and calibration has been under increased scrutiny by insurers following the large downward shocks to the Treasury yield curve which were seen between December 2019 and March 2020. Over this period both the short-term rates and long-term rates dropped by over 100 basis points. It is important to ensure that the model captures realistic dynamics for the level of variation in long term rates when the reserves and capital are sensitive to these assumptions.

- » The link between the equity model and the Treasury model is a common feature in many stochastic modeling frameworks used by insurers globally. Many insurers adopt a very similar approach to that outlined by the NAIC, but some institutions consider more complex stochastic models and may extend the model to include a dynamic equity risk premium. This dynamic equity risk premium reacts to whether the equity market is over/under priced. It is important to note that there is not an academic consensus on either a single modeling approach or an assumption-set governing these dynamics of the equity risk premium. The literature in this area can be quite broad and varied.
- » We would recommend that the NAIC choose a Credit Modeling approach that is transparent and supported by clear documentation on the model, assumptions, calibration approach and validation. If this is not possible with the currently proposed corporate model, then we would encourage the NAIC to consider other modeling approaches even if some of these related to simpler models.

The following sections provide feedback and more detailed commentary around these key considerations.

Interest Rate Modeling – Treasury Rates

Globally we observe that insurers and regulators consider a range of different arbitrage free pricing models depending on the specific stochastic calculations and applications they are tackling. For example, firms may choose different models with specific characteristics/properties when considering (1) risk-neutral valuation of complex insurance liabilities, (2) 1-year single timestep capital calculation or (3) multi-timestep capital/reserving calculations.

In each instance, firms will generally consider the following steps:

1. Identify the key features and calibration criteria that are relevant to the desired calculations. The calibration criteria can be a mix of qualitative and quantitative requirements on the modeling outcomes.
2. Select a model that has the desired features and the flexibility to be calibrated to meet the specified criteria.

This may lead to insurers considering a range of models and making a choice based on model performance. In general, insurers look to ensure:

- » The models are well understood, and their implementation is based upon standard approaches and academically recognized techniques.
- » The models and calibrations are stable and robust to changes in the input market conditions/assumptions. This ensures that the final capital/reserving/liability-values are stable and do not fluctuate or vary over time due to modeling/calibration artifacts.
- » The models are transparent and open to challenge and feedback from auditors/validators both internally and externally.

This approach aligns very closely with the approach taken by the NAIC and the calibration criteria specified by the NAIC is an excellent example of this - where some qualitative and quantitative criteria covering the following elements are considered:

- » Low for Long Interest Rates
- » Prevalence of High Rates, Upper Bounds on Treasury Rates
- » Lower Bounds on negative rates
- » Initial Yield Curve Fit, Yield Curve Shape in Projection and steady state yield curve shapes

In addition, to these criteria we typically see insurers looking to constrain and express a quantitative view on the **volatility** and **dispersion** of both short maturity and long maturity interest rates along with **correlation targets** for the movement of interest rates of different maturities.

There are a range of textbook pricing models that could be used to meet these criteria. The relative performance of these models will depend on the model implementation and the calibration approach. We understand, from the analysis produced so far by the NAIC, that the 3-Factor CIR model implementation that the NAIC has considered is not flexible enough to meet all of these criteria even though a range of different calibration approaches have been considered. This has led the NAIC to consider adjustments to this model to allow it to meet the needed criteria. These adjustments include the “Generalized Fractional Floor” or the “Alternative Calibration and Shadow Floor”, due to the fundamental limitations of the underlying Cox-Ingersoll-Ross (CIR) methodology forcing artificial adjustments to meet the required acceptance criteria as defined by the NAIC and regulators.

In our experience, insurers generally avoid making significant post-processing adjustments to meet calibration criteria. In many instances the post processing adjustment can fundamentally change the nature of the interest rate model. This can mean that some of the key model dynamics can break down e.g. the model is no longer arbitrage free or the distributions may not be stable from one valuation date to the next. When adjusting a model it is important to consider that the adjusted “model” may be fundamentally different from the original textbook model. This puts the onus on a robust validation of the new model’s properties, stability and behavior to ensure that the model owner fully understands the impact and performance of the model. In particular, it is important to quantitatively assess the key areas below.

- » What level of arbitrage do the adjustments introduce? This can have implications for projected returns on Treasury bonds over different horizons. By adjusting the model there is a risk that these changes to the yield curve will lead to strategies where unrealistic or inconsistent returns are produced by the model for certain bond portfolios/strategies.
- » Do the adjustments have a fundamental impact on reserves or capital?
- » How do the adjustments impact the stability of the model and the stability of the reserves and capital?

ALTERNATIVE MODEL CHOICES

It is important to note that alternative models (variations of the arbitrage free pricing models like the CIR model) can meet the NAIC’s specified calibration criteria without the need for ad hoc model adjustments.

These alternative models could be considered for inclusion in the Field Test or the NAIC could consider allowing insurers to use alternative models as long as they meet the NAIC’s prioritized acceptance criteria. This could have the following added benefits.

- » The NAIC are only required to maintain calibration criteria on a regular basis rather than a full suite of models, calibrations and scenarios. The NAIC could naturally continue to offer a standard set of scenarios for firms who wished to use the NAIC prescribed models.
- » Validation is still simple for each state regulator as insurers would be required to provide summary statistics attesting to compliance with criteria.
- » Insurers can leverage existing toolkits, automated processes etc. to produce reserves and capital in an efficient way.

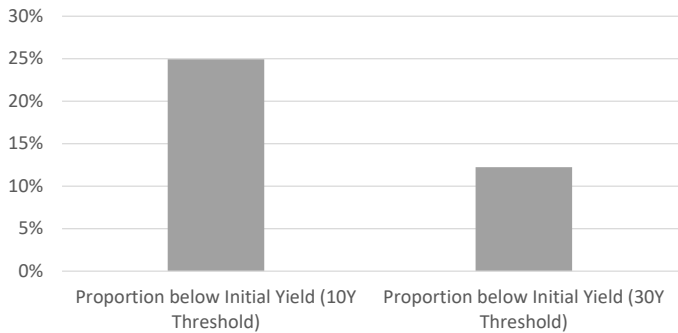
This type of approach to stochastic modeling regulation is common in many other countries and avoids insurers being constrained to models that may have significant limitations in the scope of applicability.

One example of a model that can meet the criteria specified by the NAIC without any model adjustment is the Displaced 2-Factor Black Karasinski (D2FBK) model. This model is widely used by the insurance industry for multi-timestep real-world projections, and its calibration flexibility and stability mean this model can be used for a wide range of applications.

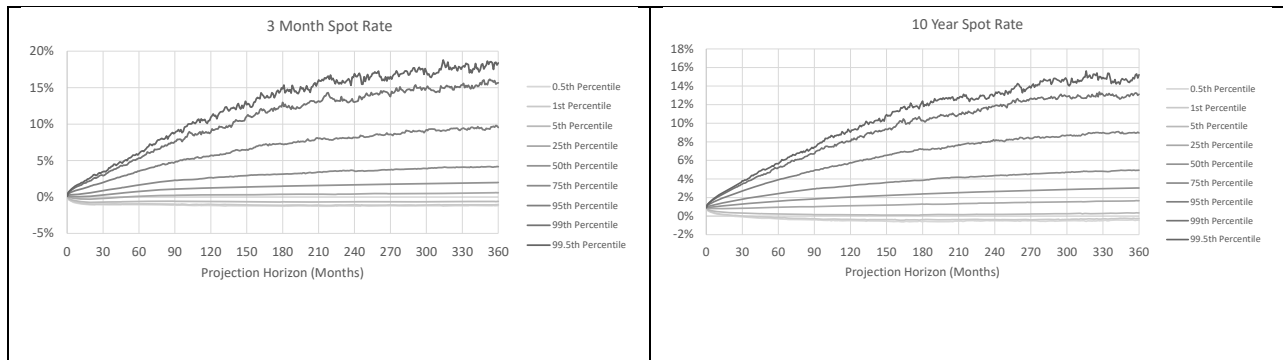
This model goes beyond the traditional log-normal Black Karasinski model that was limited to strictly positive rates. The implementation of the D2FBK model that we have considered addresses these limitations through the inclusion of a displacement factor which changes the shape of the distribution (limiting the probability of very high rates) and ensures the model captures negative interest rates in a controlled and integrated manner with the models pricing dynamics. Shifting the distribution from strictly log normal addressed some of the limitations of the log normal models while maintaining the benefits of the 2FBK model, such as more realistic yield curves, reasonable calibration analytics, and flexible term premium modeling. This D2FBK model provides for negative interest rates and at the same time it provides more realistic rate distributions in the low-rate environment, which are the fundamental calibrations defined by the NAIC.

The D2FBK model can be easily parameterized in its current form to meet the success criteria set out by the NAIC for interest rate modeling without the need to alter the structure of the model or sacrifice other important characteristics of the model output. These include the stability of the distribution of rates across different calibration dates, the ability of the model to project realistic risk/return profiles of government bonds and the ability of the model to accurately capture target average paths for the projection of different points on the yield curve.

The table below illustrates the flexibility of the D2FBK model by illustrating an end-Dec 2020 calibration. This highlights that the calibration criteria specified by the NAIC can be comfortably met by this type of interest rate model without the need for ad hoc adaptations to the model structure.

<p>'Low for Long': At least 10% of Scenarios should have a 10-year geometric average of the 20-year UST that is below the initial rate and at least 5% of Scenarios should have a 30-year geometric average of the 20-year UST that is below the initial rate.</p>	<p>Moody's Comment: The chart below shows the proportion of 20-year treasury rates that are below the initial 20-year rate when we consider a geometric average over a 10 year and 30 year time horizon.</p> <p>It is important to note that these metrics are strongly dependent on the choice of calibration approach for the volatility and dispersion of long term interest rates in any model. The validations below are based on calibrations to a global data set, however by choosing a more US-centric data set as a basis for the calibration will lead to validation statistics close to the 10% and 5% thresholds the NAIC have specified.</p> <p>PASS</p>						
 <table border="1"> <caption>Proportion below Initial Yield</caption> <thead> <tr> <th>Threshold</th> <th>Proportion</th> </tr> </thead> <tbody> <tr> <td>Proportion below Initial Yield (10Y Threshold)</td> <td>~25%</td> </tr> <tr> <td>Proportion below Initial Yield (30Y Threshold)</td> <td>~12%</td> </tr> </tbody> </table>		Threshold	Proportion	Proportion below Initial Yield (10Y Threshold)	~25%	Proportion below Initial Yield (30Y Threshold)	~12%
Threshold	Proportion						
Proportion below Initial Yield (10Y Threshold)	~25%						
Proportion below Initial Yield (30Y Threshold)	~12%						

<p>'Prevalence of High Rates': (a) The scenario set should reasonably reflect history with some allowance for more extreme and low interest rate environments.</p> <p>(b) Upper Bound</p> <p>(i) 20% is \geq99th percentile 3M yield fan chart, and no more than 5% of scenarios have 3M yields that go above 20% in the first 30 years.</p> <p>(ii) 20% is \geq99th percentile 10Y yield fan chart, and no more than 5% of scenarios have 10Y yields that go above 20% in the first 30 years.</p>	<p>Moody's Comment: (a) The distributional targets (volatility and dispersion) for both short maturity and long maturity rates are set using available historical data from around 30 economies covering periods of high and low/negative rates. PASS</p> <p>(b) (i) See charts below for 3-month Spot Rate percentile distribution covering the 0.5th to the 99.5th percentiles. PASS</p> <p>(b) (ii) See charts below for 10-year Spot Rate percentile distribution covering the 0.5th to the 99.5th percentiles. PASS</p>
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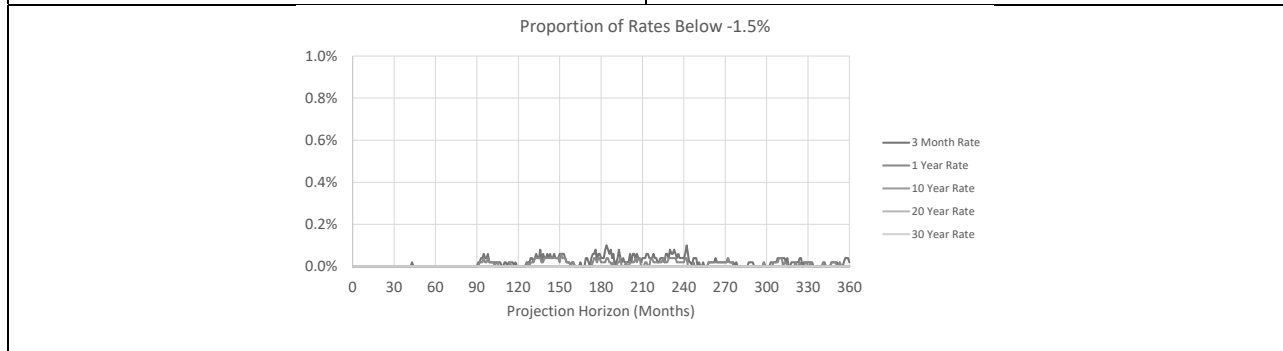
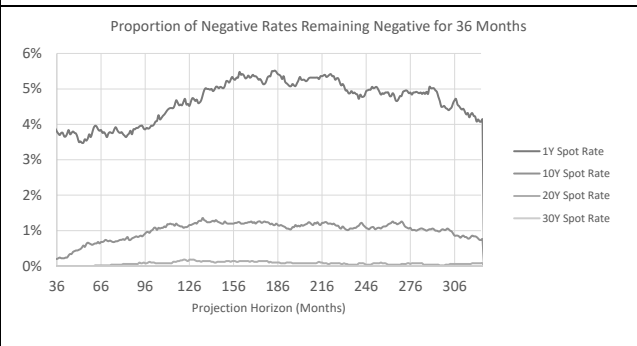
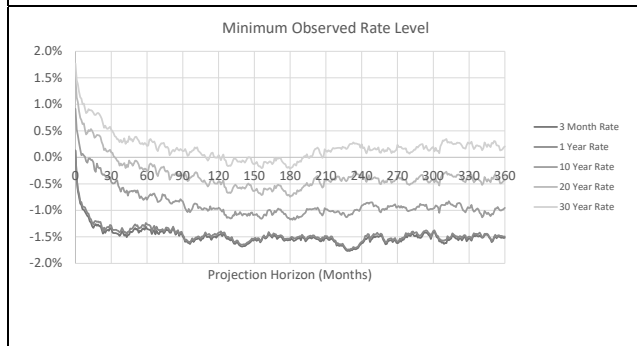


'Lower Bound on Negative Rates, Arbitrage-Free Considerations

- (a) All maturities could experience negative rates
- (b) Interest rates may remain negative for multi-year time periods.
- (c) Rates should generally not be lower than -1.5%

Moody's Comment:

- (a) As can be seen in the chart below, the minimum observed interest rate for all maturities 1 to 20 years is negative. With the 30 year maturity rates very close to zero. **PASS**
- (b) The chart below highlights the proportion of negative rates that are persistently negative for at least 36 months. **PASS**
- (c) The chart below highlights that only a very small proportion of rates < 0.1% are below -1.5% **PASS**



<p><u>Initial Yield Curve, Yield Curve Shapes and the Steady-State Yield Curve:</u></p> <ul style="list-style-type: none"> (a) Review initial actual vs.fitted spot curve differences (b) The frequency of yield curve shapes in early durations should be reasonable considering the shape of the starting yield curve. (c) The steady state curve has normal shape (not inverted for short maturities, longer vs shorter maturities, or between long maturities.) 	<p>Moody's Comment:</p> <p>(a) The model uses the spot rate curve as a direct input and hence the model exactly replicates any specified spot curve. PASS</p> <p>(b) The average path of modelled rates of different maturities is targeted such that the market-implied path of rates is closely followed over the first few years of the projection. This results in yield curves shapes at short time horizons that are strongly informed by the shape of the initial market yield curve. The chart below highlights the level of inversions observed in the model for a strongly inverted initial curve and an upward sloping curve over different time horizons. PASS</p> <p>(c) The initial and long-term steady state curve are shown below. The steady curve has an upward sloping shape PASS</p>

The D2FBK model illustrated here is just one example of a model that is well suited to the calibration criteria that the NAIC have specified. However, it is important to note that there may be other models that are able to meet the criteria without the need for an adjustment/flooring mechanism that disrupts the original model dynamics.

The NAIC could consider allowing some flexibility in the choice of model that insurers are allowed to use in these calculations. Such flexibility may enable insurers who are currently using stochastic models to have continuity in their modeling and calibration approach (provide they meet the NAIC specified criteria). This has the added benefit of enabling insurers to use the same interest rate model for different applications within the same company (e.g. pricing, business planning, strategic asset allocation exercises, 1-year VaR solvency calculations etc.). The alternative would require insurers to use a simple model for the reserves and capital calculation. However, the limitations of the model would prevent them using it for other business decisions due to the unrealistic dynamics or assumptions. We believe that the NAIC could consider allowing insurers to choose their own interest rate model for inclusion in the forthcoming field test providing it meets all of the specified calibration/validation criteria.

Additional interest Rate Model Validation Criteria

The NAIC has focused on some of the key validation criteria around the performance of the rate distribution and dynamics. If the NAIC is looking to adjust the CIR model to constrain the floor it is important to broaden the validation of the model to cover a wider set of outputs. This will help ensure the model is behaving coherently when the rates are used to calculate asset returns for government bond strategies.

The following additional validation tests would allow the NAIC to demonstrate the robustness of the asset returns and help provide insight into the impact of the model changes on the arbitrage-free properties of the model.

- » **Martingale Tests** – Scenario sets can be produced where the risk premiums (term premiums) in the model are set to zero. An asset martingale test can be performed on bond portfolio strategies of different maturities (e.g. 1, 3, 5, 10, 15, 20, 25, 30-year maturities, with either zero-coupon or bond-at-par coupon assumptions). It should be observed that all portfolios return the same as the risk-free rate on average.
- » **Asset Return Tests** – This would cover the validation of the expected return and volatility of asset portfolios of 1, 3, 5, 10, 15, 20, 25, 30-year maturity bond portfolios. This allows the NAIC to assess the relative behavior and stability of expected returns and volatilities from one valuation date to the next.

In addition to these tests the stability of the model outcomes could be impacted by the introduction of a floor. The NAIC could benefit from assessing the stability of the distributions, asset returns and ultimately the capital and reserves under different input assumptions or initial conditions. For example, the NAIC could gain confidence in the robust nature of the model by considering the following validation examples.

- » Assessment and comparison the distributions, asset returns and modeling outcomes (capital and reserves) on **multiple valuation dates and under stresses to the initial conditions**:
 - Extreme high and low historical yield curve from across the globe (Germany, Switzerland, Japan, South Africa, etc...)
 - Ad hoc stresses to the initial conditions of the model e.g. plus/minus 50 or 100 basis points to the initial curves.

We appreciate the range of possible validation criteria can be extensive, but it would add clarity to the model performance and impact of the flooring adjustment if the NAIC could present validation analysis of this nature.

Equity Modeling

The equity modeling approach proposed by the NAIC – where the equity returns are based on a constant equity risk premium in excess of a risk free (short term Treasury rate) coupled with a stochastic process for excess returns - is similar to the modeling approaches considered by many insurers globally. This approach is relatively straight forward and allows insurers to set a clear assumption on the equity risk premium and to incorporate this into the modeling in a direct and transparent manner.

Where firms are looking to go beyond this modeling approach, we have seen insurers look to incorporate a dynamic equity risk premium that accounts for the over (or under) pricing of the equity market. For example, this dynamic equity risk premium would vary through the projections i.e. in each scenario where the equity price grows strongly the equity risk premium reduces and when the equity market falls sharply the equity risk premium increases. This provides a few added benefits to the modeling:

- » The total average return in equity is no longer a function of interest rates and a constant risk premium. In addition to these two components the risk premium will change depending on a dynamic risk premium component which is linked to a view on whether the market is over/under priced.
- » The average risk premium over the first few years of the projection can change from one valuation period to the next leading to a more direct conditional view on the performance of equities relative to fixed income assets. The short-term risk premium can go up or down depending on the market conditions.
- » The dynamic equity risk premium approach will narrow the extreme tails of the cumulative return distributions (both on the upside and the downside) as the extreme scenarios where markets grow will be associated with a lower subsequent equity risk premium and scenarios where the market falls will be associated with a higher equity risk premium.

Naturally the challenges with the dynamic equity risk premium approach relate to the choice of model and mechanism to set the level of over/under pricing in the equity market. In addition, the assumption and calibration of the model may require some expert judgement (rather than a purely data driven approach) as there is not an academic consensus on a single modeling approach or assumption set governing these dynamics of the equity risk premium. The literature in this area can be quite broad and varied.

In general, the most appropriate approach to equity risk premium modeling is dependent on the nature of the insurance product and the specifics of the risk/capital/reserving calculations. We have seen a mix of the constant risk premium and dynamic equity risk premium approach used by institutions globally.

Credit Modeling

The credit modeling documentation shared last year by the NAIC alluded to a complex model with several different model structures (e.g. spread, defaults, rating transitions etc...) that appeared more complex (both in terms of model dynamics and calibration) than the interest rate and equity models.

In general, we would advocate for as much transparency as possible, and the importance of this transparency increases when using more complex models which may embed strong and material assumptions.

If it is not possible for the NAIC to share further documentation on the corporate model that is under consideration, then we would suggest the NAIC consider adopting an alternative more streamlined corporate model. It should be noted that the current AIRG Generator corporate fund model (that includes a simple credit return adjustment) could be used in conjunction with the NAIC's new interest rate and equity model choices.

In addition, the current scenario set requirements are based on producing fund returns for a set of corporate bond funds – rather than the need for a full stochastic projection of spreads, transition and defaults. The key requirements could be focused on ensuring that

- » The model captures an appropriate level of conditionality on current market conditions, i.e. it captures current spread levels and hence return levels for the funds
- » The model is successful in quantifying a reasonable level of asset return volatility and correlation of other risk factors which may not necessitate a complex modeling approach.

For certain applications having granular information about the movement of spreads, transitions and defaults at individual bond/sector/country level can be critical for quantifying asset risk and diversification across ratings and maturities. However, this might not be a key requirement if the focus is solely on asset return modeling for a small number of corporate bond portfolios.

We are aware that the ESG Drafting Group is considering other modeling options and we value any options that support full transparency on the model, calibration methods, assumptions and validation performance of the corporate model.

Summary

We have discussed the NAIC's proposed approach to interest rate and equity modeling, along with the corporate bond model, and would highlight the following suggestions for consideration by the NAIC.

- » We respectfully request consideration for using alternative Treasury model representations in the field study that meet the NAIC calibration requirements. This could be achieved by allowing insurers to use additional scenario sets as part of the field test based on alternative models that meet the NAICs calibration criteria. Alternatively, the NAIC could consider providing additional static sets of scenarios for each of the field testing valuation dates covering alternative model choices. This may help demonstrate to regulators that defining a prescribed set of Treasury model acceptance criteria may be considered, rather than prescribing any single Treasury model that may have some limitations.
- » Furthermore, we would highlight the benefits to the NAIC of broadening the validation assessment criteria of the scenarios to include assessment of the impact of the calibration/model choice on bond portfolio asset returns that are derived from the Treasury model scenarios.
- » In addition, we would strongly encourage the NAIC to choose a model for corporate bond returns that is transparent, documented and well understood rather than an approach that is provided with no documentation on the model, calibration methods, assumption or validations of the key model features.

We greatly appreciate the opportunity to engage with the NAIC and regulators in this initiative and we are hopeful the comments and insights we have shared can be used to support the upcoming Field Test and the ESG Working Group's activities.

Sincerely,



Jack Cheyne PhD
Senior Director - Scenario Generator Product Management,
Moody's Analytics



NAIC Economic Scenario Generator (ESG) Field Test Participation Request

Background

An ESG Field Test is being planned to begin in early June 2022. The models proposed to be included in the field test are as follows:

Model	Field Test Recommendation
Treasury	1. Field test two Treasury model candidates
	a. Conning Calibration and Generalized Fractional Floor (“Non-shadow”)
	b. Alternative Calibration and Shadow Floor (“Shadow”)
Equity	2. Equity Utilize the existing GEMS® equity model with equity-Treasury linkage based on the short Treasury rate for field testing. Additionally, apply the following calibration updates:
	a. Update the equity model calibration to account for changes made to the Treasury model
	b. Apply a Sharpe-ratio approach with a 5% corridor to set the expected returns for the international equity indices
Corporate	3. Include GEMS® corporate model in initial field testing with the calibration updated for consistency with other generated returns on a risk/reward basis

Scenarios will be provided as of three valuation dates: 12/31/20, 12/31/21, and 3/31/22.

Companies testing all models with all three valuation dates would have 6 sets of results. In addition, there may be various sensitivity tests. For draft field test specifications, see the Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications document.

Participation in the Field Test

Companies wishing to participate in the field test should contact Scott O’Neal by April 28, 2022 at soneal@naic.org and provide the following information:

- Company name
- NAIC company code
- Names and email addresses of company contacts
- Responses to Pre-Field Test Survey – see “NAIC Economic Scenario Generator (ESG) Pre-Field Test Survey”

Note: Since the new ESG may have a material impact on reserves and capital, it is necessary to have broad industry participation in the field test. NAIC staff will monitor the level of participation. If it is insufficient, regulators may contact companies to request their participation. All companies participating in the field test will be contacted by a regulator from a state in which they are licensed with details on field test requirements and a request to provide field test results to NAIC staff.

Communication of Field Test Results

NAIC staff will compile aggregated results in a report that will not contain any company-specific or other company-identifiable information. Joint LATF/LRBC WG open meetings will be held to discuss 1) aggregate field test results, 2) whether any calibration or parameter changes are needed based on the results, and 3) potential VM and RBC instruction impacts, e.g. phase-in language.



NAIC Economic Scenario Generator (ESG) Pre-Field Test Survey

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Companies testing all models with all three valuation dates would have 6 sets of results. In addition, there may be various sensitivity tests. For draft field test specifications, see “Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications”.

For companies planning to participate in the ESG Field Test:

1. Please indicate with an “X” all calculations you plan to submit for the product types shown in the table below.

Product Type	VM-20			VM-21 Reserves	C-3 Phase II	C-3 Phase I
	SR	DR	SERT			
Whole Life						
Term Life						
Indexed Life						
Universal Life						
Universal Life with Secondary						

Guarantees						
Variable Life						
Variable Universal Life						
Fixed Annuities						
Indexed Annuities						
Variable Annuities with Guarantees						
Variable Annuities without Guarantees						
Life Contingent Payout (Immediate and Annuityizations)						
Other Annuities						

2. Results will be requested on a post-reinsurance-ceded basis. Can the company also provide pre-reinsurance-ceded results? __Yes / __No.
3. How many scenario sets would your company be willing to run?
4. For C3 Phase I, how many scenarios does your company currently run?
5. For stochastic reserves and/or C3 Phase II, what is the largest number of scenarios your company would be willing to run per scenario set? Pick one.
 - a. 10,000
 - b. 1,000
 - c. 500
 - d. 200
 - e. 40
 - f. Varies by product. If so, please specify: _____
6. Which of the following Treasury file formats could your company run? Select all that apply.
 - a. Conning single file format (as exposed)
 - b. AIRG single file format
 - c. AIRG multiple file format
 - d. Other, please specify: _____
7. Would your company be able to run the Conning file format (as exposed) for Equities and Corporate Bonds? __Yes / __No. If No, please explain what format adjustments would be needed.
8. Would your company be willing to respond to a qualitative survey in addition to producing quantitative results? __Yes / __No.
9. Do you use hedging for any life and/or annuity products? __Yes / __No. If Yes, does the company explicitly model the hedge program or implicitly capture the impacts of hedging?
10. For reserve and capital calculations does your company currently use the prescribed AIRG, a modified version of the AIRG, or some other proprietary ESG?

11. Would your company be willing to complete additional runs to support attribution analysis? For example, additional scenario sets could be provided that would help to isolate the impact from changes to a single model component (e.g. Treasury model).

For companies not planning to participate in the ESG Field Test:

1. Do you use hedging for any life and/or annuity products? __Yes / __No. If Yes, does the company explicitly model the hedge program or implicitly capture the impacts of hedging?
2. For reserve and capital calculations does your company currently use the prescribed AIRG, a modified version of the AIRG, or some other proprietary ESG?
3. Would your company be willing to respond to other qualitative survey questions?
4. Are there any specific changes that could be made to the field test that would allow your company to participate?



DRAFT

Economic Scenario Generator (ESG) Reserves and Capital Field Test Specifications

Primary Contact:
Scott O’Neal, FSA, MAAA (soneal@naic.org)

Section I: Overview

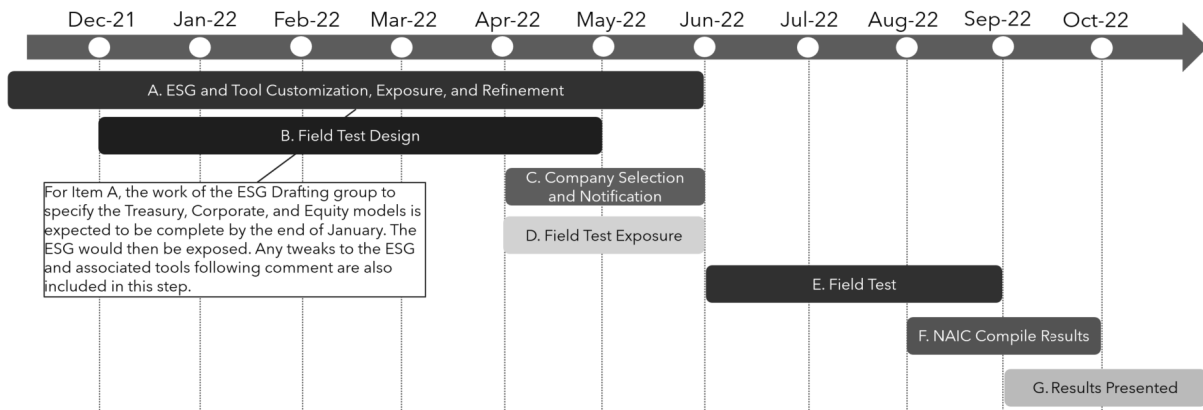
A. Objectives

The ESG Field Test should be able to address the following questions:

<p>1. Reserve and Capital Impact</p>	<ul style="list-style-type: none"> • How does the new ESG impact industry reserves and capital in different economic environments? • How do reserve and capital impacts vary by product type? • What is the impact of the changes to each ESG model (i.e. interest rate model, equity model, corporate model)? <p>The impact will be determined by comparing reserves and capital calculated using the field test ESG scenario sets against results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting.</p>
<p>2. Range of Results</p>	<ul style="list-style-type: none"> • What is the range of reserve and capital impacts across companies (e.g. percentage increase/decrease)? • Which particular companies and product types have the highest and lowest impacts, and why?
<p>3. Metrics</p>	<ul style="list-style-type: none"> • Which particular interest rate and equity scenarios cause the greatest stress? • How do results compare for CTE70 vs. CTE98? Calculate different CTE levels (e.g., CTE70, CTE98, CTE90) to compare to existing requirements. • How do the metrics perform with different scenario set sizes?
<p>4. Stability Over Time</p>	<ul style="list-style-type: none"> • How do the reserve and capital results change across scenarios produced at different valuation dates?
<p>5. Exclusion Testing and Reserve Components</p>	<ul style="list-style-type: none"> • Does the new ESG change the likelihood of the SR being the dominant reserve? • Do the exclusion tests still perform as intended? • Does the VM-20 DR scenario still capture risk appropriately? <p>Note: Companies that currently pass the stochastic exclusion test will not have a stochastic reserve model.</p>
<p>6. Hedging Impact</p>	<ul style="list-style-type: none"> • Does the new ESG impact hedge effectiveness? If so, what feature is driving this (e.g. the new ESG produces additional yield curve shapes, such as humps)?

7. Sensitivity Tests and Attribution	<ul style="list-style-type: none"> Do baseline results and/or sensitivity tests indicate that the field-tested ESG calibration needs to be modified? What are the drivers of reserve and capital changes as determined from attribution analysis?
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B. Tentative Timeline



Note: Dotted lines represent the beginning of the month.

C. Structure

- NAIC to collaborate with the American Academy of Actuaries’ ESG Field Testing Subgroup and American Council of Life Insurer’s ESG Field testing group to design the NAIC ESG Field test. Field test recommendations will be brought to a joint meeting of the Life Actuarial (A) Task Force and the Life RBC (E) Working Group.
- Field Test Participants
 - The NAIC has solicited volunteer companies to participate in the ESG field testing.
 - Further analysis needs to be completed to assess product coverage.
 - Additional participants may be requested if desired by regulators.
- The NAIC will also coordinate the following:
 - Communicating with field test participants and providing ESG Field Test instructions and result templates.
 - Collecting, aggregating, and summarizing company results

D. Reserve and Capital Frameworks Covered

VM-20	<ul style="list-style-type: none"> All individual life insurance policies issued on or after the operative date of VM-20, or issued during the transition period, if elected by the company. Smaller insurance companies may obtain an exemption from VM-20 calculations.
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	<ul style="list-style-type: none"> • Stochastic reserves, Deterministic reserves, and stochastic exclusion ratio test (SERT) values will need to be field tested
VM-21/C3 Phase II	<ul style="list-style-type: none"> • Variable deferred or immediate annuity contracts whether or not they have GMDBs or VAGLBs, group annuity contracts containing GMDBs or VAGLBs, and policies or contracts with guarantees similar in nature to GMDBs or VAGLBs where there is no other explicit reserve requirement • Stochastic Reserves and the Additional Standard Projection Amount will need to be field tested. Different CTE levels will need to be tested for reserves and capital
VM-22/C3 Phase I	<ul style="list-style-type: none"> • Include certain annuities (with the exception of indexed annuities) and single premium life insurance for C3 Phase I testing. • Reported C3 Phase I capital will be compared against results produced using the field test scenario sets. Participants that are testing products according to the C3 Phase I methodology will be asked to use a choose a scenario set with at least 200 scenarios for the ESG field test candidates rather than scenario sets with 50 or 12 scenarios as used in reported C3 Phase I results. • VM-22 methodology changes will be deferred to the VM-22 field test, and therefore VM-22 calculations are out of scope for this field test.

E. Survey Questions

1. Do you use an implicit method or explicit method to model hedging?
2. If your company uses an implicit methodology to quantify the impacts of hedging, have you reassessed whether this implicit method is still appropriate in light of the field test scenario sets?
3. If hedges are modeled directly, how has the hedge effectiveness changed? Please provide comments to explain the change.
4. Were overall results consistent with expectations? If not, what is driving the difference?
5. Did your company use actual inforce and asset data as of each respective valuation date or use adjusted inforce and asset data? Please describe adjustments if made to all or some of the inforce and/or asset data.
6. If your company elected to run certain models as of a 9/30/XX date, please describe which set of results were produced using 9/30/XX dates.
7. Would your company need to create a more refined mapping to equity and bond funds given the expanded set of returns offered by the GEMS ESG? If yes, please provide a quantitative or qualitative explanation of how it might impact your results.
8. Do you have any modeling simplifications or assumptions that may no longer be appropriate to use alongside the field test scenarios? Examples could include a

modeling simplification of your company's actual investment strategy or a dynamic lapse formula that may be impacted by the incorporation of negative Treasury rates. If so, please provide details on the simplifications and their expected impact on field test results.

9. If your company elected to run a representative set of models or inforce, please describe any adjustments made to account for the difference between the representative models or inforce and the reported values. Also please provide an explanation as to why the models or inforce that was used in field testing is expected to be representative.
10. If a different number of scenarios was used for field test results as compared to the number of scenarios used in reporting, please provide information on which results are impacted.

F. Valuation Date

- Field test participants will be required to run their models using scenario files as of 12/31/20 and 12/31/21. Optionally, participants may elect to also to run their models as of 3/31/22.
- The valuation dates were selected for the following reasons:
 - To select dates recent enough that participants will still have access to run the respective inforce and models that were utilized in reported results, and
 - To test the model under different economic conditions.
- For companies that model certain lines of business only once a year and as of 9/30, scenario sets for 9/30/2020 and 9/30/2021 will be provided.

Section II: Assumption and Model Specifications

A. Population

- Use the actual inforce population corresponding to chosen valuation date. Alternatively, if actual inforce is not available for all valuation dates, use actual inforce as of 12/31/21 and make adjustments as appropriate.
- To the extent that it is not possible for a company to run all relevant statutory reserve and capital models for the field test, a company may elect to run a representative set of their models or inforce. Companies should then either adjust the final results to align with their reported reserve and/or capital amounts, or alternatively, they should adjust their reported amounts to align with the representative business that is being field tested.

B. Reserve/Capital Model Type

- Models should be capable of projecting asset and liability cashflows across numerous stochastic scenarios according to the requirements of the respective reserve or capital framework.

C. Asset/Liability Assumptions

- Utilize company and/or prescribed assumptions relevant to each respective reserve or capital framework.
- All components of the modeling other than the scenarios should remain the same between reported and field test runs (e.g., the same investment strategy, liability assumptions, CDHS modeling, etc.).

D. ESG Models and Scenarios

Model	Field Test Recommendation
Treasury	1. Field test two Treasury model candidates
	a. Conning Calibration and Generalized Fractional Floor (“Non-shadow”)
	b. Alternative Calibration and Shadow Floor (“Shadow”)
Equity	2. Equity Utilize the existing GEMS® equity model with equity-Treasury linkage based on the short Treasury rate for field testing. Additionally, apply the following calibration updates:
	a. Update the equity model calibration to account for changes made to the Treasury model
	b. Apply a Sharpe-ratio approach with a 5% corridor to set the expected returns for the international equity indices
Corporate	3. Include GEMS® corporate model in initial field testing with the calibration updated for consistency with other generated returns on a risk/reward basis

- Field test participants will be provided scenario sets from the new ESG for field testing via the <https://naic.conning.com/scenariofiles> website.
- Parameters for the ESG and statistical summaries will be released alongside the scenarios
- 10,000 scenarios will be provided along with 1,000, 500, 200, and 40 scenario subsets
- As part of the field test, participants will be asked to compare results using the scenario sets from the new ESG to results that were determined using currently prescribed or allowed ESGs used in Annual Statement and/or RBC reporting. Field test participants will be responsible for obtaining scenario sets used for their reported results.
- Participants should run the same number of scenarios corresponding to their reported numbers for each respective reserve or capital model, with the exception of C3 Phase I which has alternative instructions. If there is a discrepancy between the

number of scenarios used in reported as compared to the field test, please address this in the survey questions.

- Optionally, participants will also be asked to run the 16 SERT scenarios. This will be used to facilitate the results analysis. Since the SERT scenarios cover a range of interest rate and equity combinations, the results could be used to help explain and validate the stochastic results.
 - Reasoning: When evaluating results from stochastic scenarios, one challenge is how to identify the drivers of reserve/capital change. Individual stochastic scenarios can be hard to describe, but the SERT scenarios were designed to capture changing economic environments that are easy to explain.
- Field test participants may choose the number of scenarios included in their calculation of reserves or capital for each line of business, with the exception of C3 Phase I where runs will be subject to a minimum of 200 scenarios.

E. Metrics/Output

- Reserve/Capital Framework specific results
 - VM-20
 - Stochastic reserve
 - Deterministic reserve
 - Stochastic Exclusion Ratio Test results
 - VM-21
 - Stochastic reserve
 - VM-21 CTE70 Best Efforts and CTE 70 Adjusted
 - Additional Standard Projection Amount
 - Company-Specific Market Path (CSMP) scenarios will be provided for testing
 - C3 Phase II
 - Total Asset Requirement
 - C3 Charge
 - C3 Phase I
 - Reserves that were cash flow tested for asset adequacy
 - The C3 Phase I results should be summarized by applying the weights in the table below to the respective percentiles.

-----	Percentile	Weighting	-----
92	92.5	93	93.5
94	94.5	95	95.5
96	96.5	97	97.5
98			
.02	.04	.06	.08
.10	.12	.16	.12
.10	.08	.06	.04
.02			
- Reinsurance
 - Companies should provide results on a post-reinsurance basis. Optionally, companies may provide results on a pre-reinsurance basis in addition to providing on a post-reinsurance basis.
- Provide the following metrics at time zero for all frameworks
 - CTE70, CTE90, CTE98

- Optional Step: Calculate results according to the VM-20 Stochastic Exclusion Ratio Test (SERT) scenarios for all products, regardless of framework
- Participants will also be asked to provide scenario level results by projection timestep according to the respective reserve or capital framework. For example, companies will be asked to provide the present value of accumulated deficiencies at time zero and future timesteps for the VM-20 stochastic reserve calculation.

F. Aggregation

- Field test participants are allowed to aggregate business according to the requirements of each respective reserve or capital framework. For example, participants electing to include whole life insurance and term insurance in their testing may aggregate within the established VM-20 Reserving Categories, but not across the categories.

G. Fund Mapping

- The GEMS ESG contains additional equity and bond fund returns that would allow for a more refined mapping of funds. Companies shall use their existing fund mapping rather than create a more refined fund mapping. A survey question will ask participants to qualitatively or quantitatively address how their results would be impacted by including a more refined fund mapping.

Section III: Attribution Analysis

Note: We are seeking comment on how attribution analyses could be incorporated into the ESG Field Test along with recommendations for particular areas of focus.

Section IV: Resources

- A. AIRG used for C-3 Phase I
 - Life Risk-Based Capital (E) Working Group
- B. AIRG used for C-3 Phase II, VM-20, and VM-21
 - Society of Actuaries Resource Page for Economic Scenario Generators
- C. Proposed SERT Scenario Methodology
- D. Proposed Scenario Subset Selection Methodology
- E. ESG Landing Page (source for NAIC scenarios, documentation, etc.)

August 8, 2022

From: Pete Weber, Chair
The Variable Annuities Capital and Reserve (E/A) Subgroup

To: Mike Boerner, Chair
The Life Actuarial (A) Task Force

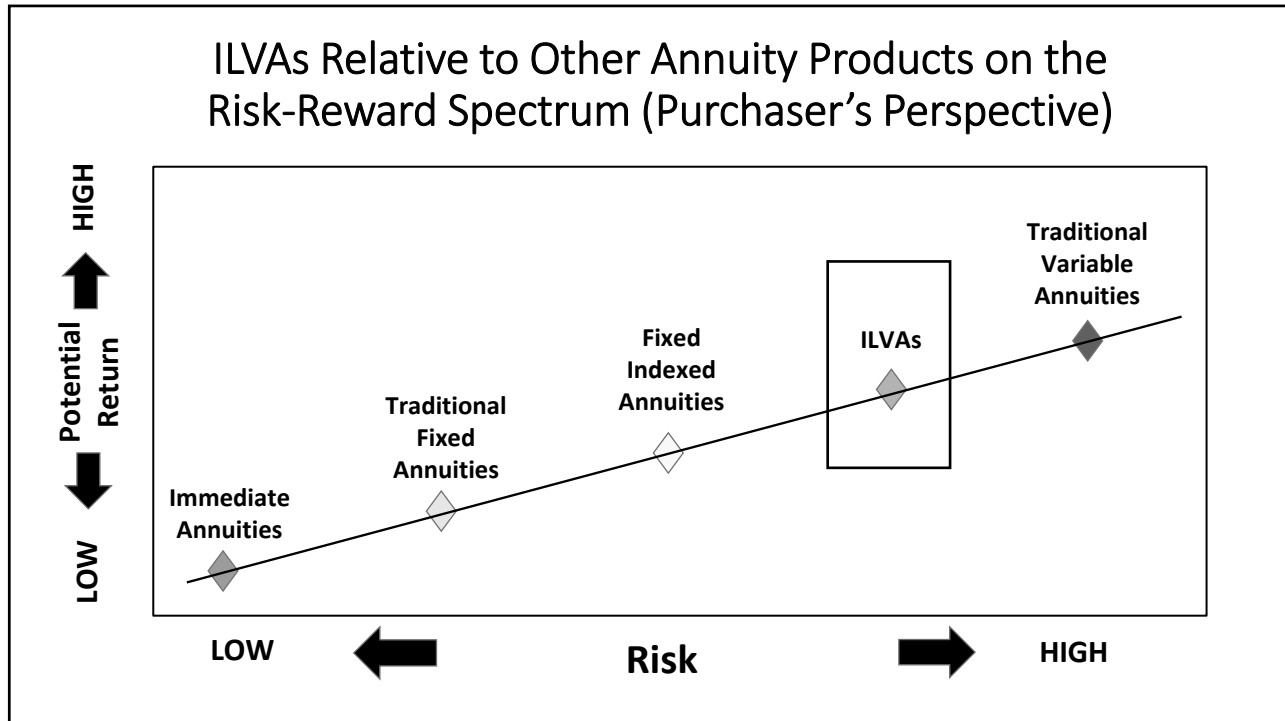
Subject: The Report of the Variable Annuities Capital and Reserve (E/A) Subgroup (VACR SG) to the Life Actuarial (A) Task Force

The VACR SG has not met recently. In the Spring, the Chair made a request to the Society of Actuaries to expand the work they are currently carrying out for the VM-22 Standard Projection Amount Mortality Drafting Group to include variable annuities. That work is ongoing.

Another item to note is regarding the LATF 2022 charge regarding the VM-21 Standard Projection Amount:

“Evaluate and provide recommendations regarding the VM-21/AG 43 Standard Projection Amount, which may include continuing as a required floor or providing as disclosure. This evaluation is to be completed prior to year-end 2023.”

LATF may wish to consider extending the completion date of this charge given that the question has not been considered since the new VA framework was adopted in 2018. Other LATF projects, particularly the development and implementation of a new Economic Scenario Generator, may impact the direction LATF takes to address this charge.



Exposed Actuarial Guideline Provides Guidance for Interpreting ILVAs as “Variable

- Model 805 – Standard Nonforfeiture Law for Deferred Annuities
“This Act shall not apply to any ... variable annuity ...”
- Model 250 – Variable Annuity Model Regulation
“Variable annuity” ... means a policy or contract that provides for annuity benefits that vary according to the investment experience of a separate account or accounts ...”

A variable annuity is excluded from nonforfeiture protections because the contract benefits vary with the performance of a separate account – both upside and downside. The daily market value of the assets supporting the contract are available to the contract holder.

Purpose of the Actuarial Guideline

- Annuity contract designs that claim exemption as “variable” need to reflect the investment experience of the assets supporting the contract
- Variable Annuity contracts are exempted from nonforfeiture requirements because they experience both the downside risk and upside reward inherent in such contracts
- Goal is to avoid designs where when the index goes down over the interim, the contract holder is stuck with the losses and when the index goes up, they do not receive the upside reward
- The actuarial guideline provides guidance for how ILVA products can be considered variable and avoid that situation

Structure of the Guideline

Principles

1. Interim Values defined in the contract provide equity between the contract holder and the insurance company
2. Interim Values are consistent with the value of the Hypothetical Portfolio over the Index Strategy Term.

Equity in the Guideline is between the contract’s interim value and the value of a “Hypothetical Portfolio” of supporting assets.

Draft: 7/27/22

Index-Linked Variable Annuity (A) Subgroup
Virtual Meeting
July 13, 2022

The Index-Linked Variable Annuity (A) Subgroup of the Life Actuarial (A) Task Force met July 13, 2022. The following Subgroup members participated: Peter Weber, Chair (OH); Tomasz Serbinowski, Vice Chair (UT); Sarvjit Samra (CA); Vincent Tsang (IL); Derek Wallman (NE); Kevin Clarkson (NJ); Bill Carmello (NY); Rachel Hemphill and Mengting Kim (TX); Craig Chupp (VA); and David Hippen (WA).

1. Discussed the Comments on the Proposed ILVA Actuarial Guideline

Mr. Weber said the third draft of the proposed actuarial guideline (Attachment Fifteen-A) was exposed on June 7 with a public comment period that ended July 5. He said the comments received from industry can be categorized as those that are seeking clarification or modification of the treatment of market value adjustments (MVAs) and those that are not concerned with the MVA. He said the CUNA Mutual comment letter (Attachment Fifteen-B) supports the exposed MVA changes and seeks clarification on the treatment of MVAs. He said the Insurance Retirement Institute (IRI) comment letter (Attachment Fifteen-C) supports the American Council of Life Insurers (ACLI) comment letter (Attachment Fifteen-D) and the accompanying ACLI redline version of the proposed guideline (Attachment Fifteen-E). He said the American Academy of Actuaries (Academy) comment letter (Attachment Fifteen-F) was accompanied by a redline version of the proposed guideline (Attachment Fifteen-G) that incorporates the Academy's recommendations. Beth Keith (Academy) discussed the non-MVA related Academy comments. Mr. Weber said he agrees with the non-MVA changes, except for the reference to "other models" in the Scope section. He said that wording is too broad and could unintentionally exempt products from the guideline. Mr. Serbinowski said he is not comfortable with the Academy suggestion to change the actuarial certification to reference the hypothetical portfolio instead of the derivative asset proxy. He said he prefers adding references to elements of the fixed asset proxy separately if they are needed.

Mr. Serbinowski said the fundamental issues related to MVAs stem from the term of the bond to which the MVA is applied. He said if the MVA is applied at the fixed asset level, where the asset is tied to an index strategy, the term of the MVA should match the term of the index strategy. He said applying the MVA at the product level could lead to the MVA being tied to one of several product features, such as the surrender charge period. David Hanzlik (CUNA Mutual) said the CUNA Mutual comment letter asks for the language of the proposed actuarial guideline to be revised to accommodate product level MVAs. Steve Wolfrath (Ameriprise Financial) suggested that the Subgroup consider using a blend that allows the MVA to be applied at either the asset level or the product level. He said the industry is asking to be able to reflect the rate movements in the assets it has purchased to support the policy. He said it is important that industry and state insurance regulators are philosophically aligned on that issue. Mr. Clarkson said there seems to be a consensus that the MVA applies only to fixed assets. He said the issue needs to be clarified in the guideline. Mr. Carmello said whatever is developed should be consistent with the *Modified Guaranteed Annuity Model Regulation* (#255). He said the New York regulation bases the term of the MVA on the length of the premium. He said each premium for a flexible premium product is treated as a single premium with a separate duration. He said a blend of the premium durations is used to determine the term of the MVA.

Mr. Serbinowski proposed redefining the fixed asset proxy so the duration of the asset is commensurate with what the actual assets the company might be holding. He said in the new definition, the initial value of the asset would be equal to the strategy base minus the option value, and the asset value at the end of the term would be equal to the strategy base. Mr. Carmello said he does not support any proposal where the term of the MVA is not

equal to the length of the cap or participation rate guarantee. Mr. Wolfrath said Mr. Serbinowski's proposal will work philosophically but may be difficult to implement.

Having no further business, the Index-Linked Variable Annuity (A) Subgroup adjourned.

[https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/ILVA/07 13/July 13 Minutes.docx](https://NAICSupportStaffHub/Member%20Meetings/2022%20NAIC%20Meetings/Spring%20National%20Meeting/Committee%20Meetings/LIFE%20INS%20and%20ANNUITIES%20(A)%20COMMITTEE/Life%20Actuarial%20(A)%20TF/ILVA/07%2013/July%2013%20Minutes.docx)

**Actuarial Guideline ILVA
Nonforfeiture Requirements for Index Linked
Variable Annuity Products Supported by
Non-Unitized Accounts**

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements. The current products include a risk of loss throughout the life of the contract and, ~~which~~ include limitations on the loss such as a floor or a buffer. These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non-variable indexed annuities, these annuities may reflect negative index returns.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, however, NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as “contracts that provide for annuity benefits that vary according to the investment experience of a separate account” Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA products are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a

variable annuity and thereby exempt from Model 805. An ILVA that does not comply with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify the definition of a variable annuity under Model 250 or other Model Regulations.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity ~~provided through non-unitized separate account(s)~~ and includes index-linked crediting features that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities.

Principles

This guideline is based on the following principles:

- ~~1. There exists a package of derivative assets that replicates the index credits provided by an index strategy at the end of an index term. The value of the package of derivative assets can be determined daily using assumptions consistent with observable market values.~~
- ~~2.1.~~ Interim Values defined in the contract provide equity to both the contract holder and the company
- ~~3.2.~~ Interim Values are consistent with the value of the Hypothetical Portfolio over the ~~index term~~ Index Strategy Term.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets established at the beginning of an Index Strategy Term that is designed to replicate credits provided by an Index Strategy at the end of an Index Strategy Term.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

~~“Interim Value” mean the Strategy Value at any time other than the start date and end date of an Index Term.~~

“Index” means a benchmark designed to track the performance of a defined portfolio of securities.

“Index Strategy” means a method used to determine index credits with specified index or indices and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Strategy Term except for withdrawals, transfers, deposits, and any explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index changes and the index credit is determined.

“Interim Value” means the Strategy Value at any time other than the start date and end date of an Index Strategy Term.

“Strategy Value” means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

“Trading Cost” means the additional cost of liquidating the derivative assets in the Derivative Asset Proxy or actual derivative assets supporting the Index Strategy that is not accounted for in the Derivative Asset Proxy calculation.

Text

The Index Strategy Base must equal the Strategy Value at ~~at~~ the Index Strategy Term start date.

The value of the Fixed Income Asset Proxy:

- a. At the beginning of the Index Strategy Term equals the Index Strategy Base less the Derivative Asset Proxy value;
- ~~b. At the end of the Index Term equals the Index Strategy Base; and~~
- b. Earns interest at a level rate that results in the Fixed Income Asset Proxy equal to the Index Strategy Base at the end of the Index Strategy Term; and
- c. May include market value adjustments that reflect changes in the value of the Fixed Income Asset Proxy or actual fixed income assets supporting the Index Strategy due to interest rate or credit spread movements.

The value of the Derivative Asset Proxy is determined assuming a package of derivative assets that replicates the index credit provided by an index strategy at the end of an Index Strategy Term. The value of the package of derivative assets is determined daily.

Assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, and dividend yield must be consistent with the observable market prices of derivative assets, whenever possible.

~~The value of the Hypothetical Portfolio at any time is the sum of the Fixed Income Asset Proxy value and the Derivative Asset Proxy value. Interim Values must be materially consistent with the value of the Hypothetical Portfolio over the Index Strategy Term less a provision for the cost attributable to ~~of~~ reasonably expected or actual Trading Costs at the time the Interim Value is calculated, ~~unwinding the hedge positions, not to exceed 10 bps.~~~~

~~Contracts in the scope of this guideline must provide Interim Values that are consistent with the value of the Hypothetical Portfolio over the index term.~~

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent over the entire Index Strategy Term with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term under a reasonable number of realistic economic scenarios.

~~Drafting Note: Acceptable economic scenarios over which consistency should to be demonstrated is yet to be determined. Considerations are... [generated using the Academy Interest Rate Generator AIRG?] and/or [defined deterministic scenarios including shocks that trigger to Index Strategy parameters including but not limited to caps, floors and buffers].~~

The company must provide an actuarial memorandum with each ILVA product filing that includes the following:

1. Actuarial certifications that:

- a. Interim Values defined in the contract provide equity to both the contract holder and the company;
- b. the assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, dividend yield, and other parameters required to value the derivatives are consistent with the observable market prices of derivative assets over the Index Strategy Term, whenever possible;
- c. the contractually defined Interim Values are materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term over the Index Strategy Term less a provision for the Trading Costs at the time the Interim Value is calculated ~~cost attributable to reasonably expected or actual costs at the time of unwinding any of the derivative assets in the Derivative Asset Proxy or actual derivative assets supporting the Index Strategy.~~

- d. any Trading ~~unwinding~~ Costs represent reasonably expected or actual costs at time the Interim Value is calculated.~~of unwinding derivative assets in the Derivative Asset Proxy or the actual derivative assets supporting the Index Strategy.~~
2. If the Interim Values are determined using a methodology other than the Hypothetical Portfolio methodology described in this guideline, the actuary shall describe the testing performed to verify that the values are materially consistent with the Hypothetical Portfolio methodology. The actuary should define any parameters or assumptions used in determining material consistency and provide a summary of the results of the testing.
3. The company (or actuary) must describe theDescriptions of
 a. Fixed Income Asset Proxy including any market value adjustment;
 b. Derivative Asset Proxy including any Trading Costs ~~cost of unwinding~~;
 c. ~~and the~~All formulas, methodologies and assumptions used to calculate ~~its~~these values at any timefor each Index Strategy and Index Strategy Term as well as the sources for all assumptions.

ILVA account or subaccount nonforfeiture benefits must comply with Section 7 of Model 250 with net investment return consistent with the requirements for determining Interim Values in this guideline.

~~The company (or actuary) must describe the Derivative Asset Proxy and the assumptions used to calculate its value at any time.~~

Effective Date

David Hanzlik
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Fax: 608.236.8666



July 5, 2022

Via Electronic Delivery to rmazyck@naic.org

Mr. Peter Weber, Chair
Mr. Tomasz Serbinowski, Vice Chair
Index-Linked Variable Annuity (A) Subgroup
National Association of Insurance Commissioners
1100 Walnut Street Ste 1500
Kansas City, MO 64106

Dear: Messrs. Weber and Serbinowski

On behalf of the companies of CUNA Mutual Group (CUNA Mutual), we are pleased to provide comments to the National Association of Insurance Commissioner's (NAIC) Index-Linked Variable Annuity (A) Subgroup (Subgroup) on the draft *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts* (Actuarial Guideline). CUNA Mutual is the nation's leading provider of financial products and services to credit unions and credit union members. Through our companies, we serve as an insurer, a retirement plan services provider, a broker dealer, and a registered investment advisor. We make available various insurance and investment products to credit unions, millions of credit union members, and middle-income consumers across the United States. As part of the cooperative movement, we embrace the credit union philosophy of "people helping people" and believe a brighter financial future should be accessible to everyone.

As outlined in our comment letter dated January 27, 2022, CUNA Mutual supports the Subgroup's efforts to develop a uniform standard for Index-Linked Variable Annuity (ILVA) interim values which we hope will result in increased consumer access to ILVA products and protections. CUNA Mutual has been serving consumers in the ILVA space for over eight years and our experience shows ILVAs are an incredibly impactful tool in helping middle market customers create guaranteed retirement income. We take pride in helping those who make a modest income. It is in the spirit of supporting our customers that we offer these comments.

We appreciate the Subgroup's shift to a more principles-based document as well as efforts to incorporate comments from CUNA Mutual and others into the currently exposed draft Actuarial Guideline. The changes bring the Actuarial Guideline closer to a final product that accomplishes regulators' stated goals while ensuring workability for ILVA products. Despite good progress, CUNA Mutual suggests changes are still needed before the draft Actuarial Guideline is made final and voted on by Subgroup members.

08/31/22

Clarity Needed for Market Value Adjustments

The current draft Actuarial Guideline could be interpreted to require that interest rate market value adjustments (MVAs) are *only* allowed as part of the Fixed Income Asset Proxy. The Fixed Income Asset Proxy, as described in part (b) on page three, requires the Fixed Income Asset Proxy to equal the Index Strategy Base at the end of the Index Strategy Term. CUNA Mutual believes this can be read to restrict contract-level MVA application because such an MVA would make satisfying part (b) impossible.

To provide an example of our concern: a contract may have one-year Index Strategy Terms, but a six-year MVA term. We do not believe the Subgroup intends to prevent designs such as the one described here, but the current draft Actuarial Guideline language casts doubt. If limiting MVA terms *is* part of the Subgroup's intent, requiring the MVA term to be one year (as in our example) may cause an insurer to shorten its investment strategy to match the MVA term. Shorter assets generally generate lower yields, so such a limitation will ultimately reduce policyholder benefits and limit product innovation.

As currently written, the Actuarial Guideline only mentions MVAs as part of the Fixed Income Asset Proxy value, which could lead a reader to interpret the guideline to disallow contract-level MVAs. We recommend the Subgroup modify the Actuarial Guideline language to clearly permit more general applications of MVA.

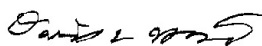
CUNA Mutual Supports Industry Comments

In addition to this concern, CUNA Mutual endorses comments submitted by the American Council of Life Insurers and Committee of Annuity Insurers (Industry) related to the Subgroup's third exposure. Specifically, CUNA Mutual agrees with Industry's suggested clarifications to the language regarding Section 7. CUNA Mutual agrees that MVAs should be considered part of ILVA interim values to determine non-forfeiture benefits or included within the net investment return referenced in that section.

In closing, CUNA Mutual appreciates the Subgroup's consideration of these comments and engagement with interested stakeholders as regulators make progress toward a final Actuarial Guideline. Like others in the industry, we work hard each day to bring financial products and services to the people who need them most. ILVAs are fundamentally spread based products and insurer practices regarding how underlying assets are held vary. We believe any Actuarial Guideline promulgated by the Subgroup should enable these critical aspects of the product to ensure their viability for middle market consumers who are increasingly choosing ILVAs as a source of guaranteed retirement income.

Please reach out with any questions or if we can offer additional information to support these comments.

Sincerely,



David L. Hanzlik
VP, Annuity & Retirement Solutions



July 5, 2022

Submitted electronically to rmazyck@naic.org

NAIC Index-Linked Variable Annuity Subgroup
Peter Weber, Chair & Tomasz Serbinowski, Vice-Chair

Re: Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts (“Third Exposure”)

Dear Mr. Weber and Mr. Serbinowski:

On behalf of our members, the Insured Retirement Institute, Inc. (“IRI”)¹ appreciates the opportunity to comment on the Third Exposure put forth by the Index-Linked Variable Annuity Subgroup (“Subgroup”). We appreciate the work of the Subgroup and believe that this Exposure has been significantly improved upon in moving towards a more principles-based approach; however, we are recommending some final changes to ensure that the Third Exposure is workable for our members.

IRI received and reviewed the comments on the Exposure by the American Council of Life Insurers (“ACLI”) and the Committee of Annuity Insurers (“CAI”), dated July 1, 2022. With ACLI and CAI’s permission, IRI shared this letter with our membership.

Following review by our members, IRI supports ACLI and CAI’s comments with respect to its requests and recommendations regarding the Third Exposure, including the mark-up of the Third Exposure that is being put forth for consideration.

Overall, our members support the allowance of different approaches to determining values as this leads to product innovation and supports consumer choice when selecting a product that best achieves their financial goals. We appreciate that this third draft of the Actuarial Guideline takes this into account by being more principles-based, but we do support the final changes and recommendations put forth by ACLI and CAI in their mark-up of the Exposure. As such, we respectfully request that the Subgroup consider the recommendations put forth in ACLI’s and CAI’s comment letter.

On behalf of IRI and our members, thank you again for the opportunity to provide these comments. We would be happy to discuss further with you and look forward to continued collaboration and partnership with the Subgroup.

¹ IRI is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks, and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., the top 10 distributors of annuities ranked by assets under management and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

Sincerely,

Sarah E. Wood

Sarah Wood
Director, State Policy & Regulatory Affairs
Insured Retirement Institute
swood@irionline.org



July 1, 2022

Mr. Peter Weber, Chair
Mr. Tomasz Serbinowski, Vice Chair
National Association of Insurance Commissioners
LATF Index-Linked Variable Annuity (ILVA) (A) Subgroup

RE: ILVA Subgroup Exposure of Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts

Dear Messrs. Weber and Serbinowski:

The American Council of Life Insurers (ACLI)¹ and the Committee of Annuity Insurers (CAI)² appreciate the opportunity to submit comments to the ILVA Subgroup on the third Exposure of *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts* (Third Exposure).

As you know, we submitted extensive comments on January 27 on the Subgroup's original exposure of a proposed ILVA Actuarial Guideline (AG) and again on May 2nd in response to the Revised AG exposed on April 1st. We appreciated the immediate impressions and feedback you provided on our comments when we met virtually on May 3rd and the time we were given on the May 17th ILVA Subgroup call to present our recommended changes and receive additional regulator feedback. Subsequently, on the May 18 ILVA Subgroup call, there was regulator support for a less prescriptive approach.

We are gratified to see that the Subgroup incorporated most of our comments, at least conceptually, in the more principles-based approach reflected in the Third Exposure. Some of the critical changes bringing us closer to a workable final product include:

¹ The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

² The Committee of Annuity Insurers is a coalition of life insurance companies that issue annuities. It was formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of public policy with respect to securities, state regulatory and tax issues affecting annuities. The CAI's current 30 member companies represent approximately 80% of the annuity business in the United States.

- The change in the definition of “Fixed Income Asset Proxy” to permit market value adjustments (“MVAs”) (as noted below, this does not address MVAs where the duration of the investments differs from the index strategy terms).
- The elimination of prescriptive unwind costs and the related addition of a definition of “Trading Cost” to encompass the additional cost of liquidating the derivative assets in the Derivative Asset Proxy
- The addition of revised language specifying that Interim Values must be “materially” consistent with the value of the Hypothetical portfolio over the Index Strategy Term.

The ACLI and the CAI would, however, urge the Subgroup to consider several important additional modifications to the Third Exposure so that it appropriately addresses significant risk management requirements and aligns with the flexibility needed for market valuation. Our recommended revisions, reflected in the attached mark-up of the Third Exposure, provide suggested language related to the application of MVAs, alternatives to protect the confidentiality of proprietary information in the actuarial memorandum, and revised language to clarify the applicability of Section 7 of Model 250 to RILAs.

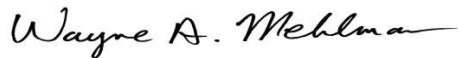
More particularly, our principal revisions are found in the Text of the Third Exposure as follows:

- Fixed assets held by insurers may be invested based on Index Strategy Term length, surrender charge length or other lengths. In order to provide appropriate equity between insurers and contract holders, it is important that insurers be able to apply MVAs either as part of the Interim Value computation, at the contract level, or some combination of the two. This would allow the MVAs to be aligned with the insurer’s investment strategy. Therefore, in the early part of the Text we have added a provision that expressly acknowledges these different scenarios. With this added provision, the subsequent language, specifying that the value of the Fixed Income Proxy may include an MVA, can be abbreviated. We are seeking this adjustment because, in the current draft, the Fixed Income Asset Proxy is tied to the length of the index term. A reader might assume that the MVA term length therefore must also equal the Index Strategy Term length.
- We have added language that would explicitly allow for standard market consistent valuation techniques other than Black-Scholes because some options cannot be valued with a closed-form solution like Black-Scholes.
- We have specified that an actuarial certification must be included with each RILA product filing
- We have proposed two alternatives to protect the confidentiality of proprietary information required by the addendum to the actuarial memorandum
- We have also added language to clarify the applicability of Section 7 of Model 250 to ILVA Index Strategies. We continue to be concerned that regulators who were not involved in the development of the AG may misinterpret Section 7B of Model 250 to require that ILVA Strategy Values comply with Model 805 unless those Strategy values vary according to the investment experience of a separate account. Therefore, we believe that ILVA Strategy Values should be exempted from Section 7B. This exemption will not affect Section 7B applicability to certain accounts such as a non-registered fixed account offered as part of an index-linked variable

annuity contract. The AG also needs to clarify that MVAs, however imposed, are considered part of aggregate ILVA Strategy Values specifically for determining non-forfeiture benefits and the appropriateness of the contract's surrender charges and other loads.

The ACLI and the CAI appreciate the opportunity to comment on the Third Exposure and we urge continued discussion and collaboration to finalize an AG that satisfies our shared view of equity to both contract holders and insurers in the design and administration of ILVA products. Respectfully submitted,

AMERICAN COUNCIL OF LIFE INSURERS (ACLI)



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For the Committee of Annuity Insurers, By:



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Actuarial Guideline ILVA
Nonforfeiture Requirements for Index Linked
Variable Annuity Products Supported by
Non-Unitized Accounts

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements. The current products include a risk of loss throughout the life of the contract and include limitations on the loss such as a floor or a buffer. These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non-variable indexed annuities, these annuities may reflect negative index returns.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, however, -NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as "contracts that provide for annuity benefits that vary according to the investment experience of a separate account" Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA products are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a

variable annuity and thereby exempt from Model 805. An ILVA that does not comply with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify the definition of a variable annuity under Model 250 or other Model Regulations.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity and includes index-linked crediting features that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities.

Principles

This guideline is based on the following principles:

1. Interim Values and any market value adjustments defined in the contract provide equity to both the contract holder and the company
2. Interim Values are consistent with the value of the Hypothetical Portfolio over the Index Strategy Term.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets established at the beginning of an Index Strategy Term that is designed to replicate credits provided by an Index Strategy at the end of an Index Strategy Term.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

“Index” means a benchmark designed to track the performance of a defined portfolio of securities.

“Index Strategy” means a method used to determine index credits with specified index or indices and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Strategy Term except for withdrawals, transfers, deposits, and any explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index changes and the index credit is determined.

“Interim Value” means the Strategy Value at any time other than the start date and end date of an Index Strategy Term.

“Strategy Value” means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

“Trading Cost” means the additional cost of liquidating the derivative assets in the Derivative Asset Proxy or actual derivative assets supporting the Index Strategy that is not accounted for in the Derivative Asset Proxy calculation.

Text

The Index Strategy Base must equal the Strategy Value at the Index Strategy Term start date.

Market value adjustments that reflect changes in the value of hypothetical fixed income assets due to interest rate and/or credit spread movements are allowed. Market value adjustments may be applied as part of the Interim Value calculation (as outlined below) or at the contract level (applicable to Strategy Values subject to this guideline) or some combination thereof as long as the aggregate market value adjustments provide equity between the contract holder and the company.

The value of the Fixed Income Asset Proxy:

- a. At the beginning of the Index Strategy Term equals the Index Strategy Base less the Derivative Asset Proxy value;
- b. Earns interest at a rate that results in the Fixed Income Asset Proxy equal to the Index Strategy Base at the end of the Index Strategy Term; and
- b.c. May include market value adjustments. ~~that reflect changes in the value of the Fixed Income Asset Proxy due to interest rate or credit spread movements.~~

The value of the Derivative Asset Proxy is determined assuming a package of derivative assets that replicates the index credit provided by an ~~i~~Index ~~s~~Strategy at the end of an Index Strategy Term. The value of the package of derivative assets is determined ~~daily on~~ each day that Interim Values are calculated. Assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, and dividend yield must be consistent with the observable market prices of derivative assets, whenever possible.

Interim Values must be materially consistent with the value of the Hypothetical Portfolio over the Index Strategy Term less a provision for the cost attributable to reasonably expected or actual Trading Costs at the time the Interim Value is calculated.

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent over the ~~entire~~ Index Strategy Term with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term under a reasonable number of realistic economic scenarios.

Commented [A1]: Removed this language (entire) as it is inconsistent with the rest of the AG and the industry does not view the testing of materially consistent to be a daily requirement.

Actuarial certifications ~~must be included with each ILVA product filing that includes the following:~~

- a. ~~Interim Values defined in the contract provide equity to both the contract holder and the company.~~
- b. ~~¶The assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, dividend yield, and other parameters required to value the derivatives are consistent with the observable market prices of derivative assets over the Index Strategy Term, whenever possible. Valuation techniques include the standard Black-Scholes method, Monte-Carlo Simulation techniques, and other market consistent option valuation techniques for more complex options.~~
- c. ~~¶The contractually defined Interim Values are materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term over the Index Strategy Term less a provision for the Trading Costs at the time the Interim Value is calculated.~~
- d. ~~¶Any Trading Costs represent reasonably expected or actual costs at time the Interim Value is calculated.~~

The company must ~~also provide a proprietary and confidential appendix to the actuarial memorandum with each ILVA product filing that includes the following:~~

~~The company will supply upon request a proprietary and confidential appendix to the actuarial memorandum prepared at the time of product filing that includes the following:~~

1. If the Interim Values are determined using a methodology other than the Hypothetical Portfolio methodology described in this guideline, the actuary shall describe the testing performed to verify that the values are materially consistent with the Hypothetical Portfolio methodology. The actuary should define any parameters or assumptions used in determining material consistency and provide a summary of the results of the testing.

Commented [A2]: Two alternatives from the industry. We will look for feedback from the NAIC. Need to confirm that states can accept confidential Act Memo.

~~2. Descriptions of:~~

- a. Fixed Income Asset Proxy ~~including any market value adjustment~~;
- b. Derivative Asset Proxy ~~including any Trading Costs~~;
- c. Any market value adjustments and Trading Costs; and
- a.d. All formulas, methodologies and assumptions used to calculate these values for each Index Strategy and Index Strategy Term as well as the sources for all assumptions.

ILVA ~~account or subaccount~~ nonforfeiture benefits for Index Strategies subject to this guideline must comply with Section 7 of Model 250 (excluding Section 7.B) with net investment return consistent with the requirements for determining Interim Values and market value adjustments in this guideline to confirm that the level of surrender charges and other loads are appropriate.

Commented [A3]: We feel that this language adds confusion. Any subaccounts subject to Model Reg 805 (Fixed or FIA) are excluded in the Scope section. We consider these Index Strategies rather than accounts or subaccounts.

Effective Date



AMERICAN ACADEMY *of* ACTUARIES

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July 5, 2022

Mr. Peter Weber
Chair, Index-Linked Variable Annuity (A) Subgroup
National Association of Insurance Commissioners (NAIC)

Re: Exposure 3.1 of the Proposed Actuarial Guideline ILVA, Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts

Dear Mr. Weber,

On behalf of the American Academy of Actuaries¹ Index-Linked Variable Annuity Work Group (the “work group”), I appreciate the opportunity to provide comments on the proposed actuarial guideline.

Attached is a red line version, from the clean version (all NAIC changes accepted) of the 3.1 Exposure draft. Our comments in the redline version address the following concerns:

1. Provide additional clarification to differentiate ILVA from FIA;
2. MVAs may apply at the product level, therefore we suggest moving the allowance for an MVA from the Fixed Income Asset Proxy to the Interim Value calculation as shown in the redline; and
3. To improve clarity.

Sincerely,

Beth Keith, MAAA, FSA
Chairperson, Index-Linked Variable Annuities Work Group
American Academy of Actuaries

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

**Actuarial Guideline ILVA
 Nonforfeiture Requirements for Index Linked
 Variable Annuity Products Supported by
 Non-Unitized Accounts**

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements. ~~The current products that include a risk of loss negative index returns subject to throughout the life of the contract and, which include limitations on the loss, such as a floor or a buffer.~~ These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non variable indexed annuities, these annuities may reflect negative index returns.

Commented [Bk1]: We suggest the rewording to these two sentences because the first sentence as exposed also describes FIAs.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*; however, NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as "contracts that provide for annuity benefits that vary according to the investment experience of a separate account." Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA ~~accounts products~~ are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth principles and requirements for determining values, including death

Commented [Bk2]: We recommend referring to ILVA accounts vs. products because ILVA (Index-Linked variable Annuity) accounts may be offered within a VA product.

benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a variable annuity and thereby exempt from Model 805. An ILVA that does not comply with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify the definition of a variable annuity under Model 250 or other Model Regulations.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity and includes index-linked crediting ~~features-accounts~~ that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities or other Model laws.

Commented [Bk3]: There are additional model laws that this guideline does not apply to.

Principles

This guideline is based on the following principles:

1. Interim Values defined in the contract provide equity ~~between to both~~ the contract holder and the insurance company.
2. Interim Values are consistent with the value of the Hypothetical Portfolio over the Index Strategy Term.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets established at the beginning of an Index Strategy Term that is designed to replicate credits provided by an Index Strategy at the end of an Index Strategy Term.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

“Index” means a benchmark designed to track the performance of a defined portfolio of securities.

“Index Strategy” means a method used to determine index credits with specified index or indices and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Strategy Term except for withdrawals, transfers, deposits, loans and any explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index changes and the index credit is determined.

“Interim Value” means the Strategy Value at any time other than the start date and end date of an Index Strategy Term.

“Strategy Value” means the value, attributable to an Index Strategy, used in determining ~~values including~~ death benefit, withdrawal amount, annuitization amount or surrender values.

“Trading Cost” means the additional cost of liquidating the derivative assets in the Derivative Asset Proxy or actual derivative assets supporting the Index Strategy that is not accounted for in the Derivative Asset Proxy calculation.

Text

The Index Strategy Base must equal the Strategy Value at the Index Strategy Term start date.

The value of the Fixed Income Asset Proxy:

- a. At the beginning of the Index Strategy Term equals the Index Strategy Base less the Derivative Asset Proxy value; and
- b. Earns interest at a rate that results in the Fixed Income Asset Proxy equal to the Index Strategy Base at the end of the Index Strategy Term; and
- b. ~~May include market value adjustments that reflect changes in the value of the Fixed Income Asset Proxy or actual fixed income assets supporting the Index Strategy due to interest rate or credit spread movements;~~

~~The value of the Derivative Asset Proxy is determined assuming a package of derivative assets that replicates the index credit provided by an index strategy at the end of an Index Strategy Term. The value of the package of derivative assets is determined daily. Assumptions used to value the Derivative Asset Proxy including yields, implied volatilities, risk-free rates, and dividend yields, must be consistent with the observable market prices of derivative assets, whenever possible.~~

Commented [Bk4]: MVAs may exist at the product level, so we suggest moving the allowance for an MVA from the Fixed Income Asset Proxy to the Interim Value calculation as shown below in the redline.

Commented [Bk5]: We note this is already stated in the definition of Derivative Asset Proxy.

Commented [Bk6]: Yields, other than risk-free rates and dividend yields, are not used to value a derivative asset proxy.

Interim Values must be materially consistent with the value of the Hypothetical Portfolio over the Index Strategy Term less a provision for the cost attributable to reasonably expected or actual Trading Costs at the time the Interim Value is calculated. Interim

Values may also include market value adjustments that reflect changes in the value of the fixed income assets supporting the Index Strategy due to interest rate or credit spread movements.

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent over the entire Index Strategy Term with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term under a reasonable number of realistic economic scenarios that include index changes that test crediting constraints.

The company must provide an actuarial memorandum with each ILVA product filing that includes the following:

1. Actuarial certifications that:
 - a. Interim Values defined in the contract provide equity ~~between to both~~ the contract holder and the insurance company;
 - b. the assumptions used to value the Hypothetical Portfolio ~~Derivative Asset Proxy~~ including yields, implied volatility~~ies~~, risk-free rates, dividend yields, and other parameters required to value the derivatives are consistent with the observable market prices of derivative assets over the Index Strategy Term, whenever possible;
 - c. the contractually defined Interim Values are materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term over the Index Strategy Term less a provision for the Trading Costs at the time the Interim Value is calculated;
 - d. any Trading Costs represent reasonably expected or actual costs at the time the Interim Value is calculated.
2. If the Interim Values are determined using a methodology other than the Hypothetical Portfolio methodology described in this guideline, the actuary shall describe the testing performed to verify that the values are materially consistent with the Hypothetical Portfolio methodology. The actuary should define any parameters or assumptions used in determining material consistency and provide a summary of the results of the testing.
3. Descriptions of
 - a. Fixed Income Asset Proxy including any market value adjustment;
 - b. Derivative Asset Proxy including any Trading Costs;
 - c. All formulas, methodologies and assumptions used to calculate these values for each Index Strategy and Index Strategy Term as well as the sources for all assumptions.

Commented [Bk7]: We believe it would be more comprehensive to include assumptions used for the entire Hypothetical Portfolio, not just the Derivative Asset Proxy. If changed to Hypothetical Portfolio, it would be appropriate to keep "yields" in this sentence. Otherwise, we would recommend deleting "yields."

ILVA account or subaccount nonforfeiture benefits must comply with Section 7 of Model 250 with net investment returns consistent with the requirements for determining Interim Values in this guideline.

Effective Date

Draft: 7/27/22

Index-Linked Variable Annuity (A) Subgroup
Virtual Meeting
May 18, 2022

The Index-Linked Variable Annuity (A) Subgroup of the Life Actuarial (A) Task Force met May 18, 2022. The following Subgroup members participated: Peter Weber, Chair (OH); Tomasz Serbinowski, Vice Chair (UT); Sarjit Samra (CA); Vincent Tsang (IL); Derek Wallman (NE); Kevin Clarkson (NJ); Bill Carmello and Michael Cebula (NY); Mike Boerner and Maribel Castillo (TX); Craig Chupp (VA); and David Hippen (WA).

1. Discussed the Proposed ILVA Actuarial Guideline

Mr. Weber said he has learned there are many complex issues associated with index-linked variable annuities (ILVAs) to address. He said the concept that variable products should provide values that are consistent with the supporting assets makes sense. He said applying the concept on a practical level has introduced several variables that have proven to be a challenge. He asked Subgroup members if it might be better to draft guidance to states instead of bright-line, prescriptive requirements. Mr. Hippen said there is merit to the approach. He questioned whether the Interstate Insurance Production Regulation Commission (Compact) would have issues with the standard conflicting with the filing standards set by individual states. Mr. Weber said he would expect that the more innovative product designs would not meet the Compact requirements and would be limited to filing only with the states. Mr. Carmello said while uniformity is important, it is possible that using a principle-based approach for ILVA in the interim may be the best solution. Mr. Tsang said the proposed actuarial guideline should be able to provide a uniform minimum standard. Mr. Clarkson said a minimum standard is necessary to help state insurance regulators identify outliers. Mr. Serbinowski said the Utah Department of Insurance (DOI) has allowed the marketing of several ILVA contracts. He said over the last two years, as the products have been more closely scrutinized, companies have revised their product designs so that the current designs are closer to the product standard proposed in method 1 of the ACLI's original proposal. Mr. Carmello, Mr. Serbinowski, and Mr. Hippen agreed that the last exposure of the actuarial guideline (see the May 17 Subgroup minutes) was acceptable. Mr. Weber said if the Subgroup continues with the development of the actuarial guideline, several of the comments submitted by the ACLI could be incorporated prior to re-exposure. He said the new draft will be more conceptual with some of the prescriptive language, such as the hard limit on unwinding costs, being removed. He noted that clarification of the certification could be added to the draft. Katie Campbell (Compact) said the guideline could be used as the basis for a Compact standard.

Having no further business, the Index-Linked Variable Annuity (A) Subgroup adjourned.

[https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/ILVA/05 18/May 18 Minutes.docx](https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/ILVA/05 18/May 18 Minutes.docx)

Draft: 7/27/22

Index-Linked Variable Annuity (A) Subgroup
Virtual Meeting
May 17, 2022

The Index-Linked Variable Annuity (A) Subgroup of the Life Actuarial (A) Task Force met May 17, 2022. The following Subgroup members participated: Peter Weber, Chair (OH); Tomasz Serbinowski, Vice Chair (UT); Sarvjit Samra (CA); Vincent Tsang (IL); Derek Wallman (NE); Kevin Clarkson (NJ); Bill Carmello (NY); Mike Boerner and Maribel Castillo (TX); Craig Chupp (VA); and David Hippen (WA).

1. Heard a Presentation on Interim Nonforfeiture Values

Mr. Weber said the current exposure of the index-linked variable annuity (ILVA) actuarial guideline (Attachment Seventeen-A) allows for any approach that produces interim values that are materially consistent with the hypothetical portfolio approach. Brian Bayerle (American Council of Life Insurers—ACLI) said the joint ACLI/Committee of Annuity Insurers (CAI) comment letter (Attachment Seventeen-B) states that the interim value framework must be consistent with the core design principles used to create the ILVA product and account for the market realities. He said the comments focus on four areas of concern: 1) the fixed income asset proxy; 2) unwinding the derivative asset proxy; 3) the definition of materially consistent; and 4) the clarification of ILVA nonforfeiture benefit compliance with Section 7 of the *Variable Annuity Model Regulation* (#250). Ryan Berends (Athene) said for the fixed income proxy, it is critical that the guideline address market value adjustments (MVAs) related to interest rate risks. He said the MVAs were mentioned in the initial exposure of the guideline but were subsequently dropped. Jonathan Clymer (Prudential) said the industry is concerned with the use of a prescriptive rate of 10 basis points (bps) for the cost of unwinding the derivative asset proxy because a single value will not capture the actual range of results and is inappropriate for longer term and more complex strategies. Mr. Berends said the ACLI/CAI comment letter provides an example of “materially consistent.” He suggested that a test for material consistency be applied only at the time of policy filing.

Mr. Tsang said the MVA is usually related to the cash surrender value. He said he would prefer having the MVA defined in the contract rather than in the actuarial guideline. Mr. Weber said the MVA is defined in ILVA contracts. Mr. Berends said the MVA should be spelled out in the actuarial guideline to avoid the question of whether the MVA is allowable for the ILVA policy. Mr. Tsang suggested referencing the MVA in both the contract and the actuarial guideline, with the actuarial guideline saying the MVA is as defined in the contract. He also said the unwinding cost should be included in the surrender charge. Mr. Weber suggested detailing the unwinding cost in the actuarial certification.

Mr. Tsang said the drafting note defining material consistency suggests a 5% level of tolerance for the difference between the hypothetical portfolio and the expected value of contractually defined interim values. He said 1% would be a more appropriate tolerance. Stephen Turer (Equitable) said a 1% tolerance is thin compared to the risk the companies are taking. Mr. Carmello said he agrees that a 1% tolerance is appropriate. Mr. Tsang asked the companies to provide data showing that a 1% tolerance is not sufficient.

Sarah Wood (Insured retirement Institute—IRI) said the IRI comment letter (Attachment Seventeen-C) supports the position of the ACLI. Mr. Weber said a lot of the CompEdge comments (Attachment Seventeen-D) are not aligned with the Subgroup’s charge and would be better placed with some other group within the NAIC.

Beth Keith (American Academy of Actuaries—Academy) said the Academy comments (Attachment Seventeen-E) are high level and suggest that more product descriptions are necessary. She asked if the material consistency

tolerance should be symmetrical, addressing both the upside and the downside. Mr. Weber said it is designed to cover both.

Having no further business, the Index-Linked Variable Annuity (A) Subgroup adjourned.

[https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/ILVA/05 17/May 17 Minutes.docx](https://NAICSupportStaffHub/Member%20Meetings/2022%20NAIC%20Meetings/Spring%20National%20Meeting/Committee%20Meetings/LIFE%20INS%20and%20ANNUITIES%20(A)%20COMMITTEE/Life%20Actuarial%20(A)%20TF/ILVA/05%2017/May%2017%20Minutes.docx)

**Actuarial Guideline ILVA
Nonforfeiture Requirements for Index Linked
Variable Annuity Products Supported by
Non-Unitized Accounts**

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements, which include limitations on loss such as a floor or a buffer. These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non-variable indexed annuities, these annuities may reflect negative index returns.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, however, NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as "contracts that provide for annuity benefits that vary according to the investment experience of a separate account" Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA products are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a variable annuity and thereby exempt from Model 805. An ILVA that does not comply

with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify the definition of a variable annuity under Model 250.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity provided through non-unitized separate account(s) and includes index-linked crediting features that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities.

Principles

This guideline is based on the following principles:

1. There exists a package of derivative assets that replicates the index credits provided by an index strategy at the end of an index term.
2. The value of the package of derivative assets can be determined daily using assumptions consistent with observable market values.
3. Interim Values defined in the contract provide equity to both the contract holder and the company where the Interim Values are consistent with the value of the Hypothetical Portfolio over the index term.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets designed to replicate credits provided by an Index Strategy at the end of an Index Term.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

“Interim Value” mean the Strategy Value at any time other than the start date and end date of an Index Term.

“Index Strategy” means a method used to determine index credits with specified index or indices and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Term except for withdrawals, transfers, deposits, and explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index change and index credit is determined.

“Strategy Value” means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

Text

Index Strategy Base must equal the Strategy Value at an Index Term start date.

The value of the Fixed-Income Asset Proxy:

- a. At the beginning of the Index Term equals the Index Strategy Base less Derivative Asset Proxy value;
- b. At the end of the Index Term equals the Index Strategy Base; and
- c. Earns interest at a level rate.

The value of the Hypothetical Portfolio at any time is the sum of the Fixed-Income Asset Proxy value and the Derivative Asset Proxy value less a provision for the cost of unwinding the hedge positions not to exceed 10 bps.

Contracts in the scope of this guideline must provide Interim Values that are consistent with the value of the Hypothetical Portfolio over the index term.

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term under a reasonable number of economic scenarios.

Drafting Note: Acceptable economic scenarios over which consistency should be demonstrated is yet to be determined. Considerations are... [generated using the Academy Interest Rate Generator AIRG?] and/or [defined deterministic scenarios including shocks that trigger to Index Strategy parameters including but not limited to caps, floors and buffers].

The company must provide an actuary’s certification that the provisions of this guideline are being met.

Assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, and dividend yield must be consistent with the observable market prices of derivative assets, whenever possible.

ILVA nonforfeiture benefits must comply with Section 7 of Model 250 with net investment return consistent with the requirements for determining Interim Values in this guideline.

The company (or actuary) must describe the Derivative Asset Proxy and the assumptions used to calculate its value at any time.

Effective Date

ACLI COMMENTS

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ACLI and CAI Comment Letter to ALVA Subgroup



May 2, 2022

Mr. Peter Weber, Chair
Mr. Tomasz Serbinowski, Vice Chair
National Association of Insurance Commissioners
LATF Index-Linked Variable Annuity (ILVA) (A) Subgroup

RE: ILVA Subgroup Exposure of Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts

Dear Messrs. Weber and Serbinowski:

The American Council of Life Insurers (ACLI)¹ and the Committee of Annuity Insurers (CAI)² appreciate the opportunity to submit comments to the ILVA Subgroup on the Chair's exposure of *Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts* (Exposure).

As you know, we provided extensive comments on the Subgroup's original exposure of a proposed ILVA Actuarial Guideline (AG). Our comments stemmed from several key realities, particularly that registered index-linked annuity (RILA) or ILVA products are fundamentally spread-based products and that insurers employ a variety of practices with respect to where assets supporting these products are maintained. For these and other reasons, we noted the inherent challenges associated with developing an AG based on the definition of variable annuity in in the NAIC's *Variable Annuity Model Regulation* (Model 250), and we emphasized that critical changes needed to be made to the original exposure in order to make it workable.

Therefore, we are gratified that the Exposure takes a different approach and specifies conditions for exemption as a variable annuity from the NAIC's *Standard Nonforfeiture Law for Individual Deferred Annuities* (Model 805) and that it does not attempt to modify or interpret the definition of a variable annuity under Model 250. We believe issuing an AG with principles and requirements for determining interim values such that a RILA is considered a variable annuity and therefore exempt from Model 805 makes sense.

¹ The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

² The Committee of Annuity Insurers is a coalition of life insurance companies that issue annuities. It was formed in 1981 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of public policy with respect to securities, state regulatory and tax issues affecting annuities. The CAI's current 30 member companies represent approximately 80% of the annuity business in the United States.

However, as we emphasized in our earlier comments, for an AG to be workable, it is critical that the interim value framework set forth therein both be consistent with the core design principles used to create RILAs and that it takes into account market realities. While the Exposure is more principles based, and in that regard, less restrictive than the original exposure, there are aspects of it that continue to be too restrictive and therefore would not meet some of the Subgroup’s own objectives, including encompassing products currently in the market and fostering product innovation.

Accordingly, the ACLI and the CAI urge the Subgroup to make certain modifications to the Exposure. These revisions are necessary so that the AG appropriately addresses important risk management requirements and aligns with the flexibility needed related to market valuation and trading dynamics. Our recommended revisions are reflected in the attached mark-up of the Exposure. In addition to addressing the points just noted, our revisions shown in the attached mark-up provide suggested guidance for how to apply the concept of “materially consistent” and clarify the applicability of Section 7 of Model 250 to RILAs.

More particularly, our principal revisions are found in the following provisions:

Principles:

We have added language to the second principle to ensure the value of derivative assets will be based on assumptions that are consistent with market valuation dynamics. In addition, a fourth principle has been added to clarify that market value adjustments can be applied at a contractual or interim value level to reflect changes in the market values of fixed income assets. This is necessary because ILVAs are fundamentally spread based products with asset liability matching risks such as disintermediation that insurers need to mitigate.

Fixed Income Asset Proxy:

Our revisions broaden the definition so that it: (a) allows for various amortization approaches that can be aligned with the underlying asset market values; (b) accommodates market value adjustments referenced under the principles; and (c) specifies discounting techniques that will be described in the actuarial certification. We believe this aligns with a market-based valuation.

Derivative Asset Proxy:

Our revisions replace the prescribed unwind cost of “10 bps” with a provision for reasonable costs to align with marketplace trading conditions, as the unwind cost can be significant in volatile markets particularly for complex payoff structures. Our revisions further introduce a broadened definition to allow for more tailored, risk-sensitive unwind risk provisions that will be described in the actuarial certification.

An example of acceptable “materially consistent” demonstration:

In the Drafting Note of our mark-up, we provide an example of how to demonstrate materially consistent based on average results over a stochastic scenario set that is within 5% of the results produced using the Hypothetical Portfolio. Our mark-up recognizes that companies may choose whether to use stochastic or deterministic approaches that will be described in the actuarial certification.

ILVA nonforfeiture benefit compliance with Section 7 of Model 250:

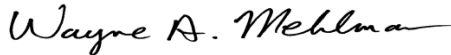
So as to avoid any unintended confusions, we have added language clarifying that complying with Section 7.B. of Model 250 is not required, and that market value adjustments are included in net investment return for purposes of demonstrating Section 7 compliance.

We would also note that the net investment return used to demonstrate Section 7 compliance should be net of asset-based charges and therefore would include any explicit fees as well as any market value adjustments. Therefore, the 7% in Model 250 would be grossed up for variable annuity asset-based charges and then reduced for the aforementioned items or utilize average returns by index and then reduce for the aforementioned items.

The ACLI and the CAI appreciate the opportunity to comment on the Exposure and we urge continued discussion and collaboration to develop an AG that satisfies our shared objective - and well stated principle - of equity to both contract holders and insurers in the design and administration of RILA products. Further, the ACLI and CAI appreciate the NAIC's stated desire to minimize any market disruption that could occur as a result of this AG. In that spirit, we are hopeful that the NAIC will continue to work with the ACLI and CAI on transition timing that appropriately reflects the practical realities of implementation as the AG is finalized.

Respectfully submitted,

AMERICAN COUNCIL OF LIFE INSURERS (ACLI)



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**Proposed Actuarial Guideline on ILVAs
from the
American Council of Life Insurers (ACLI) and Committee of Annuity Insurers (CAI)
(May 2, 2022)**

**Actuarial Guideline ILVA
Nonforfeiture Requirements for Index Linked
Variable Annuity Products Supported by
Non-Unitized Accounts**

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements, which include limitations on loss such as a floor or a buffer. These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non-variable indexed annuities, these annuities may reflect negative index returns.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, however, -NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as "contracts that provide for annuity benefits that vary according to the investment experience of a separate account" Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA products are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth

ACLI and CAI Proposed AG on ILVAs (Redline)

principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a variable annuity and thereby exempt from Model 805. An ILVA that does not comply with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify or interpret the definition of a variable annuity under Model 250 or other Model Regulations.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity provided through non-unitized separate account(s) and includes index-linked crediting features that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities.

Principles

This guideline is based on the following principles:

1. There exists a package of derivative assets that replicates the index credits provided by an index strategy at the end of an index term.
2. The value of the package of derivative assets can be determined ~~daily~~ using assumptions consistent with observable market ~~values~~ inputs and parameters, whenever possible.
3. Interim Values defined in the contract provide equity to both the contract holder and the company where the Interim Values are consistent with the value of the Hypothetical Portfolio over the index term.
4. Market Value Adjustments that reflect changes in the value of hypothetical fixed income assets due to interest rate and/or credit spread movements are allowed. They may be applied in the Interim Value calculation or at the contract level.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets designed to replicate credits provided by an Index Strategy at the end of an Index Term.

“Discount Rate” means the rate used to calculate the value of the Fixed Income Asset Proxy during the Index Strategy Term. This rate may be a simple or compound rate, may be expressed as a risk-free rate plus a spread, or may be an implied rate used to amortize the initial Derivative Asset Proxy value over the Index Strategy Term as described in the actuarial certification.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

“Interim Value” mean the Strategy Value at any time other than the start date and end date of an Index Term.

“Index Strategy” means a method used to determine index credits with specified index-or indices or observable benchmarks and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Term except for withdrawals, transfers, deposits, and any explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index change and index credit is determined. A term may end due to product and/or crediting features (e.g., a specified end date, a “lock-in” feature, etc.)

“Strategy Value” means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

Text

Index Strategy Base must equal the Strategy Value at an Index Term start date.

The value of the Fixed-Income Asset Proxy:

- a. At the beginning of the Index Strategy Term equals the Index Strategy Base less the Derivative Asset Proxy value; and
- b. At any point in time between the Index Strategy Term start date and the end of the Index Strategy Term, is determined by discounting the Index Strategy Base for the remainder of the Index Strategy Term at the Discount Rate. This may also be subject to a Market Value Adjustment as outlined in Principle 4; and
- ~~b.c. At the end of the Index Strategy Term equals the Index Strategy Base; and,~~
a. ~~Earns interest at a level rate.~~

The value of the Hypothetical Portfolio at any time is the sum of the Fixed-Income Asset Proxy value and the Derivative Asset Proxy value less a provision ~~for the cost of unwinding the hedge positions not to exceed 10 bps.~~ designed to address the reasonable cost of unwinding the Derivative Asset Proxy. Such a provision may be either applied to all circumstances or take the form of a more targeted adjustment applicable only in specific circumstances in which the risk of unwinding Derivative Asset Proxy may be heightened as described in the actuarial certification.

Contracts in the scope of this guideline must provide Interim Values that are consistent with the value of the Hypothetical Portfolio over the ~~index term~~ Index Strategy Term.

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term. The company may choose to demonstrate under a reasonable number of ~~economic~~ stochastic economic scenarios or a set of deterministic scenarios.

Drafting Note: ~~Acceptable~~ One example of an acceptable demonstration of materially consistent would show that at intermediate points during the Index Strategy Term, the expected value of Interim Values produced using the Hypothetical Portfolio minus the expected value of contractually defined Interim Values is at most 5% of the Index Strategy Base. The expected value will be defined as the average of the Interim Values over the set of economic scenarios over which consistency should to be demonstrated is yet to. Acceptable stochastic economic scenarios may be determined. Considerations are from the Academy Interest Rate Generator and/or defined any other reasonable real-world economic scenario generator where the generator and any key additional assumptions used to value the Derivative Asset Proxy are described in the actuarial certification. If deterministic scenarios are used, these may include shocks that trigger Index Strategy parameters including but not limited to caps, floors, and buffers.

~~The~~ At the time of filing, the company must provide an actuary's certification that the provisions of this guideline are being met.

Assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, ~~and dividend yield, and other parameters required for the valuation method of the derivatives~~ must be consistent with the observable market prices of derivative assets, whenever possible.

ILVA nonforfeiture benefits must comply with Section 7 of Model 250 (other than Section 7.B) with net investment return (reflecting any Market Value Adjustment and any explicit fees) consistent with the requirements for determining Interim Values in this guideline.

The company (or actuary) must describe the Fixed Income Asset Proxy and the Derivative Asset Proxy and with the assumptions used to calculate its value these values at any time (including the reasonable cost of unwinding the Derivative Asset Proxy).

Effective Date

ACLI and CAI Proposed AG on ILVAs
(Clean)

**Proposed Actuarial Guideline on ILVAs
from the
American Council of Life Insurers (ACLI) and Committee of Annuity Insurers (CAI)
(May 2, 2022)**

**Actuarial Guideline ILVA
Nonforfeiture Requirements for Index Linked
Variable Annuity Products Supported by
Non-Unitized Accounts**

Background

The purpose of this guideline is to specify the conditions under which an Index-Linked Variable Annuity (ILVA) is consistent with the definition of a variable annuity and exempt from Model 805 and specify nonforfeiture requirements consistent with variable annuities.

A number of insurers have developed and are issuing annuity products with credits based on the performance of an index with caps on returns, participation rates, spreads or margins, or other crediting elements, which include limitations on loss such as a floor or a buffer. These products are not unitized and do not invest directly in the assets whose performance forms the basis for the credits. However, unlike traditional non-variable indexed annuities, these annuities may reflect negative index returns.

There is no established terminology for these annuity products. These products go by several names, including structured annuities, registered index-linked annuities (RILA), or index-linked variable annuities, among others. This guideline refers to these products as index-linked variable annuities (ILVA).

Variable annuities are exempted from the scope of NAIC Model 805, *Standard Nonforfeiture Law for Individual Deferred Annuities*, however, NAIC Model 805 does not define the term "variable annuity".

NAIC Model 250, *Variable Annuity Model Regulation*, defines variable annuities as "contracts that provide for annuity benefits that vary according to the investment experience of a separate account" Section 7B of NAIC Model 250 provides that "to the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account" the contract shall satisfy the requirements of the NAIC Model 805.

The application of the NAIC Model 250 to a traditional variable annuity with unitized values is straightforward. The unitized feature provides an automatic linkage between annuity values and the investment experience of a separate account. Daily values (market values of the separate account assets) are the basis of all the benefits, including surrender values.

The fact that ILVA products are not unitized means they do not have values determined directly by the market prices of the underlying assets. Therefore, this guideline sets forth

principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a variable annuity and thereby exempt from Model 805. An ILVA that does not comply with the principles and requirements of this guideline is not considered a variable annuity and therefore is subject to Model 805.

Drafting Note: This guideline interprets the term “variable annuity” for purposes of exemption from Model 805. It is not intended to modify or interpret the definition of a variable annuity under Model 250 or other Model Regulations.

Scope

This guideline applies to any index-linked annuity exempt from the NAIC Model 805 on the basis that it is a variable annuity provided through non-unitized separate account(s) and includes index-linked crediting features that are built into policies or contracts (with or without unitized subaccounts) or added to such by rider, endorsement, or amendment.

This guideline does not apply to an annuity contract or a subaccount of an annuity contract that is subject to the requirements of NAIC Model 805, Standard Nonforfeiture Law for Individual Deferred Annuities.

Principles

This guideline is based on the following principles:

1. There exists a package of derivative assets that replicates the index credits provided by an index strategy at the end of an index term.
2. The value of the package of derivative assets can be determined using assumptions consistent with observable market inputs and parameters, whenever possible.
3. Interim Values defined in the contract provide equity to both the contract holder and the company where the Interim Values are consistent with the value of the Hypothetical Portfolio over the index term.
4. Market Value Adjustments that reflect changes in the value of hypothetical fixed income assets due to interest rate and/or credit spread movements are allowed. They may be applied in the Interim Value calculation or at the contract level.

Definitions

“Derivative Asset Proxy” means a package of hypothetical derivative assets designed to replicate credits provided by an Index Strategy at the end of an Index Term.

“Discount Rate” means the rate used to calculate the value of the Fixed Income Asset Proxy during the Index Strategy Term. This rate may be a simple or compound rate, may be expressed as a risk-free rate plus a spread or may be an implied rate used to amortize the initial Derivative Asset Proxy value over the Index Strategy Term as described in the actuarial certification.

“Fixed Income Asset Proxy” is a hypothetical fixed income asset.

“Hypothetical Portfolio” means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

“Interim Value” mean the Strategy Value at any time other than the start date and end date of an Index Term.

“Index Strategy” means a method used to determine index credits with specified index-or indices or observable benchmarks and cap, buffer, participation rate, spread, margin or other index crediting elements.

“Index Strategy Base” means the notional amount used to determine index credits that does not change throughout the Index Term except for withdrawals, transfers, deposits, and any explicit charges.

“Index Strategy Term” means the period of time from the term start date to the term end date over which an index change and index credit is determined. A term may end due to product and/or crediting features (e.g., a specified end date, a “lock-in” feature, etc.)

“Strategy Value” means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

Text

Index Strategy Base must equal the Strategy Value at an Index Term start date.

The value of the Fixed Income Asset Proxy:

- a. At the beginning of the Index Strategy Term equals the Index Strategy Base less the Derivative Asset Proxy value; and
- b. At any point in time between the Index Strategy Term start date and the end of the Index Strategy Term, is determined by discounting the Index Strategy Base for the remainder of the Index Strategy Term at the Discount Rate. This may also be subject to a Market Value Adjustment as outlined in Principle 4; and
- c. At the end of the Index Strategy Term equals the Index Strategy Base.

The value of the Hypothetical Portfolio at any time is the sum of the Fixed Income Asset Proxy value and the Derivative Asset Proxy value less a provision designed to address the reasonable cost of unwinding the Derivative Asset Proxy. Such a provision may be either applied to all circumstances or take the form of a more targeted adjustment applicable only in specific circumstances in which the risk of unwinding Derivative Asset Proxy may be heightened as described in the actuarial certification.

Contracts in the scope of this guideline must provide Interim Values that are consistent with the value of the Hypothetical Portfolio over the Index Strategy Term.

If a contract provides Interim Values determined using a methodology other than a Hypothetical Portfolio methodology as described in this guideline, the company must demonstrate that the contractually defined Interim Values will be materially consistent with the Interim Values that would be produced using the Hypothetical Portfolio methodology for each combination of Index Strategy and Index Strategy Term. The company may choose to demonstrate under a reasonable number of stochastic economic scenarios or a set of deterministic scenarios.

Drafting Note: One example of an acceptable demonstration of materially consistent would show that at intermediate points during the Index Strategy Term, the expected value of Interim Values produced using the Hypothetical Portfolio minus the expected value of contractually defined Interim Values is at most 5% of the Index Strategy Base. The expected value will be defined as the average of the Interim Values over the set of economic scenarios. Acceptable stochastic economic scenarios may be from the Academy Interest Rate Generator or any other reasonable real-world economic scenario generator where the generator and any key additional assumptions used to value the Derivative Asset Proxy are described in the actuarial certification. If deterministic scenarios are used, these may include shocks that trigger Index Strategy parameters including but not limited to caps, floors, and buffers.

At the time of filing, the company must provide an actuary's certification that the provisions of this guideline are being met.

Assumptions used to value the Derivative Asset Proxy including yields, implied volatility, risk-free rate, dividend yield, and other parameters required for the valuation method of the derivatives must be consistent with the observable market prices of derivative assets, whenever possible.

ILVA nonforfeiture benefits must comply with Section 7 of Model 250 (other than Section 7.B) with net investment return (reflecting any Market Value Adjustment and any explicit fees) consistent with the requirements for determining Interim Values in this guideline.

The company (or actuary) must describe the Fixed Income Asset Proxy and the Derivative Asset Proxy with the assumptions used to calculate these values at any time (including the reasonable cost of unwinding the Derivative Asset Proxy).

Effective Date



May 2, 2022

Submitted electronically to rmazyck@naic.org

NAIC Index-Linked Variable Annuity Subgroup
Peter Weber, Chair & Tomasz Serbinowski, Vice-Chair

Re: Actuarial Guideline ILVA: Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts (“Exposure”)

Dear Mr. Weber and Mr. Serbinowski:

On behalf of our members, the Insured Retirement Institute, Inc. (“IRI”)¹ appreciates the opportunity to comment on the Exposure put forth by the Index-Linked Variable Annuity Subgroup (“Subgroup”). We appreciate the work of the Subgroup and believe that this Exposure has been significantly improved upon; however, we are recommending some additional edits and feedback to ensure that the Exposure encompasses products currently in the market and does not impede product innovation.

IRI received and reviewed the comments on the Exposure by the American Council of Life Insurers (“ACLI”) and the Committee of Annuity Insurers (“CAI”), dated May 2, 2022. With ACLI and CAI’s permission, IRI shared this letter with our membership.

Following discussion with our members, IRI supports ACLI and CAI’s comments with respect to its requests and recommendations regarding the Exposure, including the mark-up of the Exposure that is being put forth for consideration.

Overall, our members support the allowance of different approaches to determining values as this leads to product innovation and supports consumer choice when selecting a product that best achieves their financial goals. We appreciate that this second draft of the Actuarial Guideline takes this into account by being more principles-based, but we do support the changes and recommendations put forth by ACLI and CAI in their mark-up of the Exposure. As such, we respectfully request that the Subgroup consider the recommendations put forth in ACLI’s and CAI’s comment letter.

On behalf of IRI and our members, thank you again for the opportunity to provide these comments. We would be happy to discuss further with you and look forward to continued collaboration and partnership with the Subgroup.

¹ IRI is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks, and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., the top 10 distributors of annuities ranked by assets under management and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

May 2, 2022

Sincerely,

Sarah E. Wood

Sarah Wood
Director, State Policy & Regulatory Affairs
Insured Retirement Institute
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April 28, 2022

Mr. Peter Weber, Chair
National Association of Insurance Commissioners
LATF Index-Linked Variable Annuity (ILVA) (A) Subgroup

RE: Comments on the Exposure of **Actuarial Guideline ILVA - Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts (PAG2)**

Mr. Weber,

As a commenter not employed by a life insurer, or affiliated with a regulatory body, or a trade association, I am very grateful for your consideration of my comments. Having no actuarial training I ask that you please excuse the general nature of my assertions. I would like to present a responsible marketer's perspective. By way of background, as President of CompEdge Financial, I have held a life insurance license since 1982, have supervised Broker/Dealer Branch Office regulated by FINRA, served over 10 years as the President and Chief Compliance Officer of a SEC-registered Registered Investment Adviser firm, and operate an Independent Marketing Organization.

The establishment of a protocol to report interim values within ILVA's is an important task and I appreciate the comments thus far. My concern is that the difficulty in creating the methodology, and the disagreement to date, centers not on what is fair to the buying public but what is easiest and least transparent for the carriers.

While respecting the narrow scope of this subgroup it is important to consider broader contexts to facilitate decision making.

Defined-Outcome Product Background

Historically, the objective of a structured investment is to combine non-correlated assets in such a way that they form a defined set of possible outcomes at the date of purchase. Holding various long and short positions in index options is a traditional method of accomplishing this goal. The result is a portfolio designed to exist for a limited period of time in markets where a buy/hold equity strategy presents unacceptable downside risk – an alternative strategy. Often these accounts create a scheme where regardless of market activity the client is not subject to first-dollar losses down to a designed percentage, or a buffer. Typically, private investors and professionals use nearly 100% of the available seed cash in the strategy (minus 1-3% set aside

for expenses and profit). This ensures interim values of the account are easily discernable in real time in the trust or fund based on the market prices of the options employed.

Insurers saw the opportunity to accomplish similar defined outcomes with a slightly different option strategy. Their strategy allows them to create a buffer/cap product while not allocating all the premium to the strategy. In fact, many of the buffer/cap options seen now can be accomplished with no net premium spent on behalf of the client at all.

When done in an annuity chassis, minimal holdings in option positions are held in a separate account while well over 90% of the premium is available for use in the General Account for the carrier's investment in long-term assets, to pay concessions to Broker/Dealers, and provide company profits. This is essentially an interest-free loan of the client's annuity premium to the insurer as collateral should the buffer ever fail, and someone must clean up the mess. There is a cost to this alternative to the investor as it is not possible to achieve the same upside cap available otherwise without the carrier allocating a significant portion of those funds to enhance caps.

Oversight of Distribution Partners

Because these products are registered, their distribution falls to Broker/Dealers and their Registered Representatives. B/D's have attempted to insert themselves in the revenue stream of Fixed Indexed Annuity sales for a decade. FINRA requires the B/D to supervise all the RR's recommendations but, as fixed products, the independent RR is free to sell FIAs through any number of other outlets. All attempts to address this have failed. ILVA's give B/D's a successful new revenue stream with all the flavor of an FIA yet registered for distribution only through B/D's.

The SEC Regulation Best Interest (RegBI) details the duties of B/D's and their supervised representatives. RegBI stipulates they must available alternatives to a recommendation, and to consider all relevant costs and limitations. The lack of transparency in the assets held in ILVA's makes fulfilling this duty impossible. It is the only SEC-registered product sold by prospectus that does not detail where every dollar of the client's money goes.

A new term might help identify and compare the true value of each carrier's product. How much money is the carrier allocating to the buffer strategy? A buffer strategy can be accomplished in any brokerage account with no net cost. In other words, the premiums both spent and received on options to produce the strategy can net each other out. This would provide a low upside cap, however. To be competitive carriers must offer higher caps and would have to subsidize the strategy with earnings they would rather bank in the General Account. If we are going to use hypothetical values elsewhere, can we create a concept called the "Option Budget Allocation" expressed as a percentage of the client's premium or annuity value used to enhance caps? My observation has been that this is roughly equal to the percentage the carrier is crediting in the product's fixed account. If so, contract holders are

incurring large opportunity costs on their premium while only receiving an economic benefit in the neighborhood of 1%/year on their capital.

Carriers insist ILVA's are spread products and their expenses cannot be quantified. However, they are quick to point out the "spread" concept is not to be confused with the traditional use of the word in an index strategy where the spread percentage is clearly stated. The best of both worlds. Some accountability is needed here.

FINRA is charged with ensuring B/Ds are complying with the SEC's RegBI and have long-standing requirements that RR's avoid misstatements or omissions of material facts. The marketing departments of ILVA providers do not seem to respect the difficulty advisors have in fulfilling these obligations given the materials provided for sales and the talking points of their wholesalers. Let's examine some of those possible omissions and misrepresentations:

- 1) With few honorable exceptions, carriers claim that they "absorb" all losses from the original principal to the bottom of the buffer. In fact, there is no insurance element to that event whatsoever. Clearly carriers are not risking surplus equal to 10, 15, or 25% of annuity values. There is simply no economic activity as no option is in play in the buffer zone.
- 2) Sales brochures talk about the upside of the index but fail to prominently mention it is only the price movement of the index being credited and dividends are not included. A fair comparison of outcomes in all markets that included dividends in client brochures would allow more informed decisions.
- 3) Most insurers offer a 6-year term for each strategy. That is simply too long a term to make any sort of market judgement and the options market reflects that. A 6-year bucket with a 300% cap is virtually uncapped, like an S&P 500 ETF. However, the value of a 10% buffer in an ILVA would be covered by compounded dividends over 6 years in an Index ETF without a buffer. An outright purchase of an S&P 500 ETF will have the same risk characteristics - no ILVA value add.
- 4) "No Fees" - Many carriers prominently and repeatedly claim to charge no fees in their materials. While there may be no additional out-of-pocket fee this is dangerously misleading. As discussed, the opportunity cost of not investing elsewhere is substantial. If there are no fees, where is the discussion on how the company profits? The implication is that they are free. At the time of sale B/Ds require RRs to complete forms detailing the fees, policy charges, surrender charges, and investment expense percentages on every variable annuity sold. Variable annuities carriers simply must provide that information to protect their distributors. Expenses should be detailed.
- 5) With no discernable insurance element to a variable tax-deferred product FINRA has held that they are not suitable for funding IRA's or other qualified rollovers since tax-deferral is already present and the underlying investment can be obtained with

lower expenses. Minimal death benefit options and poor living benefit riders may not be enough to overcome this logic.

- 6) An available alternative to an ILVA is any UIT employing a similar buffer. For any given buffer the caps on UIT's tend to exceed the ILVA. There are notable exceptions. Carriers that do charge a fee to enhance caps or participation rates can outperform with active recommendations by the RR and an astute client.

Interim Value Calculation Debate

Back to the topic at hand which centers on how to calculate interim account values for a contract holder when their contract assets are split between a separate account containing assets with daily pricing and the carrier's general account with no divisible interest or earmarked asset allocated to the contract. I believe the conclusions to be drawn from the terminology created thus far are not helpful¹. I concur with several of the previous commenters that variable annuity Model 250 should govern, and not by amendments to the Model but rather with amendments to the products. This interim value debate is created by non-adherence to the time-tested traditional structure of variable annuities.

If ILVA's must persist in their current form I would advocate for a simple prorata earnout of the buffer, floor, and cap without regard to Market Value Adjustment's on hypothetical assets or the market price of the underlying hypothetical options. If a withdrawal is needed halfway

1

Interim Values Defined

As noted in PAG2, the terminology required to address ILVA features is currently lacking and these efforts to standardize and codify such terminology are admirable. The Proposed Actuarial Guideline 2 defines the Interim Value as follows:

"Interim Value" mean the Strategy Value at any time other than the start date and end date of an Index Term. (Index Term is not defined but I will assume it means the period described as the "Index Strategy Term")

So, we must look to the Strategy Value – "Strategy Value" means the value, attributable to an Index Strategy, used in determining values including death benefit, withdrawal amount, annuitization amount or surrender values.

If the Interim Value we seek is equal to the Strategy Value on days other than the beginning and ending of an Index Strategy Term then these definitions give us nothing upon which to perform the math.

Later in PAG2, one of the three principles of the guideline states:

3. Interim Values defined in the contract provide equity to both the contract holder and the company where the Interim Values are consistent with the value of the Hypothetical Portfolio over the index term.

Here is the clue that the Interim Values are to be consistent with, presumably equal to, the value of a Hypothetical Portfolio. The Hypothetical Portfolio is also defined as:

"Hypothetical Portfolio" means a hypothetical portfolio composed of a Fixed Income Asset Proxy and a Derivative Asset Proxy.

Therefore, the Strategy Value at times other than the beginning or ending date of the Index Strategy Term is the current Hypothetical Portfolio Value which is the sum of the Derivative Asset Proxy Value, a hypothetical, and the Fixed Income Asset Proxy Value, a value also based on a hypothetical Fixed Income Asset. I understand this language is the result of comments on the previously proposed guideline expressing concerns that using a real asset could produce varying results. Transparency is not the long suit here.

through an index period, a client would expect to receive half the downside protection available, and half the cap purchased. Asking the consumer to be blind to daily values over many years, only to be priced to the market and current interest rates at the time of a needed withdrawal is not equitable.

Solution

I feel ILVA's should be required to strictly adhere to the traditional form of a variable annuity. Such a structure would serve the investing public, create full and fair disclosure of all risks and holdings, and help standardize terms for a basis of competitive comparison, and solve the interim valuation debate. It would also allow for the addition of several other subaccounts to assist in navigating the markets. ILVA's employ short-term alternative strategies as their sole funding option. This is leading to excessive allocations to the product as an accumulation vehicle in a strategy most professionals agree should not exceed 15% of an investor's portfolio.

Include all premiums in the separate account (and relevant subaccounts), only allowing dollars to flow to the carrier's general account according to the well-defined expenses and amounts detailed in the prospectus.

The Interim Value discussion is important but is largely irrelevant until the more glaring fatal flaws are addressed.

Respectfully,



Burt A. Snover, CLU, ChFC President

CompEdge Financial



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May 2, 2022

Mr. Peter Weber
Chair, Index-Linked Variable Annuity (A) Subgroup
National Association of Insurance Commissioners (NAIC)

Re: Exposure 2 of the Proposed Actuarial Guideline ILVA, Nonforfeiture Requirements for Index Linked Variable Annuity Products Supported by Non-Unitized Accounts

Dear Mr. Weber,

On behalf of the American Academy of Actuaries¹ Index-Linked Variable Annuity Work Group (the “work group”), I appreciate the opportunity to provide comments on the proposed actuarial guideline.

This is a complex topic with relationship to several product components such as filing requirements, Interstate Insurance Compact standards, disclosures, illustrations, marketing, and valuation that may need to be addressed separately. We offer the following conceptual comments for your consideration:

1. We suggest additional clarification in the scope of the proposed actuarial guideline that differentiates index-linked variable annuities (ILVAs) from variable annuities (VAs) and fixed-index annuities (FIAs). We note that ILVAs generally have the following characteristics:
 - a. Index-based crediting;
 - b. Risk of loss throughout the life of the contract;
 - c. No absolute floor applied to the Interim Value for withdrawals, surrender values, death benefits, or annuitized values;
 - d. Funding using a separate account, the general account, or both; and
 - e. Non-unitized structures.
2. We suggest that the guideline be based on two principles:
 - Interim Values provide equity to both the contract owner and the life insurance company; and
 - Interim Values are consistent with the market value of a Hypothetical Portfolio over the index term.

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

The other proposed principles in the draft relate to the derivative assets and their value. Thus, these principles are assumptions that need to be considered, but do not rise to the level of guiding principles for the guideline. Therefore, we suggest these other proposed principles be deleted.

3. A principal of consistency, in the generic sense, will allow each company to define consistency for its product. This may not be interpreted identically by each state regulator.
4. We suggest clarification on the demonstration of consistency. Is the intent to be symmetrical or to provide downside protection?
5. We suggest more clarification on the intended timing of the demonstration of consistency—in other words, is the demonstration to be performed solely on the basis of assumptions at issue? At the time of product filing? On a periodic basis? Etc.

We additionally propose the undermentioned specific language changes in the following sections:

Definitions:

We suggest adding “static” to the definition of “Derivative Asset Proxy” to help promote consistency in the application of the actuarial guideline:

“Derivative Asset Proxy” means a package of hypothetical static derivative assets designed to replicate credits provided by an Index Strategy at the end of an Index Term.

Text:

We suggest simplifying the description of Interim Value because Hypothetical Portfolio has previously been defined, defining the base to apply the hedge position, and combining the concepts of the two paragraphs into one:

Contracts in the scope of this guideline must provide Interim Values that are consistent with the value of the Hypothetical Portfolio over the index term, less a provision for the cost of unwinding the hedge positions not to exceed 10 bps of the Index Strategy Base.

Our work group appreciates the efforts of the Index-Linked Variable Annuity (A) Subgroup on this proposed actuarial guideline. If you have any questions or would like further dialogue on the above topics, please contact Amanda Barry-Moilanen, life policy analyst, at barrymoilanen@actuary.org.

Sincerely,

Beth Keith, MAAA, FSA
Chairperson, Index-Linked Variable Annuities Work Group
American Academy of Actuaries

August 8, 2022

From: Ben Slutsker, Chair
The VM-22 (A) Subgroup

To: Mike Boerner, Chair
The Life Actuarial (A) Task Force

Subject: The Report of the VM-22 (A) Subgroup to the Life Actuarial (A) Task Force

The VM-22 (A) Subgroup has been meeting roughly every other week since the beginning of April. The focus of calls thus far have been addressing comments from multiple interested parties and regulators on the July 2021-exposed draft of VM-22 principles-based requirements.

The Subgroup's process of reviewing feedback on the VM-22 exposure has been to divide up the comments into four tiers. The first tier contains the highest priority issues, and each subsequent tier is incrementally less substantive. Thus far, the Subgroup has worked through all tier 1 and tier 2 comments, and is in the midst of discussing tier 3 comments. Upon the resolution of remaining tier 3 comments, the VM-22 document will be re-exposed with modifications to reflect the agreed upon changes, as well as edits to address tier 4 comments. Among the items the Subgroup has addressed, notable ones include:

- **Aggregation** – Follow “Option 1” for payout and accumulation reserving category language (i.e., defining the payout reserving category consistent with the current scope of VM-22), which will then be used to restrict stochastic reserve aggregation between payout and accumulation annuities
- **Small Company Exemption** – Develop a small company exemption, akin to the Life PBR Exemption that exists for VM-20
- **Exclusion Test** – Allow SPIAs below a certain durational threshold to automatically pass the exclusion test, prohibit pension risk transfers from the certification method exclusion test, limit aggregation for contracts with significantly different risk profiles, and restrict future premiums from denominator of the ratio test
- **Mortality** – Permit only prescribed tables to be used for pension risk transfer and longevity reinsurance mortality upon limited or no experience (i.e., restrict company-selected third party tables from being used)
- **Longevity Reinsurance** – The Subgroup has exposed a proposal to treat longevity reinsurance as a third reserving category, along with language that would limit loading on recurring gross premiums from being reflected in the stochastic reserve

After the VM-22 language is re-exposed, the Subgroup will transition to addressing the development of the standard projection amount. The Subgroup has decided to recommend a standard projection

amount to the Life Actuarial Task Force but has not decided on whether to recommend such as a disclosure-only item or as a minimum floor. There are currently two NAIC drafting groups: one led by Seong-min Eom (NJ) working on development of mortality assumptions and another led by Vincent Tsang (IL) working on policyholder behavior assumptions. Representatives from the SOA, Academy, and industry participate on these drafting group calls and the SOA Individual Annuity Experience Committee is assisting with assumption development. The goal will be to target a draft of the Standard Projection Amount to discuss during Subgroup calls in the Fall.

The Subgroup is also targeting a VM-22 field test to begin in Spring 2023, which will be led jointly by the Academy, ACLI, and NAIC. This timing may result in an effective date of 1/1/2025 (with a three year transition period for implementation), but the timeline will be revisited as progress in the Subgroup continues to develop.

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
July 19, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met July 19, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Mike Yanacheak (IA); Nicole Boyd (KS); William Leung (MO); Bill Carmello and Amanda Fenwick (NY); Mike Boerner, Rachel Hemphill, and Yujie Huang (TX); and Craig Chupp (VA).

1. Reviewed the VM-22 Project Timeline

Mr. Slutsker reviewed the VM-22 project timeline (Attachment Nineteen-A). He said the target effective date is January 2025.

2. Discussed Tier Three Comments in the VM-22 Draft

Mr. Slutsker said the Subgroup will continue to review tier three comments on the proposed VM-22 framework (Attachment Nineteen-B). Ms. Hemphill agreed to defer discussion of the Texas Department of Insurance (TDI) comment on the appropriateness of risk-based capital (RBC) factors, as it is more related to RBC requirements than reserve requirements.

The TDI commented that the use of the term “VM-22 PBR requirements” needs to be clarified. Mr. Slutsker said that the confusion stems from adding the proposed principle-based reserving (PBR) requirements for non-variable annuities to the existing VM-22, Statutory Maximum Valuation Interest Rates for Income Annuities. He said the TDI comment questions whether the proposed PBR requirements should be a new chapter “VM-23.” Mr. Chupp suggested that a Subgroup name change may be necessary if the PBR requirements become “VM-23.” He said it may be easier to change the existing VM-22 to VM-23. Mr. Bayerle said that making the change may be awkward because it may cause a product that passes an exclusion test to jump between chapters. Ms. Lam asked if adding to VM-22 an appendix that specifically houses the rates might avoid the need for a new chapter. Mr. Bayerle asked if adding an appendix to the *Valuation Manual* that houses interest rates for other chapters, including VM-20, Requirements for Principle-Based Reserves for Life Products, might be the best solution. Mr. Slutsker said that the idea sounds viable, but more research is needed.

In response to an American Council of Life Insurers (ACLI) comment requesting more guidance on pre-reinsurance reserves in Section 3, Mr. Slutsker pointed to additional guidance provided in Section 5. Mr. Bayerle agreed to look at Section 5 to see if its guidance answers the ACLI concerns.

Mr. Slutsker agreed with the TDI comment that in Section 3.D.2, the term “scenario reserve” should be replaced with “deterministic reserve” (DR). Mr. Bayerle said that changing the term to DR addresses his concern about the use of the term “deterministic certification option.”

The Subgroup agreed to: 1) change the title of Section 3.E from “Exclusion Test” to “Stochastic Exclusion Test”; 2) delete the guidance note in Section 3.E.1; 3) add Section 3.H for consistency with VM-21, Requirements for Principle-Based Reserves for Variable Annuities; and 4) add a drafting note suggesting that the Life Actuarial (A) Task Force review the consistency of the language requiring periodic review of the prudent estimate assumption to ensure it is consistent across chapters and whether the word “periodically” should be replaced with “every three years.”

Mr. Slutsker said a comment suggested using stochastic mortality in the stochastic reserve calculation for longevity reinsurance. Sheldon Summers (Claire Thinking) said the language in Section 8.C.2 of VM-20 that when a prudent estimate does not appropriately capture the risk, the risk factor should be stochastically modeled to determine the impact. He said that language should be included in Section 4 of the proposed VM-22 framework.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/07 19/7_19 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/07 19/7_19 VM-22 Minutes.docx)

PBR VM-22 Project Draft Timeline

(updated 7/19/22)

EFFECTIVE DATE GOALS	1/1/2025 PBR VM-22 effective with three year transition period												1/1/2028 PBR VM-22 mandatory prospectively											
	DRAFT TIMELINE	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8		
SPA DG - develop assumptions/methodology																								
VM22 SG calls - Address comment letters and edits																								
ESG Field Test #1																								
NAIC National Meeting August 9-13, Portland																								
VM-22 exposure (90 days preferable)																								
SPA Discussions at VM-22 Subgroup																								
NAIC National Meeting December 12 - 15, Tampa FL																								
VM-31 SG meetings to prepare recommendation																								
VM-22 Field Test Final exposure & preparations																								
Discuss comments from Fall VM-22 draft exposure																								
ESG Field Test #2 (timeline estimate)																								
VM-22 and CFP 1 Field Test																								
Compile/analyze Field Test results																								
Discuss field test results on public calls																								
Resolve outstanding items and changes from field test																								
LATF exposure and discussion of comments																								
LATF Adoption																								
A Committee Adoption																								
NAIC Exec & Plenary Adoption																								

Comment Categories:

- Tier 1: Key Decision Points – Discuss first
- Tier 2: High Substance Edits – Discuss second
- Tier 3: Moderate Substance Edits – Discuss third
- Tier 4: Noncontroversial or Low Substance Edits – Will expose and only discuss upon comment

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

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Commented [CD1]: Please clarify which version (i.e., effective date) of the VM was used for the comparison. Before any changes for VM-22 are adopted, a final comparison against the latest version of the VM will need to be performed.

Commented [VM222R1]: Final comparison to be made prior to adoption

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Commented [X3]: Note that part of the 2022 VM updates was to replace all instances of "stochastic reserve" with "SR" other than the initial definition in VM-01.

Commented [VM224R3]: Edit to be reflected in next exposure

Section 1: Background

A. Purpose

Sections 1 through 13 of these requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. Section 14 of these requirements establish the maximum valuation rate for payout annuities for contracts issued on or after 1/1/2018. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts and certificates, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

Guidance Note:
Relationship to RBC Requirements
These requirements anticipate that the projections described herein are used for the determination of RBC for all of the contracts falling within the scope of these requirements. These requirements and the RBC requirements for the topics covered within Sections 4.A through 4.E are identical. However, while the projections described in these requirements are performed on a basis that ignores federal income tax, a company may elect to conduct the projections for calculating the RBC requirements by including projected federal income tax in the cash flows and reducing the discount interest rates used to reflect the effect of federal income tax as described in the RBC requirements. A company that has elected to calculate RBC requirements in this manner may not switch back to using a calculation that ignores the effect of federal income tax without approval from the domiciliary commissioner.

Commented [X5]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

Commented [VM226R5]: Edits to address this comment will be reflected in next exposure

Commented [CD7]: might be clearer to refer to "Section 2.A" here

Commented [VM228R7]: No objections from the Subgroup to an approach that is broader and focuses on Section 2.A. ACU will follow-up with proposed revisions to the scope section

Commented [X9]: The statement only addresses "contracts". Recommend adding "and certificates". Need to do a holistic review if where "and certificates" may be needed.

Commented [VM2210R9]: Edits to address this comment will be reflected in next exposure

Commented [VM2212R11]: Will discuss after ACU proposes specific draft wording

B. Principles

The projection methodology used to calculate the stochastic reserve SR is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve SR is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve SR is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-

Commented [X13]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section I-Introduction" or "VM-0" and equally applying to VM-21.

Commented [VM2214R13]: Discussed with Subgroup. Members are open and interested to a common principles chapter, but decided to hold off on developing for now.

Commented [CD15]: for consistency, will this edit be considered for VM-21 as well?

Commented [VM2216R15]: VM-22 Subgroup will initially focus on VM-22. Consistency with other VM chapters can be explored after development of initial Subgroup recommendation for VM-22.

flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions and reserving categories) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve SR at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Guidance Note: Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the stochastic reserve SR at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve SR, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle. More guidance and requirements for setting assumptions in general are provided in Section 12.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve SR is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model ~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~ can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve SR. Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve SR without also reducing risk on scenarios similar to those used

Commented [X17]: We support this principle but note that later sections appear to contradict this principle. For example, the statement “The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario.” contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Commented [VM2218R17]: Discuss adding “and reserving categories” to the parenthetical statement to avoid contradiction.

Commented [X19]: Principle 2: Recommend reinstating Guidance Note in Principle 2 to be consistent with VM-21.

Commented [VM2220R19]: No objections from Subgroup members to reinstating this guidance note.

Commented [X21]: We suggest deleting the sentence “Generally, assumptions are...” since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Commented [VM2222R21]: Subgroup in favor of retaining language

Commented [X23]: ~~More general assumption guidance~~

Commented [VM2224R23]: Subgroup agreed with this comment. Edits to address this comment will be reflected in next exposure.

Commented [X25]: Principle 5 has the statement “nor a method based on factors calibrated to the results of a cash flow scenario model” which is intended for the Alternative Methodology in VM-21. The statement should be deleted from VM-22.

Commented [VM2226R25]: Edits to address this comment will be reflected in next exposure

Commented [X27]: We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.

Commented [VM2228R27]: Subgroup in favor of retaining language

in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.

C. Risks Reflected and Risks Not Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.

2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Credit risks (e.g., default or rating downgrades).
 - ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
 - iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
 - iv. Performance of equities, real estate, and Schedule BA assets.
 - v. Call risk on callable assets.
 - vi. Separate account fund performance.

 - vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
 - viii. Currency risk.

- b. Liability risks
 - i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
 - ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.

Drafting Note: Feedback welcome on whether to remove reference to separate accounts in VM-22. Whether references to separate accounts are retained or removed, consider making the treatment of such references consistent throughout VM-22.

Commented [X29]: consistent with our comments on 10, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-22 to avoid any confusion.

Commented [VM2230R29]: The Subgroup is open to a common chapter with all risks identified for different PBR frameworks, but decided to hold off on developing for now.

Commented [CD31]: VM-21 has "... and Risks Not Reflected" in this section header, which should be retained here since the section on risks not reflected is still in here.

Commented [VM2232R31]: Subgroup in favor of changing section header, as subsection 3 will be removed, but "risks not reflected" is still applicable to subsection 4

Commented [CD33]: Can a non-variable annuity have a separate account fund? I am not aware of any such annuity, that is not a variable annuity. Furthermore, all references to separate accounts and fund performance were deleted from this draft. Thus, we should consider deleting this item from the list.

Commented [VM2234R33]: Decided to retain for now, but add a drafting note to solicit feedback and mention the draft should be consistent throughout (as CA pointed out that the comment was regarding being internally consistent within the VM-22 draft).

- iii. Utilization risk associated with guaranteed living benefits.
 - iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
 - v. Annuitization risks.
 - vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
 - vii. Applicable expense risks, including fluctuation in maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.
- c. Combination risks
- i. Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above.
 - ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).
 - iii. Risks associated with revenue-sharing income.
- b. The risks not necessarily reflected in the calculation of reserves under these requirements are:
- a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
- 3.4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
- a. Asset risks
 - i. Liquidity risks associated with a sudden and significant levels of withdrawals and surrenders, “run on the bank.”
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks

- Commented [CD35]: Is there a distinction between “dump-ins” and “deposits”? Why are both words needed? Also, if it’s determined that both words are needed, should this same change be made in VM-21?
- Commented [VM2236R35]: Edits to address this comment will be reflected in next exposure
- Commented [X37]: Recommend change to “fluctuation in” maintenance expenses for clarity.
- Commented [VM2238R37]: Edits to address this comment will be reflected in next exposure
- Commented [CD39]: should this same change also be made to VM-21?
- Commented [VM2240R39]: Potential VM-21 will be examined separately from this Subgroup at a later point
- Commented [X41]: We recommend removing the bullet “Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above” as this is unclear and probably extraneous.
- Commented [VM2242R41]: Subgroup in favor of retaining language.
- Commented [X43]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: “a” is unnecessary and “b” is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).
- Commented [VM2244R43]: Subgroup agrees with removing this section.
- Commented [CD45]: Suggest eliminated “policies or”, since customarily, annuities are “contracts”
- Commented [VM2246R45]: Edits to address this comment will be reflected in next exposure
- Commented [CD47]: This is not in VM-21, and my suggestion would be to delete this
- Commented [VM2248R47]: Subgroup agrees with ... [1]
- Commented [X49]: Proposed revision is not appropr ... [2]
- Commented [VM2250R49]: Subgroup agrees with ... [3]
- Commented [CD51]: should this same change also ... [4]
- Commented [VM2252R51]: Edits to address this ... [5]
- Commented [X53]: The revised language “sudden ... [6]
- Commented [VM2254R53]: Subgroup in favor of ... [7]
- Commented [X55]: We recommend deleting the w ... [8]
- Commented [VM2256R55]: Edits to address this ... [9]
- Commented [X57]: We recommend removing the ... [10]
- Commented [VM2258R57]: Subgroup in favor re ... [11]
- Commented [X59]: List could be expanded to incl ... [12]
- Commented [VM2260R59]: Edits to address this ... [13]

- i. Deterioration of reputation.
- ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
- iii. Poor management performance.
- iv. The expense risks associated with fluctuating amounts of new business.
- v. Risks associated with future economic viability of the company.
- vi. Moral hazards.
- vii. Fraud and theft.
- viii. Operational.
- ix. Litigation.

D. [Specific Definitions for VM-22]

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

• **Deferred Income Annuity (DIA)**

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin ~~one year~~ 13 months or later after (or from) the issue date if the contract holder survives to a predetermined future age.

• **Fixed Indexed Annuity (FIA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to a n external index, subject to certain limits, typically with guaranteed principal.

• **Flexible Premium Deferred Annuity (FPDA)**

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

• **Funding Agreement**

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

Commented [X61]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [VM2262R61]: No objections from the Subgroup to an approach that is broader and focuses less on definitions. ACLI will follow-up with proposed revisions to the scope section

Commented [CD63]: The format of this Definitions section is inconsistent with other parts of the VM. In VM-01 and VM-21, each defined term is numbered, and is defined in this format (for example):
1. The term "buffer annuity" is interchangeable with the term "registered index-linked annuity (RILA)", as defined in Section 1.D.?

Commented [VM2264R63]: Edits to address this comment will be reflected in next exposure

Commented [X65]: The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "F... [14]

Commented [VM2266R65]: Edits to address this comment will be reflected in next exposure

Commented [X67]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 ... [15]

Commented [VM2268R67]: Edits to address this comment will be reflected in next exposure

Commented [X69]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [VM2270R69]: Edits to address this comment will be reflected in next exposure

Commented [X71]: Is "typically" intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Commented [VM2272R71]: Edits to address this comment will be reflected in next exposure

Commented [CD73]: insert: "subject to certain limits."

Commented [VM2274R73]: Edits to address this comment will be reflected in next exposure

Commented [X75]: The definition of FIA describes the account value as typically with guaranteed principal. ... [16]

Commented [VM2276R75]: Edits to address this comment will be reflected in next exposure

- Guaranteed Investment Contract (GIC)**
Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.
- Index Credit Hedge Margin**
A margin capturing the risk of inefficiencies in the company’s hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.
- Index Credit**
Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to contract policy values that is linked to an index or indices. Amounts credited to the contract policy resulting from a floor on an index account are included.
- Index Crediting Strategy**
The strategy defined in a contract to determine index credits for a contract. ~~This refers to~~ For example, this may refer to underlying index, index parameters, date, timing, performance triggers, and other elements of the crediting method.
- Index Parameter**
Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.
- Longevity Reinsurance**
An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.
- Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.
- Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular,

Commented [CD77]: should be "contract"

Commented [VM2278R77]: Edits to address this comment will be reflected in next exposure

Commented [CD79]: should be "contract"

Commented [VM2280R79]: Edits to address this comment will be reflected in next exposure

Commented [X81]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

Commented [VM2282R81]: Edits to address this comment will be reflected in next exposure

Commented [X83]: The definition states that agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition". Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in "2.A. Scope" if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing "typically" from the definition.

Commented [VM2284R83]: Academy will follow-up with proposed revisions to the definition of Longevity Reinsurance.

Commented [VM2285]: New Jersey comment letter, due to future premiums, longevity reinsurance may generate negative reserves, which can be used to eliminate or reduce other immediate annuity reserves. Suggest using net premium methodology, solving for a k-factor at issue to solve for $PV(\text{premiums}) = PV(\text{benefits})$.

Commented [VM2286R85]: VM-22 Subgroup has exposed a proposal from NJ to address this issue.

contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

• **Market Value Adjustment (MVA) Annuity**

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

• **Modified Guaranteed Annuity (MGA)**

A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values and death benefits that are based upon a market-value adjustment formula if held for shorter periods.

• **Multiple-Year Guaranteed Annuity (MYGA)**

A type of ~~fixed-non-vari~~ annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.

• **Pension Risk Transfer (PRT) Annuity**

An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).

• **Registered Index-Linked Annuity (RILA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.

• **Single Premium Immediate Annuity (SPIA)**

An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within 13 months one year after (or from) the issuance ~~issue date~~.

• **Single Premium Deferred Annuity (SPDA)**

An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also

Commented [X87]: We recommend editing the definition as follows "A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account..."

Commented [VM2288R87]: Edits to address this comment will be reflected in next exposure

Commented [X89]: To clarify definition of MGA, recommend adding "death benefits"

Commented [VM2290R89]: Edits to address this comment will be reflected in next exposure

Commented [CD91]: should this be "Multi-Year" instead of "Multiple Year"? The former is the more commonly used term for MYGA

Commented [VM2292R91]: Edits to address this comment will be reflected in next exposure

Commented [CD93]: "fixed annuity" is not defined. Is it better to change all instances of "fixed annuity" to "non-variable annuity" to be consistent with the terminology introduced in Section 1.A (and to be aligned with the actual VM-22 chapter name)? An alternative could be to add a definition for "fixed annuity", with the definition of it being a "non-variable annuity"

Commented [VM2294R93]: Subgroup in favor of the term "non-variable annuity" instead of "fixed annuity". Changes are made consistently throughout the VM-22 draft.

Commented [CD95]: ok to keep this as "multiple year"

Commented [VM2296R95]: Edits to address this comment will be reflected in next exposure

Commented [X97]: Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance ... [17]

Commented [VM2298R97]: Academy will review this comment as part of revisiting the longevity reinsurance ... [18]

Commented [X99]: It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product ... [19]

Commented [VM22100R99]: ACLI already following up on a proposal to address the scope and definitions, v ... [20]

Commented [X101]: If need to address Buffer Annuity (not sure this is needed), can add here as a subset of RILA.

Commented [VM22102R101]: Edits to remove "Buffer Annuity" will be reflected in next exposure

Commented [X103]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guide ... [21]

Commented [VM22104R103]: Edits to address this comment will be reflected in next exposure

Commented [X105]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is co ... [22]

Commented [VM22106R105]: Edits to address this comment will be reflected in next exposure

include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.

- **Stable Value Contract**

A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer’s general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.

- **Structured Settlement Contract (SSC)**

A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. ~~Adverse mortality is typically expected for these contracts.~~

Commented [X107]: Suggest striking sentence “Adverse mortality is typically expected for these contracts.” from definition. Additionally, it is possible that there may be non-standard settlements.

Commented [VM22108R107]: Edits to address this comment will be reflected in next exposure

- **Synthetic Guaranteed Investment Contract (Synthetic GIC)**

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the ~~contract policyholder~~ or plan trust.

Commented [CD109]: suggest spelling out GIC first, followed by the acronym

Commented [VM22110R109]: Edits to address this comment will be reflected in next exposure

Commented [CD111]: should be “contract holder”

- **Term Certain Payout Annuity**

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Commented [VM22112R111]: Edits to address this comment will be reflected in next exposure

- **Two-Tiered Annuity**

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

~~The term “cash surrender value” means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.~~

Commented [CD113]: this definition still applies, should we keep it?

Commented [VM22114R113]: Comment retracted in light of “Cash Surrender Value” definition being included in VM-01

~~The term “guaranteed minimum death benefit” (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:~~

~~is increased by an amount that may be either specified by or computed from other policy or contract values; and~~

Commented [CD115]: this definition still applies, should we keep it?

Commented [VM22116R115]: Subgroup recommends moving this definition to VM-01, which is now included at the end of the draft document.

~~has the potential to produce a contractual total amount payable on such death that exceeds the account value, or~~

~~in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.~~

E. Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks.

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this Sections 1 to 13 of VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, [with the exception of contracts or benefits listed below.]

Products out of scope include:

1. ~~Contracts or benefits that are subject to VM 21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)~~
2. ~~GICs~~
3. ~~Synthetic GICs~~
4. ~~Stable Value Contracts~~
5. ~~Funding Agreements~~

Products in scope of VM-22 include non-variable fixed annuities which consist of, but are not limited to, the following list:

- **Account Value Based Annuities**
 1. Deferred Annuities (SPDA & FPDA)
 2. Multi-Year Guarantee Annuities (MYGA)
 3. Fixed Indexed Annuities (FIA)
 4. Market Value Adjustments (MVA)
 5. Two-tiered Annuities
 6. Guarantees/Benefits/Riders on Non-Variable Fixed Annuity Contracts
- **Payout Annuities**
 1. Single Premium Immediate Annuities (SPIA)
 2. Deferred Income Annuities (DIA)
 3. Term Certain Payout Annuities
 4. Pension Risk Transfer Annuities (PRT)
 5. Structured Settlement Contracts (SSC)
 6. Longevity Reinsurance

- Commented [X117]: Add consistent with VM-21 Section I.E, which was added to the 2022 VM. ... [27]
- Commented [VM22118R117]: Edits to address this comment will be reflected in next exposure ... [28]
- Commented [X119]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date. ... [29]
- Commented [VM22120R119]: Edits to address this comment will be reflected in next exposure ... [30]
- Commented [X121]: We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product ... [31]
- Commented [VM22122R121]: ACLI will follow up ... [32]
- Commented [X123]: The reserving categories for ... [33]
- Commented [VM22124R123]: See NY comment ... [34]
- Commented [VM22125R123]: See Equitable con ... [35]
- Commented [VM22126R123]: The VM-22 Subgr ... [36]
- Commented [CD127]: suggest numbering the par ... [37]
- Commented [VM22128R127]: Edits to address t ... [38]
- Commented [CD129]: suggest swapping the orde ... [39]
- Commented [VM22130R129]: Edits to address t ... [40]
- Commented [X131]: Since buffer annuities are a s ... [41]
- Commented [VM22132R131]: Edits to address t ... [42]
- Commented [CD133]: this is not defined in the De ... [43]
- Commented [VM22134R133]: Edits to address t ... [44]
- Commented [X135]: This needs to be revised to b ... [45]
- Commented [VM22136R135]: Edits to address t ... [46]
- Commented [CD137]: should this be "non-variab ... [47]
- Commented [VM22138R137]: Edits to address t ... [48]
- Commented [X139]: Typo. Delete extra "the". ... [49]
- Commented [VM22140R139]: Edits to address t ... [50]
- Commented [CD141]: grammar - delete "the" ... [51]
- Commented [VM22142R141]: Edits to address t ... [52]
- Commented [CD143]: should have space instead of dash ... [53]
- Commented [VM22144R143]: Edits to address t ... [54]
- Commented [CD145]: delete the "s" and add "Annuities" ... [55]
- Commented [VM22146R145]: Edits to address t ... [56]
- Commented [CD147]: should this be "Non-Variab ... [57]
- Commented [VM22148R147]: Edits to address t ... [58]
- Commented [CD149]: for consistency, make plur ... [59]
- Commented [VM22150R149]: Edits to address t ... [60]

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities and RILAs)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

~~The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.~~

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the three-year transition period elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Commented [X151]: We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." from this section as it does not seem fitting here.

Commented [VM22152R151]: Edits to address this comment will be reflected in next exposure

Commented [CD153]: self-referencing "VM-22" is not necessary

Commented [VM22154R153]: Edits to address this comment will be reflected in next exposure

Commented [X155]: Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 interest rate determinations are left in the same chapter as the VM-22 PBR requirements)?

It is normal to then list what requirements such excluded contracts would follow. However, the statement here is more problematic because you can be excluded from the SR but still subject to VM-22.

Commented [VM22156R155]: Edits to address this comment will be reflected in next exposure

Commented [CD157]: again, suggest numbering the paragraphs within this section

Commented [VM22158R157]: Edits to address this comment will be reflected in next exposure

Commented [X159]: We still have a question about whether RBC factors are still at an appropriate level, if principles-based capital is not developed. Were they set assuming that this reserve was at a CTE(70) level in the first place, or were they dependent on the prior framework?

Commented [X160]: Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters ... [49]

Commented [X161]: To be more clear, recommend adding "transition period" to "the three years".

Commented [VM22162R161]: Edits to address this comment will be reflected in next exposure

Commented [X163]: Can a company wait until the end of the transition period to start PBR, but then apply PBR to all issues from during the transition period? This was ... [50]

Commented [VM22164R163]: Discussed with Subgroup and decided to keep the VM-22 language silent on th ... [51]

Commented [CD165]: Will we (or should we) allow for any early adopters (like we did for VM-21)? It would seem reasonable to us to consider accommodating early adopters.

Commented [VM22166R165]: Discussed with Subgroup and decided to not have early adoption before the start of the three year transition period.

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the ~~stochastic reserve~~SR (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) plus the DR for those contracts satisfying the Deterministic Certification Option,~~ less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR ~~stochastic reserves~~SRs, per the requirements in Section 3.E.

B. Impact of Reinsurance ~~Ceded~~

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

~~C. To Be Determined~~The Additional Standard Projection Amount

D. The Stochastic Reserve

~~The stochastic reserve~~

The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.

D. The SR

1. The SR shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section 3.GF herein.
2. The ~~stochastic reserve~~SR amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the ~~scenario reserve~~DR following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts within each Reserving Category as a single model segment when determining the ~~stochastic reserve~~ if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:SR. However, groups of contracts within different Reserving Categories may

Commented [X167]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22168R167]: To address SPA later in the VM-22 development process.

Commented [X169]: One of the most confused parts of the draft was referring to a DR as the SR for certain contracts. Need to handle and refer to separately.

Commented [VM22170R169]: Edits to address this comment will be reflected in next exposure

Commented [X171]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

Commented [X172]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22173R172]: Edits to address this comment will be reflected in next exposure

Commented [CD174]: Should this be Section 3.G?

Commented [VM22175R174]: Edits to address this comment will be reflected in next exposure

Commented [X176]: Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

not be aggregated together in determining the SR. For the purposes of VM-22, Reserving Categories are classified as the following:

- a. The “Payout Annuity Reserving Category” includes the following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits provided by variable annuities:
 - i. Immediate annuity contracts;
 - ii. Deferred income annuity contracts;
 - iii. Structured settlements in payout or deferred status;
 - iv. Fixed income payment streams resulting from the exercise of settlement options or annuitizations of host contracts issued;
 - v. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest);
 - vi. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts, once the contract funds are exhausted;
 - vii. Certificates, emanating from non- variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders fixed income payment streams upon their retirement; and
 - viii. Pension Risk Transfer Annuities; and
 - ix. Longevity Reinsurance.
- b. The “Accumulation Reserving Category” are all annuities within scope of VM-22 under Section II of the NAIC Valuation Manual that are not in the “Payout Reserving Category”.

Drafting Note: Additional feedback is welcome for whether to permit optionality for categorizing guaranteed living benefit contracts with depleted fund value as either in the payout or accumulation reserving category.

Commented [VM22177]: Include in deferred annuities with depleted fund value in payout reserving Category or accumulation reserving category.

Commented [VM22178R177]: The Subgroup has elected to leave these contracts in the payout annuity reserving category, but is adding to a drafting note to welcome feedback.

Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together

- 4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

54.7 To the extent that these limits on the aggregation results results in more than one model segment, the stochastic reserve SR shall equal the sum of the stochastic reserve SR amounts computed for each model segment and scenario reserve DR amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

- 1. To the extent that certain groups of contracts pass one of the defined the stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in and Section 13.

- a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

- 2. The approach for grouping contracts company may not group together contract types with significantly different risk profiles when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above test.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 4.213, with the exception of contract following Section 3.E which are to be calculated on a seriatim basis.

G. Prudent Estimate Assumptions

- 1. With respect to the Stochastic Reserve SR in Section 3.D, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically at least every 3 years review and update the assumptions as appropriate in accordance with these requirements.
- 2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing the review indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary Company shall set a new, adequate, anticipated experience assumption for the factor.

Commented [X179]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exce... [52]

Commented [X180]: Recommend replacing "the s... [53]

Commented [CD181]: suggest expanding header... [54]

Commented [X182]: Seems to imply that only SPI... [55]

Commented [VM22183R182]: Edits to address t... [56]

Commented [CD184]: Suggest rewording to just s... [57]

Commented [VM22185R184]: Edits to address t... [58]

Commented [X186]: Typo. Delete for clarity... [59]

Commented [VM22187R186]: Edits to address t... [59]

Commented [X188]: We believe this guidance not... [60]

Commented [X189]: ... [61]

Commented [VM22190R189]: Subgroup agreed... [62]

Commented [X191]: ... [63]

Commented [VM22192R191]: Subgroup voted t... [64]

Commented [CD193]: for clarity, change this refe... [65]

Commented [VM22194R193]: Edits to address t... [66]

Commented [CD195]: again, suggest rewording t... [67]

Commented [VM22196R195]: Edits to address t... [68]

Commented [X197]: Based on VM-20 language... [69]

Commented [VM22198R197]: Subgroup agreed... [69]

Commented [X199]: Either in this item or in Sect... [70]

Commented [VM22200R199]: Edits to address t... [71]

Commented [X201]: This sub-section seems more... [72]

Commented [VM22202R201]: The Subgroup dec... [73]

Commented [CD203]: VM-21 Section 3.H on... [74]

Commented [CD204]: should this be "Section 3.D"?... [74]

Commented [VM22205R204]: Edits to address t... [75]

Commented [X206]: Recommend to periodically r... [76]

Commented [CD207]: Should this be "the compa... [77]

Commented [VM22208R207]: Edits to address t... [78]

Commented [X209]: Suggest replacing "If the res... [79]

Commented [VM22210R209]: Edits to address t... [80]

Commented [X211]: Recommend replacing "the t... [81]

Commented [VM22212R211]: Edits to address t... [82]

Commented [CD213]: should this be "the compa... [83]

Commented [VM22214R213]: Edits to address t... [84]

3. To determine the prudent estimate assumptions, the stochastic reserve SR shall also follow the requirements in Sections 4 and general assumptions including Section 9 for asset assumptions, Section 10 for contract policy holder behavior assumptions, and Section 11 for mortality assumptions, and Section 12 for general guidance and expense assumptions.

Commented [CD215]: should this be "contract holder"?

Commented [VM22216R215]: Edits to address this comment will be reflected in next exposure

Commented [X217]: Need a new section for the general assumptions, including specifics for the expense assumptions. APF currently exposed for VM-21. We should be consistent with any edits.

Commented [VM22218R217]: Edits to address this comment will be reflected in next exposure

H. Approximations, Simplifications, and Modeling Efficiency Techniques

A company may use simplifications, approximations, and modeling efficiency techniques to calculate the SR and/or the additional standard projection amount required by this section if the company can demonstrate that the use of such techniques does not understate the reserve by a material amount, and the expected value of the reserve calculated using simplifications, approximations, and modeling efficiency techniques is not less than the expected value of the reserve calculated that does not use them.

Guidance Note:

Examples of modeling efficiency techniques include, but are not limited to:

1. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters.
2. Generating a smaller liability or asset model to represent the full seriatim model using grouping compression techniques or other similar simplifications.

There are multiple ways of providing the demonstration required by Section 3.H. The complexity of the demonstration depends upon the simplifications, approximations or modeling efficiency techniques used. Examples include, but are not limited to:

1. Rounding at a transactional level in a direction that is clearly and consistently conservative or is clearly and consistently unbiased with an obviously immaterial impact on the result (e.g., rounding to the nearest dollar) would satisfy 3.H without needing a demonstration. However, rounding to too few significant digits relative to the quantity being rounded, even in an unbiased way, may be material and in that event, the company may need to provide a demonstration that the rounding would not produce a material understatement of the reserve.
2. A brute force demonstration involves calculating the minimum reserve both with and without the simplification, approximation or modeling efficiency technique, and making a direct comparison between the resulting reserve. Regardless of the specific simplification, approximation or modeling efficiency technique used, brute force demonstrations always satisfy the requirements of Section 3.H.
3. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters and providing a detailed demonstration of why it did not understate the reserve by a material amount and the expected value of the reserve would not be less than the expected value of the reserve that would otherwise be calculated. This demonstration may be a theoretical, statistical or mathematical argument establishing, to the satisfaction of the insurance commissioner, general bounds on the potential deviation in the reserve estimate rather than a brute force demonstration.
4. Justify the use of randomly sampling withdrawal ages for each contract instead of

following the exact prescribed WDCM method by demonstrating that the random sampling method is materially equivalent to the exact prescribed approach, and the simplification does not materially reduce the Additional Standard Projection Amount and the final reported reserve. In particular, the company should demonstrate that the statistical variability of the results based on the random sampling approach is immaterial by testing different random sets, e.g., if randomly selecting a withdrawal age for each contract, the probability distribution of the withdrawal age should be stable and not vary significantly when using different random number sets.

Commented [X219]: Specific example should be tailored based on the SPA developed.

Commented [X220]: Added consistent with VM-21 Section 3.H, which was added to the 2022 VM.

Commented [VM22221R220]: Edits to address this comment will be reflected in next exposure

Section 4: Determination of Stochastic Reserve SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Sections 4 and 9.D. The company shall project cash flows including the following:

- a. ~~Revenues~~ Gross premium received by the company including gross premiums received from the ~~policyholder~~ policyholder contract holder (including any due premiums as of the projected start date).

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

- b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).
- c. All material benefits projected to be paid to contract policyholders including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

- a.d. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.II.
- b.e. Insurance company expenses (including overhead and investment maintenance expense), commissions, contractual fees and charges, and revenue sharing income received by the company (net of applicable expenses) other acquisition expenses associated with business inforce as of the valuation date.
- e.f. Net Cash flows associated with any reinsurance.
- d.g. Cash flows from hedging instruments as described in Section 4.A.4.

Commented [NJ222]: Consider including stochastic mortality in the SR for longevity reinsurance

Commented [CD223]: Should this refer to Section 4 and Section 9?

Commented [VM2224R223]: Edits to address this comment will be reflected in next exposure

Commented [CD225]: "contract holder"?

Commented [VM2226R225]: Edits to address this comment will be reflected in next exposure

Commented [X227]: If due premium as of the projected start date is included in the modeling, the final reported reserve should be adjusted by adding the due premium, otherwise there would be a double counting of the due premium asset. This needs to be clarified - see guidance note added below.
Recommend specifying the revenue in this bullet to be gross premium since there are other revenue items that are discussed in other bullets.

Commented [VM2228R227]: Edits to address this comment will be reflected in next exposure

Commented [CD229]: "contract holders"

Commented [VM2230R229]: Edits to address this comment will be reflected in next exposure

Commented [X231]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

Commented [VM2232R231]: Edits to address this comment will be reflected in next exposure

Commented [CD233]: should this be Section 10.I?

Commented [VM2234R233]: Edits to address this comment will be reflected in next exposure

Commented [X235]: Changed investment expense to be maintenance expense so that it does not repeat what is included in bullet h.

Commented [VM2236R235]: Edits to address this comment will be reflected in next exposure

Commented [X237]: Added acquisition expenses.

Commented [VM2238R237]: Edits to address this comment will be reflected in next exposure

Commented [X239]: Take out the revenues that covers the investment expenses and added a separate bullet under bullet "a" for other revenues.

Commented [VM2240R239]: Edits to address this comment will be reflected in next exposure

Commented [CD241]: Both net and gross cash flows have to be considered, so I don't agree with the addition of "Net" here

Commented [VM2242R241]: Edits to address this comment will be reflected in next exposure

e-h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

f.i. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

Commented [X243]: Guidance Note regarding the market value adjustment seems still applies and should not be deleted. We reinstated the guidance note.

2. Grouping of Index Crediting Strategies

Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [X244]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term "investment guideline" as follows: "Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy."

Commented [VM22245R244]: Edits to address this comment will be reflected in next exposure

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy's specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

a. For a company that does not have a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
- ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. ~~The hedge assets may then be considered in one of two ways:~~
 - a) ~~Include the asset cash flows from any contractual payments and maturity values in the projection model; or~~
 - b) ~~No hedge positions in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.~~

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

~~A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.~~

b. For a company that has a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to ~~policyholders~~ contract holders.
 - b) Existing hedging instruments that are currently held by the company for ~~this purpose offsetting the indexed credits~~ in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company ~~not for any other purpose offsetting the indexed credits~~ should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these hedge instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible

Commented [X246]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

Commented [X247]: VM-22 took out the CDHS requirement and replaced it with "future hedging program". Future hedging should not materially reduce reserves or TAR if it is not well documented. The hedging DG is currently working on this for VM-20/VM-21. We will work with VM-22 subgroup to edit VM-22 accordingly.

Commented [X248]: Suggest rewording "Future hedging program" to "hedging program with future transactions" to avoid ambiguity.

Commented [CD249]: The word "future" to describe the "hedging program" here is confusing. What about current hedging programs with expected future hedge purchases? Why not just say "hedging program"? Also, I wanted to note that removing the concept of CDHS creates inconsistency with both VM-20 and VM-21. Why not retain it?

Commented [CD250]: same comment as above, about the word "future" being confusing

Commented [CD251]: "contract holders"

Commented [VM2252R251]: Edits to address this comment will be reflected in next exposure

Commented [X253]: "Any other purpose" in the last sentence seems overly broad and should be narrowed.

Commented [VM2254R253]: Edits to address this comment will be reflected in next exposure

Commented [X255]: Specify "for this purpose" as "for offsetting the indexed credits", specify "for any other purposes" as "not for offsetting the indexed credits".

Commented [VM2256R255]: Edits to address this comment will be reflected in next exposure

Commented [X257]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as possible, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Commented [VM2258R257]: Subgroup agreed to revisit this discussion after field testing.

Commented [CD259]: clarify verbiage by saying "hedge instruments" or "derivative instruments"

Commented [VM2260R259]: Edits to address this comment will be reflected in next exposure

company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.

- ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
 - a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve SR.
 - b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.
 - c) Consistent with Section 4.A.4.b.i., if the company has an indexed credit hedging program, the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c); in both the “best efforts” run and the “adjusted” run.
 - d) The use of products not falling under the scope of these VM-22 PBR Section 1 through 13 requirements (e.g., variable annuities) (e.g., equity indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [X261]: It is not clear how the stress testing can be used to support the index credit hedge margin. It is a test of the modeled strategy not actual performance and does not reflect any model error. We suggest that both back testing and stress testing be required and elaborated further:
Clearly specify method and metrics used for the back testing with focus on all available recent relevant history, not limited to 12 months
Recommend defined stress periods for stress testing, e.g., 2008 financial crisis, 2020 COVID impaired market conditions.

Commented [X262R261]: We will repeat the comment from our first letter: "Regarding hedge breakage expense assumptions, are both sources of error reflected here - error in the hedging itself, and error in the ability to accurately model it? Should we be separately considering the two limitations to make sure they are both clear: 1) the real-world hedging error and 2) the modeling error in reflecting the future hedging? Current error factor discussions seem muddled."

Commented [X263]: Again, need to coordinate with Hedging DG.

Commented [X264]: Margins are discussed in a different section, so recommend deleting.

Commented [X265]: Edits were made to provide context and clarification for the requirements.

Commented [VM22266R265]: Edits to address this comment will be reflected in next exposure

Commented [X267]: Clarify that “these requirements” should be specified as “VM-22 PBR requirements”. Again, we suggest reconsidering the use of “VM-23”, though.

Commented [VM22268R267]: Edits to address this comment will be reflected in next exposure

Commented [CD269]: It might be helpful to keep the parenthetical statement, with “variable annuities” as the example

Commented [VM22270R269]: Edits to address this comment will be reflected in next exposure

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other

fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the following requirements are met:

Commented [X271]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods. Obligations remain at the end of the projection periods. Company can choose to run a shorter projection period but not shorter than 20 years and include the present value of the terminal benefits and expenses in the accumulated deficiency calculation.

Commented [X272]: Clarify that for revenue sharing, the entire subsection of VM-21 Section 4.A.5 applies.

Commented [VM22273R272]: Edits to address this comment will be reflected in next exposure

Commented [CD274]: The "requirements are met" list is only in Section 4.A.5.a. Was the intent also to define the amount of net revenue-sharing income allowed in the projections? If so, will need to add verbiage to reference VM-21 Section 4.A.5.a through 4.A.5.f.

Commented [VM22275R274]: Edits to address this comment will be reflected in next exposure

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

Commented [X276]: We recommend that the projection period requirement be in line with that of VM-20. Instead of meeting the immateriality requirement, calculate the present value of the terminal benefits and expenses and include it in the accumulated deficiency calculation.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [VM22277]: See Bill Wilton's comment letter, expressing opposition to inclusion of pre-tax IMR.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Commented [CD278]: should we consider these changes to VM-21 as well, for consistency?

Commented [VM22279R278]: Edits to address this comment will be reflected in next exposure

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

Commented [X280]: Section does not specify what the "greatest present value" means for contracts without cash surrender value.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

Commented [VM22281R280]: Academy will work on developing a "working reserve" concept for products without cash surrender value, though the issue may be minimized given that payout annuities cannot be aggregated with accumulation annuities.

The scenario reserve for any given scenario shall not be less than the cash surrender value with market value adjustment in aggregate on the valuation date for the group of contracts modeled in the projection.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [X282]: For products that do not have a cash surrender value, it is recommended that VM-22 use a "working reserve" concept, similar to VM-21 Section 3.1.2 requirement. Otherwise, there will be an issue agreement issue with and without CS.

Commented [VM22283R282]: Academy will work on developing a "working reserve" concept for products without cash surrender value, though the issue may be minimized given that payout annuities cannot be aggregated with accumulation annuities.

Commented [X284]: For products with market value adjustment, needs to be floored at cash surrender value with MVA.

Commented [X285]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
 - i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company's investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the

projection period for the scenario. This vector will be the NAER for the given scenario.

- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

Commented [X286]: The wording “unreasonably high” is not clear or appropriate. Recommend this requirement be revised as part of a holistic fix to address extreme outliers in NAER both on the low and high side to handle anomalies for all of VM-20, VM-21, and VM-22. Some upper/lower cutoffs could be used that depend on scenario returns.

Commented [CD287]: “unreasonably high” is not well defined. Also, do we need to consider guardrails in the case of “unreasonably high” positive NAERs, not just negative NAERs?

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the ~~stochastic reserve~~ SR, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:

- i. Any hedge instruments held in support of the contracts being valued; and
- ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).

- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described

above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company's state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company's investment policy, subject to the following requirements:
- i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in ~~the model~~ modeled company investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results

Commented [X288]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22289R288]: Edits to address this comment will be reflected in next exposure

in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.

- b. Notwithstanding the above requirements, the modeled aggregate reserve shall be the higher of that produced by the modeled company investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained produced by substituting an alternative investment strategy in which all the fixed income reinvestment assets are have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:

- i. ~~5%~~ Treasury
- ii. ~~15%~~ 20% PBR credit rating 3 (Aa2/AA)
- iii. ~~40%~~ 80% PBR credit rating 6 (A2/A)
- iv. ~~40%~~ 40% PBR credit rating 9 (Baa/BBB)

- c. Any disinvestment shall be modeled in a manner that is consistent with the company’s investment policy and that reflects the company’s cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above “provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period” is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:

Commented [CD290]: should this be "stochastic reserve", since this is within Section 4: Determination of Stochastic Reserve

Commented [VM22291R290]: Edits to address this comment will be reflected in next exposure

Commented [X292]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22293R292]: Edits to address this comment will be reflected in next exposure

Commented [CD294]: Suggest making this plural ("Treasures") to be consistent with Section 13.B.9

Commented [VM22295R294]: Edits to address this comment will be reflected in next exposure

Commented [X296]: The proposed reinvestment mix comes from a different assumption context in current VM-22, i.e., it is designed to calculate the maximum allowed valuation interest rates, while the reinvestment mix for VM-22 PBR draft is to put a guardrail around the fixed income reinvestment assets. A guardrail is not intended to identify outliers and should not be tied to an average. The biggest concern is with the higher allocation percentage in BBB assets. The valuation manual should build an appropriate level of conservatism in the valuation standards instead of reflecting industry trends. By moving from VM-20 and VM-21 required mix of 50%/50% AA/A to the proposed mix, the gross spreads increased by 20-30 bps for almost all WAL. We do not object to using a lower credit quality guardrail to get rid of any excessive conservatism. We recommend considering and comparing with other alternative allocations, something between the current and the proposed, e.g., 20% AA and 80% A. This will help regulators make informed decisions. In any case, we should be consistent with VM-20 and VM-21. If a change is made, it needs to be for all three.

Commented [VM22297R296]: Varying opinions among the Subgroup. Voted to revisit and determine the guardrail after the field test.

Commented [CD298]: These references should be Section 4.D.3.a.iii and 4.D.3.a.v

Commented [VM22299R298]: Edits to address this comment will be reflected in next exposure

- i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
- ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
- iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
- iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F as noted in 4.a.ii above.

b. Cash flows from general account index funds and general account equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate—including starting and reinvestment assets, shall be reflected in the projection as follows:

- i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
- ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
- iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.

c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.H.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such purchase/payout rates shall reflect the payout rate specified in the contract.
- b. For purposes of projecting future elective annuitization benefits (including annuitizations stemming from the election of a GMIB) and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined

Commented [X300]: Correct an inaccurate VM section reference. The prescribed asset default spreads assumption should be referred to VM-20 Section 9.F. VM-20 Section 7.E and 7.F are requirements for reinvestment assets, disinvestment and cash flows for invested assets. In 7.F, VM-20 just refers to 9.F for defaults.

Commented [VM22301R300]: Edits to address this comment will be reflected in next exposure

Commented [X302]: Request clarification around the meaning of "general account index funds".

Commented [VM22303R302]: Edits to address this comment will be reflected in next exposure

Commented [CD304]: should this reference Section 10.H?

Commented [VM22305R304]: Edits to address this comment will be reflected in next exposure

Commented [CD306]: is there a difference between "purchase rates" and "payout rates"? Both terms are used, so that makes the language unclear. If they are the same, suggest sticking with "purchase rates".

Commented [VM22307R306]: Edits to address this comment will be reflected in next exposure

Commented [X308]: Suggest deleting "In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract." as it appears to be covered by E.1.a.

Commented [VM22309R308]: Edits to address this comment will be reflected in next exposure

Commented [X310]: Reinstate the parenthetical content "(including annuitizations stemming from the election of a GMIB)" since there are GMIB riders attached to fixed annuity products.

Commented [VM22311R310]: Edits to address this comment will be reflected in next exposure

assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. ~~In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.~~

Commented [X312]: Delete sentence since it repeats 4.E.1.a.

Commented [VM22313R312]: Edits to address this comment will be reflected in next exposure

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

- a. For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections ~~may~~ shall assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [X314]: Suggest deleting "may" as there appears to be only option.

Commented [VM22315R314]: Edits to address this comment will be reflected in next exposure

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency ("timestep") is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.

Commented [X316]: Projection Period is already covered in 4.A.6. Should not be in two places with different guidance.

Commented [VM22317R316]: Edits to address this comment will be reflected in next exposure

Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption.~~ It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Commented [X318]: Reinstate the deleted example of "For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption."

Commented [VM22319R318]: Edits to address this comment will be reflected in next exposure

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve SR, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: ~~Reinsurance Ceded and Assumed~~

A. Treatment of Reinsurance ~~Ceded~~ in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded—i.e., the ~~stochastic reserve~~ ~~additional standard projection amount~~, the SR, DR, and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. ~~Note that due allowance for reasonable approximations may be used where appropriate.~~

2.
2. Stochastic Reserve

Reflection of Reinsurance Cash Flows in the DR or SR

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting ~~stochastic reserve~~ SR and DR shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.

i. ~~In this section, reinsurance includes retrocession, and assuming company includes retrocessionaire.~~

ii. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

iii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.

iv. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the ~~stochastic~~ aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the ~~minimum~~ aggregate reserve by the absolute value of such reductions in surplus.

Commented [X320]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

Commented [VM22321R320]: Edits to address this comment will be reflected in next exposure

Commented [X322]: Delete and just have title be "Reinsurance". Should structure be more like VM-20?

Commented [X323R322]: I, II (and III –VM-21 needs edits)

Commented [VM22324R322]: Edits to address this comment will be reflected in next exposure

Commented [CD325]: "and Assumed" is added here, but there is still only a subsection 5.A that addresses reinsurance ceded (at least in the section header).

Commented [VM22326R325]: Edits to address this comment will be reflected in next exposure

Commented [CD327]: need to add "and Assumed" here?

Commented [VM22328R327]: Edits to address this comment will be reflected in next exposure

Commented [X329]: reinstate

Commented [VM22330R329]: Edits to address this comment will be reflected in next exposure

Commented [X331]: Can take out vague approximation references, since now have a general allowance for appropriate approximations.

Commented [VM22332R331]: Edits to address this comment will be reflected in next exposure

Commented [X333]: Consistent with VM-20

Commented [VM22334R333]: Edits to address this comment will be reflected in next exposure

Commented [X335]: VM-20 Section 8.A.1 makes sense here as well.

Commented [VM22336R335]: Edits to address this comment will be reflected in next exposure

Commented [CD337]: should this be "stochastic reserve"?

Commented [VM22338R337]: Edits to address this comment will be reflected in next exposure

Commented [X339]: VM-22 draft so far uses aggregate, not minimum.

Commented [VM22340R339]: Edits to address this comment will be reflected in next exposure

- b. In order to determine the stochastic reserve SR and DR on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve SR and DR shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
 - i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties ~~(does that do not~~ include experience refunds), where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

Commented [X341]: Correct phrasing.

Commented [VM22342R341]: Edits to address this comment will be reflected in next exposure

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company’s experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.
- d. The company shall assume that the counterparties to a reinsurance agreement are knowledgeable about the contingencies involved in the agreement and likely to exercise the terms of the agreement to their respective advantage, taking into account the context of the agreement in the entire economic relationship between the parties. In setting assumptions for the NGE in reinsurance cash flows, the company shall include, but not be limited to, the following:
 - i. The usual and customary practices associated with such agreements.
 - ii. Past practices by the parties concerning the changing of terms, in an economic environment similar to that projected.
 - iii. Any limits placed upon either party’s ability to exercise contractual options in the reinsurance agreement.
 - iv. The ability of the direct-writing company to modify the terms of its policies in response to changes in reinsurance terms.
 - v. Actions that might be taken by a party if the counterparty is in financial difficulty.

Commented [X343]: VM-20 Section 8.C.7 seems particularly applicable. We encourage others to also review VM-20 Section 8 for other sections that should also apply. VM-20 Section 8 is much more developed than VM-21 Section 5 with many more considerations for assumption setting, and we would suggest the VM-22 subgroup consider rewriting starting with VM-20 instead of VM-21.

Commented [VM22344R343]: Subgroup agreed with reflecting this language in the VM-22 draft

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the pre-reinsurance-~~ceded~~ and post-reinsurance-~~ceded~~ reserves may result in different outcomes for the exclusion test. In particular, it is possible that the pre-reinsurance-~~ceded~~ reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the post-reinsurance-~~ceded~~ reserves might not, or vice versa.

4. Additional Standard Projection Amount

Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre-reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.

- Commented [X345]: Both referring to reinsurance ceded. Should be clarified.
- Commented [VM22346R345]: Edits to address this comment will be reflected in next exposure
- Commented [X347]: ~~ceded~~
- Commented [VM22348R347]: Edits to address this comment will be reflected in next exposure
- Commented [X349]: ~~ceded~~
- Commented [VM22350R349]: Edits to address this comment will be reflected in next exposure
- Commented [X351]: Opposite could also be true.
- Commented [VM22352R351]: Edits to address this comment will be reflected in next exposure
- Commented [X353]: The current VM-21 language here looks to work for VM-22 without needing to know the specific assumptions, etc., for the SPA.
- Commented [VM22354R353]: Edits to address this comment will be reflected in next exposure

Section 6: Standard Projection Amount To Be Determined

Commented [VM22355]: NY Comment Letter: Current CARVM standards should be a minimum floor for VM-22 policies, and only the stochastic reserve should permit grouping whereas the minimum floor should be seriatim.

Commented [X356]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22357R356]: Edit to update the title of this section will be reflected in next exposure

Commented [VM22358]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

Commented [NJ359]: Once this is written, the language from 4.A.1.a for longevity reinsurance could be added here as well, i.e. the standard projection would use net premiums based on the k factor approach, using the standard projection prescribed assumptions. Floor on std projection is at the contract level

~~Section 6: To Be Determined~~

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation if the stochastic exclusion test (SET) is satisfied for that each of the group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then for each group of contracts that passes the SET, the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups that group of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve SR requirements if there are one or more future hedging programs associated with supporting the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.
 - d. A company may elect to automatically exclude one or more groups of policies from the stochastic reserve calculation without passing the stochastic exclusion test (SET) if all of the following are met for all contracts in the group or groups:
 - i. All of the contracts are either:
 - Single Premium Immediate Annuities,
 - Term Certain Payout Annuities, or
 - Structured Settlement Contracts;
 - ii. None of the contracts are pension risk transfer annuities (PRT) or are covered under a longevity reinsurance agreement;
 - iii. Future payout benefits are either level or stay within 5% of the initial payout benefit amount over time;
 - iv. There is either no or an immaterial level of policyholder options permitted within the contracts; and
 - v. The average [Macauley duration] of the liabilities of the contracts as measured from the issue date (or premium determination date) is less than [X].

B. Requirement to Pass the Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

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Commented [X360]: Need to modify exclusion testing section to reflect SPA.

Commented [NJ361]: Longevity reinsurance likely to be scoped out of the stochastic reserve unless the stochastic reserve includes consideration of stochastic mortality. If it stays as stochastic interest only, then it probably does make sense that it would meet the exclusion testing. For exclusion testing, the k factor approach should continue to apply, and it should not be combined with other blocks of business

Commented [X362]: Inconsistent groups vs. group references.

Commented [VM22363R362]: Edits to address this comment will be reflected in next exposure

Commented [CD364]: should this be "stochastic reserve", since Section 4 is about determining the stochastic reserve.

Commented [VM22365R364]: Follow Section 4 method of stochastic reserve for Section 3 aggregate reserve if not using the SET

Commented [X366]: Decision is independent for each group the SET is performed on.

Commented [VM22367R366]: Edits to address this comment will be reflected in next exposure

Commented [CD368]: suggest deleting this highlighted part of the sentence

Commented [VM22369R368]: Edits to address this comment will be reflected in next exposure

Commented [CD370]: see earlier comment about the phrase "future hedge program" being confusing.

Commented [X371]: Is "associated with the contracts" the same as the earlier use of "supporting the contracts"? Should the same verbiage be used here? If there is asset hedging for the assets supporting the contracts, it should be included. Need to define "solely supporting" index credits, and also have criteria on the effectiveness/error and documentation of any such hedging that is allowed for excluded business.

Commented [VM22372]: Subgroup voted to permit PRTs below a certain duration to automatically pass the exclusion test, assuming there is limited optionality level/near-level payments, and not PRT or longevity reinsurance. The Academy has agreed to develop a proposed duration threshold

Commented [VM22373]: New language drafted by select Subgroup Members to provide certain conditio... [85]

Commented [CD374]: Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstratio... [86]

Commented [VM22375R374]: Edits to address this comment will be reflected in next exposure

1. Stochastic Exclusion Ratio Test (SERT)—Annually ~~within 12 months before the valuation date~~ ~~within 12 months before the valuation date~~ the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. ~~SET~~ Certification Method—For groups of contracts that do not have guaranteed living benefits, ~~future hedging programs, or pension risk transfer business~~, in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material ~~aggregate risk levels across interest rate risk, mortality and/or longevity risk, or asset return volatility risk~~ (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). ~~The company shall provide the certification and documentation supporting the certification to the commissioner upon request.~~

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary’s conclusion that the group of contracts is not subject to material interest rate risk, mortality and/or longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) ~~A demonstration that, using requirements under VM-A and VM-C for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great as the assets required to support the group of contracts and certificates using the company’s cash-flow testing model under each of the 4648 scenarios identified in this section Section 7.C.1 or alternatively each of the New York seven scenarios-economic scenarios, under each of the three mortality adjustment factors identified in Section 7.C.1.~~
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk, mortality and/or longevity risk, or asset return volatility risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk, mortality and/or longevity risk, or asset return volatility. Such assessment would include an analysis of product guarantees, the company’s non-guaranteed elements (NGEs) policy, assets backing the group of contracts, the company’s longevity risk, and the company’s investment strategy.

C. Stochastic Exclusion Ratio Test

1. ~~In order to exclude a group of contracts from the stochastic reserve SR requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of (b-a)/a is less than the greater of [x]% where~~ and the percentage change that would trigger the company’s materiality standard, where:

- Commented [CD376]: not sure why this part is deleted. Suggest adding it back in.
- Commented [VM22377R376]: Edits to address this comment will be reflected in next exposure
- Commented [X378]: We recommend removing "pension risk transfer business" from products scoped out of SERT certification method. It is unclear why this business ... [87]
- Commented [VM22379R378]: Subgroup voted to ... [88]
- Commented [CD380]: See earlier comments about ... [89]
- Commented [X381]: Needs to be defined.
- Commented [X382]: Needs a comma
- Commented [VM22383R382]: Edits to address t ... [91]
- Commented [CD384]: need comma after "business"
- Commented [VM22385R384]: Edits to address t ... [90]
- Commented [CD386]: what is meant by "aggrega ... [92]
- Commented [VM22387R386]: Edits to address t ... [93]
- Commented [X388]: This is not in VM-20 and wou ... [94]
- Commented [VM22389R388]: Edits to address t ... [95]
- Commented [X390]: This is covered by VM-31
- Commented [VM22391R390]: Edits to address t ... [96]
- Commented [CD392]: note, there is no insertion ... [97]
- Commented [VM22393R392]: Edits to address t ... [98]
- Commented [CD394]: This wording is a little clun ... [99]
- Commented [VM22395R394]: Edits to address ... [100]
- Commented [X396]: Replace all "contracts" with ... [102]
- Commented [VM22397R396]: Edits to address ... [101]
- Commented [X398]: Need mortality stresses if using NY7
- Commented [X399]: Need complete list of risks
- Commented [VM22400R399]: Edits to address ... [103]
- Commented [CD401]: need to insert "longevity risk" here
- Commented [VM22402R401]: Edits to address ... [104]
- Commented [X403]: Need complete list of risks
- Commented [VM22404R403]: Edits to address ... [105]
- Commented [X405]: Need to add a review of the ... [106]
- Commented [VM22406R405]: Edits to address ... [107]
- Commented [X407]: ~~Remove the SERT assu~~ ... [108]
- Commented [VM22408R407]: Consensus to us ... [109]
- Commented [X409]: ~~Remove (a) in the denomina~~ ... [110]
- Commented [VM22410R409]: Consensus to us ... [111]
- Commented [X411]: The variability should be as ... [112]

- a. a = the adjusted scenario reserve described in Paragraph 7.C.2.a below using economic scenario 9- and 100% as the adjustment factor for mortality, the baseline economic scenario, as described in Appendix 1.E of VM-20.
- b. b = the largest adjusted scenario reserve described in Paragraph 7.C.2.b-a below under any of the other 1516 economic scenarios described in Appendix 1.E of VM-20 under both [95]%, 100%, and [105]% of anticipated experience mortality excluding margins. Because mortality variability may differ by company, if the magnitude of the company’s margin for mortality exceeds 5%, then the company shall use the baseline mortality and the mortality augmented by plus and minus the company’s margin for this exercise.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, both of which could lead to an incorrect test result. There are 47 (=16x3-1) combined economic and mortality scenarios that should be compared for the determination of b.

2. In calculating the ratio in subsection (Section 7.C.1) above:

- a. The company shall calculate an adjusted scenario reserve for the group of contracts for each of each of the 16 scenarios economic scenarios using the three levels of mortality adjustment factors that is equal to either (i) or (ii) below:
 - i. The scenario reserve defined in Section 4, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph Section 7.C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.
 - d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
 - e) Shall not reflect correlation between longevity and economic risks.
 - ii. The gross premium reserve developed from the cash flows from the company’s asset adequacy analysis models, using the experience assumptions of the company’s cash-flow analysis, but with the following differences:
 - a) Using the interest rates and equity return assumptions specific to each scenario.

- Commented [X412]: Correcting reference
- Commented [VM22413R412]: Edits to address this comment will be reflected in next exposure
- Commented [CD414]: better to keep the reference to the full Section (i.e., Section 7.C.2.a.i)
- Commented [VM22415R414]: Edits to address this comment will be reflected in next exposure
- Commented [X416]: Correcting reference
- Commented [VM22417R416]: Edits to address this comment will be reflected in next exposure
- Commented [CD418]: better to keep the reference to the full Section (i.e., Section 7.C.2.b)
- Commented [VM22419R418]: Edits to address this comment will be reflected in next exposure
- Commented [X420]: Need to modify in case largest result is just from the mortality stress on the same scenario.
- Commented [VM22421R420]: Edits to address this comment will be reflected in next exposure
- Commented [X422]: Need to modify in case largest result is just from the economic stress on the same mortality level.
- Commented [VM22423R422]: Subgroup agrees with including the 100% mortality scenario.
- Commented [X424]: Need to ensure we have captured a prudent level of mortality variation for any given company in this test.
- Commented [VM22425R424]: Subgroup agrees with including the 100% mortality scenario.
- Commented [X426]: Updating to reflect mortality/economic scenario combinations.
- Commented [VM22427R426]: Subgroup agrees with including the 100% mortality scenario.
- Commented [X428]: For clarity
- Commented [VM22429R428]: Subgroup agrees with including the 100% mortality scenario.
- Commented [X430]: Be consistent with standard VM references
- Commented [VM22431R430]: Edits to address ... [115]
- Commented [CD432]: better to keep the referen ... [114]
- Commented [VM22433R432]: Edits to address ... [113]
- Commented [CD434]: why delete this? seems li ... [117]
- Commented [VM22435R434]: Edits to address ... [116]
- Commented [X436]: Be consistent with standar ... [118]
- Commented [VM22437R436]: Edits to address ... [119]
- Commented [CD438]: better to reference the fu ... [120]
- Commented [VM22439R438]: Edits to address ... [121]

- b) Using the mortality scalars described in ~~Paragraph~~ Section 7.C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company’s cash-flow testing assumptions for default costs and reinvestment earnings.
- b. The company shall use the most current ~~16~~ available baseline economic scenario and the 15 other economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
 - c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
 - d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.
 - e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the stochastic exclusion ratio test ~~under only a pre-reinsurance ceded single basis upon determining the, either pre-reinsurance ceded basis upon determining the prior post-reinsurance reserve ceded aggregate reserve.~~
3. If the ratio calculated in this section is less than [x]% pre-non-proportional reinsurance, but is greater than [x]% post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.
- a. An example of an acceptable demonstration:
 - i. For convenience in notation • SERT = the ratio (b–a)/a defined in Section 7.C.1 above
 - a) The pre-non-proportional reinsurance results are “gross of non-proportional,” with a subscript “gn,” so denoted SERT_{gn}
 - b) The post-non-proportional results are “net of non-proportional,” with subscript “nn,” so denoted SERT_{nn}
 - ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of non-proportional” to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and “net of non-proportional” to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.

Commented [X440]: Be consistent with standard VM references

Commented [VM22441R440]: Edits to address this comment will be reflected in next exposure

Commented [CD442]: better to reference the full Section

Commented [VM22443R442]: Edits to address this comment will be reflected in next exposure

Commented [X444]: No reason for change/inconsistency with other chapters - reject edit.

Commented [VM22445R444]: Edits to address this comment will be reflected in next exposure

Commented [X446]: Clarification is needed around reference to “significantly different risk profiles”.

Commented [VM22447R446]: Subgroup voted to use the “significantly different risk profiles” language for the exclusion test, consistent with VM-20.

Commented [CD448]: to be more specific, say “stochastic exclusion ratio test”

Commented [VM22449R448]: Edits to address this comment will be reflected in next exposure

Commented [X450]: Original did not make sense. Also, the point is that you just need one basis, either pre-reinsurance or post-reinsurance.

Commented [VM22451R450]: Edits to address this comment will be reflected in next exposure

Commented [X452]: We request clarification or definition of the term “non-proportional reinsurance”.

Commented [X453]: Does this make sense for VM-20 as well?

Commented [VM22454R453]: Subgroup to only focus on VM-22 for now

iii. So, if $SERT_{gn} \leq [x]_{t-1}^g$ but $SERT_{nn} > [x]_{t-1}^n$, then compute the largest percent increase in reserve (LPIR) = $(b-a)/a$, both “gross of non-proportional” and “net of non-proportional.”

$$LPIR_{gn} = (b_{gy} - a_{gy}) / b_{gn} - a_{gn} / a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny}) / b_{nn} - a_{nn} / a_{nn}$$

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn} .

If $SERT_{gn} \times LPIR_{nn} / LPIR_{gn} < [x]_{t-1}^g$, then the block of contracts passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 1648 combined economic and mortality scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
- 4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section of Section 7.D.2.a or Section 7.D.2.b and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements using the methodology in this section, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:
 - a. The demonstration shall provide a reasonable assurance that if the stochastic reserve SR was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve SR exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve SR requirements.
 - b. If, as of the end of any calendar year, the company determines the aggregate statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT for those contracts.
 - c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an

Commented [X455]: We believe subscript “gy” should be “gn”.

Commented [VM22456R455]: Edits to address this comment will be reflected in next exposure

Commented [X457]: % missing

Commented [VM22458R457]: Edits to address this comment will be reflected in next exposure

Commented [X459]: Note that LPIR is just the SERT using the VM-22 formulation (b-a)/a.

Commented [VM22460R459]: Edits to address this comment will be reflected in next exposure

Commented [X461]: The first and last terms on the left side of this equation cancel out, so it just ends up with needing to pass the SERT on the net basis again. This worked when (c) was the denominator, but now with (a) in the denominator this adjustment is meaningless. Take out the whole example, or revise the SERT to use benefits in the denominator again. Or some new formulation for SERT.

Commented [VM22462R461]: Updated denominator, addressing this issue

Commented [X463]: In VM-20, it is only prohibited for the clearly sufficiently robust attempts of the demonstration method where failing shows the SR would be greater. The other two options could have been incomplete demonstrations and not necessarily imply the SR would be dominant.

Commented [X464]: Clearer language

Commented [VM22465R464]: Edits to address this comment will be reflected in next exposure

Commented [X466]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

Commented [CD467]: should this, instead, refer to the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C?

Commented [VM22468R467]: Edits to address this comment will be reflected in next exposure

Commented [X469]: Typo is also in VM-20

Commented [VM22470R469]: Will follow-up upon addressing VM-30 disclosure requirements

explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.

- d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with ~~subsection~~Section 7.D.1 above:
- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis.
 - b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.
 - c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis, but using a representative sample of contracts in the ~~stochastic reserve~~SR calculations.
 - d. Demonstrate that any risk characteristics that would otherwise cause the ~~stochastic reserve~~SR calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the ~~contract~~policyholder by contract provision.

Commented [CD471]: should say "Section"

Commented [VM22472R471]: Edits to address this comment will be reflected in next exposure

E. Deterministic Certification Option

- 1. The company ~~has the option to may~~ determine the ~~stochastic reserve~~SR for a group of contracts using a single deterministic economic scenario, subject to the following conditions.
 - a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of ~~policies, contracts and certificates~~. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.
 - b. The company certifies that the group of ~~policies, contracts and certificates~~ is not supported by a reinvestment strategy that contains ~~future hedge purchases~~.
 - c. ~~The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing and the scenario reserve volatility across various company must pass the SERT when considering only the 16 economic scenarios, paired with the 100% mortality scenario.~~

Commented [CD473]: "contract holder"

Commented [VM22474R473]: Edits to address this comment will be reflected in next exposure

Commented [X475]: Need SPA for DR as well as SR

Commented [CD476]: suggest saying "may" instead of "has the option to"

Commented [VM22477R476]: Edits to address this comment will be reflected in next exposure

Commented [CD478]: "contracts"

Commented [VM22479R478]: Edits to address this comment will be reflected in next exposure

Commented [X480]: Clarify if this was the intent to exclude contracts supported by index hedging.

Commented [X481]: This is needed to assure the SR is not needed. Otherwise this section is incomplete and does not support using a DR

Commented [VM22482R481]: Subgroup agrees with including the 100% mortality scenario.

- d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

Commented [X483]: Agree with drafting note. Ed

Commented [VM22484R483]: Subgroup agrees with including the 100% mortality scenario.

- 2. The stochastic reserve SR for the group of contracts under the Deterministic Certification Option is determined as follows:

- a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
- b. The stochastic reserve SR equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Commented [X485]: It may not be appropriate to use scenario 12 to calculate the scenario reserve for SPIA. See this article <https://www.soa.org/sections/financial-reporting/financial-reporting-newsletter/2021/july/fr-2021-07-su/>

“in an increasing interest rate environment for business where policyholder behavior is sensitive to prevailing interest rates, life insurers may face an increase in disintermediation risk (i.e., the risk of having to sell assets, potentially at a loss, to fund policyholder surrender benefits) For example, rising interest rates, particularly sudden jumps (e.g., New York 7 pop-up scenario with an immediate interest rate increase of 3 percent), may lead to higher actual and projected policyholder surrenders as policyholders seek out higher yielding investment opportunities. These increasing cash demands may require fixed income assets to be sold at depressed prices, and resultant projected losses (or lower gains) may result in reserve insufficiencies, necessitating the need for AAT reserves.”

Commented [X486]: Recommend deleting guidance note, as it doesn't provide full or clear scope of what may be excluded, so could be misread to either guarantee option for certain products or exclude the option for other products.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9] Modeling Hedges under a ~~Future~~ Non-Index Credit Hedging Strategy

A. Initial Considerations

- 1] This section applies to modeling of hedges other than situations where the company (a) only hedges index credits. ~~If the company, or (b) clearly separates index credit hedging from other hedging, then only the section only pertains to the other hedging if the index hedging follows.~~ In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
- 2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the ~~stochastic reserve~~SR, determined in accordance with Section 3.D and Section 4.D.
- 3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. ~~Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months.~~ including the hedging strategy, used to implement the investment policy
- 4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
- 5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.]

B. Modeling Approaches

- 1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the ~~stochastic reserve~~SR otherwise calculated.
- 2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

Commented [X487]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [VM22488R487]: Edits to address this comment will be reflected in next exposure

Commented [CD489]: see previous comments about use of the word "future" to describe "hedging strategy"

Commented [X490]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [VM22491R490]: Edits to address this comment will be reflected in next exposure

Commented [X492]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

Commented [VM22493R492]: Edits to address this comment will be reflected in next exposure

Commented [CD494]: is this a typo? should this be "purchases"?

Commented [VM22495R494]: Edits to address this comment will be reflected in next exposure

Commented [X496]: This 6 month exclusion creates unintended optionality for inclusion/exclusion based on whether a hedge strategy is considered "new". Instead, this should be addressed through the Error factor for new programs being temporarily larger.

Commented [VM22497R496]: Edits to address this comment will be reflected in next exposure

Commented [X498]: Reinstate the original sentence which puts the reflection of hedging into the greater context of reflecting the company's investment policy.

Commented [VM22499R498]: Edits to address this comment will be reflected in next exposure

Commented [X500]: Agree that the uncertainty associated with new strategies should be handled via the E factor, not through blanket exclusion.

Commented [VM22501R500]: Edits to address this comment will be reflected in next exposure

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the ~~stochastic reserve~~SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the ~~stochastic reserve~~SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the ~~stochastic reserve~~SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or ~~mode~~ tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

Commented [X502]: Is delta-only hedging common in VM-22 hedging? Could the example be replaced with something more relevant to VM-22 hedging?

C. Calculation of ~~Stochastic Reserve~~SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no ~~future hedging purchases~~strategy, except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the ~~stochastic reserve~~SR is given by:

Commented [X503]: The Hedging DG is currently working on language and we will want to be consistent across VM-20, VM-21, and VM-22.

Commented [CD504]: perhaps better to say “no future hedge purchases...”

Commented [VM22505R504]: Edits to address this comment will be reflected in next exposure

$$\text{Stochastic reserve SR} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of ~~at least the most recent~~ available relevant period of data (but no less than 12 months), to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E , the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.
 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

Commented [X506]: We have been getting weak E factor support, with minimum backtesting due to the current phrasing.

Commented [X507R506]: Recommend adding stress testing language similar to Section 4.A.4.b.i.c) but with edits based on TDI’s comments/suggestions to Section 4.A.4.b.i.c).

Commented [VM22508R506]: Edits to address this comment will be reflected in next exposure

Commented [X509]: Recommend adding reporting requirement to VM-31 to disclose if company has switched between explicit method and implicit method, discuss rationale of the change and the change impact.

Commented [VM22510R509]: Edits to address this comment will be reflected in next exposure

- iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with ~~no less than 6 months of history~~, E should be ~~at least 1.0-50~~. However, E may be lower than ~~1.0-50~~ if ~~some~~ at least 6 months of reliable experience is available and/or if the change in strategy is a minor refinement rather than a substantial material change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Commented [X511]: 6 month restriction should be handled in the error factor. Other language for clarity. Edited guidance note below to be consistent with this.

Commented [VM22512R511]: Edits to create consistency with recently adopted APF 2020-12 will be considered for the next exposure

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy).
- An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).

8. The company shall set the value of E reflecting the extent to which the future hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining the future hedging program. To the extent that documentation outlining the future hedging program is incomplete, the value of E shall be increased. Any increases required to the value of E to reflect that documentation is not available to support that the future hedging program is clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results.

E. Additional Considerations for CTE70 (best efforts)

If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the stochastic reserve SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions

Commented [X513]: Work is being done by the hedging DG. This is a placeholder. Need to reflect how clearly defined and well documented the hedge program is, to be able to rely on the backtesting provided. To the extent that hedge programs are not clearly defined, E should be increased to reflect that the backtesting cannot be relied on as an indicator of future effectiveness.

Commented [X514]: [Redacted] create this disclosure from within a rough responsibility check for regulatory review/information on the modeled hedge and add an [Redacted] prompt further discussion.

Commented [VM22515R514]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

Commented [CD516]: [Redacted] get sure why this section is being deleted. Perhaps references to CDHS could be deleted, but otherwise this section still seems applicable.

Commented [VM22517R516]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity and other in-scope products account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserveSR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserveSR otherwise calculated.

Commented [X518]: Suggest replacing "indexed" with "fixed" since this would apply to all fixed annuities.

Commented [VM22519R518]: Edits to address this comment will be reflected in next exposure

Commented [X520]: Editorial change of "variable fixed indexed annuity" to be "fixed indexed annuity and other in-scope products".

Commented [VM22521R520]: Edits to address this comment will be reflected in next exposure

Commented [X522]: Recommend deleting "including a delta hedging strategy" as it is already covered by "any hedging strategy" and it is not clear if delta hedging strategy is the most common strategy in VM-22 hedging to be used as a general example.

Commented [VM22523R522]: Edits to address this comment will be reflected in next exposure

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the ~~results~~ reserves level. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B and Section 12.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may or may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [X524]: Editorial clarification

Commented [VM22525R524]: Edits to address this comment will be reflected in next exposure

Commented [X526]: Need general assumption setting section, see APF 2021-11.

Commented [VM22527R526]: Edits to address this comment will be reflected in next exposure

Commented [X528]: We would suggest rewording this section to be considerations rather than posed as questions.

Commented [X529]: Editorial clarification

Commented [VM22530R529]: Edits to address this comment will be reflected in next exposure

Commented [X531]: Recommend adding some examples here if this is included.

Commented [VM22532R531]: Edits to address this comment will be reflected in next exposure

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more material behavior assumptions, if relevant to the risks in the product, and thus the approach will not understate the reserve.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, ~~the company qualified actuary to whom responsibility for this group of contracts is assigned~~ shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Account transfers.
- Future deposits.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently (but no less than every 3 years) when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.

Commented [X533]: Clarification

Commented [VM22534R533]: Edits to address this comment will be reflected in next exposure

Commented [X535]: Suggest updating bullet to "Other material behavior assumptions if relevant to the risks in the product."

Commented [VM22536R535]: Edits to address this comment will be reflected in next exposure

Commented [X537]: Sensitivity testing is covered by the submitted APF 2021-11 for VM-21, and we should be consistent. VM-21 is currently lacking on sensitivity testing.

Commented [VM22538R537]: Make edits to be consistent with VM-21 APFs prior to adoption of VM-22

Commented [VM22539R537]: Edits to address this comment will be reflected in next exposure

Commented [CD540]: why assign this specifically to the QA rather than leaving it as the responsibility of "the company", like we do elsewhere in the requirements?

Commented [VM22541R540]: Edits to address this comment will be reflected in next exposure

Commented [X542]: include for completion

Commented [VM22543R542]: Edits to address this comment will be reflected in next exposure

Commented [X544]: Consistent with APF 2021-11.

Commented [VM22545R544]: Edits to address this comment will be reflected in next exposure

- 2. Using data from prior periods.

D. Specific Considerations and Requirements

- 1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date for the benefit utilization.
 - h. Commutation of benefit (from periodic payment to lump sum) or vice versa.
- 2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic ~~asset~~ re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

~~Guidance Note: For some non elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.~~

- 3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

Commented [X546]: Clarification

Commented [VM22547R546]: Edits to address this comment will be reflected in next exposure

Commented [X548]: Clarification

Commented [VM22549R548]: Edits to address this comment will be reflected in next exposure

Commented [CD550]: delete this word

Commented [VM22551R550]: Edits to address this comment will be reflected in next exposure

Commented [X552]: Reviewing, this guidance note does not exist in the 2019, 2020, 2021, or 2022 versions of VM-21. Where is this from? Should this be added to VM-21?

4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, transaction fees or other contract charges.
 - l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.
6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. SR. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.
8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

Commented [X553]: This also applies to VM-21, as there are fixed accounts. Is there any reason not to be consistent?

Commented [VM22554R553]: Only to focus on VM-22 for now

Commented [X555]: This is not a synonym (perhaps transfer fees is a subset of transaction fees) - why would transaction fees apply for VM-21, but only transfer fees for VM-22?

Commented [VM22556R555]: Edits to address this comment will be reflected in next exposure

Commented [X557]: This section states that "contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally." This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states "When advantageous, policyholders will commence living benefit payouts if not started yet.". We suggest revising 6.H.2 to align with the text of 10.D.8.

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not ~~dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder~~ stochastically modeled.
2. ~~The company should exercise care in using static assumptions when it would be more natural and reasonable~~ appropriate to use a dynamic model or other scenario-dependent formulation for behavior. ~~With due regard to considerations of materiality and practicality~~ allowance for appropriate simplifications, approximations and modeling efficiency techniques, the use of dynamic models is encouraged, but not mandatory. ~~Static assumptions~~ Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers), may require higher margins and/or signal a need for higher margins for certain other assumptions.
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [X558]: Recommend replacing “dynamic” with “stochastic.” Risk factors with dynamic assumptions still need margins (although for an assumption that was part fixed and part dynamic, only one piece may have the margin but still the risk factor would have a margin).

Commented [VM22559R558]: Edits to address this comment will be reflected in next exposure

Commented [X560]: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.

Commented [VM22561R560]: Edits to address this comment will be reflected in next exposure

Commented [X562]: Get rid of some of the vague adjectives and be consistent with VM framework for simplifications.

Commented [VM22563R562]: Edits to address this comment will be reflected in next exposure

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~non-variable~~ fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. ~~Declining-, increasing~~ and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. ~~Rapidly changing~~ Volatile interest rates ~~or~~ persistently low interest rates.
 - d. ~~Volatile credit spreads.~~
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:

Commented [CD564]: “non-variable”?

Commented [VM22565R564]: Edits to address this comment will be reflected in next exposure

Commented [X566]: Editorial clarification to cover scenarios for all products/guarantees in scope

Commented [VM22567R566]: Edits to address this comment will be reflected in next exposure

Commented [X568]: Editorial for consistency with (a) above

Commented [VM22569R568]: Edits to address this comment will be reflected in next exposure

Commented [X570]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

Commented [VM22571R570]: Edits to address this comment will be reflected in next exposure

- a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10.A to Section 10.G above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's contract's utilization or to reflect average utilization over a model segment or sub-segments if the results are materially similar.
 - c. Model policy loan interest in a manner consistent with policy contract provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)

- Commented [CD572]: Okay to keep the term "Policy Loans"
- Commented [VM22573R572]: Edits to address this comment will be reflected in next exposure
- Commented [X574]: Clarify reference to be more specific
- Commented [VM22575R574]: Edits to address this comment will be reflected in next exposure
- Commented [X576]: Editorial - VM-22 should consistently use contracts
- Commented [VM22577R576]: Edits to address this comment will be reflected in next exposure
- Commented [CD578]: "contract's"
- Commented [VM22579R578]: Edits to address this comment will be reflected in next exposure
- Commented [X580]: We have concern that reflecting average utilization may have material impact on benefit projections. Recommend adding "if the results are materially similar". This change is also applied to VM-20 and added to VM-21.
- Commented [VM22581R580]: Edits to address this comment will be reflected in next exposure
- Commented [X582]: Editorial - VM-22 should consistently use contracts
- Commented [VM22583R582]: Edits to address this comment will be reflected in next exposure
- Commented [CD584]: "contract"
- Commented [VM22585R584]: Edits to address this comment will be reflected in next exposure

- d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
- e. Model ~~additional~~ policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with negative policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect ~~policy contract~~ costs or values and are not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to ~~non-variable~~ fixed annuities include but are not limited to the following: ~~fixed~~ the credited rates on fixed accounts, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

- 1. Except as noted below in Section ~~10.H.5~~ 10.H.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
- 2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company’s past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
- 3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
- 4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
- 5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the ~~policy’s or~~ contract’s experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude

Commented [CD586]: The wording of "additional" is unclear. Does this mean maintaining a certain level of policy loan utilization throughout the projection (i.e., adding principal as repayments are made), or actually increasing policy loan utilization (i.e., adding more principal) over time? The former would seem more appropriate than the latter.

Commented [VM22587R586]: Edits to address this comment will be reflected in next exposure

Commented [X588]: Clarification

Commented [VM22589R588]: Edits to address this comment will be reflected in next exposure

Commented [CD590]: suggest: "contract holder"

Commented [VM22591R590]: Edits to address this comment will be reflected in next exposure

Commented [X592]: Editorial - VM-22 should consistently use contracts

Commented [VM22593R592]: Edits to address this comment will be reflected in next exposure

Commented [CD594]: suggest: "are not"

Commented [VM22595R594]: Edits to address this comment will be reflected in next exposure

Commented [CD596]: suggest: "non-variable annuities"

Commented [VM22597R596]: Edits to address this comment will be reflected in next exposure

Commented [X598]: Clarity

Commented [VM22599R598]: Edits to address this comment will be reflected in next exposure

Commented [X600]: Correct section reference

Commented [VM22601R600]: Edits to address this comment will be reflected in next exposure

Commented [CD602]: delete "policy's or"

Commented [VM22603R602]: Edits to address this comment will be reflected in next exposure

Commented [X604]: Why does being authorized mean it can be excluded? This seems backwards. Does this mean it has already transpired?

from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

- 6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company’s option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting ~~aggregate stochastic reserve~~SR.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting ~~aggregate stochastic reserve~~SR should be reduced by the amount of the dividend liability.
- 7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Commented [CD605]: delete "aggregate"

Commented [VM22606R605]: Edits to address this comment will be reflected in next exposure

Commented [CD607]: delete "aggregate"

Commented [VM22608R607]: Edits to address this comment will be reflected in next exposure

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the stochastic reserve. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. (Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)

Commented [X609]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

Commented [VM22610R609]: Will address SPA separately

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Commented [X611]: Recommend removing reference to actuarial judgment being "unsupported" from VM-21 and VM-22 because actuarial judgment should always be supportable - it is "judgment" not an arbitrary decision.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are "PRT contracts," it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a ~~plus (minus)~~ mortality (longevity) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a ~~mortality (longevity) plus (minus)~~ segment to a ~~longevity (mortality) minus (plus)~~ segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

Commented [X612]: Recommend deleting this guidance note since it is unnecessary - there is no such restriction for any of VM-20, VM-21 or VM-22. It would be an absurd level of granular distinction, such that it is not clear you could actually perform the projection, given that assumptions vary by attained age, etc.

Commented [VM22613R612]: Edits to address this comment will be reflected in next exposure

Commented [X614]: Terming the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

Commented [VM22615R614]: Edits to address this comment will be reflected in next exposure

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

Commented [X616]: It is unclear how to interpretate the statement and how to review it for both VM-21 and VM-22. If a company reinsures GMWB riders, then does it mean that on a net basis the segment would no longer be considered as minus? So, there would be distinct designations for the pre and post reinsurance runs? Recommend discussing the statement and adding additional language or a guidance note to make it clear.

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

Commented [X617]: Delete period, it is a typo

Commented [VM22618R617]: Edits to address this comment will be reflected in next exposure

3. ~~No~~ Data Requirements

Commented [X619]: Does this need to be edited to be consistent with "little or no" data?

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

[2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table "a"] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F_x
<=65	80.0%
66	81.5%
67	83.0%
68	84.5%
69	86.0%
70	87.5%
71	89.0%
72	90.5%
73	92.0%
74	93.5%
75	95.0%
76	96.5%
77	98.0%
78	99.5%
79	101.0%
80	102.5%
81	104.0%

Commented [X620]: Section 11.B.3.i only has one item "a". There is no need to specifically have a single item "a". Recommend delete the notation "a" and have "Section 11.B.3.i" only.

Commented [VM22621R620]: Will be updated upon SPA assumption development

Commented [X622]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it's not clear in B.3 ii c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Commented [VM22623R622]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X624]: The 1983 Table "a" and 1994 GAR are used for structured settlements and group annuities, respectively. These tables seem to be out of date. If Standard Projected Amount work develops more granular and up to date tables, should these tables be updated to use consistent tables?

Commented [VM22625R624]: Will be updated upon SPA assumption development

Commented [X626]: The percentage factors (F_x) are over 100% from attained age 79 to age 104. Is it appropriate to set the factors above 100% for the older ages with no credibility?

Commented [VM22627R626]: Will be updated upon SPA assumption development

Commented [CD628]: does the F_x factor need any consideration for FIAs with GLBs?

Commented [VM22629R628]: Will be updated upon SPA assumption development

82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	
86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, when little or no experience or information is available on a business segment, an established industry or national mortality table and mortality improvement scale may be used, with approval from the domiciliary commissioner.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by

Commented [X630]: The phrase "When little or no experience or information is available on a business segment" is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

Commented [VM22631R630]: Edits to address this comment will be reflected in next exposure

Commented [X632]: Reference to the MI scale missing for international business

Commented [VM22633R632]: Edits to address this comment will be reflected in next exposure

contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves including margins for uncertainty with the mortality assumption assumptions described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the industry mortality assumption described in Section 11.B.3 ~~table~~ used in the blending.

2. Adjustment of ~~Statutory Valuation~~ Industry Mortality for Improvement

For purposes of the adjustment for credibility, the ~~industry~~ mortality table for a plus segment may be and the ~~industry~~ mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective ~~industry~~ mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.

Commented [X634]: Both plan and industry data should be weighted for business such as PRT. This text says blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.

Commented [VM22635R634]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X636]: Clarification

Commented [VM22637R636]: Edits to address this comment will be reflected in next exposure

Commented [X638]: Editoria

Commented [VM22639R638]: Edits to address this comment will be reflected in next exposure

Commented [X640]: The “statutory valuation” is struck but in the guidance note. Recommend replacing “statutory valuation” with either “reference of Section 11.B.3” or “industry”. Otherwise, it is a vague reference since we have both a company mortality table and an industry mortality table.

Commented [VM22641R640]: Edits to address this comment will be reflected in next exposure

Commented [CD642]: need to reference “the mortality assumption described in Section 11.B.3” here? Otherwise, the sentence is unclear.

Commented [VM22643R642]: Edits to address this comment will be reflected in next exposure

Commented [X644]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

Commented [X645]: “Statutory Valuation” was stricken from all the body, but left in this title. Consider replacing with “industry”.

Commented [VM22646R645]: Edits to address this comment will be reflected in next exposure

Commented [CD647]: for consistency, need to delete this reference to “Statutory Valuation”

Commented [VM22648R647]: Edits to address this comment will be reflected in next exposure

- b. Not tend to bias the results in any material way.
 - c. Be practical to implement.
 - d. Give consideration to the need to balance responsiveness and stability.
 - e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
 - f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting ~~stochastic reserve~~SR. If such an adjustment would reduce the ~~stochastic reserve~~SR, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Other Guidance and Requirements for Assumptions

A. Overview

This section provides guidance and requirements in general for setting prudent estimate assumptions when determining either the SR or DR. It also provides specific guidance and requirements for expense assumptions.

B. General Assumption Requirements

1. The company shall use prudent estimate assumptions for risk factors that are not stochastically modeled by applying margins to the anticipated experience assumptions if such risk factors have been categorized as material risks by following Section 1.B Principle 3 and requirements in Section 12.C.
 2. The company shall establish the prudent estimate assumptions for risk factors in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
 3. The company shall model the following risk factors stochastically unless the company elects the stochastic modeling exclusion defined in Section 7:
 - a. Interest rate movements (i.e., Treasury interest rate curves).
 - b. Equity performance (e.g., Standard & Poor’s 500 index [S&P 500] returns and returns of other equity investments).
 4. If the company elects to stochastically model risk factors in addition to the economic scenarios, the requirements in this section for determining prudent estimate assumptions for these risk factors do not apply.
- Guidance Note:** It is expected that companies will not stochastically model risk factors other than the economic scenarios, such as contract holder behavior or mortality, until VM-22 has more specific guidance and requirements available. Companies shall discuss with domiciliary regulators if they wish to stochastically model other risk factors.
5. The company shall use its own experience, if relevant and credible, to establish an anticipated experience assumption for any risk factor. To the extent that company experience is not available or credible, the company may use industry experience or other data to establish the anticipated experience assumption, making modifications as needed to reflect the circumstances of the company.
 - a. For risk factors (such as mortality) to which statistical credibility theory may be appropriately applied, the company shall establish anticipated experience assumptions for the risk factor by combining relevant company experience with industry experience data, tables or other applicable data in a manner that is consistent with credibility theory and accepted actuarial practice.

Commented [X649]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Commented [VM22650R649]: The VM-22 Subgroup has no objections to waiting until after the field study to determine the allocation approach

Commented [X651]: Need to add a Section 12 for general guidance on prudent assumption setting and on expenses. For VM-21, APF 2021-11 is currently exposed. Should be consistent with that APF, after any tweaks are made. <https://content.naic.org/sites/default/files/inline-images/APF%202021-11%20VM21%20Assumptions%2010012021.pdf>

Commented [VM22652R651]: Subgroup agreed on adding this as a new Section 12

- b. For risk factors (such as utilization of guaranteed living benefits) that do not lend themselves to the use of statistical credibility theory, and for risk factors (such as some of the lapse assumptions) to which statistical credibility theory can be appropriately applied but cannot currently be applied due to lack of industry data, the company shall establish anticipated experience assumptions in a manner that is consistent with accepted actuarial practice and that reflects any available relevant company experience, any available relevant industry experience, or any other experience data that are available and relevant. Such techniques include:
- i. Adopting standard assumptions published by professional, industry or regulatory organizations to the extent they reflect any available relevant company experience or reasonable expectations.
 - ii. Applying factors to relevant industry experience tables or other relevant data to reflect any available relevant company experience and differences in expected experience from that underlying the base tables or data due to differences between the risk characteristics of the company experience and the risk characteristics of the experience underlying the base tables or data.
 - iii. Blending any available relevant company experience with any available relevant industry experience and/or other applicable data using weightings established in a manner that is consistent with accepted actuarial practice and that reflects the risk characteristics of the underlying contracts and/or company practices.
- c. For risk factors that have limited or no experience or other applicable data to draw upon, the assumptions shall be established using sound actuarial judgment and the most relevant data available, if such data exists.
- d. For any assumption that is set in accordance with the requirements of Section 12.B.5.c, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing and disclose the analysis performed to ensure that the assumption is set at the conservative end of the plausible range.
- e. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
6. The company shall sensitivity test risk factors that are not stochastically modeled and examine the impact on the stochastic reserve. The company shall update the sensitivity tests periodically as appropriate. The company may update the tests less frequently, but no less than every 3 years, when the tests show less sensitivity of the stochastic reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company

may perform sensitivity testing:

- a. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- b. Using data from prior periods.

Guidance Note: Sensitivity testing every risk factor on an annual basis is not required. For some risk factors, it may be reasonable, in lieu of sensitivity testing, to employ statistical measures for margins, such as adding one or more standard deviations to the anticipated experience assumption.

7. The company shall vary the prudent estimate assumptions from scenario to scenario within the stochastic reserve calculation in an appropriate manner to reflect the scenario-dependent risks.

C. Assumption Margins

The company shall include margins to provide for adverse deviations and estimation error in the prudent estimate assumption for each risk factor that is not stochastically modeled or prescribed, subject to the following:

1. The level of margin applied to the anticipated experience assumptions may be determined in aggregate or independently as discussed in Section 1.B Principle 3. It is not permissible to set a margin less toward the conservative end of the spectrum to recognize, in whole or in part, implicit or prescribed margins that are present, or are believed to be present, in other risk factors.

Risks that are stochastically modeled (e.g., interest rates, equity returns) or have prescribed margins or guardrails (e.g., assets, revenue sharing) shall be considered material risks. Other risks generally considered to be material include, but are not limited to, mortality, contract holder behavior, maintenance and overhead expenses, inflation and implied volatility. In some cases, the list of material risks may also include acquisition expenses, partial withdrawals, policy loans, annuitizations, account transfers and deposits, and/or option elections that contain an element of anti-selection.

2. The greater the uncertainty in the anticipated experience assumption, the larger the required margin, with the margin added or subtracted as needed to produce a larger Sr or DR than would otherwise result. For example, the company shall use a larger margin when:

- a. The experience data have less relevance or lower credibility.
- b. The experience data are of lower quality, such as incomplete, internally inconsistent or not current.
- c. There is doubt about the reliability of the anticipated experience assumption, such as, but not limited to, recent changes in circumstances or changes in company policies.
- d. There are constraints in the modeling that limit an effective reflection of the risk factor.

Commented [X653]: Edit for VM-22 vs. VM-21?

Commented [VM22654R653]: Will include this language in the next exposure and will solicit any comments

3. In complying with the sensitivity testing requirements in Section 12.B.6 above, greater analysis and more detailed justification are needed to determine the level of uncertainty when establishing margins for risk factors that produce greater sensitivity on the stochastic reserve.
4. A margin is permitted but not required for assumptions that do not represent material risks.
5. A margin should reflect the magnitude of fluctuations in historical experience of the company for the risk factor, as appropriate.
6. The company shall apply the method used to determine the margin consistently on each valuation date but is permitted to change the method from the prior year if the rationale for the change and the impact on the stochastic reserve is disclosed.

D. Expense Assumptions

1. General Prudent Estimate Expense Assumption Requirements

In determining prudent estimate expense assumptions, the company:

- a. May spread certain information technology development costs and other capital expenditures over a reasonable number of years in accordance with accepted statutory accounting principles as defined in the Statements of Statutory Accounting Principles.

Guidance Note: Care should be taken with regard to the potential interaction with the inflation assumption below.

- b. Shall assume that the company is a going concern.
- c. Shall choose an appropriate expense basis that properly aligns the actual expense to the assumption. If values are not significant, they may be aggregated into a different base assumption.

Guidance Note: For example, death benefit expenses should be modeled with an expense assumption that is per death incurred.

- d. Shall reflect the impact of inflation.
- e. Shall not assume future expense improvements.
- f. Shall not include assumptions for federal income taxes (and expenses paid to provide fraternal benefits in lieu of federal income taxes) and foreign income taxes.
- g. Shall use assumptions that are consistent with other related assumptions.
- h. Shall use fully allocated expenses.

Guidance Note: Expense assumptions should reflect the direct costs associated with the block of contracts being modeled, as well as indirect costs and overhead costs that have been allocated to the modeled contracts.

- i. Shall allocate expenses using an allocation method that is consistent across

company lines of business. Such allocation must be determined in a manner that is within the range of actuarial practice and methodology and consistent with applicable ASOPs. Allocations may not be done for the purpose of decreasing the stochastic reserve.

- j. Shall reflect expense efficiencies that are derived and realized from the combination of blocks of business due to a business acquisition or merger in the expense assumption only when any future costs associated with achieving the efficiencies are also recognized.

Guidance Note: For example, the combining of two similar blocks of business on the same administrative system may yield some expense savings on a per unit basis, but any future cost of the system conversion should also be considered in the final assumption. If all costs for the conversion are in the past, then there would be no future expenses to reflect in the valuation.

- k. Shall reflect the direct costs associated with the contracts being modeled, as well as an appropriate portion of indirect costs and overhead (i.e., expense assumptions representing fully allocated expenses should be used), including expenses categorized in the annual statement as “taxes, licenses and fees” (Exhibit 3 of the annual statement) in the expense assumption.

- l. Shall include acquisition expenses associated with business in force as of the valuation date and significant non-recurring expenses expected to be incurred after the valuation date in the expense assumption.

- m. For contracts sold under a new policy form or due to entry into a new product line, the company shall use expense factors that are consistent with the expense factors used to determine anticipated experience assumptions for contracts from an existing block of mature contracts taking into account:

- i. Any differences in the expected long-term expense levels between the block of new contacts and the block of mature contracts.
- ii. That all expenses must be fully allocated as required under Section 12.D.1.h above.

2. Margins for Prudent Estimate Expense Assumptions

The company shall determine margins for expense assumptions following Section 12.C.

Section 13: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The allocation shall be made separately for DR and SR. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

Commented [X655]: This method only makes sense if done separately for the DR and SR.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\Sigma Ai * [Aggregate Reserve - \Sigma Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the ~~stochastic reserve~~ SR defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows, as well as any cash flows that are scenario dependent.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the ~~stochastic reserve~~ SR defined in Section 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Commented [X656]: This method depends on the NAER, so would not work for companies that use direct iteration.

Commented [X657]: This could give an unstable allocation if there is an even mix of products with different risk profiles, so that the tail is populated with some scenarios where Product A does poorly and some where Product B does poorly. The single scenario will only reflect the riskiness of one of the products.

Commented [X658]: Not just the NAER, but the cashflows are also scenario dependent.

Commented [VM22659R658]: Edits to address this comment will be reflected in next exposure

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Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}\{(2)-(1), 0\}$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}\{[(4 \text{ Total}) - (1 \text{ Total}), 0]\}$	Allocated Excess Reserve (6) = (3) x $\{[(5 \text{ Total}) / (3 \text{ Total})]\}$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value
**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Commented [CD662]: should be "Max{(2)-(1), 0}"

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Section ~~13~~14: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, ~~are covered in this section and all contracts not passing the SET covered by Sections 1 through 13 of VM-22, are covered Section 14 of VM-22:~~
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Guidance Note: For Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f and Section ~~13~~14.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f, Section ~~13~~14.A.2.g or Section ~~13~~14.A.2.h, the

Commented [X664]: Under A.2: need to exclude contracts being covered by the earlier sections of VM-22 not passing the exclusion tests and need a clearer reference instead of "covered in this section"

Commented [VM22665R664]: Edits to address this comment will be reflected in next exposure

company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13.14 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.14.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section ~~13~~¹⁴ current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets
 - a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
 - b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 1314.C.1) and its Premium Determination Date (Section 1314.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 1314.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 1314.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 1314.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section ~~13~~14.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section ~~13~~14.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section ~~13~~14.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 4314.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 4314.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 4314.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 4314.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 14.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 14.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
 - i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for

individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section ~~13~~14.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different

dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 14 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 13 of VM-22.

The requirements in this section are still considered a part of PBR requirements and therefore are applicable to VM-G.

The below principles may serve as key considerations for assessing whether VM 21 or VM 22 requirements apply:

- D. Minimum reserve requirements apply:
- E. ~~Index for index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM 22 requirements and are issued on 1/1/2024 and later are those requirements: as found in Sections 1 through 13 of VM-22.:~~
 - 1. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
 - 2.b. Credits a rate of interest under the contract prior to the application of any market value adjustments that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

~~Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM 22 requirements.~~

Minimum reserve requirements.

Commented [X666]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22667R666]: Waylon Peoples comment letter: Extend small company exemption in place for life PBR (VM-20) to VM-22.

Commented [VM22668R666]: The Subgroup voted in favor of a VM-22 PBR Exemption. The ACLI will follow-up with proposed criteria for determining the exemption.

Commented [CD669]: "non-variable annuity"?

Commented [VM22670R669]: Edits to address this comment will be reflected in next exposure

Commented [X671]: "Section 13 of VM-22" may need to be updated if it is decided to have separate chapters for VM-22 VIR and VM-22 PBR.

Commented [VM22672R671]: Edits to address this comment will be reflected in next exposure

Commented [CD673]: "non-variable annuity"?

Commented [VM22674R673]: Edits to address this comment will be reflected in next exposure

Commented [CD675]: Consider adding the sentence: "The minimum reserve requirements of VM-22 are considered PBR requirements for purposes of the Valuation Manual." This is so VM-G will apply to VM-22, which would be appropriate.

Commented [VM22676R675]: Edits to address this comment will be reflected in next exposure

Commented [X677]: "Index-linked" annuity is not defined – only RILA and FIA in VM-22, recommend to revise the language or add a definition to define "index linked".

Commented [X678]: Recommend adding this part to E.1.b and delete the Guidance Note.

Commented [VM22679R678]: Edits to address this comment will be reflected in next exposure

for index

F. ~~2. Index-linked or modified guaranteed annuity contracts or riders that do not satisfy either of the two conditions listed above criteria in Paragraph Section 2.E.1 and Section 2.E.2 above and E.1.ii may be a key consideration for application of VM-21 are issued on 1/1/2024 and later are those requirements as found in VM-21.~~

Commented [X680]: VM-21 specifically says “These requirements do not apply to contracts falling under the scope of VM-A-255: Modified Guaranteed Annuities; however, they do apply to contracts listed above that include one or more subaccounts containing features similar in nature to those contained in modified guaranteed annuities (MGAs) (e.g., market value adjustments).” Is this a contradiction?

Commented [X681]: Consistent with E above.

Commented [VM22682R681]: Edits to address this comment will be reflected in next exposure

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies ~~Designs~~ of policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

Commented [X683]: Still need the word "designs" otherwise this is saying the whole policy/contract was only created to disguise benefits, which would never be true.

Commented [VM22684R683]: Edits to address this comment will be reflected in next exposure

A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.

B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, ~~Nursing Home Benefits~~ or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.

Commented [X685]: This reference is another place where there would be a benefit distinguishing the PBR sections of VM-22 from the non-PBR sections.

Commented [VM22686R685]: Edits to address this comment will be reflected in next exposure

~~C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.~~

~~D.C. Anyany~~ guaranteed minimum benefits on life insurance policies or annuity contracts ~~not subject to Paragraph C above~~ including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

Commented [X687]: These parallel requirements can be combined.

Commented [VM22688R687]: Edits to address this comment will be reflected in next exposure

~~E.D.~~ If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

1. The rider or supplemental benefit does not have a separately identified premium or charge.
2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~F.E.~~ If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is

separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

G.F. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

H.G. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve (for VM-20 and VM-22) or TAR (for VM-21) if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves (for VM-20 and VM-22) or reserves and TAR (for VM-21) using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. When advantageous, policyholders will commence living benefit payouts if not started yet.

Commented [X689]: Simplifications are judged relative to reserves for VM-20/VM-21 and TAR for VM-21.

Commented [VM22690R689]: Edits to address this comment will be reflected in next exposure

Commented [X691]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

VM-01: Definitions for Terms in Requirements

- The term “Guaranteed Minimum Accumulation Benefit” (GMAB) means a guaranteed benefit providing, or resulting in the provision, that an amount payable on the contractually determined maturity date of the benefit will be increased and/or will be at least a minimum amount. Only such guarantees having the potential to produce a contractual total amount payable on benefit maturity that exceeds the account value, or in the case of an annuity providing income payments, an amount payable on benefit maturity other than continuation of any guaranteed income payments, are included in this definition.
- The term “guaranteed minimum death benefit” (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:
 - Increased by an amount that may be either specified by or computed from other policy or contract values; and
 - Contains either
 - The potential to produce a contractual total amount payable on such death that exceeds the account value, or
 - In the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.
- The term “guaranteed minimum income benefit” (GMIB) means an option under which the contractholder has the right to apply a specified minimum amount that could be greater than the amount that would otherwise be available in the absence of such benefit to provide periodic income using a specified purchase basis.

Commented [X692]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22693R692]: The Subgroup voted in favor of a VM-22 PBR Exemption. The ACLI will follow-up with proposed criteria for determining the exemption.

Page 6: [1] Commented [VM2248R47] VM-22 Subgroup 7/13/2022 4:11:00 PM

Subgroup agrees with removing

Page 6: [2] Commented [X49] TDI 11/9/2021 8:56:00 AM

Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly reflected. Recommend deleting the whole section 1.C.3 including item (a) and item (b).

Page 6: [3] Commented [VM2250R49] VM-22 Subgroup 7/13/2022 4:11:00 PM

Subgroup agrees with removing this section.

Page 6: [4] Commented [CD51] CA DOI 12/30/2021 3:10:00 PM

should this same change also be made to VM-21?

Page 6: [5] Commented [VM2252R51] VM-22 Subgroup 6/23/2022 9:01:00 AM

Edits to address this comment will be reflected in next exposure

Page 6: [6] Commented [X53] TDI 11/9/2021 8:59:00 AM

The revised language “sudden and significant levels of withdrawal and surrenders” replaces the original language “run on the bank” and is less clear. Does “significant” mean severe or extreme? Or just appreciably? Withdraws and surrenders certainly may vary by projected economic scenarios. Recommend using the original language “run on the bank” that had a clearer intent.

Page 6: [7] Commented [VM2254R53] VM-22 Subgroup 7/13/2022 4:11:00 PM

Subgroup in favor of retaining VM-21 language of “run on the bank”.

Page 6: [8] Commented [X55] TDI 11/9/2021 9:02:00 AM

We recommend deleting the wording “fundamentally”.

If a breakthrough is known to have fundamentally changed expected future mortality, but is not yet significantly reflected in historical experience, why is it not reflected? Do we know about this fundamental shift for years before it is reflected? This issue also applies to the VM-21 requirement.

Page 6: [9] Commented [VM2256R55] VM-22 Subgroup 6/23/2022 9:02:00 AM

Edits to address this comment will be reflected in next exposure

Page 6: [10] Commented [X57] ACLI

We recommend removing the bullet “Significant future reserve increases as an unfavorable scenario is realized” as this is extraneous.

Page 6: [11] Commented [VM2258R57] VM-22 Subgroup 7/13/2022 4:12:00 PM

Subgroup in favor retaining language to stay consistent with VM-21.

Page 6: [12] Commented [X59] ACLI

List could be expanded to included operational risk and litigation risk.

Page 6: [13] Commented [VM2260R59] VM-22 Subgroup 6/23/2022 9:03:00 AM

Edits to address this comment will be reflected in next exposure

Page 7: [14] Commented [X65] TDI 11/9/2021 9:04:00 AM

The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "Floor". Recommend deleting Buffer Annuity or add descriptions for Buffer Annuity as a subtype in the RILA definition.

Page 7: [15] Commented [X67] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 7: [16] Commented [X75] TDI 11/9/2021 9:07:00 AM

The definition of FIA describes the account value as typically with guaranteed principal. Since FIA always has the guaranteed principal, recommend deleting the wording "typically".

Page 9: [17] Commented [X97] ACLI

Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of "annuity contract" in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.

Page 9: [18] Commented [VM2298R97] VM-22 Subgroup 7/13/2022 4:13:00 PM

Academy will review this comment as part of revisiting the longevity reinsurance definition.

Page 9: [19] Commented [X99] ACLI

It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

Page 9: [20] Commented [VM22100R99] VM-22 Subgroup 6/23/2022 9:12:00 AM

ACLI already following up on a proposal to address the scope and definitions, which will address this issue.

Page 9: [21] Commented [X103] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 9: [22] Commented [X105] TDI 11/9/2021 9:06:00 AM

The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Page 11: [23] Commented [VM22126R123] VM-22 Subgroup 6/23/2022 9:14:00 AM

The VM-22 Subgroup voted to adopted "Option 1" for Reserving Categories

Page 11: [24] Commented [VM22125R123] VM-22 Subgroup 3/2/2022 4:12:00 PM

See Equitable comment letter: supports full aggregation, but if choosing between the two exposed options for two reserving categories, prefers option 2.

Page 11: [25] Commented [VM22124R123] VM-22 Subgroup 3/2/2022 2:59:00 PM

See NY comment letter: supports option 1, with additional category for “other” for any other contract with supporting assets such that there is greater reinvestment and longevity risks, than disintermediation risk and other risks associated with policyholder behavior as of the valuation date.

Page 11: [26] Commented [X123] TDI 11/9/2021 9:23:00 AM

The reserving categories for VM-22 are not included in Scope. Recommend including the defined reserving categories in the section when outlining Scope.

Page 11: [27] Commented [X121] ACLI

We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Page 11: [28] Commented [VM22122R121] VM-22 Subgroup 6/23/2022 9:16:00 AM

ACLI will follow up with a proposed revision to the definitions and scope section

Page 11: [29] Commented [VM22128R127] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [30] Commented [CD127] CA DOI 12/30/2021 3:27:00 PM

suggest numbering the paragraphs within this section

Page 11: [31] Commented [CD129] CA DOI 12/30/2021 3:27:00 PM

suggest swapping the order of this section. That is, start with the "in scope" list, rather than the "out of scope" list.

Also, it seems like there should be specific mentions of GMDBs and GLBs, as there are in VM-21, since those guarantees can also be found on FIAs.

Page 11: [32] Commented [VM22130R129] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [33] Commented [X131] TDI 11/9/2021 9:12:00 AM

Since buffer annuities are a subset of RILA, recommend deleting buffer annuities.

Page 11: [34] Commented [VM22132R131] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [35] Commented [CD133] CA DOI 12/30/2021 3:28:00 PM

this is not defined in the Definition section. should it be?

Page 11: [36] Commented [VM22134R133] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [37] Commented [X135] TDI 11/9/2021 9:17:00 AM

This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" list and adding a cross-reference to VM-21 Section 2.A.

Page 11: [38] Commented [VM22136R135] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [39] Commented [CD137] CA DOI 12/30/2021 3:28:00 PM

should this be "non-variable annuities" since that is term used in Section 1.A?

Page 11: [40] Commented [VM22138R137] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [41] Commented [VM22142R141] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [42] Commented [VM22140R139] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [43] Commented [VM22144R143] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [44] Commented [VM22146R145] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [45] Commented [CD147] CA DOI 12/30/2021 3:31:00 PM

should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined in the Definitions section?

Page 11: [46] Commented [VM22148R147] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [47] Commented [CD149] CA DOI 12/30/2021 3:31:00 PM

for consistency, make plural; i.e., change to "ies"

Page 11: [48] Commented [VM22150R149] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 12: [49] Commented [X160] TDI 11/9/2021 9:33:00 AM

Need to clarify what is meant by “VM-22 PBR Requirements”. Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters. After having reviewed, we think it would be much more clear to reconsider the use of "VM-23" for the PBR requirements to avoid ambiguity around scope/exclusions. The non-PBR sections also just don't seem to fit in this draft, and there is now ambiguity around whether other parts of VM-22 apply to them (scope, effective date, principles, etc.).

Page 12: [50] Commented [X163] TDI 11/9/2021 9:28:00 AM

Can a company wait until the end of the transition period to start PBR, but then apply PBR to the issues from during the transition period? This was unclear for VM-20, and still seems unclear here. Need to be explicit one way or the other.

Page 12: [51] Commented [VM22164R163] VM-22 Subgroup 6/23/2022 9:19:00 AM

Discussed with Subgroup and decided to keep the VM-22 language silent on this issue, similar to VM-20, leaving it to be determined on a case-by-case basis for each state.

Page 15: [52] Commented [X179] ACLI

The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

Page 15: [53] Commented [X180] TDI 11/9/2021 9:48:00 AM

Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

Page 15: [54] Commented [CD181] CA DOI 12/30/2021 3:35:00 PM

suggest expanding header to "Stochastic Exclusion Test", for clarity

Page 15: [55] Commented [X182] ACLI

Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Page 15: [56] Commented [VM22183R182] VM-22 Subgroup 6/23/2022 11:26:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [57] Commented [CD184] CA DOI 12/30/2021 3:36:00 PM

Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ways of passing it. Therefore, the current wording is confusion because it suggests that there are multiple SETs.

Page 15: [58] Commented [VM22185R184] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [59] Commented [VM22187R186] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [60] Commented [X188] ACLI

We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

Page 15: [61] Commented [X189] TDI 11/9/2021 9:57:00 AM

The statement in this section is not acceptable as discussed in the previous TX comment letter. This will have the effect of potentially masking blocks that need PBR.

Page 15: [62] Commented [VM22190R189] VM-22 Subgroup 6/23/2022 9:26:00 AM

Subgroup agreed that wording for exclusion test aggregation should be consistent with VM-20. Edits to address this comment will be reflected in next exposure

Page 15: [63] Commented [X191] ACLI

This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

Page 15: [64] Commented [VM22192R191] VM-22 Subgroup 6/23/2022 9:27:00 AM

Subgroup voted to use wording consistent with VM-20, which prohibits aggregating contracts with significantly different risk profiles.

Page 15: [65] Commented [CD193] CA DOI 12/30/2021 3:42:00 PM

for clarity, change this reference to "Section 3.D"

Page 15: [66] Commented [VM22194R193] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [67] Commented [CD195] CA DOI 12/30/2021 3:41:00 PM

again, suggest rewording this to just say "the stochastic exclusion test"

Page 15: [68] Commented [VM22196R195] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [69] Commented [VM22198R197] VM-22 Subgroup 7/16/2022 9:55:00 PM

Subgroup agreed that wording for exclusion test aggregation should be consistent with VM-20. Edits to address this comment will be reflected in next exposure.

Page 15: [70] Commented [X199] ACLI

Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

Page 15: [71] Commented [VM22200R199] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [72] Commented [X201] ACLI

This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Page 15: [73] Commented [VM22202R201] VM-22 Subgroup 7/16/2022 9:57:00 PM

The Subgroup decided to focus solely on VM-22 for now and hold off exploring on common principles and assumptions sections

Page 15: [74] Commented [CD203] CA DOI 12/30/2021 3:43:00 PM

VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques is missing (including the Guidance Note). Would it make sense to add it?

Page 15: [75] Commented [VM22205R204] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [76] Commented [X206] TDI 11/9/2021 9:59:00 AM

Recommend to periodically review at least every three years.

Page 15: [77] Commented [CD207] CA DOI 12/30/2021 3:45:00 PM

Should this be "the company... shall", rather than the "qualified actuary... shall"? Not sure why this particular task falls on the QA, when "the company" generally has responsibility for PBR and, in the subsection directly before this one, the company is assigned the task of establishing prudent estimate assumptions.

Page 15: [78] Commented [VM22208R207] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [79] Commented [X209] ACLI

Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Page 15: [80] Commented [VM22210R209] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [81] Commented [X211] TDI 11/9/2021 10:01:00 AM

Recommend replacing "the qualified actuary" with "the Company" consistent with general PBR requirements that the company set assumptions.

Page 15: [82] Commented [VM22212R211] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [83] Commented [CD213] CA DOI 12/30/2021 3:48:00 PM

should this be "the company"? See prior comment.

Page 15: [84] Commented [VM22214R213] VM-22 Subgroup 6/23/2022 9:28:00 AM

Edits to address this comment will be reflected in next exposure

Page 34: [85] Commented [VM22373] VM-22 Subgroup 7/5/2022 4:21:00 PM

New language drafted by select Subgroup Members to provide certain conditions under which SPIA contracts could automatically pass the exclusion test

Page 34: [86] Commented [CD374] CA DOI 12/30/2021 4:11:00 PM

Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstration or Certifications). The language gets confusing (here and elsewhere) when you start saying there are different "types" of SETs.

Page 35: [87] Commented [X378] ACLI

We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Page 35: [88] Commented [VM22379R378] VM-22 Subgroup 3/2/2022 2:51:00 PM

Subgroup voted to keep PRT ineligible for the Certification Method

Page 35: [89] Commented [CD380] CA DOI 12/30/2021 4:12:00 PM

See earlier comments about the use of "future"

Page 35: [90] Commented [VM22385R384] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [91] Commented [VM22383R382] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [92] Commented [CD386] CA DOI 12/30/2021 4:14:00 PM

what is meant by "aggregate risk levels"? Aggregated across what? Need clarification on the intentions for adding this phrase, when it is not in VM-20. Otherwise, i would suggest deleting this.

Page 35: [93] Commented [VM22387R386] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [94] Commented [X388] TDI 11/18/2021 9:49:00 PM

This is not in VM-20 and would substantially change the exclusion. The intent is not to allow you to group a block that has material interest rate risk with a larger block that is insensitive to interest rate risks and thereby pass. If "aggregate" referred to potential compounding of interest rate, longevity, or asset risk then this could be redrafted to clearly call out a 4th category of risk due to a combination of the first three. However, I think this is already implicitly covered.

Page 35: [95] Commented [VM22389R388]	VM-22 Subgroup	6/23/2022 10:11:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [96] Commented [VM22391R390]	VM-22 Subgroup	6/23/2022 10:11:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [97] Commented [CD392]	CA DOI 12/30/2021 4:15:00 PM	
note, there is no insertion of "aggregate risk levels across" here, like there was above. (to be clear, i don't support adding it.)		
Page 35: [98] Commented [VM22393R392]	VM-22 Subgroup	6/23/2022 10:11:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [99] Commented [CD394]	CA DOI 12/30/2021 4:16:00 PM	
This wording is a little clunky here. My suggestion: "A demonstration that, for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great..."		
Page 35: [100] Commented [VM22395R394]	VM-22 Subgroup	6/23/2022 10:11:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [101] Commented [VM22397R396]	VM-22 Subgroup	6/23/2022 10:11:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [102] Commented [X396]	TDI 9/7/2021 9:28:00 AM	
Replace all "contracts" with "contracts and certificates"		
Page 35: [103] Commented [VM22400R399]	VM-22 Subgroup	6/23/2022 10:12:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [104] Commented [VM22402R401]	VM-22 Subgroup	6/23/2022 10:12:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [105] Commented [VM22404R403]	VM-22 Subgroup	6/23/2022 1:36:00 PM
Edits to address this comment will be reflected in next exposure		
Page 35: [106] Commented [X405]	TDI 11/18/2021 10:37:00 PM	
Need to add a review of the company's mortality and/or longevity risk.		
Page 35: [107] Commented [VM22406R405]	VM-22 Subgroup	6/23/2022 10:12:00 AM
Edits to address this comment will be reflected in next exposure		
Page 35: [108] Commented [X407]	ACLI	

As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Page 35: [109] Commented [VM22408R407] VM-22 Subgroup 6/23/2022 10:12:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [110] Commented [X409] TDI 11/18/2021 9:53:00 PM

Using (a) in the denominator instead of VM-20's (c) which is a PV of benefits could make this ratio unstable when the scenario reserve (a) is very small. This is particularly applicable if the block being tested does not have CSV.

Page 35: [111] Commented [VM22410R409] VM-22 Subgroup 6/23/2022 10:13:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [112] Commented [X411] TDI 11/18/2021 9:59:00 PM

The variability should be assured to be immaterial based on the company's materiality standard.

Page 36: [113] Commented [VM22433R432] VM-22 Subgroup 6/23/2022 10:15:00 AM

Edits to address this comment will be reflected in next exposure

Page 36: [114] Commented [CD432] CA DOI 12/30/2021 4:18:00 PM

better to keep the reference to the full Section (i.e., Section 7.C.1)

Page 36: [115] Commented [VM22431R430] VM-22 Subgroup 6/23/2022 10:15:00 AM

Edits to address this comment will be reflected in next exposure

Page 36: [116] Commented [VM22435R434] VM-22 Subgroup 6/23/2022 10:15:00 AM

Edits to address this comment will be reflected in next exposure

Page 36: [117] Commented [CD434] CA DOI 12/30/2021 4:20:00 PM

why delete this? seems like it wouldn't hurt to keep this language, for additional clarity

Page 36: [118] Commented [X436] TDI 11/18/2021 10:09:00 PM

Be consistent with standard VM references

Page 36: [119] Commented [VM22437R436] VM-22 Subgroup 6/23/2022 10:15:00 AM

Edits to address this comment will be reflected in next exposure

Page 36: [120] Commented [CD438] CA DOI 12/30/2021 4:20:00 PM

better to reference the full Section (i.e., Section 7.C.1.b)

Page 36: [121] Commented [VM22439R438] VM-22 Subgroup 6/23/2022 10:15:00 AM

Edits to address this comment will be reflected in next exposure

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
July 13, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met July 13, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Vincent Tsang (IL); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Rachel Hemphill and Yujie Huang (TX); Tomasz Serbinowski (UT); and Craig Chupp (VA).

1. Reviewed the Updated VM-22 Subgroup Documents

Mr. Slutsker said the drafting discussion log (Attachment Twenty-A) has been updated to include the decisions from the Subgroup's June 29 meeting.

2. Reviewed Tier Three Comments in the Proposed VM-22 Framework

Mr. Slutsker reviewed the tier three comments on the proposed VM-22 framework (Attachment Twenty-B). He said the American Council of Life Insurers (ACLI) comment on principle #3 suggested deleting the sentence that begins "Generally assumptions are ..." because it does not provide guidance. He said he is inclined to retain the wording because it also appears in VM-21, Requirements for Principle-Based Reserves for Variable Annuities. The ACLI also suggested deleting the sentence beginning "Therefore the use of assumptions ..." in principle #5. Mr. Carmello and Ms. Hemphill recommended retaining the wording for principle #3; Ms. Hemphill and Mr. Reedy recommended retaining the wording in principle #5. The Subgroup agreed to retain both sets of wording.

The California Department of Insurance (DOI) recommended adding "and Risks not Reflected" to the title of Section 1.C to be consistent with VM-21 and to appropriately describe the content of the subsections under the title. The Subgroup agreed to the title change but chose to delete Section 1.C.3 because a portion is unnecessary, and the remainder is redundant. Mr. Chupp noted that a similar change to VM-21 should be considered.

The California DOI recommended removing references to "separate account fund performance" in Section 1.C.2.a and other places because non-variable annuities are not known to have separate accounts. Rhonda Ahrens (Thrivent) asked if modified guaranteed annuities are considered variable or non-variable products. She said she is not aware of any requirement that would prohibit a non-variable product from having a separate account fund. Ms. Lam said the comment was intended to align this section with other sections where references to separate account funds were deleted. Mr. Leung said that if index-linked variable annuities will be covered by VM-22, the references to separate account funds will have to be retained. Mr. Slutsker said that the reference to separate account funds will be retained, but a guidance note soliciting feedback on the matter will be added.

The Texas Department of Insurance (TDI) recommended changing the wording in Section 1.C.4.a to its original wording, "run on the bank," to be consistent with the wording in VM-21.

The ACLI commented that Section 1.C.4.b.iv is extraneous and should be deleted. The Subgroup said that without a clear reason why the language should be removed, the language will be retained to maintain consistency with VM-21.

The Subgroup agreed that the term "fixed annuity" should be replaced by the term "non-variable annuities" throughout the proposed VM-22 framework.

The Subgroup discussed whether registered indexed-linked annuities (RILAs) should be subject to the requirements of VM-22 or VM-21. There was not a clear preference among Subgroup members. The Academy said RILAs should be addressed in VM-21. Mr. Leung said it should be clarified that non-registered indexed-linked annuities, such as fixed indexed annuities, are addressed in the proposed VM-22 framework. The Subgroup agreed to use the term index-linked variable annuities (ILVAs), instead of RILAs, to be consistent with the name of the Index-Linked Variable Annuity (A) Subgroup.

Ms. Lam agreed to retract the California DOI comment asking to retain the definition of cash value because it is defined in VM-01, Definitions. She assented to the deletion of the definition of guaranteed minimum death benefit (GMDB) from the proposed VM-22 framework if the GMDB definition in VM-21 is moved to VM-01.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/07 13/7_13 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/07 13/7_13 VM-22 Minutes.docx)

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
1	VM-22 Scope and Definitions	Keep current definitions for what is in-scope or focus only on non-variable annuities out of scope	4/13/2022	1	Openness to use Section II of the Valuation Manual to determine scope rather than relying on definitions; ACLI to provide potential draft wording
2	Reserving categories and aggregation	Determine Option 1 or Option 2 from exposed reserve category definitions	4/13/2022	1	Preliminary vote to pursue Option 1
3	Small Company Exemption	Fixed Annuity PBR exemption, similar to life PBR exemption for smaller carriers?	4/13/2022	1	Voted to pursue a "Fixed Annuity PBR Exemption"; ACLI to propose a set of potential draft criteria for the exemption
4	Reinvestment Guardrail	Keep VM-20/VM-21 mix, Academy mix, TX mix, or other? Wait until field test for final decision?	4/27/2022	1	Wait until observing impact in field testing results before voting on a reinvestment mix guardrail
5	Principles & Risks Across VM Chapters	Build one section in the Valuation Manual for principles that apply to VM-20, VM-21, and VM-22	4/27/2022	2	Openness to interested party proposals for a common "principles" section, but will focus on working through other VM-22 decisions before exploring
6	General Assumptions Section	Add a section to the VM-22 draft on general considerations and requirements for assumption	4/27/2022	2	Will include a proposed general assumptions section ("Section 1.3") from Texas, to be consistent with a recent APF adoption on VM-21
7	Transition Period	Permit 1) early adoption and 2) retrospective adoption to the start of the 3-year transition period?	4/27/2022	2	Decided to not pursue early adoption; VM-22 will say silent on retrospective adoption to start of transition period, similar to VM-20
8	Minimum Error for Index Credit Hedges	What should be the minimum breakage expense (i.e., error) for modeling hedges supporting index credits?	5/11/2022	2	Will wait until seeing field testing results before minimum threshold
9	Longevity Reinsurance	How should longevity reinsurance be defined and treat negative reserves/recurring premiums?	5/11/2022	2	Academy presented on longevity reinsurance and will provide a refined definition; New Jersey proposal is exposed for reserving requirements
10	Categories for VM-31 Disclosures	What level of granularity should be required for disclosing PBR reserves for product groups in VM-31?	5/11/2022	2	Will wait until seeing field testing results before determining granularity of disclosures
11	Exclusion Test: SPIA contracts	Allow SPIAs to have the option of PBR vs. pre-PBR valuation without an exclusion test?	6/1/2022	2	Voted to allow SPIAs automatically pass exclusion testing, subject to criteria around optionality and a liability duration threshold (TBD)
12	Exclusion Test: PRT Certification Method	Allow PRT contracts to use the Certification Method for exclusion testing?	6/1/2022	2	Do not allow PRT to undergo the Certification Method
13	Exclusion Test: Grouping	Group between products with significantly different risk profiles?	6/1/2022	2	Do not allow grouping between products with significantly different risk profiles, consistent with VM-20 and TDI's proposal
14	Exclusion Test: Future Premiums	For the stochastic exclusion ratio test, determine whether to include future premiums	6/1/2022	2	Include future premiums in the numerator, but only benefits and expenses in the denominator, consistent with VM-20.
15	Exclusion Test: Deterministic Reserve	To pass the deterministic test, does the company need to pass or disclose 16 scenarios with baseline mortality?	6/1/2022	2	Require passing the ratio test for 16 economic scenarios under 100% of the anticipated experience mortality assumption
17	Import Reinsurance Wording from VM-20	Import VM-20 wording on incorporating contractual or additional characteristics for modeling reinsurance?	6/14/2022	2	Include proposed wording from VM-20
18	Fair Value Certification	Include fair value certification, similar to existing VM-21 requirement?	6/14/2022	2	Include fair value certification disclosure for non-index credit hedging programs
16	PRT Mortality	Permit PRT mortality with limited credibility to follow a third-party provider instead of an industry table?	6/14/2022	2	Voted in favor of using a prescribed table; do not permit a third party table upon limited credibility
19	Allocation Method	Determine Option 1 or Option 2? Wait until observing field test results before deciding?	6/29/2022	2	Wait until field test results and further research by ACLI on tax implications prior to revisiting

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
20	Working Reserve	Use a working reserve concept to serve as a floor for contracts without cash surrender value?	6/29/2022	2	Academy will work on a working reserve concept for contracts without cash surrender value, though may be little impact due to reserving categories
21	Grouping for Fund Value Depletion	Appropriate reserving category for deferred annuities with GMWBs/GMIBs that have depleted fund value	6/29/2022	2	Decided to leave these contracts in the "Payout Reserving Category" for now, but will add a drafting note to solicit feedback an optional approach
22	RBC Guidance Note	Retain the guidance note in VM-21 that discusses the relationship between reserves and RBC?	TBD	3	ACLU will provide the full text for the Subgroup to consider
23	Principle 1	Should the edits to Principle 1 for VM-22 be incorporated into VM-21 as well?	TBD	3	For now, will plan to focus only on VM-22, as LATF can explore the other VM chapters upon the Subgroup's recommendation of the VM-22 draft to LATF
24	Principle 2	Does setting an SR to be reasonably conservative over a span of economic cycles contradict other principles?	TBD	3	ACLU will provide the full text for the Subgroup to consider
25	Aggregation Limits	Guidance note stating aggregation may not be possible for experience rated group and reinsurance treaties	TBD	3	Will include this text in the VM-22 draft
26	Principle 3	Delete "Generally, assumptions are to be based on the conservative end of the confidence interval"?	TBD	3	
27	Principle 5	Delete sentence about the principle to not reduce the reserve unless reducing the risk?	TBD	3	
28	Risks not reflected	Retain or remove the list of "Risks not reflected" in VM-22?	TBD	3	
29	Separate Account References	Recommendation to delete all references to "separate accounts" in VM-22	TBD	3	
30	Combination Risks	Proposal to delete "Risks modeled in the company's risk assessment processes that are related to the contracts"	TBD	3	
31	Immaterial Risks	Recommendation to delete sentence about not reflecting risks that do not materially affect the reserves	TBD	3	
32	Significant Future Reserve Increases	Strike this item from the list of risks not reflected?	TBD	3	
33	Fixed Annuity Definition	Need to define a "fixed annuity"?	TBD	3	
34	Longevity Swaps	Are these contracts included in the definition of PRT?	TBD	3	
35	CSV and GMDB definitions	Retain VM-21 definitions for "cash surrender value" and "guaranteed minimum death benefits"?	TBD	3	
36	Assumed reserve level for RBC	Question whether CTE70 was the assumed level for reserves upon determining RBC	TBD	3	
37	VM-23	Consider reinstating "VM-23" to avoid confusion around the where exemptions/exclusions point to vs. PRR?	TBD	3	
38	Pre-Reinsurance	Request to develop further guidance around pre-reinsurance	TBD	3	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
39	Deterministic Reserve	Use this term for the single scenario reserve calculated upon passing the deterministic exclusion test?	TBD	3	
40	Stochastic Exclusion Test	Change Section 3.E to "Stochastic Exclusion Test" header?	TBD	3	
41	Prudent Estimate Assumptions	Move Section 3.G to Section 4 of the document?	TBD	3	
42	Simplifications	Port over VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques?	TBD	3	
43	Review experience every three years?	Make this a requirement for the qualified actuary?	TBD	3	
44	Simplification example for the SPA	Add an example of a simplification for the SPA upon development	TBD	3	
45	Stochastic Mortality	Consider including stochastic mortality in the stochastic reserve for longevity reinsurance?	TBD	3	
46	MVA Guidance Note	Is the market value adjustment guidance note from VM-21 still appropriate for VM-22?	TBD	3	
47	Hedging Reorganization	Move parts of Section 4.A.4 to Section 9, which covers hedging	TBD	3	
48	Future Hedging Programs	Align VM-22 draft to be consistent with APF 2020-12 adopted edits for VM-21?	TBD	3	
49	Index Credit Hedge Margin	Does this reflect both model risk and real-world error? How does stress testing justify the error?	TBD	3	
50	Margin on Hedging Paragraph	Remove this paragraph if included in another section, even upon edits from TDI/OPRR?	TBD	3	
51	Revenue Sharing	Is the section of revenue sharing applicable to non-variable products?	TBD	3	
52	Projection Period	Use consistent language with VM-20?	TBD	3	
53	PIMR	Include pre-tax IMR in VM-22?	TBD	3	
54	MVA on CSV Floor	Apply the market value adjustment factor to the cash surrender value reserve floor for applicable products?	TBD	3	
55	Consistency with Managed Business	Modify NAER requirement to have assets modeled in a manner consistent with how business is managed?	TBD	3	
56	Limits on NAER	Define a specific cap or floor for the NAER instead of saying it should not be "unreasonably high"?	TBD	3	
57	Reserve Floor	NY comment on using CARVM as a reserve floor	TBD	3	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
58	Longevity Reinsurance & SPA	Require the k-factor approach to address negative reserve issue for longevity reinsurance in SPA?	TBD	3	
59	Longevity Reinsurance & Exclusion Testing	Require the k-factor approach or something similar for longevity reinsurance in exclusion testing?	TBD	3	
60	Standard Projection Amount	Equitable comment on supporting SPA with company assumptions insignificant risk factors	TBD	3	
61	Exclusion Testing & SPA	Modify exclusion test to address the standard projection amount?	TBD	3	
62	Hedging eligibility for exclusion testing	Refine wording around the restriction for not allowing blocks with hedging programs to use exclusion testing? If using the NY7 for the Certification Method, add mortality stress scenarios?	TBD	3	
63	Mortality Stress Tests		TBD	3	
64	Mortality Shock	Include the mortality shock for the ratio test based on the company materiality standard if more restrictive?	TBD	3	
65	Baseline Mortality Test	Include the baseline mortality test in determining the exclusion test?	TBD	3	
66	Permutations	Include note on number of exclusion test permutations for clarity?	TBD	3	
67	Non-Proportional Reinsurance	Retain section on non-proportional reinsurance?	TBD	3	
68	SERT if Other Tests Fail	Prohibit passing the SERT if the demonstration test fails?	TBD	3	
69	Demonstration Test	Remove options in 1.a and 2.a?	TBD	3	
70	Deterministic Exclusion for SPA	Consider SPA for the deterministic exclusion test	TBD	3	
71	Deterministic Exclusion Scenario	Consider disintermediation risk for the SPA scenario?	TBD	3	
72	SPIA Guidance Note	Remove guidance note specifying that the deterministic exclusion test generally applies to SPIAs?	TBD	3	
73	Delta Hedging	Replace or remove example about delta hedging for VM-22?	TBD	3	
74	Policyholder Behavior Considerations	Suggestion to re-word as considerations instead of questions?	TBD	3	
75	Non-Elective Benefits	Remove guidance note to limit modeling non-elective benefits after CSV is depleted if reducing reserves?	TBD	3	
76	100% Policyholder Efficiency	Assuming 100% policyholder inefficiency contradicts VM Section II 6.H.2, so revise VM Section II?	TBD	3	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
77	NGE Board of Directors	Comment that only allowing NGE exclusion if approved by the Board does not necessarily seem reasonable	TBD	3	
78	Unsupported Judgement	Comment to remove the reference to using "unsupported actuarial judgement" from Section 11	TBD	3	
79	Mortality and Reinsurance	Does Section 11.A require evaluation of a plus vs. minus segment differently for pre- vs. post reinsurance? Does "little or no data" need to be in the header of Section 11.B.3?	TBD	3	
80	Little or No Data		TBD	3	
81	Improvement with Limited Experience	Consider not only credibility blending the base mortality assumption but also the improvement assumption	TBD	3	
82	Option 1 DR vs SR	Require separate allocation for DR vs. SR for allocation Option 1 (Section 13)?	TBD	3	
83	Option 2 for Direct Iteration Method	Option 2 is not designed to work for the Direct Iteration Method	TBD	3	
84	Option 2 Single Scenario	Could produce unstable allocation when products with different risk profiles are aggregated for PBR	TBD	3	
85	Index-linked annuity	This term is used in the proposed Section II, Subsection 2 draft, but is not defined	TBD	3	
86	Modified Guaranteed Annuities (MGAs)	VM-21 has language that exempts contracts falling under scope of MDL-255, does this contradict Section II edits?	TBD	3	

Comment Categories:

- Tier 1: Key Decision Points – Discuss first
- Tier 2: High Substance Edits – Discuss second
- Tier 3: Moderate Substance Edits – Discuss third
- Tier 4: Noncontroversial or Low Substance Edits – Will expose and only discuss upon comment

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

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Commented [CD1]: Please clarify which version (i.e., effective date) of the VM was used for the comparison. Before any changes for VM-22 are adopted, a final comparison against the latest version of the VM will need to be performed.

Commented [VM222R1]: Final comparison to be made prior to adoption

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Commented [X3]: Note that part of the 2022 VM updates was to replace all instances of "stochastic reserve" with "SR" other than the initial definition in VM-01.

Commented [VM224R3]: Edit to be reflected in next exposure

Section 1: Background

A. Purpose

Sections 1 through 13 of these requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. Section 14 of these requirements establish the maximum valuation rate for payout annuities for contracts issued on or after 1/1/2018. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts and certificates, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

Guidance Note:
Relationship to RBC Requirements
These requirements anticipate that the projections described herein are used for the determination of RBC for all of the contracts falling within the scope of these requirements. These requirements and the RBC requirements for the topics covered within Sections 4.A through 4.E are identical. However, while the projections described in these requirements are performed on a basis that ignores federal income tax, a company may elect to conduct the projections for calculating the RBC requirements by including projected federal income tax in the cash flows and reducing the discount interest rates used to reflect the effect of federal income tax as described in the RBC requirements. A company that has elected to calculate RBC requirements in this manner may not switch back to using a calculation that ignores the effect of federal income tax without approval from the domiciliary commissioner.

Commented [X5]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

Commented [VM226R5]: Edits to address this comment will be reflected in next exposure

Commented [CD7]: might be clearer to refer to "Section 2.A" here

Commented [VM228R7]: No objections from the Subgroup to an approach that is broader and focuses on Section 2.A. ACU will follow-up with proposed revisions to the scope section

Commented [X9]: The statement only addresses "contracts". Recommend adding "and certificates". Need to do a holistic review if where "and certificates" may be needed.

Commented [VM2210R9]: Edits to address this comment will be reflected in next exposure

Commented [VM2212R11]: Will discuss after ACU proposes specific draft wording

B. Principles

The projection methodology used to calculate the stochastic reserve^{SR} is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve^{SR} is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve^{SR} is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-

Commented [X13]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section I-Introduction" or "VM-0" and equally applying to VM-21.

Commented [VM2214R13]: Discussed with Subgroup. Members are open and interested to a common principles chapter, but decided to hold off on developing for now.

Commented [CD15]: for consistency, will this edit be considered for VM-21 as well?

Commented [VM2216R15]: VM-22 Subgroup will initially focus on VM-22. Consistency with other VM chapters can be explored after development of initial Subgroup recommendation for VM-22.

flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions and reserving categories) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve SR at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Guidance Note: Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the stochastic reserve SR at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve SR, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle. More guidance and requirements for setting assumptions in general are provided in Section 12.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve SR is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model ~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~ can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve SR. ~~Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve SR without also reducing risk on scenarios similar to those used~~

Commented [X17]: We support this principle but note that later sections appear to contradict this principle. For example, the statement “The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario.” contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Commented [VM2218R17]: Discuss adding “and reserving categories” to the parenthetical statement to avoid contradiction.

Commented [X19]: Principle 2: Recommend reinstating Guidance Note in Principle 2 to be consistent with VM-21.

Commented [VM2220R19]: No objections from Subgroup members to reinstating this guidance note.

Commented [X21]: We suggest deleting the sentence “Generally, assumptions are...” since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Commented [X22]: ~~Reinstating assumption guidance~~

Commented [VM2223R22]: Subgroup agreed with this comment. Edits to address this comment will be reflected in next exposure.

Commented [X24]: Principle 5 has the statement “nor a method based on factors calibrated to the results of a cash flow scenario model” which is intended for the Alternative Methodology in VM-21. The statement should be deleted from VM-22.

Commented [VM2225R24]: Edits to address this comment will be reflected in next exposure

Commented [X26]: We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.

in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.

2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Credit risks (e.g., default or rating downgrades).
 - ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
 - iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
 - iv. Performance of equities, real estate, and Schedule BA assets.
 - v. Call risk on callable assets.
 - vi. Separate account fund performance.
 - vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
 - viii. Currency risk.
 - b. Liability risks
 - i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
 - ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
 - iii. Utilization risk associated with guaranteed living benefits.
 - iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.

Commented [X27]: Consistent with our comments at [redacted], we would support consistent application of risks [redacted] reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-21, we would suggest maintaining consistency with VM-21 to avoid any confusion.

Commented [VM2228R27]: The Subgroup is open to a common chapter with all risks identified for different PBR frameworks, but decided to hold off on developing for now.

Commented [CD29]: VM-21 has "... and Risks Not Reflected" in this section header, which should be retained here since the section on risks not reflected is still in here.

Commented [CD30]: Can a non-variable annuity have a separate account fund? I am not aware of any such annuity, that is not a variable annuity. Furthermore, all references to separate accounts and fund performance were deleted from this draft. Thus, we should consider deleting this item from the list.

- v. Annuitization risks.
 - vi. Additional premium dump-ins ~~or deposits~~ (high interest rate guarantees in low interest rate environments).
 - vii. Applicable expense risks, including fluctuation ~~in~~ maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.
- c. Combination risks
- i. Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above.
 - ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).
 - iii. Risks associated with revenue-sharing income.
3. The risks not necessarily reflected in the calculation of reserves under these requirements are:
- a. Those not associated with the ~~policies or~~ contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
- a. Asset risks
 - i. Liquidity risks associated with a ~~sudden and significant levels of withdrawals and surrenders; “run on the bank.”~~
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet ~~fundamentally~~ altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks
 - i. Deterioration of reputation.

Commented [CD31]: Is there a distinction between "dump-ins" and "deposits"? Why are both words needed? Also, if it's determined that both words are needed, should this same change be made in VM-21?

Commented [VM2232R31]: Edits to address this comment will be reflected in next exposure

Commented [X33]: Recommend change to "fluctuation in" maintenance expenses for clarity.

Commented [VM2234R33]: Edits to address this comment will be reflected in next exposure

Commented [CD35]: should this same change also be made to VM-21?

Commented [VM2236R35]: Potential VM-21 will be examined separately from this Subgroup at a later point

Commented [X37]: We recommend removing the bullet "Risks modeled in the company's risk assessment processes that are related to the contracts, as described above" as this is unclear and probably extraneous.

Commented [X38]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

Commented [CD39]: Suggest eliminated "policies or", since customarily, annuities are "contracts"

Commented [VM2240R39]: Edits to address this comment will be reflected in next exposure

Commented [CD41]: This is not in VM-21, and my suggestion would be to delete this

Commented [X42]: Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly ... [1]

Commented [CD43]: should this same change also be made to VM-21?

Commented [VM2244R43]: Edits to address this comment will be reflected in next exposure

Commented [X45]: The revised language "sudden and significant levels of withdrawal and surrenders" replac ... [2]

Commented [X46]: We recommend deleting the wording "fundamentally" ... [3]

Commented [VM2247R46]: Edits to address this comment will be reflected in next exposure

Commented [X48]: We recommend removing the bullet "Significant future reserve increases as an unfavorable ... [4]

Commented [X49]: List could be expanded to include operational risk and litigation risk.

Commented [VM2250R49]: Edits to address this comment will be reflected in next exposure

- ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
- iii. Poor management performance.
- iv. The expense risks associated with fluctuating amounts of new business.
- v. Risks associated with future economic viability of the company.
- vi. Moral hazards.
- vii. Fraud and theft.
- viii. Operational.
- ix. Litigation.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

- **Deferred Income Annuity (DIA)**
An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin ~~one year~~ 13 months or later ~~after (or from)~~ the issue date if the contract holder survives to a predetermined future age.
- **Fixed Indexed Annuity (FIA)**
An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, ~~subject to certain limits,~~ typically with guaranteed principal.
- **Flexible Premium Deferred Annuity (FPDA)**
An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.
- **Funding Agreement**
A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.
- **Guaranteed Investment Contract (GIC)**

Commented [X51]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [VM2252R51]: No objections from the Subgroup to an approach that is broader and focuses less on definitions. ACLI will follow-up with proposed revisions to the scope section

Commented [CD53]: The format of this Definitions section is inconsistent with other parts of the VM. In VM-01 and VM-21, each defined term is numbered, and is defined in this format (for example):
1. The term "buffer annuity" is interchangeable with the term "registered index-linked annuity (RILA)", as defined in Section 1.D.?

Commented [VM2254R53]: Edits to address this comment will be reflected in next exposure

Commented [X55]: The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "F... [5]

Commented [VM2256R55]: Edits to address this comment will be reflected in next exposure

Commented [X57]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 c... [6]

Commented [VM2258R57]: Edits to address this comment will be reflected in next exposure

Commented [X59]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [VM2260R59]: Edits to address this comment will be reflected in next exposure

Commented [X61]: Is "typically" intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Commented [VM2262R61]: Edits to address this comment will be reflected in next exposure

Commented [CD63]: insert: "subject to certain limits,"

Commented [VM2264R63]: Edits to address this comment will be reflected in next exposure

Commented [X65]: The definition of FIA describes the account value as typically with guaranteed principal. ... [7]

Commented [VM2266R65]: Edits to address this comment will be reflected in next exposure

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

- **Index Credit Hedge Margin**

A margin capturing the risk of inefficiencies in the company’s hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

- **Index Credit**

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to contract/policy values that is linked to an index or indices. Amounts credited to the contract/policy resulting from a floor on an index account are included.

Commented [CD67]: should be "contract"

Commented [VM2268R67]: Edits to address this comment will be reflected in next exposure

Commented [CD69]: should be "contract"

Commented [VM2270R69]: Edits to address this comment will be reflected in next exposure

- **Index Crediting Strategy**

The strategy defined in a contract to determine index credits for a contract. ~~This refers to~~ For example, this may refer to underlying index, index parameters, date, timing, performance triggers, and other elements of the crediting method.

- **Index Parameter**

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Commented [X71]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

Commented [VM2272R71]: Edits to address this comment will be reflected in next exposure

- **Longevity Reinsurance**

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Commented [X73]: The definition states that "agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition". Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in "2.A Scope" if that is the case. Clarification would also be helpful on what guidance should be used for the agreements if out of scope for VM-22. Further, we would suggest removing "typically" from the definition.

Commented [VM2274R73]: Academy will follow-up with proposed revisions to the definition of Longevity Reinsurance.

- Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Commented [VM2275]: New Jersey comment letter: due to future premiums, longevity reinsurance may generate negative reserves, which can be used to eliminate or reduce other immediate annuity reserves. Suggest using net premium methodology, solving for a k-factor at issue to solve for $PV(\text{premiums}) = PV(\text{benefits})$.

- Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of

Commented [VM2276R75]: VM-22 Subgroup has exposed a proposal from NJ to address this issue.

a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

- **Market Value Adjustment (MVA) Annuity**

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

- **Modified Guaranteed Annuity (MGA)**

A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values and death benefits that are based upon a market-value adjustment formula if held for shorter periods.

- **Multiple-Year Guaranteed Annuity (MYGA)**

A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.

- **Pension Risk Transfer (PRT) Annuity**

An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).

- **Registered Index-Linked Annuity (RILA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.

- **Single Premium Immediate Annuity (SPIA)**

An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within 13 months ~~one year after (or from)~~ the ~~issued~~ issue date.

- **Single Premium Deferred Annuity (SPDA)**

An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.

Commented [X77]: We recommend editing the definition as follows "A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account..."

Commented [VM2278R77]: Edits to address this comment will be reflected in next exposure

Commented [X79]: To clarify definition of MGA, recommend adding "death benefits".

Commented [VM2280R79]: Edits to address this comment will be reflected in next exposure

Commented [CD81]: should this be "Multi-Year" instead of "Multiple Year"? The former is the more commonly used term for MYGA

Commented [VM2282R81]: Edits to address this comment will be reflected in next exposure

Commented [CD83]: "fixed annuity" is not defined. Is it better to change all instances of "fixed annuity" to "non-variable annuity" to be consistent with the terminology introduced in Section 1.A (and to be aligned with the actual VM-22 chapter name)? An alternative could be to add a definition for "fixed annuity", with the definition of it being a "non-variable annuity"

Commented [CD84]: ok to keep this as "multiple year"

Commented [VM2285R84]: Edits to address this comment will be reflected in next exposure

Commented [X86]: Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of "annuity contract" in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.

Commented [X87]: It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product... [8]

Commented [VM2288R87]: ACLI already following up on a proposal to address the scope and definitions, w... [9]

Commented [X89]: If need to address Buffer Annuity (not sure this is needed), can add here as a subset of RILA.

Commented [VM2290R89]: Edits to remove "Buffer Annuity" will be reflected in next exposure

Commented [X91]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guide... [10]

Commented [VM2292R91]: Edits to address this comment will be reflected in next exposure

Commented [X93]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is co... [11]

Commented [VM2294R93]: Edits to address this comment will be reflected in next exposure

• **Stable Value Contract**

A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer’s general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.

• **Structured Settlement Contract (SSC)**

A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. ~~Adverse mortality is typically expected for these contracts.~~

Commented [X95]: Suggest striking sentence “Adverse mortality is typically expected for these contracts.” from definition. Additionally, it is possible that there may be non-standard settlements.

Commented [VM2296R95]: Edits to address this comment will be reflected in next exposure

• **Synthetic Guaranteed Investment Contract (Synthetic GIC)**

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the ~~contract policyholder~~ or plan trust.

Commented [CD97]: suggest spelling out GIC first, followed by the acronym

Commented [VM2298R97]: Edits to address this comment will be reflected in next exposure

Commented [CD99]: should be “contract holder”

• **Term Certain Payout Annuity**

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Commented [VM22100R99]: Edits to address this comment will be reflected in next exposure

• **Two-Tiered Annuity**

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

~~The term “cash surrender value” means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.~~

Commented [CD101]: this definition still applies, should we keep it?

~~The term “guaranteed minimum death benefit” (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:~~

Commented [CD102]: this definition still applies, should we keep it?

~~— is increased by an amount that may be either specified by or computed from other policy or contract values; and~~

~~has the potential to produce a contractual total amount payable on such death that exceeds the account value, or~~

~~in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.~~

E. Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks.]

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this Sections 1 to 13 of VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.]

Products out of scope include:

1. ~~Contracts or benefits that are subject to VM 21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)~~
2. ~~GICs~~
3. ~~Synthetic GICs~~
4. ~~Stable Value Contracts~~
5. ~~Funding Agreements~~

Products in scope of VM-22 include ~~non-variable~~ fixed annuities which consist of, but are not limited to, the following ~~the~~ list:

- **Account Value Based Annuities**
 1. Deferred Annuities (SPDA & FPDA)
 2. Multi-Year Guarantee Annuities (MYGA)
 3. Fixed Indexed Annuities (FIA)
 4. Market Value Adjustments (MVA)
 5. Two-tiered Annuities
 6. Guarantees/Benefits/Riders on ~~Non-Variable~~ Fixed Annuity Contracts
- **Payout Annuities**
 1. Single Premium Immediate Annuities (SPIA)
 2. Deferred Income Annuities (DIA)
 3. Term Certain Payout Annuities~~es~~
 4. Pension Risk Transfer Annuities (PRT)
 5. Structured Settlement Contracts (SSC)
 6. Longevity Reinsurance

- Commented [X103]: Add consistent with VM-21 Section 1.E, which was added to the 2022 VM. ... [16]
- Commented [VM22104R103]: Edits to address this comment will be reflected in next exposure ... [17]
- Commented [X105]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date. ... [18]
- Commented [VM22106R105]: Edits to address this comment will be reflected in next exposure ... [19]
- Commented [X107]: We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product ... [20]
- Commented [VM22108R107]: ACLI will follow up ... [21]
- Commented [X109]: The reserving categories for ... [22]
- Commented [VM22110R109]: See NY comment ... [23]
- Commented [VM22111R109]: See Equitable com ... [24]
- Commented [VM22112R109]: The VM-22 Subgr ... [25]
- Commented [CD113]: suggest numbering the par ... [26]
- Commented [VM22114R113]: Edits to address t ... [27]
- Commented [CD115]: suggest swapping the orde ... [28]
- Commented [VM22116R115]: Edits to address t ... [29]
- Commented [X117]: Since buffer annuities are a s ... [30]
- Commented [VM22118R117]: Edits to address t ... [31]
- Commented [CD119]: this is not defined in the De ... [32]
- Commented [VM22120R119]: Edits to address t ... [33]
- Commented [X121]: This needs to be revised to b ... [34]
- Commented [VM22122R121]: Edits to address t ... [35]
- Commented [CD123]: should this be "non-variab ... [36]
- Commented [VM22124R123]: Edits to address t ... [37]
- Commented [X125]: Typo. Delete extra "the". ... [38]
- Commented [VM22126R125]: Edits to address t ... [39]
- Commented [CD127]: grammar - delete "the" ... [40]
- Commented [VM22128R127]: Edits to address t ... [41]
- Commented [CD129]: should have space instead of dash ... [42]
- Commented [VM22130R129]: Edits to address t ... [43]
- Commented [CD131]: delete the "s" and add "Annuities" ... [44]
- Commented [VM22132R131]: Edits to address t ... [45]
- Commented [CD133]: should this be "Non-Variab ... [46]
- Commented [VM22134R133]: Edits to address t ... [47]
- Commented [CD135]: for consistency, make plur ... [48]
- Commented [VM22136R135]: Edits to address t ... [49]

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities and RILAs)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

~~The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.~~

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the three-year transition period elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Commented [X137]: We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." from this section as it does not seem fitting here.

Commented [VM22138R137]: Edits to address this comment will be reflected in next exposure

Commented [CD139]: self-referencing "VM-22" is not necessary

Commented [VM22140R139]: Edits to address this comment will be reflected in next exposure

Commented [X141]: Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 interest rate determinations are left in the same chapter as the VM-22 PBR requirements)?

It is normal to then list what requirements such excluded contracts would follow. However, the statement here is more problematic because you can be excluded from the SR but still subject to VM-22.

Commented [VM22142R141]: Edits to address this comment will be reflected in next exposure

Commented [CD143]: again, suggest numbering the paragraphs within this section

Commented [VM22144R143]: Edits to address this comment will be reflected in next exposure

Commented [X145]: We still have a question about whether RBC factors are still at an appropriate level, if principles-based capital is not developed. Were they set assuming that this reserve was at a CTE(70) level in the first place, or were they dependent on the prior framework?

Commented [X146]: Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters ... [38]

Commented [X147]: To be more clear, recommend adding "transition period" to "the three years".

Commented [VM22148R147]: Edits to address this comment will be reflected in next exposure

Commented [X149]: Can a company wait until the end of the transition period to start PBR, but then apply PBR to all issues from during the transition period? This was ... [39]

Commented [VM22150R149]: Discussed with Subgroup and decided to keep the VM-22 language silent on th ... [40]

Commented [CD151]: Will we (or should we) allow for any early adopters (like we did for VM-21)? It would seem reasonable to us to consider accommodating early adopters.

Commented [VM22152R151]: Discussed with Subgroup and decided to not have early adoption before the start of the three year transition period.

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the ~~stochastic reserve~~SR (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) plus the DR for those contracts satisfying the Deterministic Certification Option,~~ less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR ~~stochastic reserves~~SRs, per the requirements in Section 3.E.

B. Impact of Reinsurance ~~Ceded~~

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

~~C. To Be Determined~~The Additional Standard Projection Amount

D. The Stochastic Reserve

~~The stochastic reserve~~

The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.

D. The SR

1. The SR shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section 3.GF herein.
2. The ~~stochastic reserve~~SR amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the ~~scenario reserve~~DR following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts within each Reserving Category as a single model segment when determining the ~~stochastic reserve~~ if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:SR. However, groups of contracts within different Reserving Categories may

Commented [X153]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22154R153]: To address SPA later in the VM-22 development process.

Commented [X155]: One of the most confused parts of the draft was referring to a DR as the SR for certain contracts. Need to handle and refer to separately.

Commented [VM22156R155]: Edits to address this comment will be reflected in next exposure

Commented [X157]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

Commented [X158]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22159R158]: Edits to address this comment will be reflected in next exposure

Commented [CD160]: Should this be Section 3.G?

Commented [VM22161R160]: Edits to address this comment will be reflected in next exposure

Commented [X162]: Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

not be aggregated together in determining the SR. For the purposes of VM-22, Reserving Categories are classified as the following:

- a. The “Payout Annuity Reserving Category” includes the following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits provided by variable annuities:
 - i. Immediate annuity contracts;
 - ii. Deferred income annuity contracts;
 - iii. Structured settlements in payout or deferred status;
 - iv. Fixed income payment streams resulting from the exercise of settlement options or annuitizations of host contracts issued;
 - v. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest);
 - vi. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts, once the contract funds are exhausted;
 - vii. Certificates, emanating from non- variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders fixed income payment streams upon their retirement; and
 - viii. Pension Risk Transfer Annuities; and
 - ix. Longevity Reinsurance.
- b. The “Accumulation Reserving Category” are all annuities within scope of VM-22 under Section II of the NAIC Valuation Manual that are not in the “Payout Reserving Category”.

Drafting Note: Additional feedback is welcome for whether to permit optionality for categorizing guaranteed living benefit contracts with depleted fund value as either in the payout or accumulation reserving category.

Commented [VM22163]: Include in deferred annuities with depleted fund value in payout reserving Category or accumulation reserving category.

Commented [VM22164R163]: The Subgroup has elected to leave these contracts in the payout annuity reserving category, but is adding to a drafting note to welcome feedback.

Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together

4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

54.7 To the extent that these limits on the aggregation results results in more than one model segment, the stochastic reserve SR shall equal the sum of the stochastic reserve SR amounts computed for each model segment and scenario reserve DR amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

1. To the extent that certain groups of contracts pass one of the defined stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in and Section 13.

a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

2. The approach for grouping contracts company may not group together contract types with significantly different risk profiles when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above test.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 4.213, with the exception of contract following Section 3.E which are to be calculated on a seriatim basis.

G. Prudent Estimate Assumptions

1. With respect to the Stochastic Reserve SR in Section 3.D, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically at least every 3 years review and update the assumptions as appropriate in accordance with these requirements.

2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing the review indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary Company shall set a new, adequate, anticipated experience assumption for the factor.

Commented [X165]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

Commented [X166]: Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that ... [41]

Commented [CD167]: suggest expanding header ... [42]

Commented [X168]: Seems to imply that only SPI ... [43]

Commented [VM22169R168]: Edits to address t ... [44]

Commented [CD170]: Suggest rewording to just ... [45]

Commented [VM22171R170]: Edits to address t ... [46]

Commented [X172]: Typo. Delete for clarity ... [47]

Commented [VM22173R172]: Edits to address t ... [47]

Commented [X174]: We believe this guidance not ... [48]

Commented [X175]: ... [49]

Commented [VM22176R175]: Subgroup agreed ... [50]

Commented [X177]: ... [51]

Commented [VM22178R177]: Subgroup voted t ... [52]

Commented [CD179]: for clarity, change this refe ... [53]

Commented [VM22180R179]: Edits to address t ... [54]

Commented [CD181]: again, suggest rewording t ... [55]

Commented [VM22182R181]: Edits to address t ... [56]

Commented [X183]: Based on VM-20 language. ... [57]

Commented [X184]: Either in this item or in Sect ... [57]

Commented [VM22185R184]: Edits to address t ... [58]

Commented [X186]: This sub-section seems more ... [59]

Commented [CD187]: VM-21 Section 3.H on ... [60]

Commented [CD188]: should this be "Section 3.D"? ... [61]

Commented [VM22189R188]: Edits to address t ... [61]

Commented [X190]: Recommend to periodically r ... [62]

Commented [CD191]: Should this be "the compar ... [63]

Commented [VM22192R191]: Edits to address t ... [64]

Commented [X193]: Suggest replacing "If the res ... [65]

Commented [VM22194R193]: Edits to address t ... [66]

Commented [X195]: Recommend replacing "the t ... [67]

Commented [VM22196R195]: Edits to address t ... [68]

Commented [CD197]: should this be "the compar ... [69]

Commented [VM22198R197]: Edits to address t ... [70]

- 3. To determine the prudent estimate assumptions, the stochastic reserve SR shall also follow the requirements in Sections 4 and general assumptions including Section 9 for asset assumptions, Section 10 for contract/policy holder behavior assumptions, and Section 11 for mortality assumptions, and Section 12 for general guidance and expense assumptions.

Commented [CD199]: should this be "contract holder"?

Commented [VM22200R199]: Edits to address this comment will be reflected in next exposure

Commented [X201]: Need a new section for the general assumptions, including specifics for the expense assumptions. APF currently exposed for VM-21. We should be consistent with any edits.

Commented [VM22202R201]: Edits to address this comment will be reflected in next exposure

H. Approximations, Simplifications, and Modeling Efficiency Techniques

A company may use simplifications, approximations, and modeling efficiency techniques to calculate the SR and/or the additional standard projection amount required by this section if the company can demonstrate that the use of such techniques does not understate the reserve by a material amount, and the expected value of the reserve calculated using simplifications, approximations, and modeling efficiency techniques is not less than the expected value of the reserve calculated that does not use them.

Guidance Note:

Examples of modeling efficiency techniques include, but are not limited to:

1. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters.
2. Generating a smaller liability or asset model to represent the full seriatim model using grouping compression techniques or other similar simplifications.

There are multiple ways of providing the demonstration required by Section 3.H. The complexity of the demonstration depends upon the simplifications, approximations or modeling efficiency techniques used. Examples include, but are not limited to:

1. Rounding at a transactional level in a direction that is clearly and consistently conservative or is clearly and consistently unbiased with an obviously immaterial impact on the result (e.g., rounding to the nearest dollar) would satisfy 3.H without needing a demonstration. However, rounding to too few significant digits relative to the quantity being rounded, even in an unbiased way, may be material and in that event, the company may need to provide a demonstration that the rounding would not produce a material understatement of the reserve.
2. A brute force demonstration involves calculating the minimum reserve both with and without the simplification, approximation or modeling efficiency technique, and making a direct comparison between the resulting reserve. Regardless of the specific simplification, approximation or modeling efficiency technique used, brute force demonstrations always satisfy the requirements of Section 3.H.
3. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters and providing a detailed demonstration of why it did not understate the reserve by a material amount and the expected value of the reserve would not be less than the expected value of the reserve that would otherwise be calculated. This demonstration may be a theoretical, statistical or mathematical argument establishing, to the satisfaction of the insurance commissioner, general bounds on the potential deviation in the reserve estimate rather than a brute force demonstration.
4. Justify the use of randomly sampling withdrawal ages for each contract instead of

following the exact prescribed WDCM method by demonstrating that the random sampling method is materially equivalent to the exact prescribed approach, and the simplification does not materially reduce the Additional Standard Projection Amount and the final reported reserve. In particular, the company should demonstrate that the statistical variability of the results based on the random sampling approach is immaterial by testing different random sets, e.g., if randomly selecting a withdrawal age for each contract, the probability distribution of the withdrawal age should be stable and not vary significantly when using different random number sets.

Commented [X203]: Specific example should be tailored based on the SPA developed.

Commented [X204]: Added consistent with VM-21 Section 3.H, which was added to the 2022 VM.

Commented [VM22205R204]: Edits to address this comment will be reflected in next exposure

Section 4: Determination of Stochastic Reserve SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Sections 4 and 9.D. The company shall project cash flows including the following:

a. ~~Revenues~~ Gross premium received by the company including gross premiums received from the ~~policyholder~~ policyholder contract holder (including any due premiums as of the projected start date).

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).

c. All material benefits projected to be paid to contract policyholders including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

a.d. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.II.

b.e. Insurance company expenses (including overhead and investment maintenance expense), commissions, contractual fees and charges, and revenue sharing income received by the company (net of applicable expenses) other acquisition expenses associated with business inforce as of the valuation date.

e.f. Net Cash flows associated with any reinsurance.

d.g. Cash flows from hedging instruments as described in Section 4.A.4.

Commented [NJ206]: Consider including stochastic mortality in the SR for longevity reinsurance

Commented [CD207]: Should this refer to Section 4 and Section 9?

Commented [VM22208R207]: Edits to address this comment will be reflected in next exposure

Commented [CD209]: "contract holder"?

Commented [VM22210R209]: Edits to address this comment will be reflected in next exposure

Commented [X211]: If due premium as of the projected start date is included in the modeling, the final reported reserve should be adjusted by adding the due premium, otherwise there would be a double counting of the due premium asset. This needs to be clarified - see guidance note added below.
Recommend specifying the revenue in this bullet to be gross premium since there are other revenue items that are discussed in other bullets.

Commented [VM22212R211]: Edits to address this comment will be reflected in next exposure

Commented [CD213]: "contract holders"

Commented [VM22214R213]: Edits to address this comment will be reflected in next exposure

Commented [X215]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

Commented [VM22216R215]: Edits to address this comment will be reflected in next exposure

Commented [CD217]: should this be Section 10.I?

Commented [VM22218R217]: Edits to address this comment will be reflected in next exposure

Commented [X219]: Changed investment expense to be maintenance expense so that it does not repeat what is included in bullet h.

Commented [VM22220R219]: Edits to address this comment will be reflected in next exposure

Commented [X221]: Added acquisition expenses.

Commented [VM22222R221]: Edits to address this comment will be reflected in next exposure

Commented [X223]: Take out the revenues that covers the investment expenses and added a separate bullet under bullet "a" for other revenues.

Commented [VM22224R223]: Edits to address this comment will be reflected in next exposure

Commented [CD225]: Both net and gross cash flows have to be considered, so I don't agree with the addition of "Net" here

Commented [VM22226R225]: Edits to address this comment will be reflected in next exposure

e-h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

f.i. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

Commented [X227]: Guidance Note regarding the market value adjustment seems still applies and should not be deleted. We reinstated the guidance note.

2. Grouping of Index Crediting Strategies

Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [X228]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term "investment guideline" as follows: "Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy."

Commented [VM2229R228]: Edits to address this comment will be reflected in next exposure

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy's specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

a. For a company that does not have a future hedging program tied directly to supporting the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
- ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. The hedge assets may then be considered in one of two ways:
 - a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

b. For a company that has a future hedging program tied directly to supporting the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to policyholders/contract holders.
 - b) Existing hedging instruments that are currently held by the company for this purpose offsetting the indexed credits in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company not for any other purpose offsetting the indexed credits should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these hedge instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible

Commented [X230]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

Commented [X231]: VM-22 took out the CDHS requirement and replaced it with "future hedging program". Future hedging should not materially reduce reserves or TAR if it is not well documented. The hedging DG is currently working on this for VM-20/VM-21. We will work with VM-22 subgroup to edit VM-22 accordingly.

Commented [X232]: Suggest rewording "Future hedging program" to "hedging program with future transactions" to avoid ambiguity.

Commented [CD233]: The word "future" to describe the "hedging program" here is confusing. What about current hedging programs with expected future hedge purchases? Why not just say "hedging program"? Also, I wanted to note that removing the concept of CDHS creates inconsistency with both VM-20 and VM-21. Why not retain it?

Commented [CD234]: same comment as above, about the word "future" being confusing

Commented [CD235]: "contract holders"

Commented [VM22236R235]: Edits to address this comment will be reflected in next exposure

Commented [X237]: "Any other purpose" in the last sentence seems overly broad and should be narrowed.

Commented [VM22238R237]: Edits to address this comment will be reflected in next exposure

Commented [X239]: Specify "for this purpose" as "for offsetting the indexed credits", specify "for any other purposes" as "not for offsetting the indexed credits".

Commented [VM22240R239]: Edits to address this comment will be reflected in next exposure

Commented [X241]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as possible, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Commented [VM22242R241]: Subgroup agreed to revisit this discussion after field testing.

Commented [CD243]: clarify verbiage by saying "hedge instruments" or "derivative instruments"

Commented [VM22244R243]: Edits to address this comment will be reflected in next exposure

company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.

- ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
 - a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve SR.
 - b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.
 - c) Consistent with Section 4.A.4.b.i., if the company has an indexed credit hedging program, the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c); in both the “best efforts” run and the “adjusted” run.
 - d) The use of products not falling under the scope of these VM-22 PBR Section 1 through 13 requirements (e.g., variable annuities) (e.g., equity indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [X245]: It is not clear how the stress testing can be used to support the index credit hedge margin. It is a test of the modeled strategy not actual performance and does not reflect any model error. We suggest that both back testing and stress testing be required and elaborated further:
Clearly specify method and metrics used for the back testing with focus on all available recent relevant history, not limited to 12 months
Recommend defined stress periods for stress testing, e.g., 2008 financial crisis, 2020 COVID impaired market conditions.

Commented [X246R245]: We will repeat the comment from our first letter: "Regarding hedge breakage expense assumptions, are both sources of error reflected here - error in the hedging itself, and error in the ability to accurately model it? Should we be separately considering the two limitations to make sure they are both clear: 1) the real-world hedging error and 2) the modeling error in reflecting the future hedging? Current error factor discussions seem muddled."

Commented [X247]: Again, need to coordinate with Hedging DG.

Commented [X248]: Margins are discussed in a different section, so recommend deleting.

Commented [X249]: Edits were made to provide context and clarification for the requirements.

Commented [VM22250R249]: Edits to address this comment will be reflected in next exposure

Commented [X251]: Clarify that “these requirements” should be specified as “VM-22 PBR requirements”. Again, we suggest reconsidering the use of “VM-23”, though.

Commented [VM22252R251]: Edits to address this comment will be reflected in next exposure

Commented [CD253]: It might be helpful to keep the parenthetical statement, with “variable annuities” as the example

Commented [VM22254R253]: Edits to address this comment will be reflected in next exposure

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other

fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the following requirements are met:

Commented [X255]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods. Obligations remain at the end of the projection periods. Company can choose to run a shorter projection period but not shorter than 20 years and include the present value of the terminal benefits and expenses in the accumulated deficiency calculation.

Commented [X256]: Clarify that for revenue sharing, the entire subsection of VM-21 Section 4.A.5 applies.

Commented [VM22257R256]: Edits to address this comment will be reflected in next exposure

Commented [CD258]: The "requirements are met" list is only in Section 4.A.5.a. Was the intent also to define the amount of net revenue-sharing income allowed in the projections? If so, will need to add verbiage to reference VM-21 Section 4.A.5.a through 4.A.5.f.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

Commented [VM22259R258]: Edits to address this comment will be reflected in next exposure

Commented [X260]: We recommend that the projection period requirement be in line with that of VM-20. Instead of meeting the immateriality requirement, calculate the present value of the terminal benefits and expenses and include it in the accumulated deficiency calculation.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [VM22261]: See Bill Wilton's comment letter, expressing opposition to inclusion of pre-tax IMR.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Commented [CD262]: should we consider these changes to VM-21 as well, for consistency?

Commented [VM22263R262]: Edits to address this comment will be reflected in next exposure

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

Commented [X264]: Section does not specify what the "greatest present value" means for contracts without cash surrender value.

Commented [VM22265R264]: Academy will work on developing a "working reserve" concept for products without cash surrender value, though the issue may be minimized given that payout annuities cannot be aggregated with accumulation annuities.

The scenario reserve for any given scenario shall not be less than the cash surrender value with market value adjustment in aggregate on the valuation date for the group of contracts modeled in the projection.

Commented [X266]: For products that do not have a cash surrender value, it is recommended that VM-22 use a "working reserve" concept, similar to VM-21 Section 3.1.1.2, to ensure that the reserve is not less than the cash surrender value requirement. Otherwise, there will be an issue aggregating reserves with and without CS.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

Commented [VM22267R266]: Academy will work on developing a "working reserve" concept for products without cash surrender value, though the issue may be minimized given that payout annuities cannot be aggregated with accumulation annuities.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [X268]: For products with market value adjustment, needs to be floored at cash surrender value with MVA.

Commented [X269]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
 - i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company's investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the

projection period for the scenario. This vector will be the NAER for the given scenario.

- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

Commented [X270]: The wording “unreasonably high” is not clear or appropriate. Recommend this requirement be revised as part of a holistic fix to address extreme outliers in NAER both on the low and high side to handle anomalies for all of VM-20, VM-21, and VM-22. Some upper/lower cutoffs could be used that depend on scenario returns.

Commented [CD271]: “unreasonably high” is not well defined. Also, do we need to consider guardrails in the case of “unreasonably high” positive NAERs, not just negative NAERs?

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the ~~stochastic reserve~~ SR, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:

- i. Any hedge instruments held in support of the contracts being valued; and
- ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).

b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described

above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company’s state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company’s investment policy, subject to the following requirements:
 - i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in ~~the model~~modeled company investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results

Commented [X272]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22273R272]: Edits to address this comment will be reflected in next exposure

in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.

- b. Notwithstanding the above requirements, the modeled aggregate reserve shall be the higher of that produced by the modeled company investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained produced by substituting an alternative investment strategy in which all the fixed income reinvestment assets are have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:

- i. ~~5%~~ Treasury
- ii. ~~15%~~ 20% PBR credit rating 3 (Aa2/AA)
- iii. ~~40%~~ 80% PBR credit rating 6 (A2/A)
- iv. 40% PBR credit rating 9 (Baa/BBB)

- c. Any disinvestment shall be modeled in a manner that is consistent with the company’s investment policy and that reflects the company’s cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above “provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period” is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:

Commented [CD274]: should this be "stochastic reserve", since this is within Section 4: Determination of Stochastic Reserve

Commented [VM22275R274]: Edits to address this comment will be reflected in next exposure

Commented [X276]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22277R276]: Edits to address this comment will be reflected in next exposure

Commented [CD278]: Suggest making this plural ("Treasures") to be consistent with Section 13.B.9

Commented [VM22279R278]: Edits to address this comment will be reflected in next exposure

Commented [X280]: The proposed reinvestment mix comes from a different assumption context in current VM-22, i.e., it is designed to calculate the maximum allowed valuation interest rates, while the reinvestment mix for VM-22 PBR draft is to put a guardrail around the fixed income reinvestment assets. A guardrail is not intended to identify outliers and should not be tied to an average. The biggest concern is with the higher allocation percentage in BBB assets. The valuation manual should build an appropriate level of conservatism in the valuation standards instead of reflecting industry trends. By moving from VM-20 and VM-21 required mix of 50%/50% AA/A to the proposed mix, the gross spreads increased by 20-30 bps for almost all WAL. We do not object to using a lower credit quality guardrail to get rid of any excessive conservatism. We recommend considering and comparing with other alternative allocations, something between the current and the proposed, e.g., 20% AA and 80% A. This will help regulators make informed decisions. In any case, we should be consistent with VM-20 and VM-21. If a change is made, it needs to be for all three.

Commented [VM22281R280]: Varying opinions among the Subgroup. Voted to revisit and determine the guardrail after the field test.

Commented [CD282]: These references should be Section 4.D.3.a.iii and 4.D.3.a.v

Commented [VM22283R282]: Edits to address this comment will be reflected in next exposure

- i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
 - ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
 - iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
 - iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F as noted in 4.a.ii above.
- b. Cash flows from general account index funds and general account equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate—including starting and reinvestment assets, shall be reflected in the projection as follows:
- i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
 - ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
 - iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.
- c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.H.
- E. Projection of Annuitization Benefits
- 1. Assumed Annuitization Purchase Rates
 - a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such purchase/payout rates shall reflect the payout rate specified in the contract.
 - b. For purposes of projecting future elective annuitization benefits (including annuitizations stemming from the election of a GMIB) and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined

Commented [X284]: Correct an inaccurate VM section reference. The prescribed asset default spreads assumption should be referred to VM-20 Section 9.F. VM-20 Section 7.E and 7.F are requirements for reinvestment assets, disinvestment and cash flows for invested assets. In 7.F, VM-20 just refers to 9.F for defaults.

Commented [VM22285R284]: Edits to address this comment will be reflected in next exposure

Commented [X286]: Request clarification around the meaning of "general account index funds".

Commented [VM22287R286]: Edits to address this comment will be reflected in next exposure

Commented [CD288]: should this reference Section 10.H?

Commented [VM22289R288]: Edits to address this comment will be reflected in next exposure

Commented [CD290]: is there a difference between "purchase rates" and "payout rates"? Both terms are used, so that makes the language unclear. If they are the same, suggest sticking with "purchase rates".

Commented [VM22291R290]: Edits to address this comment will be reflected in next exposure

Commented [X292]: Suggest deleting "In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract." as it appears to be covered by E.1.a.

Commented [VM22293R292]: Edits to address this comment will be reflected in next exposure

Commented [X294]: Reinstate the parenthetical content "(including annuitizations stemming from the election of a GMIB)" since there are GMIB riders attached to fixed annuity products.

Commented [VM22295R294]: Edits to address this comment will be reflected in next exposure

assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. ~~In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.~~

Commented [X296]: Delete sentence since it repeats 4.E.1.a.

Commented [VM22297R296]: Edits to address this comment will be reflected in next exposure

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

a. For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections ~~may~~ shall assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [X298]: Suggest deleting "may" as there appears to be only option.

Commented [VM22299R298]: Edits to address this comment will be reflected in next exposure

F. Frequency of Projection and Time Horizon

1. Use of an annual cash-flow frequency ("timestep") is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.

Commented [X300]: Projection Period is already covered in 4.A.6. Should not be in two places with different guidance.

Commented [VM22301R300]: Edits to address this comment will be reflected in next exposure

Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption.~~ It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Commented [X302]: Reinstate the deleted example of "For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption."

Commented [VM22303R302]: Edits to address this comment will be reflected in next exposure

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve ~~SR~~, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded—i.e., the stochastic reserve additional standard projection amount, the SR, DR, and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2.
2. Stochastic Reserve

Reflection of Reinsurance Cash Flows in the DR or SR

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve SR and DR shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.

i. In this section, reinsurance includes retrocession, and assuming company includes retrocessionaire.

ii. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

iii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.

iv. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the stochastic aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum aggregate reserve by the absolute value of such reductions in surplus.

Commented [X304]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

Commented [VM22305R304]: Edits to address this comment will be reflected in next exposure

Commented [X306]: Delete and just have title be "Reinsurance". Should structure be more like VM-20?

Commented [X307R306]: I, II (and III –VM-21 needs edits)

Commented [VM22308R306]: Edits to address this comment will be reflected in next exposure

Commented [CD309]: "and Assumed" is added here, but there is still only a subsection 5.A that addresses reinsurance ceded (at least in the section header).

Commented [VM22310R309]: Edits to address this comment will be reflected in next exposure

Commented [CD311]: need to add "and Assumed" here?

Commented [VM22312R311]: Edits to address this comment will be reflected in next exposure

Commented [X313]: reinstate

Commented [VM22314R313]: Edits to address this comment will be reflected in next exposure

Commented [X315]: Can take out vague approximation references, since now have a general allowance for appropriate approximations.

Commented [VM22316R315]: Edits to address this comment will be reflected in next exposure

Commented [X317]: Consistent with VM-20

Commented [VM22318R317]: Edits to address this comment will be reflected in next exposure

Commented [X319]: VM-20 Section 8.A.1 makes sense here as well.

Commented [VM22320R319]: Edits to address this comment will be reflected in next exposure

Commented [CD321]: should this be "stochastic reserve"?

Commented [VM22322R321]: Edits to address this comment will be reflected in next exposure

Commented [X323]: VM-22 draft so far uses aggregate, not minimum.

Commented [VM22324R323]: Edits to address this comment will be reflected in next exposure

- b. In order to determine the ~~stochastic reserve~~ SR and DR on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting ~~stochastic reserve~~ SR and DR shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
 - i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties ~~(does that do not include experience refunds)~~, where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

Commented [X325]: Correct phrasing.

Commented [VM22326R325]: Edits to address this comment will be reflected in next exposure

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company’s experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.
- d. The company shall assume that the counterparties to a reinsurance agreement are knowledgeable about the contingencies involved in the agreement and likely to exercise the terms of the agreement to their respective advantage, taking into account the context of the agreement in the entire economic relationship between the parties. In setting assumptions for the NGE in reinsurance cash flows, the company shall include, but not be limited to, the following:
 - i. The usual and customary practices associated with such agreements.
 - ii. Past practices by the parties concerning the changing of terms, in an economic environment similar to that projected.
 - iii. Any limits placed upon either party’s ability to exercise contractual options in the reinsurance agreement.
 - iv. The ability of the direct-writing company to modify the terms of its policies in response to changes in reinsurance terms.
 - v. Actions that might be taken by a party if the counterparty is in financial difficulty.

Commented [X327]: VM-20 Section 8.C.7 seems particularly applicable. We encourage others to also review VM-20 Section 8 for other sections that should also apply. VM-20 Section 8 is much more developed than VM-21 Section 5 with many more considerations for assumption setting, and we would suggest the VM-22 subgroup consider rewriting starting with VM-20 instead of VM-21.

Commented [VM22328R327]: Subgroup agreed with reflecting this language in the VM-22 draft

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the pre-reinsurance-~~ceded~~ and post-reinsurance-~~ceded~~ reserves may result in different outcomes for the exclusion test. In particular, it is possible that the pre-reinsurance-~~ceded~~ reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the post-reinsurance-~~ceded~~ reserves might not, or vice versa.

4. Additional Standard Projection Amount

Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre-reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.

Commented [X329]: Both referring to reinsurance ceded. Should be clarified.

Commented [VM22330R329]: Edits to address this comment will be reflected in next exposure

Commented [X331]: ~~ceded~~

Commented [VM22332R331]: Edits to address this comment will be reflected in next exposure

Commented [X333]: ~~ceded~~

Commented [VM22334R333]: Edits to address this comment will be reflected in next exposure

Commented [X335]: Opposite could also be true.

Commented [VM22336R335]: Edits to address this comment will be reflected in next exposure

Commented [X337]: The current VM-21 language here looks to work for VM-22 without needing to know the specific assumptions, etc., for the SPA.

Commented [VM22338R337]: Edits to address this comment will be reflected in next exposure

Section 6: Standard Projection Amount To Be Determined

Commented [VM22339]: NY Comment Letter: Current CARVM standards should be a minimum floor for VM-22 policies, and only the stochastic reserve should permit grouping whereas the minimum floor should be seriatim.

Commented [X340]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22341R340]: Edit to update the title of this section will be reflected in next exposure

Commented [VM22342]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

Commented [X343]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22344]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

Commented [NJ345]: Once this is written, the language from 4.A.1.a for longevity reinsurance could be added here as well, i.e. the standard projection would use net premiums based on the k factor approach, using the standard projection prescribed assumptions. Floor on std projection is at the contract level

~~Section 6: To Be Determined~~

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation if the stochastic exclusion test (SET) is satisfied for that each of the group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then for each group of contracts that passes the SET, the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups that group of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve SR requirements if there are one or more future hedging programs associated with supporting the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.
 - d. A company may elect to automatically exclude one or more groups of policies from the stochastic reserve calculation without passing the stochastic exclusion test (SET) if all of the following are met for all contracts in the group or groups:
 - i. All of the contracts are either:
 - Single Premium Immediate Annuities,
 - Term Certain Payout Annuities, or
 - Structured Settlement Contracts;
 - ii. None of the contracts are pension risk transfer annuities (PRT) or are covered under a longevity reinsurance agreement;
 - iii. Future payout benefits are either level or stay within 5% of the initial payout benefit amount over time;
 - iv. There is either no or an immaterial level of policyholder options permitted within the contracts; and
 - v. The average [Macauley duration] of the liabilities of the contracts as measured from the issue date (or premium determination date) is less than [X].

B. Requirement to Pass the Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

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Commented [X346]: Need to modify exclusion testing section to reflect SPA.

Commented [NJ347]: Longevity reinsurance likely to be scoped out of the stochastic reserve unless the stochastic reserve includes consideration of stochastic mortality. If it stays as stochastic interest only, then it probably does make sense that it would meet the exclusion testing. For exclusion testing, the k factor approach should continue to apply, and it should not be combined with other blocks of business

Commented [X348]: Inconsistent groups vs. group references.

Commented [VM22349R348]: Edits to address this comment will be reflected in next exposure

Commented [CD350]: should this be "stochastic reserve", since Section 4 is about determining the stochastic reserve.

Commented [VM22351R350]: Follow Section 4 method of stochastic reserve for Section 3 aggregate reserve if not using the SET

Commented [X352]: Decision is independent for each group the SET is performed on.

Commented [VM22353R352]: Edits to address this comment will be reflected in next exposure

Commented [CD354]: suggest deleting this highlighted part of the sentence

Commented [VM22355R354]: Edits to address this comment will be reflected in next exposure

Commented [CD356]: see earlier comment about the phrase "future hedge program" being confusing.

Commented [X357]: Is "associated with the contracts" the same as the earlier use of "supporting the contracts"? Should the same verbiage be used here? If there is asset hedging for the assets supporting the contracts, it should be included. Need to define "solely supporting" index credits, and also have criteria on the effectiveness/error and documentation of any such hedging that is allowed for excluded business.

Commented [VM22358]: Subgroup voted to permit PRTs below a certain duration to automatically pass the exclusion test, assuming there is limited optionality level/near-level payments, and not PRT or longevity reinsurance. The Academy has agreed to develop a proposed duration threshold

Commented [VM22359]: New language drafted by select Subgroup Members to provide certain conditio... [71]

Commented [CD360]: Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstratio... [72]

Commented [VM22361R360]: Edits to address this comment will be reflected in next exposure

1. Stochastic Exclusion Ratio Test (SERT)—Annually ~~within 12 months before the valuation date~~ ~~within 12 months before the valuation date~~ the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. ~~SET~~ Certification Method—For groups of contracts that do not have guaranteed living benefits, ~~future hedging programs, or pension risk transfer business~~, in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material ~~aggregate risk levels across interest rate risk, mortality and/or longevity risk, or asset return volatility risk~~ (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). ~~The company shall provide the certification and documentation supporting the certification to the commissioner upon request.~~

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary’s conclusion that the group of contracts is not subject to material interest rate risk, mortality and/or longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that, ~~using requirements under VM-A and VM-C~~ for the group of contracts, reserves calculated ~~using requirements under VM-A and VM-C~~ are at least as great as the assets required to support the group of contracts ~~and certificates~~ using the company’s cash-flow testing model under each of the ~~1648~~ scenarios identified in ~~this section~~ Section 7.C.1 or alternatively each of the New York seven ~~scenarios~~ economic scenarios, ~~under each of the three mortality adjustment factors identified in Section 7.C.1.~~
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in ~~its~~ interest rate risk, mortality and/or longevity risk, or asset return volatility risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have ~~material~~ interest rate risk, mortality and/or longevity risk, or asset return volatility. Such assessment would include an analysis of product guarantees, the company’s non-guaranteed elements (NGEs) policy, assets backing the group of contracts, ~~the company’s longevity risk, and the company’s investment strategy.~~

C. Stochastic Exclusion Ratio Test

1. ~~In order to exclude a group of contracts from the stochastic reserve~~SR requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of $(b-a)/a$ is less than ~~the greater of [x]% where~~ the greater of [x]% where and the percentage change that would trigger the company’s materiality standard, ~~where:~~

- Commented [CD362]: not sure why this part is deleted. Suggest adding it back in.
- Commented [VM22363R362]: Edits to address this comment will be reflected in next exposure
- Commented [X364]: We recommend removing "pension risk transfer business" from products scoped out of SERT certification method. It is unclear why this business...
- Commented [VM22365R364]: Subgroup voted to...
- Commented [CD366]: See earlier comments about...
- Commented [X367]: Needs to be defined.
- Commented [X368]: Needs a comma
- Commented [VM22369R368]: Edits to address t...
- Commented [CD370]: need comma after "business"
- Commented [VM22371R370]: Edits to address t...
- Commented [CD372]: what is meant by "aggrega...
- Commented [VM22373R372]: Edits to address t...
- Commented [X374]: This is not in VM-20 and wou...
- Commented [VM22375R374]: Edits to address t...
- Commented [X376]: This is covered by VM-31
- Commented [VM22377R376]: Edits to address t...
- Commented [CD378]: note, there is no insertion...
- Commented [VM22379R378]: Edits to address t...
- Commented [CD380]: This wording is a little clun...
- Commented [VM22381R380]: Edits to address t...
- Commented [X382]: Replace all "contracts" with...
- Commented [VM22383R382]: Edits to address t...
- Commented [X384]: Need mortality stresses if using NY7
- Commented [X385]: Need complete list of risks
- Commented [VM22386R385]: Edits to address t...
- Commented [CD387]: need to insert "longevity risk" here
- Commented [VM22388R387]: Edits to address t...
- Commented [X389]: Need complete list of risks
- Commented [VM22390R389]: Edits to address t...
- Commented [X391]: Need to add a review of the...
- Commented [VM22392R391]: Edits to address t...
- Commented [X393]: ...the SERT assum...
- Commented [VM22394R393]: Consensus to use...
- Commented [X395]: ...of the determin...
- Commented [VM22396R395]: Consensus to use...
- Commented [X397]: The variability should be assu...

- a. a = the adjusted scenario reserve described in Paragraph 7.C.2.a below using economic scenario 9, and 100% as the adjustment factor for mortality, the baseline economic scenario, as described in Appendix 1.E of VM-20.
- b. b = the largest adjusted scenario reserve described in Paragraph 7.C.2.b-a below under any of the other 1516 economic scenarios described in Appendix 1.E of VM-20 under both [95]%, 100%, and [105]% of anticipated experience mortality excluding margins. Because mortality variability may differ by company, if the magnitude of the company’s margin for mortality exceeds 5%, then the company shall use the baseline mortality and the mortality augmented by plus and minus the company’s margin for this exercise.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario, and 100% as the adjustment factor for mortality. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, both of which could lead to an incorrect test result. There are 47 (=16x3-1) combined economic and mortality scenarios that should be compared for the determination of b.

2. In calculating the ratio in subsection (Section 7.C.1) above:

- a. The company shall calculate an adjusted scenario reserve for the group of contracts for each of each of the 16 scenarios economic scenarios using the three levels of mortality adjustment factors that is equal to either (i) or (ii) below:
 - i. The scenario reserve defined in Section 4, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph Section 7.C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.
 - d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
 - e) Shall not reflect correlation between longevity and economic risks.
 - ii. The gross premium reserve developed from the cash flows from the company’s asset adequacy analysis models, using the experience assumptions of the company’s cash-flow analysis, but with the following differences:
 - a) Using the interest rates and equity return assumptions specific to each scenario.

- Commented [X398]: Correcting reference
- Commented [VM22399R398]: Edits to address this comment will be reflected in next exposure
- Commented [CD400]: better to keep the reference to the full Section (i.e., Section 7.C.2.a.i)
- Commented [VM22401R400]: Edits to address this comment will be reflected in next exposure
- Commented [X402]: Correcting reference
- Commented [VM22403R402]: Edits to address this comment will be reflected in next exposure
- Commented [CD404]: better to keep the reference to the full Section (i.e., Section 7.C.2.b)
- Commented [VM22405R404]: Edits to address this comment will be reflected in next exposure
- Commented [X406]: Need to modify in case largest result is just from the mortality stress on the same scenario.
- Commented [VM22407R406]: Edits to address this comment will be reflected in next exposure
- Commented [X408]: Need to modify in case largest result is just from the economic stress on the same mortality level.
- Commented [X409]: Need to ensure we have captured a prudent level of mortality variation for any given company in this test.
- Commented [X410]: Updating to reflect mortality/economic scenario combinations.
- Commented [X411]: For clarity
- Commented [X412]: Be consistent with standard VM references
- Commented [VM22413R412]: Edits to address this comment will be reflected in next exposure
- Commented [CD414]: better to keep the reference to the full Section (i.e., Section 7.C.1)
- Commented [VM22415R414]: Edits to address this comment will be reflected in next exposure
- Commented [CD416]: why delete this? seems like it wouldn't hurt to keep this language, for additional clarity
- Commented [VM22417R416]: Edits to address this comment will be reflected in next exposure
- Commented [X418]: Be consistent with standard VM references
- Commented [VM22419R418]: Edits to address this comment will be reflected in next exposure
- Commented [CD420]: better to reference the full Section (i.e., Section 7.C.1.b)
- Commented [VM22421R420]: Edits to address this comment will be reflected in next exposure

- b) Using the mortality scalars described in ~~Paragraph~~ Section 7.C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company’s cash-flow testing assumptions for default costs and reinvestment earnings.
- Commented [X422]:** Be consistent with standard VM references
- Commented [VM22423R422]:** Edits to address this comment will be reflected in next exposure
- Commented [CD424]:** better to reference the full Section
- Commented [VM22425R424]:** Edits to address this comment will be reflected in next exposure
- b. The company shall use the most current ~~46~~ available baseline economic scenario and the 15 other economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
 - c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
 - d. ~~The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.~~
 - e. ~~If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the stochastic exclusion ratio test under only a pre-reinsurance ceded single basis upon determining the either pre-reinsurance ceded basis upon determining the pre or post-reinsurance reserve ceded aggregate reserve.~~
- Commented [X426]:** No reason for change/inconsistency with other chapters - reject edit.
- Commented [VM22427R426]:** Edits to address this comment will be reflected in next exposure
- Commented [X428]:** Clarification is needed around reference to “significantly different risk profiles”.
- 3. If the ratio calculated in this section is less than [x]% pre-non-proportional reinsurance, but is greater than [x]% post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.
- a. An example of an acceptable demonstration:
 - i. For convenience in notation • SERT = the ratio (b–a)/a defined in Section 7.C.1 above
 - a) The pre-non-proportional reinsurance results are “gross of non-proportional,” with a subscript “gn,” so denoted SERT_{gn}
 - b) The post-non-proportional results are “net of non-proportional,” with subscript “nn,” so denoted SERT_{nn}
 - ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of non-proportional” to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and “net of non-proportional” to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.
- Commented [CD429]:** to be more specific, say “stochastic exclusion ratio test”
- Commented [VM22430R429]:** Edits to address this comment will be reflected in next exposure
- Commented [X431]:** Original did not make sense. Also, the point is that you just need one basis, either pre-reinsurance or post-reinsurance.
- Commented [VM22432R431]:** Edits to address this comment will be reflected in next exposure
- Commented [X433]:** We request clarification or definition of the term “non-proportional reinsurance”.
- Commented [X434]:** Does this make sense for VM-20 as well?
- Commented [VM22435R434]:** Subgroup to only focus on VM-22 for now

iii. So, if $SERT_{gn} \leq [x]_{t+1}^{\%}$ but $SERT_{nn} > [x]_{t+1}^{\%}$, then compute the largest percent increase in reserve (LPIR) = $(b-a)/a$, both “gross of non-proportional” and “net of non-proportional.”

$$LPIR_{gn} = (b_{gy} - a_{gy}) / b_{gn} - a_{gn} / a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny}) / b_{nn} - a_{nn} / a_{nn}$$

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn} .

If $SERT_{gn} \times LPIR_{nn} / LPIR_{gn} < [x]_{t+1}^{\%}$, then the block of contracts passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 1648 combined economic and mortality scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
- 4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section of Section 7.D.2.a or Section 7.D.2.b and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements using the methodology in this section Stochastic Exclusion Demonstration Test, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:
 - a. The demonstration shall provide a reasonable assurance that if the stochastic reserve SR was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve SR exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve SR requirements.
 - b. If, as of the end of any calendar year, the company determines the aggregate statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT SET for those contracts.
 - c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an

Commented [X436]: We believe subscript “gy” should be “gn”.

Commented [VM22437R436]: Edits to address this comment will be reflected in next exposure

Commented [X438]: % missing

Commented [VM22439R438]: Edits to address this comment will be reflected in next exposure

Commented [X440]: Note that LPIR is just the SERT using the VM-22 formulation (b-a)/a.

Commented [VM22441R440]: Edits to address this comment will be reflected in next exposure

Commented [X442]: The first and last terms on the left side of this equation cancel out, so it just ends up with needing to pass the SERT on the net basis again. This worked when (c) was the denominator, but now with (a) in the denominator this adjustment is meaningless. Take out the whole example, or revise the SERT to use benefits in the denominator again. Or some new formulation for SERT.

Commented [VM22443R442]: Updated denominator, addressing this issue

Commented [X444]: In VM-20, it is only prohibited for the clearly sufficiently robust attempts of the demonstration method where failing shows the SR would be greater. The other two options could have been incomplete demonstrations and not necessarily imply the SR would be dominant.

Commented [X445]: Clearer language

Commented [VM22446R445]: Edits to address this comment will be reflected in next exposure

Commented [X447]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

Commented [CD448]: should this, instead, refer to the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C?

Commented [VM22449R448]: Edits to address this comment will be reflected in next exposure

Commented [X450]: Typo is also in VM-20

Commented [VM22451R450]: Will follow-up upon addressing VM-30 disclosure requirements

explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.

- d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with ~~subsection~~Section 7.D.1 above:
- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis.
 - b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.
 - c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis, but using a representative sample of contracts in the ~~stochastic reserve~~SR calculations.
 - d. Demonstrate that any risk characteristics that would otherwise cause the ~~stochastic reserve~~SR calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the ~~contract~~policyholder by contract provision.

Commented [CD452]: should say "Section"

Commented [VM22453R452]: Edits to address this comment will be reflected in next exposure

E. Deterministic Certification Option

- 1. The company ~~has the option to may~~ determine the ~~stochastic reserve~~SR for a group of contracts using a single deterministic economic scenario, subject to the following conditions.
 - a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of ~~policies, contracts and certificates~~. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.
 - b. The company certifies that the group of ~~policies, contracts and certificates~~ is not supported by a reinvestment strategy that contains ~~future hedge purchases~~.
 - c. ~~The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing and the scenario reserve volatility across various company must pass the SERT when considering only the 16 economic scenarios, paired with the 100% mortality scenario.~~

Commented [CD454]: "contract holder"

Commented [VM22455R454]: Edits to address this comment will be reflected in next exposure

Commented [X456]: Need SPA for DR as well as SR

Commented [CD457]: suggest saying "may" instead of "has the option to"

Commented [VM22458R457]: Edits to address this comment will be reflected in next exposure

Commented [CD459]: "contracts"

Commented [VM22460R459]: Edits to address this comment will be reflected in next exposure

Commented [X461]: Clarify if this was the intent to exclude contracts supported by index hedging.

Commented [X462]: this is needed to assure the SR is not needed. Otherwise this section is incomplete and does not support using a DR

Commented [VM22463R462]: Subgroup agrees with including the 100% mortality scenario.

- d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

Commented [X464]: Agree with drafting note. Edit

Commented [VM22465R464]: Subgroup agrees with including the 100% mortality scenario.

- 2. The stochastic reserve SR for the group of contracts under the Deterministic Certification Option is determined as follows:

- a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
- b. The stochastic reserve SR equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Commented [X466]: It may not be appropriate to use scenario 12 to calculate the scenario reserve for SPIA. See this article <https://www.soa.org/sections/financial-reporting/financial-reporting-newsletter/2021/july/fr-2021-07-su/>

“in an increasing interest rate environment for business where policyholder behavior is sensitive to prevailing interest rates, life insurers may face an increase in disintermediation risk (i.e., the risk of having to sell assets, potentially at a loss, to fund policyholder surrender benefits) For example, rising interest rates, particularly sudden jumps (e.g., New York 7 pop-up scenario with an immediate interest rate increase of 3 percent), may lead to higher actual and projected policyholder surrenders as policyholders seek out higher yielding investment opportunities. These increasing cash demands may require fixed income assets to be sold at depressed prices, and resultant projected losses (or lower gains) may result in reserve insufficiencies, necessitating the need for AAT reserves.”

Commented [X467]: Recommend deleting guidance note, as it doesn't provide full or clear scope of what may be excluded, so could be misread to either guarantee option for certain products or exclude the option for other products.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9) Modeling Hedges under a ~~Future~~ Non-Index Credit Hedging Strategy

A. Initial Considerations

- 1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits. ~~If the company, or (b) clearly separates index credit hedging from other hedging, then only the section only pertains to the other hedging if the index hedging follows.~~ In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
- 2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the ~~stochastic reserve~~SR, determined in accordance with Section 3.D and Section 4.D.
- 3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. ~~Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months, including the hedging strategy, used to implement the investment policy~~
- 4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
- 5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

B. Modeling Approaches

- 1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the ~~stochastic reserve~~SR otherwise calculated.
- 2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

Commented [X468]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [VM22469R468]: Edits to address this comment will be reflected in next exposure

Commented [CD470]: see previous comments about use of the word "future" to describe "hedging strategy"

Commented [X471]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [VM22472R471]: Edits to address this comment will be reflected in next exposure

Commented [X473]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

Commented [VM22474R473]: Edits to address this comment will be reflected in next exposure

Commented [CD475]: is this a typo? should this be "purchases"?

Commented [VM22476R475]: Edits to address this comment will be reflected in next exposure

Commented [X477]: This 6 month exclusion creates unintended optionality for inclusion/exclusion based on whether a hedge strategy is considered "new". Instead, this should be addressed through the Error factor for new programs being temporarily larger.

Commented [VM22478R477]: Edits to address this comment will be reflected in next exposure

Commented [X479]: Reinstate the original sentence which puts the reflection of hedging into the greater context of reflecting the company's investment policy.

Commented [VM22480R479]: Edits to address this comment will be reflected in next exposure

Commented [X481]: Agree that the uncertainty associated with new strategies should be handled via the E factor, not through blanket exclusion.

Commented [VM22482R481]: Edits to address this comment will be reflected in next exposure

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the ~~stochastic reserve~~SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the ~~stochastic reserve~~SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the ~~stochastic reserve~~SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or ~~mode~~ tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

Commented [X483]: Is delta-only hedging common in VM-22 hedging? Could the example be replaced with something more relevant to VM-22 hedging?

C. Calculation of ~~Stochastic Reserve~~SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no ~~future hedging purchases~~ strategy, except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the ~~stochastic reserve~~SR is given by:

Commented [X484]: The Hedging DG is currently working on language and we will want to be consistent across VM-20, VM-21, and VM-22.

Commented [CD485]: perhaps better to say “no future hedge purchases...”

Commented [VM22486R485]: Edits to address this comment will be reflected in next exposure

$$\text{Stochastic reserveSR} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent available relevant period of data (but no less than 12 months), to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E , the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.
 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

Commented [X487]: We have been getting weak E factor support, with minimum backtesting due to the current phrasing.

Commented [X488R487]: Recommend adding stress testing language similar to Section 4.A.4.b.i.c) but with edits based on TDI’s comments/suggestions to Section 4.A.4.b.i.c).

Commented [VM22489R487]: Edits to address this comment will be reflected in next exposure

Commented [X490]: Recommend adding reporting requirement to VM-31 to disclose if company has switched between explicit method and implicit method, discuss rationale of the change and the change impact.

Commented [VM22491R490]: Edits to address this comment will be reflected in next exposure

- iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with ~~no less than 6 months of history~~, E should be ~~at least 1.0-50~~. However, E may be lower than ~~1.0-50~~ if ~~some~~ at least 6 months of reliable experience is available and/or if the change in strategy is a minor refinement rather than a substantial material change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Commented [X492]: 6 month restriction should be handled in the error factor. Other language for clarity. Edited guidance note below to be consistent with this.

Commented [VM22493R492]: Edits to create consistency with recently adopted APF 2020-12 will be considered for the next exposure

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy).
- An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).

8. The company shall set the value of E reflecting the extent to which the future hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining the future hedging program. To the extent that documentation outlining the future hedging program is incomplete, the value of E shall be increased. Any increases required to the value of E to reflect that documentation is not available to support that the future hedging program is clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results.

E. Additional Considerations for CTE70 (best efforts)

If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the stochastic reserve SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions

Commented [X494]: Work is being done by the hedging DG. This is a placeholder. Need to reflect how clearly defined and well documented the hedge program is, to be able to rely on the backtesting provided. To the extent that hedge programs are not clearly defined, E should be increased to reflect that the backtesting cannot be relied on as an indicator of future effectiveness.

Commented [X495]: Generate this disclosure from within a rough responsibility check for regulatory review/information on the modeled hedge and add an prompt further discussion.

Commented [VM22496R495]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

Commented [CD497]: Not sure why this section is being deleted. Perhaps references to CDHS could be deleted, but otherwise this section still seems applicable.

Commented [VM22498R497]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity and other in-scope products account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserveSR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserveSR otherwise calculated.

Commented [X499]: Suggest replacing "indexed" with "fixed" since this would apply to all fixed annuities.

Commented [VM22500R499]: Edits to address this comment will be reflected in next exposure

Commented [X501]: Editorial change of "variable fixed indexed annuity" to be "fixed indexed annuity and other in-scope products".

Commented [VM22502R501]: Edits to address this comment will be reflected in next exposure

Commented [X503]: Recommend deleting "including a delta hedging strategy" as it is already covered by "any hedging strategy" and it is not clear if delta hedging strategy is the most common strategy in VM-22 hedging to be used as a general example.

Commented [VM22504R503]: Edits to address this comment will be reflected in next exposure

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the ~~results~~ reserves level. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B and Section 12.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may or may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [X505]: Editorial clarification

Commented [VM22506R505]: Edits to address this comment will be reflected in next exposure

Commented [X507]: Need general assumption setting section, see APF 2021-11.

Commented [VM22508R507]: Edits to address this comment will be reflected in next exposure

Commented [X509]: We would suggest rewording this section to be considerations rather than posed as questions.

Commented [X510]: Editorial clarification

Commented [VM22511R510]: Edits to address this comment will be reflected in next exposure

Commented [X512]: Recommend adding some examples here if this is included.

Commented [VM22513R512]: Edits to address this comment will be reflected in next exposure

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more material behavior assumptions, if relevant to the risks in the product, and thus the approach will not understate the reserve.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the company qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Account transfers.
- Future deposits.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently (but no less than every 3 years) when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.

Commented [X514]: Clarification

Commented [VM22515R514]: Edits to address this comment will be reflected in next exposure

Commented [X516]: Suggest updating bullet to "Other material behavior assumptions if relevant to the risks in the product."

Commented [VM22517R516]: Edits to address this comment will be reflected in next exposure

Commented [X518]: Sensitivity testing is covered by the submitted APF 2021-11 for VM-21, and we should be consistent. VM-21 is currently lacking on sensitivity testing.

Commented [VM22519R518]: Make edits to be consistent with VM-21 APFs prior to adoption of VM-22

Commented [VM22520R518]: Edits to address this comment will be reflected in next exposure

Commented [CD521]: why assign this specifically to the QA rather than leaving it as the responsibility of "the company", like we do elsewhere in the requirements?

Commented [VM22522R521]: Edits to address this comment will be reflected in next exposure

Commented [X523]: include for completion

Commented [VM22524R523]: Edits to address this comment will be reflected in next exposure

Commented [X525]: Consistent with APF 2021-11.

Commented [VM22526R525]: Edits to address this comment will be reflected in next exposure

- 2. Using data from prior periods.

D. Specific Considerations and Requirements

- 1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date for the benefit utilization.
 - h. Commutation of benefit (from periodic payment to lump sum) or vice versa.
- 2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic ~~asset~~ re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

~~Guidance Note: For some non elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.~~

- 3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

Commented [X527]: Clarification

Commented [VM22528R527]: Edits to address this comment will be reflected in next exposure

Commented [X529]: Clarification

Commented [VM22530R529]: Edits to address this comment will be reflected in next exposure

Commented [CD531]: delete this word

Commented [VM22532R531]: Edits to address this comment will be reflected in next exposure

Commented [X533]: Reviewing, this guidance note does not exist in the 2019, 2020, 2021, or 2022 versions of VM-21. Where is this from? Should this be added to VM-21?

4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, transaction fees or other contract charges.
 - l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.
6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. SR. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.
8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

Commented [X534]: This also applies to VM-21, as there are fixed accounts. Is there any reason not to be consistent?

Commented [VM22535R534]: Only to focus on VM-22 for now

Commented [X536]: This is not a synonym (perhaps transfer fees is a subset of transaction fees) - why would transaction fees apply for VM-21, but only transfer fees for VM-22?

Commented [VM22537R536]: Edits to address this comment will be reflected in next exposure

Commented [X538]: This section states that "contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally." This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states "When advantageous, policyholders will commence living benefit payouts if not started yet.". We suggest revising 6.H.2 to align with the text of 10.D.8.

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not ~~dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder~~ stochastically modeled.
2. ~~The company should exercise care in using static assumptions when it would be more natural and reasonable~~ appropriate to use a dynamic model or other scenario-dependent formulation for behavior. ~~With due regard to considerations of materiality and practicality~~ allowance for appropriate simplifications, approximations and modeling efficiency techniques, the use of dynamic models is encouraged, but not mandatory. ~~Static assumptions~~ Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers), may require higher margins and/or signal a need for higher margins for certain other assumptions.
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [X539]: Recommend replacing “dynamic” with “stochastic.” Risk factors with dynamic assumptions still need margins (although for an assumption that was part fixed and part dynamic, only one piece may have the margin but still the risk factor would have a margin).

Commented [VM22540R539]: Edits to address this comment will be reflected in next exposure

Commented [X541]: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.

Commented [VM22542R541]: Edits to address this comment will be reflected in next exposure

Commented [X543]: Get rid of some of the vague adjectives and be consistent with VM framework for simplifications.

Commented [VM22544R543]: Edits to address this comment will be reflected in next exposure

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~non-variable~~ fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. ~~Declining-, increasing~~ and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. ~~Rapidly changing~~ Volatile interest rates ~~or~~ persistently low interest rates.
 - d. ~~Volatile credit spreads.~~
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:

Commented [CD545]: “non-variable”?

Commented [VM22546R545]: Edits to address this comment will be reflected in next exposure

Commented [X547]: Editorial clarification to cover scenarios for all products/guarantees in scope

Commented [VM22548R547]: Edits to address this comment will be reflected in next exposure

Commented [X549]: Editorial for consistency with (a) above

Commented [VM22550R549]: Edits to address this comment will be reflected in next exposure

Commented [X551]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

Commented [VM22552R551]: Edits to address this comment will be reflected in next exposure

- a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10.A to Section 10.G above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's contract's utilization or to reflect average utilization over a model segment or sub-segments, if the results are materially similar.
 - c. Model policy loan interest in a manner consistent with policy contract provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)

Commented [CD553]: Okay to keep the term "Policy Loans"

Commented [VM22554R553]: Edits to address this comment will be reflected in next exposure

Commented [X555]: Clarify reference to be more specific

Commented [VM22556R555]: Edits to address this comment will be reflected in next exposure

Commented [X557]: Editorial - VM-22 should consistently use contracts

Commented [VM22558R557]: Edits to address this comment will be reflected in next exposure

Commented [CD559]: "contract's"

Commented [VM22560R559]: Edits to address this comment will be reflected in next exposure

Commented [X561]: We have concern that reflecting average utilization may have material impact on benefit projections. Recommend adding "if the results are materially similar". This change is also applied to VM-20 and added to VM-21.

Commented [VM22562R561]: Edits to address this comment will be reflected in next exposure

Commented [X563]: Editorial - VM-22 should consistently use contracts

Commented [VM22564R563]: Edits to address this comment will be reflected in next exposure

Commented [CD565]: "contract"

Commented [VM22566R565]: Edits to address this comment will be reflected in next exposure

- d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
- e. Model ~~additional~~ policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with negative policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect ~~policy contract~~ costs or values and are not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to ~~non-variable~~ fixed annuities include but are not limited to the following: ~~fixed~~ the credited rates on fixed accounts, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

- 1. Except as noted below in Section ~~10.H.5~~ 10.H.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
- 2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company’s past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
- 3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
- 4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
- 5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the ~~policy’s or~~ contract’s experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude

Commented [CD567]: The wording of "additional" is unclear. Does this mean maintaining a certain level of policy loan utilization throughout the projection (i.e., adding principal as repayments are made), or actually increasing policy loan utilization (i.e., adding more principal) over time? The former would seem more appropriate than the latter.

Commented [VM22568R567]: Edits to address this comment will be reflected in next exposure

Commented [X569]: Clarification

Commented [VM22570R569]: Edits to address this comment will be reflected in next exposure

Commented [CD571]: suggest: "contract holder"

Commented [VM22572R571]: Edits to address this comment will be reflected in next exposure

Commented [X573]: Editorial - VM-22 should consistently use contracts

Commented [VM22574R573]: Edits to address this comment will be reflected in next exposure

Commented [CD575]: suggest: "are not"

Commented [VM22576R575]: Edits to address this comment will be reflected in next exposure

Commented [CD577]: suggest: "non-variable annuities"

Commented [VM22578R577]: Edits to address this comment will be reflected in next exposure

Commented [X579]: Clarity

Commented [VM22580R579]: Edits to address this comment will be reflected in next exposure

Commented [X581]: Correct section reference

Commented [VM22582R581]: Edits to address this comment will be reflected in next exposure

Commented [CD583]: delete "policy's or"

Commented [VM22584R583]: Edits to address this comment will be reflected in next exposure

Commented [X585]: Why does being authorized mean it can be excluded? This seems backwards. Does this mean it has already transpired?

from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

- 6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company’s option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting ~~aggregate stochastic reserve~~SR.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting ~~aggregate stochastic reserve~~SR should be reduced by the amount of the dividend liability.
- 7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Commented [CD586]: delete "aggregate"

Commented [VM22587R586]: Edits to address this comment will be reflected in next exposure

Commented [CD588]: delete "aggregate"

Commented [VM22589R588]: Edits to address this comment will be reflected in next exposure

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the ~~stochastic reserve SR~~. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. ~~(Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)~~

Commented [X590]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

Commented [VM22591R590]: Will address SPA separately

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Commented [X592]: Recommend removing reference to actuarial judgment being "unsupported" from VM-21 and VM-22 because actuarial judgment should always be supportable - it is "judgment" not an arbitrary decision.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are "PRT contracts," it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a ~~plus (minus)~~ mortality (longevity) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a ~~mortality (longevity) plus (minus)~~ segment to a ~~longevity (mortality) minus (plus)~~ segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

Commented [X593]: Recommend deleting this guidance note since it is unnecessary - there is no such restriction for any of VM-20, VM-21 or VM-22. It would be an absurd level of granular distinction, such that it is not clear you could actually perform the projection, given that assumptions vary by attained age, etc.

Commented [VM22594R593]: Edits to address this comment will be reflected in next exposure

Commented [X595]: Terming the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

Commented [VM22596R595]: Edits to address this comment will be reflected in next exposure

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

Commented [X597]: It is unclear how to interpretate the statement and how to review it for both VM-21 and VM-22. If a company reinsures GMWB riders, then does it mean that on a net basis the segment would no longer be considered as minus? So, there would be distinct designations for the pre and post reinsurance runs? Recommend discussing the statement and adding additional language or a guidance note to make it clear.

Commented [X598]: Delete period, it is a typo

Commented [VM22599R598]: Edits to address this comment will be reflected in next exposure

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

3. No Data Requirements

Commented [X600]: Does this need to be edited to be consistent with "little or no" data?

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

[2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table "a"] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F_x
<=65	80.0%
66	81.5%
67	83.0%
68	84.5%
69	86.0%
70	87.5%
71	89.0%
72	90.5%
73	92.0%
74	93.5%
75	95.0%
76	96.5%
77	98.0%
78	99.5%
79	101.0%
80	102.5%
81	104.0%

Commented [X601]: Section 11.B.3.i only has one item "a". There is no need to specifically have a single item "a". Recommend delete the notation "a" and have "Section 11.B.3.i" only.

Commented [VM22602R601]: Will be updated upon SPA assumption development

Commented [X603]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it's not clear in B.3 ii c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Commented [VM22604R603]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X605]: The 1983 Table "a" and 1994 GAR are used for structured settlements and group annuities, respectively. These tables seem to be out of date. If Standard Projected Amount work develops more granular and up to date tables, should these tables be updated to use consistent tables?

Commented [VM22606R605]: Will be updated upon SPA assumption development

Commented [X607]: The percentage factors (F_x) are over 100% from attained age 79 to age 104. Is it appropriate to set the factors above 100% for the older ages with no credibility?

Commented [VM22608R607]: Will be updated upon SPA assumption development

Commented [CD609]: does the F_x factor need any consideration for FIAs with GLBs?

Commented [VM22610R609]: Will be updated upon SPA assumption development

82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	
86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, when little or no experience or information is available on a business segment, an established industry or national mortality table and mortality improvement scale may be used, with approval from the domiciliary commissioner.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by

Commented [X611]: The phrase "When little or no experience or information is available on a business segment" is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

Commented [VM22612R611]: Edits to address this comment will be reflected in next exposure

Commented [X613]: Reference to the MI scale missing for international business

Commented [VM22614R613]: Edits to address this comment will be reflected in next exposure

contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves including margins for uncertainty with the mortality assumption assumptions described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the industry mortality assumption described in Section 11.B.3 ~~table~~ used in the blending.

2. Adjustment of ~~Statutory Valuation~~ Industry Mortality for Improvement

For purposes of the adjustment for credibility, the ~~industry~~ mortality table for a plus segment may be and the ~~industry~~ mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective ~~industry~~ mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.

Commented [X615]: Both plan and industry data should be weighted for business such as PRT. This text says ~~blend with prescribed tables, but that might not make sense unless additional experience data was unavailable~~

Commented [VM22616R615]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X617]: Clarification

Commented [VM22618R617]: Edits to address this comment will be reflected in next exposure

Commented [X619]: Editoria

Commented [VM22620R619]: Edits to address this comment will be reflected in next exposure

Commented [X621]: The “statutory valuation” is struck but in the guidance note. Recommend replacing “statutory valuation” with either “reference of Section 11.B.3” or “industry”. Otherwise, it is a vague reference since we have both a company mortality table and an industry mortality table.

Commented [VM22622R621]: Edits to address this comment will be reflected in next exposure

Commented [CD623]: need to reference “the mortality assumption described in Section 11.B.3” here? Otherwise, the sentence is unclear.

Commented [VM22624R623]: Edits to address this comment will be reflected in next exposure

Commented [X625]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

Commented [X626]: “Statutory Valuation” was stricken from all the body, but left in this title. Consider replacing with “industry”.

Commented [VM22627R626]: Edits to address this comment will be reflected in next exposure

Commented [CD628]: for consistency, need to delete this reference to “Statutory Valuation”

Commented [VM22629R628]: Edits to address this comment will be reflected in next exposure

- b. Not tend to bias the results in any material way.
 - c. Be practical to implement.
 - d. Give consideration to the need to balance responsiveness and stability.
 - e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
 - f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting ~~stochastic reserve~~SR. If such an adjustment would reduce the ~~stochastic reserve~~SR, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Other Guidance and Requirements for Assumptions

A. Overview

This section provides guidance and requirements in general for setting prudent estimate assumptions when determining either the SR or DR. It also provides specific guidance and requirements for expense assumptions.

B. General Assumption Requirements

1. The company shall use prudent estimate assumptions for risk factors that are not stochastically modeled by applying margins to the anticipated experience assumptions if such risk factors have been categorized as material risks by following Section 1.B Principle 3 and requirements in Section 12.C.
 2. The company shall establish the prudent estimate assumptions for risk factors in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
 3. The company shall model the following risk factors stochastically unless the company elects the stochastic modeling exclusion defined in Section 7:
 - a. Interest rate movements (i.e., Treasury interest rate curves).
 - b. Equity performance (e.g., Standard & Poor’s 500 index [S&P 500] returns and returns of other equity investments).
 4. If the company elects to stochastically model risk factors in addition to the economic scenarios, the requirements in this section for determining prudent estimate assumptions for these risk factors do not apply.
- Guidance Note:** It is expected that companies will not stochastically model risk factors other than the economic scenarios, such as contract holder behavior or mortality, until VM-22 has more specific guidance and requirements available. Companies shall discuss with domiciliary regulators if they wish to stochastically model other risk factors.
5. The company shall use its own experience, if relevant and credible, to establish an anticipated experience assumption for any risk factor. To the extent that company experience is not available or credible, the company may use industry experience or other data to establish the anticipated experience assumption, making modifications as needed to reflect the circumstances of the company.
 - a. For risk factors (such as mortality) to which statistical credibility theory may be appropriately applied, the company shall establish anticipated experience assumptions for the risk factor by combining relevant company experience with industry experience data, tables or other applicable data in a manner that is consistent with credibility theory and accepted actuarial practice.

Commented [X630]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Commented [VM22631R630]: The VM-22 Subgroup has no objections to waiting until after the field study to determine the allocation approach.

Commented [X632]: Need to add a Section 12 for general guidance on prudent assumption setting and on expenses. For VM-21, APF 2021-11 is currently exposed. Should be consistent with that APF, after any tweaks are made. <https://content.naic.org/sites/default/files/inline-images/APF%202021-11%20VM21%20Assumptions%2010012021.pdf>

Commented [VM22633R632]: Subgroup agreed on adding this as a new Section 12

- b. For risk factors (such as utilization of guaranteed living benefits) that do not lend themselves to the use of statistical credibility theory, and for risk factors (such as some of the lapse assumptions) to which statistical credibility theory can be appropriately applied but cannot currently be applied due to lack of industry data, the company shall establish anticipated experience assumptions in a manner that is consistent with accepted actuarial practice and that reflects any available relevant company experience, any available relevant industry experience, or any other experience data that are available and relevant. Such techniques include:
- i. Adopting standard assumptions published by professional, industry or regulatory organizations to the extent they reflect any available relevant company experience or reasonable expectations.
 - ii. Applying factors to relevant industry experience tables or other relevant data to reflect any available relevant company experience and differences in expected experience from that underlying the base tables or data due to differences between the risk characteristics of the company experience and the risk characteristics of the experience underlying the base tables or data.
 - iii. Blending any available relevant company experience with any available relevant industry experience and/or other applicable data using weightings established in a manner that is consistent with accepted actuarial practice and that reflects the risk characteristics of the underlying contracts and/or company practices.
- c. For risk factors that have limited or no experience or other applicable data to draw upon, the assumptions shall be established using sound actuarial judgment and the most relevant data available, if such data exists.
- d. For any assumption that is set in accordance with the requirements of Section 12.B.5.c, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing and disclose the analysis performed to ensure that the assumption is set at the conservative end of the plausible range.
- e. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
6. The company shall sensitivity test risk factors that are not stochastically modeled and examine the impact on the stochastic reserve. The company shall update the sensitivity tests periodically as appropriate. The company may update the tests less frequently, but no less than every 3 years, when the tests show less sensitivity of the stochastic reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company

may perform sensitivity testing:

- a. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- b. Using data from prior periods.

Guidance Note: Sensitivity testing every risk factor on an annual basis is not required. For some risk factors, it may be reasonable, in lieu of sensitivity testing, to employ statistical measures for margins, such as adding one or more standard deviations to the anticipated experience assumption.

- 7. The company shall vary the prudent estimate assumptions from scenario to scenario within the stochastic reserve calculation in an appropriate manner to reflect the scenario-dependent risks.

C. Assumption Margins

The company shall include margins to provide for adverse deviations and estimation error in the prudent estimate assumption for each risk factor that is not stochastically modeled or prescribed, subject to the following:

- 1. The level of margin applied to the anticipated experience assumptions may be determined in aggregate or independently as discussed in Section 1.B Principle 3. It is not permissible to set a margin less toward the conservative end of the spectrum to recognize, in whole or in part, implicit or prescribed margins that are present, or are believed to be present, in other risk factors.

Risks that are stochastically modeled (e.g., interest rates, equity returns) or have prescribed margins or guardrails (e.g., assets, revenue sharing) shall be considered material risks. Other risks generally considered to be material include, but are not limited to, mortality, contract holder behavior, maintenance and overhead expenses, inflation and implied volatility. In some cases, the list of material risks may also include acquisition expenses, partial withdrawals, policy loans, annuitizations, account transfers and deposits, and/or option elections that contain an element of anti-selection.

- 2. The greater the uncertainty in the anticipated experience assumption, the larger the required margin, with the margin added or subtracted as needed to produce a larger Sr or DR than would otherwise result. For example, the company shall use a larger margin when:

- a. The experience data have less relevance or lower credibility.
- b. The experience data are of lower quality, such as incomplete, internally inconsistent or not current.
- c. There is doubt about the reliability of the anticipated experience assumption, such as, but not limited to, recent changes in circumstances or changes in company policies.
- d. There are constraints in the modeling that limit an effective reflection of the risk factor.

Commented [X634]: Edit for VM-22 vs. VM-21?

Commented [VM22635R634]: Will include this language in the next exposure and will solicit any comments

3. In complying with the sensitivity testing requirements in Section 12.B.6 above, greater analysis and more detailed justification are needed to determine the level of uncertainty when establishing margins for risk factors that produce greater sensitivity on the stochastic reserve.
4. A margin is permitted but not required for assumptions that do not represent material risks.
5. A margin should reflect the magnitude of fluctuations in historical experience of the company for the risk factor, as appropriate.
6. The company shall apply the method used to determine the margin consistently on each valuation date but is permitted to change the method from the prior year if the rationale for the change and the impact on the stochastic reserve is disclosed.

D. Expense Assumptions

1. General Prudent Estimate Expense Assumption Requirements

In determining prudent estimate expense assumptions, the company:

- a. May spread certain information technology development costs and other capital expenditures over a reasonable number of years in accordance with accepted statutory accounting principles as defined in the Statements of Statutory Accounting Principles.

Guidance Note: Care should be taken with regard to the potential interaction with the inflation assumption below.

- b. Shall assume that the company is a going concern.
- c. Shall choose an appropriate expense basis that properly aligns the actual expense to the assumption. If values are not significant, they may be aggregated into a different base assumption.

Guidance Note: For example, death benefit expenses should be modeled with an expense assumption that is per death incurred.

- d. Shall reflect the impact of inflation.
- e. Shall not assume future expense improvements.
- f. Shall not include assumptions for federal income taxes (and expenses paid to provide fraternal benefits in lieu of federal income taxes) and foreign income taxes.
- g. Shall use assumptions that are consistent with other related assumptions.
- h. Shall use fully allocated expenses.

Guidance Note: Expense assumptions should reflect the direct costs associated with the block of contracts being modeled, as well as indirect costs and overhead costs that have been allocated to the modeled contracts.

- i. Shall allocate expenses using an allocation method that is consistent across

company lines of business. Such allocation must be determined in a manner that is within the range of actuarial practice and methodology and consistent with applicable ASOPs. Allocations may not be done for the purpose of decreasing the stochastic reserve.

- j. Shall reflect expense efficiencies that are derived and realized from the combination of blocks of business due to a business acquisition or merger in the expense assumption only when any future costs associated with achieving the efficiencies are also recognized.

Guidance Note: For example, the combining of two similar blocks of business on the same administrative system may yield some expense savings on a per unit basis, but any future cost of the system conversion should also be considered in the final assumption. If all costs for the conversion are in the past, then there would be no future expenses to reflect in the valuation.

- k. Shall reflect the direct costs associated with the contracts being modeled, as well as an appropriate portion of indirect costs and overhead (i.e., expense assumptions representing fully allocated expenses should be used), including expenses categorized in the annual statement as “taxes, licenses and fees” (Exhibit 3 of the annual statement) in the expense assumption.

- l. Shall include acquisition expenses associated with business in force as of the valuation date and significant non-recurring expenses expected to be incurred after the valuation date in the expense assumption.

- m. For contracts sold under a new policy form or due to entry into a new product line, the company shall use expense factors that are consistent with the expense factors used to determine anticipated experience assumptions for contracts from an existing block of mature contracts taking into account:

i. Any differences in the expected long-term expense levels between the block of new contacts and the block of mature contracts.

ii. That all expenses must be fully allocated as required under Section 12.D.1.h above.

2. Margins for Prudent Estimate Expense Assumptions

The company shall determine margins for expense assumptions following Section 12.C.

Section 13: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The allocation shall be made separately for DR and SR. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

Commented [X636]: This method only makes sense if done separately for the DR and SR.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\Sigma Ai * [Aggregate Reserve - \Sigma Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the ~~stochastic reserve~~ SR defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows, as well as any cash flows that are scenario dependent.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the ~~stochastic reserve~~ SR defined in Section 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Commented [X637]: This method depends on the NAER, so would not work for companies that use direct iteration.

Commented [X638]: This could give an unstable allocation if there is an even mix of products with different risk profiles, so that the tail is populated with some scenarios where Product A does poorly and some where Product B does poorly. The single scenario will only reflect the riskiness of one of the products.

Commented [X639]: Not just the NAER, but the cashflows are also scenario dependent.

Commented [VM22640R639]: Edits to address this comment will be reflected in next exposure

Commented [CD641]: "Section 3.D"

Commented [VM22642R641]: Edits to address this comment will be reflected in next exposure

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}\{(2)-(1), 0\}$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}\{[(4 \text{ Total}) - (1 \text{ Total}), 0\}$	Allocated Excess Reserve (6) = (3) x $\frac{[(5 \text{ Total})]}{[(3 \text{ Total})]}$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value
**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Commented [CD643]: should be "Max{(2)-(1), 0}"
Commented [VM22644R643]: Edits to address this comment will be reflected in next exposure

Section ~~13~~14: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, ~~are covered in this section and all contracts not passing the SET covered by Sections 1 through 13 of VM-22, are covered Section 14 of VM-22:~~
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Commented [X645]: Under A.2: need to exclude contracts being covered by the earlier sections of VM-22 not passing the exclusion tests and need a clearer reference instead of "covered in this section"

Commented [VM22646R645]: Edits to address this comment will be reflected in next exposure

Guidance Note: For Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f and Section ~~13~~14.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f, Section ~~13~~14.A.2.g or Section ~~13~~14.A.2.h, the

company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section ~~13~~14 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section ~~13~~14.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section ~~13~~¹⁴ current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets

- a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
- b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 4314.C.1) and its Premium Determination Date (Section 4314.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 4314.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 4314.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 4314.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section 1314.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section 1314.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section 1314.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 4314.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 4314.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 4314.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 4314.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 14.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 14.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
- i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for

individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section ~~13~~14.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different

dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II, Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 14 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 13 of VM-22.

The requirements in this section are still considered a part of PBR requirements and therefore are applicable to VM-G.

The below principles may serve as key considerations for assessing whether VM 21 or VM 22 requirements apply:

D. Minimum reserve requirements apply:

E. ~~Index for index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM 22 requirements and are issued on 1/1/2024 and later are those requirements: as found in Sections 1 through 13 of VM-22.:~~

- 1. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
- 2.b. Credits a rate of interest under the contract prior to the application of any market value adjustments that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

~~Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM 22 requirements.~~

Minimum reserve requirements.

Commented [X647]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22648R647]: Waylon Peoples comment letter: Extend small company exemption in place for life PBR (VM-20) to VM-22.

Commented [VM22649R647]: The Subgroup voted in favor of a VM-22 PBR Exemption. The ACLI will follow-up with proposed criteria for determining the exemption.

Commented [CD650]: "non-variable annuity"?

Commented [VM22651R650]: Edits to address this comment will be reflected in next exposure

Commented [X652]: "Section 13 of VM-22" may need to be updated if it is decided to have separate chapters for VM-22 VIR and VM-22 PBR.

Commented [VM22653R652]: Edits to address this comment will be reflected in next exposure

Commented [CD654]: "non-variable annuity"?

Commented [VM22655R654]: Edits to address this comment will be reflected in next exposure

Commented [CD656]: Consider adding the sentence: "The minimum reserve requirements of VM-22 are considered PBR requirements for purposes of the Valuation Manual." This is so VM-G will apply to VM-22, which would be appropriate.

Commented [VM22657R656]: Edits to address this comment will be reflected in next exposure

Commented [X658]: "Index-linked" annuity is not defined – only RILA and FIA in VM-22, recommend to revise the language or add a definition to define "index linked".

Commented [X659]: Recommend adding this part to E.1.b and delete the Guidance Note.

Commented [VM22660R659]: Edits to address this comment will be reflected in next exposure

for index

F. ~~2. Index-linked or modified guaranteed annuity contracts or riders that do not satisfy either of the two conditions listed above criteria in Paragraph Section 2.E.1 and Section 2.E.2 above and E.1.ii may be a key consideration for application of VM-21 are issued on 1/1/2024 and later are those requirements as found in VM-21.~~

Commented [X661]: VM-21 specifically says “These requirements do not apply to contracts falling under the scope of VM-A-255: Modified Guaranteed Annuities; however, they do apply to contracts listed above that include one or more subaccounts containing features similar in nature to those contained in modified guaranteed annuities (MGAs) (e.g., market value adjustments).” Is this a contradiction?

Commented [X662]: Consistent with E above.

Commented [VM22663R662]: Edits to address this comment will be reflected in next exposure

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies ~~Designs~~ of policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

Commented [X664]: Still need the word "designs" otherwise this is saying the whole policy/contract was only created to disguise benefits, which would never be true.

Commented [VM22665R664]: Edits to address this comment will be reflected in next exposure

A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.

B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, ~~Nursing Home Benefits~~ or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.

Commented [X666]: This reference is another place where there would be a benefit distinguishing the PBR sections of VM-22 from the non-PBR sections.

Commented [VM22667R666]: Edits to address this comment will be reflected in next exposure

~~C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.~~

~~D.C. Anyany~~ guaranteed minimum benefits on life insurance policies or annuity contracts ~~not subject to Paragraph C above~~ including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

Commented [X668]: These parallel requirements can be combined.

Commented [VM22669R668]: Edits to address this comment will be reflected in next exposure

~~E.D.~~ If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

1. The rider or supplemental benefit does not have a separately identified premium or charge.
2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~F.E.~~ If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is

separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

G.F. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

H.G. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve (for VM-20 and VM-22) or TAR (for VM-21) if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves (for VM-20 and VM-22) or reserves and TAR (for VM-21) using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. When advantageous, policyholders will commence living benefit payouts if not started yet.

Commented [X670]: Simplifications are judged relative to reserves for VM-20/VM-21 and TAR for VM-21.

Commented [VM22671R670]: Edits to address this comment will be reflected in next exposure

Commented [X672]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

Page 6: [1] Commented [X42] TDI 11/9/2021 8:56:00 AM

Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly reflected. Recommend deleting the whole section 1.C.3 including item (a) and item (b).

Page 6: [2] Commented [X45] TDI 11/9/2021 8:59:00 AM

The revised language “sudden and significant levels of withdrawal and surrenders” replaces the original language “run on the bank” and is less clear. Does “significant” mean severe or extreme? Or just appreciably? Withdrawals and surrenders certainly may vary by projected economic scenarios. Recommend using the original language “run on the bank” that had a clearer intent.

Page 6: [3] Commented [X46] TDI 11/9/2021 9:02:00 AM

We recommend deleting the wording “fundamentally”.

If a breakthrough is known to have fundamentally changed expected future mortality, but is not yet significantly reflected in historical experience, why is it not reflected? Do we know about this fundamental shift for years before it is reflected? This issue also applies to the VM-21 requirement.

Page 6: [4] Commented [X48] ACLI

We recommend removing the bullet “Significant future reserve increases as an unfavorable scenario is realized” as this is extraneous.

Page 7: [5] Commented [X55] TDI 11/9/2021 9:04:00 AM

The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as “Buffer” or “Floor”. Recommend deleting Buffer Annuity or add descriptions for Buffer Annuity as a subtype in the RILA definition.

Page 7: [6] Commented [X57] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 7: [7] Commented [X65] TDI 11/9/2021 9:07:00 AM

The definition of FIA describes the account value as typically with guaranteed principal. Since FIA always has the guaranteed principal, recommend deleting the wording “typically”.

Page 9: [8] Commented [X87] ACLI

It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

Page 9: [9] Commented [VM2288R87] VM-22 Subgroup 6/23/2022 9:12:00 AM

ACLI already following up on a proposal to address the scope and definitions, which will address this issue.

Page 9: [10] Commented [X91] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 9: [11] Commented [X93] TDI 11/9/2021 9:06:00 AM

The wording “after (or from)” the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as “from” the issue date.

Page 11: [12] Commented [VM22112R109] VM-22 Subgroup 6/23/2022 9:14:00 AM

The VM-22 Subgroup voted to adopted “Option 1” for Reserving Categories

Page 11: [13] Commented [VM22111R109] VM-22 Subgroup 3/2/2022 4:12:00 PM

See Equitable comment letter: supports full aggregation, but if choosing between the two exposed options for two reserving categories, prefers option 2.

Page 11: [14] Commented [VM22110R109] VM-22 Subgroup 3/2/2022 2:59:00 PM

See NY comment letter: supports option 1, with additional category for “other” for any other contract with supporting assets such that there is greater reinvestment and longevity risks, than disintermediation risk and other risks associated with policyholder behavior as of the valuation date.

Page 11: [15] Commented [X109] TDI 11/9/2021 9:23:00 AM

The reserving categories for VM-22 are not included in Scope. Recommend including the defined reserving categories in the section when outlining Scope.

Page 11: [16] Commented [X107] ACLI

We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Page 11: [17] Commented [VM22108R107] VM-22 Subgroup 6/23/2022 9:16:00 AM

ACLI will follow up with a proposed revision to the definitions and scope section

Page 11: [18] Commented [VM22114R113] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [19] Commented [CD113] CA DOI 12/30/2021 3:27:00 PM

suggest numbering the paragraphs within this section

Page 11: [20] Commented [CD115] CA DOI 12/30/2021 3:27:00 PM

suggest swapping the order of this section. That is, start with the "in scope" list, rather than the "out of scope" list.

Also, it seems like there should be specific mentions of GMDBs and GLBs, as there are in VM-21, since those guarantees can also be found on FIAs.

Page 11: [21] Commented [VM22116R115] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [22] Commented [X117] TDI 11/9/2021 9:12:00 AM

Since buffer annuities are a subset of RILA, recommend deleting buffer annuities.

Page 11: [23] Commented [VM22118R117] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [24] Commented [CD119] CA DOI 12/30/2021 3:28:00 PM

this is not defined in the Definition section. should it be?

Page 11: [25] Commented [VM22120R119] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [26] Commented [X121] TDI 11/9/2021 9:17:00 AM

This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" list and adding a cross-reference to VM-21 Section 2.A.

Page 11: [27] Commented [VM22122R121] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [28] Commented [CD123] CA DOI 12/30/2021 3:28:00 PM

should this be "non-variable annuities" since that is term used in Section 1.A?

Page 11: [29] Commented [VM22124R123] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [30] Commented [VM22128R127] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [31] Commented [VM22126R125] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [32] Commented [VM22130R129] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [33] Commented [VM22132R131] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [34] Commented [CD133] CA DOI 12/30/2021 3:31:00 PM

should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined in the Definitions section?

Page 11: [35] Commented [VM22134R133] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [36] Commented [CD135] CA DOI 12/30/2021 3:31:00 PM

for consistency, make plural; i.e., change to "ies"

Page 11: [37] Commented [VM22136R135] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 12: [38] Commented [X146] TDI 11/9/2021 9:33:00 AM

Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters. After having reviewed, we think it would be much more clear to reconsider the use of "VM-23" for the PBR requirements to avoid ambiguity around scope/exclusions. The non-PBR sections also just don't seem to fit in this draft, and there is now ambiguity around whether other parts of VM-22 apply to them (scope, effective date, principles, etc.).

Page 12: [39] Commented [X149] TDI 11/9/2021 9:28:00 AM

Can a company wait until the end of the transition period to start PBR, but then apply PBR to the issues from during the transition period? This was unclear for VM-20, and still seems unclear here. Need to be explicit one way or the other.

Page 12: [40] Commented [VM22150R149] VM-22 Subgroup 6/23/2022 9:19:00 AM

Discussed with Subgroup and decided to keep the VM-22 language silent on this issue, similar to VM-20, leaving it to be determined on a case-by-case basis for each state.

Page 15: [41] Commented [X166] TDI 11/9/2021 9:48:00 AM

Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

Page 15: [42] Commented [CD167] CA DOI 12/30/2021 3:35:00 PM

suggest expanding header to "Stochastic Exclusion Test", for clarity

Page 15: [43] Commented [X168] ACLI

Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Page 15: [44] Commented [VM22169R168] VM-22 Subgroup 6/23/2022 11:26:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [45] Commented [CD170] CA DOI 12/30/2021 3:36:00 PM

Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ways of passing it. Therefore, the current wording is confusion because it suggests that there are multiple SETs.

Page 15: [46] Commented [VM22171R170] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [47] Commented [VM22173R172] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [48] Commented [X174] ACLI

We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

Page 15: [49] Commented [X175] TDI 11/9/2021 9:57:00 AM

The statement in this section is not acceptable as discussed in the previous TX comment letter. This will have the effect of potentially masking blocks that need PBR.

Page 15: [50] Commented [VM22176R175] VM-22 Subgroup 6/23/2022 9:26:00 AM

Subgroup agreed that wording for exclusion test aggregation should be consistent with VM-20. Edits to address this comment will be reflected in next exposure

Page 15: [51] Commented [X177] ACLI

This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

Page 15: [52] Commented [VM22178R177] VM-22 Subgroup 6/23/2022 9:27:00 AM

Subgroup voted to use wording consistent with VM-20, which prohibits aggregating contracts with significantly different risk profiles.

Page 15: [53] Commented [CD179] CA DOI 12/30/2021 3:42:00 PM

for clarity, change this reference to "Section 3.D"

Page 15: [54] Commented [VM22180R179] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [55] Commented [CD181] CA DOI 12/30/2021 3:41:00 PM

again, suggest rewording this to just say "the stochastic exclusion test"

Page 15: [56] Commented [VM22182R181] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [57] Commented [X184] ACLI

Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

Page 15: [58] Commented [VM22185R184] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [59] Commented [X186] ACLI

This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Page 15: [60] Commented [CD187] CA DOI 12/30/2021 3:43:00 PM

VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques is missing (including the Guidance Note). Would it make sense to add it?

Page 15: [61] Commented [VM22189R188] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [62] Commented [X190] TDI 11/9/2021 9:59:00 AM

Recommend to periodically review at least every three years.

Page 15: [63] Commented [CD191] CA DOI 12/30/2021 3:45:00 PM

Should this be "the company... shall", rather than the "qualified actuary... shall"? Not sure why this particular task falls on the QA, when "the company" generally has responsibility for PBR and, in the subsection directly before this one, the company is assigned the task of establishing prudent estimate assumptions.

Page 15: [64] Commented [VM22192R191] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [65] Commented [X193] ACLI

Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Page 15: [66] Commented [VM22194R193] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [67] Commented [X195] TDI 11/9/2021 10:01:00 AM

Recommend replacing "the qualified actuary" with "the Company" consistent with general PBR requirements that the company set assumptions.

Page 15: [68] Commented [VM22196R195] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [69] Commented [CD197] CA DOI 12/30/2021 3:48:00 PM

should this be "the company"? See prior comment.

Page 15: [70] Commented [VM22198R197] VM-22 Subgroup 6/23/2022 9:28:00 AM

Edits to address this comment will be reflected in next exposure

Page 34: [71] Commented [VM22359] VM-22 Subgroup 7/5/2022 4:21:00 PM

New language drafted by select Subgroup Members to provide certain conditions under which SPIA contracts could automatically pass the exclusion test

Page 34: [72] Commented [CD360] CA DOI 12/30/2021 4:11:00 PM

Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstration or Certifications). The language gets confusing (here and elsewhere) when you start saying there are different "types" of SETs.

Page 35: [73] Commented [X364] ACLI

We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Page 35: [74] Commented [VM22365R364] VM-22 Subgroup 3/2/2022 2:51:00 PM

Subgroup voted to keep PRT ineligible for the Certification Method

Page 35: [75] Commented [CD366] CA DOI 12/30/2021 4:12:00 PM

See earlier comments about the use of "future"

Page 35: [76] Commented [VM22371R370] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [77] Commented [VM22369R368] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [78] Commented [CD372] CA DOI 12/30/2021 4:14:00 PM

what is meant by "aggregate risk levels"? Aggregated across what? Need clarification on the intentions for adding this phrase, when it is not in VM-20. Otherwise, i would suggest deleting this.

Page 35: [79] Commented [VM22373R372] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [80] Commented [X374] TDI 11/18/2021 9:49:00 PM

This is not in VM-20 and would substantially change the exclusion. The intent is not to allow you to group a block that has material interest rate risk with a larger block that is insensitive to interest rate risks and thereby pass. If "aggregate" referred to potential compounding of interest rate, longevity, or asset risk then this could be redrafted to clearly call out a 4th category of risk due to a combination of the first three. However, I think this is already implicitly covered.

Page 35: [81] Commented [VM22375R374] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [82] Commented [VM22377R376] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [83] Commented [CD378] CA DOI 12/30/2021 4:15:00 PM

note, there is no insertion of "aggregate risk levels across" here, like there was above. (to be clear, i don't support adding it.)

Page 35: [84] Commented [VM22379R378] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [85] Commented [CD380] CA DOI 12/30/2021 4:16:00 PM

This wording is a little clunky here. My suggestion:

"A demonstration that, for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great..."

Page 35: [86] Commented [VM22381R380] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [87] Commented [VM22383R382] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [88] Commented [X382] TDI 9/7/2021 9:28:00 AM

Replace all "contracts" with "contracts and certificates"

Page 35: [89] Commented [VM22386R385] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [90] Commented [VM22388R387] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [91] Commented [VM22390R389] VM-22 Subgroup 6/23/2022 1:36:00 PM

Edits to address this comment will be reflected in next exposure

Page 35: [92] Commented [X391] TDI 11/18/2021 10:37:00 PM

Need to add a review of the company's mortality and/or longevity risk.

Page 35: [93] Commented [VM22392R391] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [94] Commented [X393] ACLI

As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Page 35: [95] Commented [VM22394R393] VM-22 Subgroup 6/23/2022 10:12:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [96] Commented [X395] TDI 11/18/2021 9:53:00 PM

Using (a) in the denominator instead of VM-20's (c) which is a PV of benefits could make this ratio unstable when the scenario reserve (a) is very small. This is particularly applicable if the block being tested does not have CSV.

Page 35: [97] Commented [VM22396R395] VM-22 Subgroup 6/23/2022 10:13:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [98] Commented [X397] TDI 11/18/2021 9:59:00 PM

The variability should be assured to be immaterial based on the company's materiality standard.

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
June 29, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met June 29, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Mike Yanacheak (IA); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Mike Boerner and Yujie Huang (TX); and Craig Chupp (VA).

1. Reviewed the Updated VM-22 Subgroup Documents

Mr. Slutsker said the drafting discussion log (Attachment Twenty-One-A) has been updated to include the tier three comments. He presented an updated version of the proposed VM-22 framework (Attachment Twenty-One-B), which reflects the tier one and tier two comments that have been addressed.

2. Discussed the Allocation of Excess Reserves

Mr. Slutsker said that two options have been proposed for the allocation of the excess of reserves over cash values. He said the first option allocates the excess in the same manner as VM-21, Requirements for Principle-Based Reserves for Variable Annuities, which uses the measure of the risk of the product relative to its cash surrender value. He said the second option uses the excess of the present value of the projected liability cash flows to allocate the excess reserves. Brian Bayerle (American Council of Life Insurers—ACLI) said the ACLI wants to ensure that the method chosen is consistent with other requirements. He said they are testing the options and will share the outcome of the testing once it is completed. He said they are particularly concerned with non-life contingent contracts. Chris Conrad (American Academy of Actuaries—Academy) said both options will be considered as part of the VM-22 field test. Mr. Slutsker said the allocation method decision will be deferred until after the field test.

3. Discussed Working Reserve for Contracts with no Cash Surrender Value

Mr. Slutsker said there is a question of whether to set a working reserve floor for contracts that have no cash surrender value. Al Zlogar (Academy) said it is unlikely that a model segment would combine contracts with cash surrender values and contracts with no cash surrender values because of the aggregation rules, which require the separation of the payout and accumulation categories. He said the Academy will work on a definition for a working reserve or working cash surrender value.

4. Discussed Reserve Categorization Upon Depletion of Fund Value

Mr. Slutsker asked how the proposed VM-22 framework should categorize accumulation contracts after their fund values have been depleted. Mr. Zlogar said that the Academy prefers a principle-based approach, which allows the company management of the investments supporting the liabilities to determine the categorization of the contract for reserving purposes. He said that in most cases, the assets are transferred to the payout reserving category. He noted that generally accepted accounting principles (GAAP) require that the reserves move from market risk benefit reserves to liability for future policy benefit reserves. He said one would expect the asset categorization to follow the categorization of the GAAP reserves. Mr. Slutsker asked how companies with no single premium immediate annuities or deferred income annuities would address their deferred annuities when the funds are depleted and the contract begins paying out guaranteed living benefits. John Miller (Academy) said the working reserve concept could come into play in that situation. Mr. Slutsker asked if forcing the contracts with

depleted fund values into the payout reserving category would alleviate the need to address the working reserve issue. Mr. Zlogar said that it is unclear whether that will be the case. Mr. Slutsker said that for the initial exposure, the contracts with depleted funds will be required to move to the payout reserving category. He said comments can be submitted at that time. Cindy Barnard (Pacific Life) said that treatment is inconsistent with VM-21. Mr. Slutsker said a drafting note will be added to solicit feedback on the consistency with VM-21.

5. Review Tier Three Comments in the VM-22 draft

Mr. Bayerle said that in Section I of the proposed VM-22 framework, the guidance note that references C-3 Phase II should be retained to acknowledge that a link to risk-based capital (RBC) will continue to exist. He said the appropriate wording can be added later. Mr. Slutsker suggested working offline with Mr. Bayerle to develop proposed wording.

Mr. Slutsker said the California Department of Insurance (DOI) commented that the VM-22 principles should align with VM-21. He said when the VM-22 framework proposal is completed, a document that outlines the differences from VM-21 will be produced. He said differences can be discussed at that time.

Mr. Bayerle said principle #2 is contradicted in later sections of the proposed VM-22 framework. He suggested revising the principle to reflect recent changes. Mr. Slutsker said the issue can be addressed when considering the language for the RBC guidance note.

Mr. Slutsker said that the TDI suggested reinstating the guidance note that gives examples where full aggregation may not be possible under principle #2. There were no objections to reinstating the guidance note.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/06 29/6_29 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/06 29/6_29 VM-22 Minutes.docx)

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
1	VM-22 Scope and Definitions	Keep current definitions for what is in-scope or focus only on non-variable annuities out of scope	4/13/2022	1	Openness to use Section II of the Valuation Manual to determine scope rather than relying on definitions; ACLI to provide potential draft wording
2	Reserving categories and aggregation	Determine Option 1 or Option 2 from exposed reserve category definitions	4/13/2022	1	Preliminary vote to pursue Option 1
3	Small Company Exemption	Fixed Annuity PBR exemption, similar to life PBR exemption for smaller carriers?	4/13/2022	1	Voted to pursue a "Fixed Annuity PBR Exemption"; ACLI to propose a set of potential draft criteria for the exemption
4	Reinvestment Guardrail	Keep VM-20/VM-21 mix, Academy mix, TX mix, or other? Wait until field test for final decision?	4/27/2022	1	Wait until observing impact in field testing results before voting on a reinvestment mix guardrail
5	Principles & Risks Across VM Chapters	Build one section in the Valuation Manual for principles that apply to VM-20, VM-21, and VM-22	4/27/2022	2	Openness to interested party proposals for a common "principles" section, but will focus on working through other VM-22 decisions before exploring
6	General Assumptions Section	Add a section to the VM-22 draft on general considerations and requirements for assumption	4/27/2022	2	Will include a proposed general assumptions section ("Section 13") from Texas, to be consistent with a recent APF adoption on VM-21
7	Transition Period	Permit 1) early adoption and 2) retrospective adoption to the start of the 3-year transition period?	4/27/2022	2	Decided to not pursue early adoption; VM-22 will say silent on retrospective adoption to start of transition period, similar to VM-20
8	Minimum Error for Index Credit Hedges	What should be the minimum breakage expense (i.e., error) for modeling hedges supporting index credits?	5/11/2022	2	Will wait until seeing field testing results before minimum threshold
9	Longevity Reinsurance	How should longevity reinsurance be defined and treat negative reserves/recurring premiums?	5/11/2022	2	Academy presented on longevity reinsurance and will provide a refined definition; New Jersey proposal is exposed for reserving requirements
10	Categories for VM-31 Disclosures	What level of granularity should be required for disclosing PBR reserves for product groups in VM-31?	5/11/2022	2	Will wait until seeing field testing results before determining granularity of disclosures
11	Exclusion Test: SPIA contracts	Allow SPIAs to have the option of PBR vs. pre-PBR valuation without an exclusion test?	6/1/2022	2	Voted to allow SPIAs automatically pass exclusion testing, subject to criteria around optionality and a liability duration threshold (TBD)
12	Exclusion Test: PRT Certification Method	Allow PRT contracts to use the Certification Method for exclusion testing?	6/1/2022	2	Do not allow PRT to undergo the Certification Method
13	Exclusion Test: Grouping	Group between products with significantly different risk profiles?	6/1/2022	2	Do not allow grouping between products with significantly different risk profiles, consistent with VM-20 and TDI's proposal
14	Exclusion Test: Future Premiums	For the stochastic exclusion ratio test, determine whether to include future premiums	6/1/2022	2	Include future premiums in the numerator, but only benefits and expenses in the denominator, consistent with VM-20.
15	Exclusion Test: Deterministic Reserve	To pass the deterministic test, does the company need to pass or disclose 16 scenarios with baseline mortality?	6/1/2022	2	Require passing the ratio test for 16 economic scenarios under 100% of the anticipated experience mortality assumption
17	Import Reinsurance Wording from VM-20	Import VM-20 wording on incorporating contractual or additional characteristics for modeling reinsurance?	6/14/2022	2	Include proposed wording from VM-20
18	Fair Value Certification	Include fair value certification, similar to existing VM-21 requirement?	6/14/2022	2	Include fair value certification disclosure for non-index credit hedging programs
16	PRT Mortality	Permit PRT mortality with limited credibility to follow a third-party provider instead of an industry table?	6/14/2022	2	Voted in favor of using a prescribed table; do not permit a third party table upon limited credibility
19	Allocation Method	Determine Option 1 or Option 2? Wait until observing field test results before deciding?	6/29/2022	2	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
20	Working Reserve	Use a working reserve concept to serve as a floor for contracts without cash surrender value?	6/29/2022	2	
21	Grouping for Fund Value Depletion	Appropriate reserving category for deferred annuities with GMMBs/GMIBs that have depleted fund value	6/29/2022	2	
22	RBC Guidance Note	Retain the guidance note in VM-21 that discusses the relationship between reserves and RBC?	TBD	3	
23	Principle 1	Should the edits to Principle 1 for VM-22 be incorporated into VM-21 as well?	TBD	3	
24	Principle 2	Does setting an SR to be reasonably conservative over a span of economic cycles contradict other principles?	TBD	3	
25	Aggregation Limits	Guidance note stating aggregation may not be possible for experience rated group and reinsurance treaties	TBD	3	
26	Principle 3	Delete "Generally, assumptions are to be based on the conservative end of the confidence interval"?	TBD	3	
27	Principle 5	Delete sentence about the principle to not reduce the reserve unless reducing the risk?	TBD	3	
28	Risks not reflected	Retain or remove the list of "risks not reflected" in VM-22?	TBD	3	
29	Separate Account References	Recommendation to delete all references to "separate accounts" in VM-22	TBD	3	
30	Combination Risks	Proposal to delete "Risks modeled in the company's risk assessment processes that are related to the contracts"	TBD	3	
31	Immaterial Risks	Recommendation to delete sentence about not reflecting risks that do not materially affect the reserves	TBD	3	
32	Significant Future Reserve Increases	Strike this item from the list of risks not reflected?	TBD	3	
33	Fixed Annuity Definition	Need to define a "fixed annuity"?	TBD	3	
34	Longevity Swaps	Are these contracts included in the definition of PRT?	TBD	3	
35	CSV and GMDB definitions	Retain VM-21 definitions for "cash surrender value" and "guaranteed minimum death benefits"?	TBD	3	
36	Assumed reserve level for RBC	Question whether CTE/O was the assumed level for reserves upon determining RBC	TBD	3	
37	VM-23	Consider reinstating "VM-23" to avoid confusion around the where exemptions/exclusions point to vs. PRR?	TBD	3	
38	Pre-Reinsurance	Request to develop further guidance around pre-reinsurance	TBD	3	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
39	Deterministic Reserve	Use this term for the single scenario reserve calculated upon passing the deterministic exclusion test?	TBD	3	
40	Stochastic Exclusion Test	Change Section 3.E to "Stochastic Exclusion Test" header?	TBD	3	
41	Prudent Estimate Assumptions	Move Section 3.G to Section 4 of the document?	TBD	3	
42	Simplifications	Port over VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques?	TBD	3	
43	Review experience every three years?	Make this a requirement for the qualified actuary?	TBD	3	
44	Simplification example for the SPA	Add an example of a simplification for the SPA upon development	TBD	3	
45	Stochastic Mortality	Consider including stochastic mortality in the stochastic reserve for longevity reinsurance?	TBD	3	
46	NVA Guidance Note	Is the market value adjustment guidance note from VM-21 still appropriate for VM-22?	TBD	3	
47	Hedging Reorganization	Move parts of Section 4.A.4 to Section 9, which covers hedging	TBD	3	
48	Future Hedging Programs	Align VM-22 draft to be consistent with APF 2020-12 adopted edits for VM-21?	TBD	3	
49	Index Credit Hedge Margin	Does this reflect both model risk and real-world error? How does stress testing justify the error?	TBD	3	
50	Margin on Hedging Paragraph	Remove this paragraph if included in another section, even upon edits from TDJ/OPBR?	TBD	3	
51	Revenue Sharing	Is the section of revenue sharing applicable to non-variable products?	TBD	3	
52	Projection Period	Use consistent language with VM-20?	TBD	3	
53	PIMR	Include pre-tax IMR in VM-22?	TBD	3	
54	NVA on CSV Floor	Apply the market value adjustment factor to the cash surrender value reserve floor for applicable products?	TBD	3	
55	Consistency with Managed Business	Modify NAER requirement to have assets modeled in a manner consistent with how business is managed?	TBD	3	
56	Limits on NAER	Define a specific cap or floor for the NAER instead of saying it should not be "unreasonably high"?	TBD	3	
57	Reserve Floor	NY comment on using CARVM as a reserve floor	TBD	3	

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#	Topic	Description	Date	Tier	Outcome
58	Longevity Reinsurance & SPA	Require the k-factor approach to address negative reserve issue for longevity reinsurance in SPA?	TBD	3	
59	Longevity Reinsurance & Exclusion Testing	Require the k-factor approach or something similar for longevity reinsurance in exclusion testing?	TBD	3	
60	Standard Projection Amount	Equitable comment on supporting SPA with company assumptions insignificant risk factors	TBD	3	
61	Exclusion Testing & SPA	Modify exclusion test to address the standard projection amount?	TBD	3	
62	Hedging eligibility for exclusion testing	Refine wording around the restriction for not allowing blocks with hedging programs to use exclusion testing? If using the NV7 for the Certification Method, add mortality stress scenarios?	TBD	3	
63	Mortality Stress Tests		TBD	3	
64	Mortality Shock	Include the mortality shock for the ratio test based on the company materiality standard if more restrictive?	TBD	3	
65	Baseline Mortality Test	Include the baseline mortality test in determining the exclusion test?	TBD	3	
66	Permutations	Include note on number of exclusion test permutations for clarity?	TBD	3	
67	Non-Proportional Reinsurance	Retain section on non-proportional reinsurance?	TBD	3	
68	SERT if Other Tests Fail	Prohibit passing the SERT if the demonstration test fails?	TBD	3	
69	Demonstration Test	Remove options in 1.a and 2.a?	TBD	3	
70	Deterministic Exclusion for SPA	Consider SPA for the deterministic exclusion test	TBD	3	
71	Deterministic Exclusion Scenario	Consider disintermediation risk for the SPA scenario?	TBD	3	
72	SPIA Guidance Note	Remove guidance note specifying that the deterministic exclusion test generally applies to SPIAs?	TBD	3	
73	Delta Hedging	Replace or remove example about delta hedging for VM-22?	TBD	3	
74	Policyholder Behavior Considerations	Suggestion to re-word as considerations instead of questions?	TBD	3	
75	Non-Elective Benefits	Remove guidance note to limit modeling non-elective benefits after CSV is depleted if reducing reserves?	TBD	3	
76	100% Policyholder Efficiency	Assuming 100% policyholder inefficiency contradicts VM Section II 6.H.2, so revise VM Section II?	TBD	3	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
77	NGE Board of Directors	Comment that only allowing NGE exclusion if approved by the Board does not necessarily seem reasonable	TBD	3	
78	Unsupported judgement	Comment to remove the reference to using "unsupported actuarial judgement" from Section 11	TBD	3	
79	Mortality and Reinsurance	Does Section 11.A require evaluation of a plus vs. minus segment differently for pre- vs. post reinsurance? Does "little or no data" need to be in the header of Section 11.B.3?	TBD	3	
80	Little or No Data		TBD	3	
81	Improvement with Limited Experience	Consider not only credibility blending the base mortality assumption but also the improvement assumption	TBD	3	
82	Option 1 DR vs SR	Require separate allocation for DR vs. SR for allocation Option 1 (Section 13)?	TBD	3	
83	Option 2 for Direct Iteration Method	Option 2 is not designed to work for the Direct Iteration Method	TBD	3	
84	Option 2 Single Scenario	Could produce unstable allocation when products with different risk profiles are aggregated for PBR	TBD	3	
85	Index-linked annuity	This term is used in the proposed Section II, Subsection 2 draft, but is not defined	TBD	3	
86	Modified Guaranteed Annuities (MGAs)	VM-21 has language that exempts contracts falling under scope of MDL-255, does this contradict Section II edits?	TBD	3	

Comment Categories:

- Tier 1: Key Decision Points – Discuss first
- Tier 2: High Substance Edits – Discuss second
- Tier 3: Moderate Substance Edits – Discuss third
- Tier 4: Noncontroversial or Low Substance Edits – Will expose and only discuss upon comment

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

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Commented [CD1]: Please clarify which version (i.e., effective date) of the VM was used for the comparison. Before any changes for VM-22 are adopted, a final comparison against the latest version of the VM will need to be performed.

Commented [VM222R1]: Final comparison to be made prior to adoption

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Commented [X3]: Note that part of the 2022 VM updates was to replace all instances of "stochastic reserve" with "SR" other than the initial definition in VM-01.

Commented [VM224R3]: Edit to be reflected in next exposure

Section 1: Background

A. Purpose

Sections 1 through 13 of these requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. Section 14 of these requirements establish the maximum valuation rate for payout annuities for contracts issued on or after 1/1/2018. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts and certificates, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

B. Principles

The projection methodology used to calculate the stochastic reserve_{SR} is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve_{SR} is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve_{SR} is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve_{SR} at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Guidance Note: Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the

Commented [X5]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

Commented [VM226R5]: Edits to address this comment will be reflected in next exposure

Commented [CD7]: might be clearer to refer to "Section 2.A" here

Commented [VM228R7]: No objections from the Subgroup to an approach that is broader and focuses on Section 2.A. ACLI will follow-up with proposed revisions to the scope section

Commented [X9]: The statement only addresses "contracts". Recommend adding "and certificates". Need to do a holistic review if where "and certificates" may be needed.

Commented [VM2210R9]: Edits to address this comment will be reflected in next exposure

Commented [X11]: (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, "products that calculate a stochastic reserve", since the relationship to RBC would likely be maintained.

Commented [X12]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter term fix, we would recommend generalizing the principles where appropriate and moving these to "Section 1: Introduction" or "VM-0" and equally applying to VM-2.

Commented [VM2213R12]: Discussed with Subgroup. Members are open and interested to a common principles chapter, but decided to hold off on developing for now.

Commented [CD14]: for consistency, will this edit be considered for VM-21 as well?

Commented [X15]: We support this principle but note that later sections appear to contradict this principle. For example, the statement "The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario." contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Commented [X16]: Principle 2: Recommend reinstating Guidance Note in Principle 2 to be consistent with VM-21.

company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the stochastic reserve_{SR} at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve_{SR}, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle. More guidance and requirements for setting assumptions in general are provided in Section 12.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve_{SR} is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model ~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~ can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve_{SR}. ~~Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve_{SR} without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.~~

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.

Commented [X17]: We suggest deleting the sentence “Generally, assumptions are...” since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Commented [X18]: ~~More general assumption guidance is provided in Section 12.~~

Commented [VM2219R18]: Subgroup agreed with this comment. Edits to address this comment will be reflected in next exposure.

Commented [X20]: Principle 5 has the statement “~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~” which is intended for the Alternative Methodology in VM-21. The statement should be deleted from VM-22.

Commented [VM2221R20]: Edits to address this comment will be reflected in next exposure

Commented [X22]: We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.

Commented [X23]: ~~Consistent with our comments on VM-21, we suggest consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.~~

Commented [VM2224R23]: The Subgroup is open to a common chapter with all risks identified for different PBR frameworks, but decided to hold off on developing for now.

Commented [CD25]: VM-21 has “... and Risks Not Reflected” in this section header, which should be retained here since the section on risks not reflected is still in here.

2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:

a. Asset risks

- i. Credit risks (e.g., default or rating downgrades).
- ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
- iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
- iv. Performance of equities, real estate, and Schedule BA assets.
- v. Call risk on callable assets.
- vi. Separate account fund performance.
- vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
- viii. Currency risk.

Commented [CD26]: Can a non-variable annuity have a separate account fund? I am not aware of any such annuity, that is not a variable annuity. Furthermore, all references to separate accounts and fund performance were deleted from this draft. Thus, we should consider deleting this item from the list.

b. Liability risks

- i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
- ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
- iii. Utilization risk associated with guaranteed living benefits.
- iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
- v. Annuitization risks.
- vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
- vii. Applicable expense risks, including fluctuation in maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.

Commented [CD27]: Is there a distinction between "dump-ins" and "deposits"? Why are both words needed? Also, if it's determined that both words are needed, should this same change be made in VM-21?

Commented [VM2228R27]: Edits to address this comment will be reflected in next exposure

Commented [X29]: Recommend change to "fluctuation in" maintenance expenses for clarity.

Commented [VM2230R29]: Edits to address this comment will be reflected in next exposure

Commented [CD31]: should this same change also be made to VM-21?

Commented [VM2232R31]: Potential VM-21 will be examined separately from this Subgroup at a later point

c. Combination risks

- i. Risks modeled in the company's risk assessment processes that are related to the contracts, as described above.
- ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).

Commented [X33]: We recommend removing the bullet "Risks modeled in the company's risk assessment processes that are related to the contracts, as described above" as this is unclear and probably extraneous.

- iii. Risks associated with revenue-sharing income.
- 3. The risks not necessarily reflected in the calculation of reserves under these requirements are:
 - a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
- 4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Liquidity risks associated with a sudden and significant levels of withdrawals and surrenders; "run on the bank."
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks
 - i. Deterioration of reputation.
 - ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
 - iii. Poor management performance.
 - iv. The expense risks associated with fluctuating amounts of new business.
 - v. Risks associated with future economic viability of the company.
 - vi. Moral hazards.
 - vii. Fraud and theft.
 - viii. Operational.
 - ix. Litigation.

Commented [X34]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

Commented [CD35]: Suggest eliminated "policies or" since customarily, annuities are "contracts"

Commented [VM2236R35]: Edits to address this comment will be reflected in next exposure

Commented [CD37]: This is not in VM-21, and my suggestion would be to delete this

Commented [X38]: Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly reflected. Recommend deleting the whole section 1.C.3 including item (a) and item (b).

Commented [CD39]: should this same change also be made to VM-21?

Commented [VM2240R39]: Edits to address this comment will be reflected in next exposure

Commented [X41]: The revised language "sudden and significant levels of withdrawal and surrenders" replaces the original language "run on the bank" and is less clear. Does "significant" mean severe or extreme? Or just appreciably? Withdraws and surrenders certainly may vary by projected economic scenarios. Recommend using the original language "run on the bank" that had a clearer intent.

Commented [X42]: We recommend deleting the wording "fundamentally". If a breakthrough is known to have fundamentally changed expected future mortality, but is not yet significantly reflected in historical experience, why is it not reflected? Do we know about this fundamental shift for years before it is reflected? This issue also applies to the VM-21 requirement.

Commented [VM2243R42]: Edits to address this comment will be reflected in next exposure

Commented [X44]: We recommend removing the bullet "Significant future reserve increases as an unfavorable scenario is realized" as this is extraneous.

Commented [X45]: List could be expanded to included operational risk and litigation risk.

Commented [VM2246R45]: Edits to address this comment will be reflected in next exposure

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

- **Deferred Income Annuity (DIA)**

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year, 13 months or later after (or from) the issue date if the contract holder survives to a predetermined future age.

- **Fixed Indexed Annuity (FIA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to a n external index, subject to certain limits, typically with guaranteed principal.

- **Flexible Premium Deferred Annuity (FPDA)**

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

- **Funding Agreement**

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

- **Guaranteed Investment Contract (GIC)**

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

- **Index Credit Hedge Margin**

A margin capturing the risk of inefficiencies in the company's hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

- **Index Credit**

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to contract policy values that is linked to an index or indices. Amounts credited to the contract policy resulting from a floor on an index account are included.

Commented [X47]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [VM2248R47]: No objections from the Subgroup to an approach that is broader and focuses less on definitions. ACLI will follow-up with proposed revisions to the scope section

Commented [CD49]: The format of this Definitions section is inconsistent with other parts of the VM. In ... [1]

Commented [VM2250R49]: Edits to address this comment will be reflected in next exposure

Commented [X51]: The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity. In ... [2]

Commented [VM2252R51]: Edits to address this comment will be reflected in next exposure

Commented [X53]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guide ... [3]

Commented [VM2254R53]: Edits to address this comment will be reflected in next exposure

Commented [X55]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is conf ... [4]

Commented [VM2256R55]: Edits to address this comment will be reflected in next exposure

Commented [X57]: Is "typically" intended to be a requirement in the definition? That is, to qualify as FI ... [5]

Commented [VM2258R57]: Edits to address this comment will be reflected in next exposure

Commented [CD59]: insert: "subject to certain limits,"

Commented [VM2260R59]: Edits to address this comment will be reflected in next exposure

Commented [X61]: The definition of FIA describes the account value as typically with guaranteed principal. ... [6]

Commented [VM2262R61]: Edits to address this comment will be reflected in next exposure

Commented [CD63]: should be "contract"

Commented [VM2264R63]: Edits to address this comment will be reflected in next exposure

Commented [CD65]: should be "contract"

Commented [VM2266R65]: Edits to address this comment will be reflected in next exposure

- **Index Crediting Strategy**

The strategy defined in a contract to determine index credits for a contract. ~~This refers to~~For example, this may refer to underlying index, index parameters, date, timing, performance triggers, and other elements of the crediting method.

- **Index Parameter**

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

- **Longevity Reinsurance**

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

- Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

- Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

- **Market Value Adjustment (MVA) Annuity**

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

- **Modified Guaranteed Annuity (MGA)**

A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values and death benefits that are based upon a market-value adjustment formula if held for shorter periods.

Commented [X67]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

Commented [VM2268R67]: Edits to address this comment will be reflected in next exposure

Commented [X69]: The definition states that "Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition". Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in "2.A. Scope" if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing "typically" from the definition.

Commented [VM2270R69]: Academy will follow-up with proposed revisions to the definition of Longevity Reinsurance.

Commented [VM2271]: New Jersey comment letter: due to future premiums, longevity reinsurance may generate negative reserves, which can be used to eliminate or reduce other immediate annuity reserves. Suggest using net premium methodology, solving for a k-factor at issue to solve for $PV(\text{premiums}) = PV(\text{benefits})$.

Commented [VM2272R71]: VM-22 Subgroup has exposed a proposal from NJ to address this issue.

Commented [X73]: We recommend editing the definition as follows "A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account..."

Commented [VM2274R73]: Edits to address this comment will be reflected in next exposure

Commented [X75]: To clarify definition of MGA, recommend adding "death benefits".

Commented [VM2276R75]: Edits to address this comment will be reflected in next exposure

- Multiple-Year Guaranteed Annuity (MYGA)**
A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.
- Pension Risk Transfer (PRT) Annuity**
An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).
- Registered Index-Linked Annuity (RILA)**
An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.
- Single Premium Immediate Annuity (SPIA)**
An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within 13 months one year after (or from) the issue date issue date.
- Single Premium Deferred Annuity (SPDA)**
An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.
- Stable Value Contract**
A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer's general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.
- Structured Settlement Contract (SSC)**
A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.
- Synthetic Guaranteed Investment Contract (Synthetic GIC)**

- Commented [CD77]:** should this be "Multi-Year" instead of "Multiple Year"? The former is the more commonly used term for MYGA
- Commented [VM2278R77]:** Edits to address this comment will be reflected in next exposure
- Commented [CD79]:** "fixed annuity" is not defined. Is it better to change all instances of "fixed annuity" to "non-variable annuity" to be consistent with the terminology introduced in Section 1.A (and to be aligned with the actual VM-22 chapter name)? An alternative could be to add a definition for "fixed annuity", with the definition of it being a "non-variable annuity"
- Commented [CD80]:** ok to keep this as "multiple year"
- Commented [VM2281R80]:** Edits to address this comment will be reflected in next exposure
- Commented [X82]:** Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of "annuity contract" in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.
- Commented [X83]:** It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.
- Commented [VM2284R83]:** ACLI already following up on a proposal to address the scope and definitions, which will address this issue.
- Commented [X85]:** If need to address Buffer Annuity (not sure this is needed), can add here as a subset of RILA.
- Commented [VM2286R85]:** Edits to remove "Buffer Annuity" will be reflected in next exposure
- Commented [X87]:** Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guide ... [7]
- Commented [VM2288R87]:** Edits to address this comment will be reflected in next exposure
- Commented [X89]:** The wording "after (or from)" the issue date used in the DIA and SPIA definitions is conf ... [8]
- Commented [VM2290R89]:** Edits to address this comment will be reflected in next exposure
- Commented [X91]:** Suggest striking sentence "Adverse mortality is typically expected for these contracts." fr ... [9]
- Commented [VM2292R91]:** Edits to address this comment will be reflected in next exposure
- Commented [CD93]:** suggest spelling out GIC first, followed by the acronym
- Commented [VM2294R93]:** Edits to address this comment will be reflected in next exposure

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the contract policyholder or plan trust.

Commented [CD95]: should be "contract holder"

- **Term Certain Payout Annuity**

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Commented [VM2296R95]: Edits to address this comment will be reflected in next exposure

- **Two-Tiered Annuity**

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

The term "cash surrender value" means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.

Commented [CD97]: this definition still applies, should we keep it?

The term "guaranteed minimum death benefit" (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:

Commented [CD98]: this definition still applies, should we keep it?

- is increased by an amount that may be either specified by or computed from other policy or contract values; and

- has the potential to produce a contractual total amount payable on such death that exceeds the account value; or

- in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.

E. Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks.

Commented [X99]: Add consistent with VM-21 Section 1.E, which was added to the 2022 VM.

Commented [VM22100R99]: Edits to address this comment will be reflected in next exposure

Commented [X101]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.

Commented [VM22102R101]: Edits to address this comment will be reflected in next exposure

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this Sections 1 to 13 of VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

1. Contracts or benefits that are subject to VM 21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

Products in scope of VM-22 include non-variable fixed annuities which consist of, but are not limited to, the following the list:

▪ Account Value Based Annuities

1. Deferred Annuities (SPDA & FPDA)
2. Multi-Year Guarantee Annuities (MYGA)
3. Fixed Indexed Annuities (FIA)
4. Market Value Adjustments (MVA)
5. Two-tiered Annuities
6. Guarantees/Benefits/Riders on Non-Variable Fixed Annuity Contracts

▪ Payout Annuities

1. Single Premium Immediate Annuities (SPIA)
2. Deferred Income Annuities (DIA)
3. Term Certain Payout Annuities
4. Pension Risk Transfer Annuities (PRT)
5. Structured Settlement Contracts (SSC)
6. Longevity Reinsurance

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities and RILAs)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM 22.

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

- Commented [X103]: We would support reworking ... [14]
- Commented [VM22104R103]: ACLI will follow up ... [15]
- Commented [X105]: The reserving categories for ... [13]
- Commented [VM22106R105]: See NY comment ... [12]
- Commented [VM22107R105]: See Equitable con ... [11]
- Commented [VM22108R105]: The VM-22 Subgr ... [10]
- Commented [CD109]: suggest numbering the par ... [17]
- Commented [VM22110R109]: Edits to address t ... [16]
- Commented [CD111]: suggest swapping the orde ... [18]
- Commented [VM22112R111]: Edits to address t ... [19]
- Commented [X113]: Since buffer annuities are a s ... [20]
- Commented [VM22114R113]: Edits to address t ... [21]
- Commented [CD115]: this is not defined in the De ... [22]
- Commented [VM22116R115]: Edits to address t ... [23]
- Commented [X117]: This needs to be revised to b ... [24]
- Commented [VM22118R117]: Edits to address t ... [25]
- Commented [CD119]: should this be "non-variab ... [26]
- Commented [VM22120R119]: Edits to address t ... [27]
- Commented [X121]: Typo. Delete extra "the".
- Commented [VM22122R121]: Edits to address t ... [29]
- Commented [CD123]: grammar - delete "the"
- Commented [VM22124R123]: Edits to address t ... [28]
- Commented [CD125]: should have space instead of dash
- Commented [VM22126R125]: Edits to address t ... [30]
- Commented [CD127]: delete the "s" and add "Annuities"
- Commented [VM22128R127]: Edits to address t ... [31]
- Commented [CD129]: should this be "Non-Variab ... [32]
- Commented [VM22130R129]: Edits to address t ... [33]
- Commented [CD131]: for consistency, make plur ... [34]
- Commented [VM22132R131]: Edits to address t ... [35]
- Commented [X133]: We suggest moving or deleti ... [36]
- Commented [VM22134R133]: Edits to address t ... [37]
- Commented [CD135]: self-referencing "VM-22" is ... [38]
- Commented [VM22136R135]: Edits to address t ... [39]
- Commented [X137]: Does this belong in Scope? ... [40]
- Commented [VM22138R137]: Edits to address t ... [41]
- Commented [CD139]: again, suggest numbering ... [42]
- Commented [VM22140R139]: Edits to address t ... [43]
- Commented [X141]: We still have a question abo ... [44]

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the three-year transition period elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Commented [X142]: Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters. After having reviewed, we think it would be much more clear to reconsider the use of "VM-23" for the PBR requirements to avoid ambiguity around scope/exclusions. The non-PBR sections also just don't seem to fit in this draft, and there is now ambiguity around whether other parts of VM-22 apply to them (scope, effective date, principles, etc.).

Commented [X143]: To be more clear, recommend adding "transition period" to "the three years".

Commented [VM22144R143]: Edits to address this comment will be reflected in next exposure

Commented [X145]: Can a company wait until the end of the transition period to start PBR, but then apply PBR to the issues from during the transition period? This was unclear for VM-20, and still seems unclear here. Need to be explicit one way or the other.

Commented [VM22146R145]: Discussed with Subgroup and decided to keep the VM-22 language silent on this issue, similar to VM-20, leaving it to be determined on a case-by-case basis for each state.

Commented [CD147]: Will we (or should we) allow for any early adopters (like we did for VM-21)? It would seem reasonable to us to consider accommodating early adopters.

Commented [VM22148R147]: Discussed with Subgroup and decided to not have early adoption before the start of the three year transition period.

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the ~~stochastic reserve~~SR (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) plus the DR for those contracts satisfying the Deterministic Certification Option,~~ less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR ~~stochastic reserves~~SRs, per the requirements in Section 3.E.

B. Impact of Reinsurance ~~Ceded~~

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

~~C. To Be Determined~~The Additional Standard Projection Amount

D. The Stochastic Reserve

~~The stochastic reserve~~

The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.

D. The SR

1. The SR shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section 3.GF herein.
2. The ~~stochastic reserve~~SR amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the ~~scenario reserve~~DR following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts within each Reserving Category as a single model segment when determining the ~~stochastic reserve~~ if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:SR. However, groups of contracts within different Reserving Categories may

Commented [X149]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22150R149]: To address SPA later in the VM-22 development process.

Commented [X151]: One of the most confused parts of the draft was referring to a DR as the SR for certain contracts. Need to handle and refer to separately.

Commented [VM22152R151]: Edits to address this comment will be reflected in next exposure

Commented [X153]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

Commented [X154]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [VM22155R154]: Edits to address this comment will be reflected in next exposure

Commented [CD156]: Should this be Section 3.G?

Commented [VM22157R156]: Edits to address this comment will be reflected in next exposure

Commented [X158]: Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

not be aggregated together in determining the SR. For the purposes of VM-22, Reserving Categories are classified as the following:

a. The “Payout Annuity Reserving Category” includes the following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits provided by variable annuities:

- i. Immediate annuity contracts;
- ii. Deferred income annuity contracts;
- iii. Structured settlements in payout or deferred status;
- iv. Fixed income payment streams resulting from the exercise of settlement options or annuitizations of host contracts issued;
- v. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest);
- vi. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts, once the contract funds are exhausted;
- vii. Certificates, emanating from non- variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders fixed income payment streams upon their retirement; and
- viii. Pension Risk Transfer Annuities; and
- ix. Longevity Reinsurance.

Commented [VM22159]: Include in deferred annuities with depleted fund value in payout reserving category or accumulation reserving category?

b. The “Accumulation Reserving Category” are all annuities within scope of VM-22 under Section II of the NAIC Valuation Manual that are not in the “Payout Reserving Category”.

Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together

4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

54. To the extent that these limits on the aggregation results results in more than one model segment, the stochastic reserveSR shall equal the sum of the stochastic reserveSR amounts

Commented [X160]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

computed for each model segment and scenario reserve DR amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

Commented [X161]: Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a ... [45]

E. Exclusion Test

1. To the extent that certain groups of contracts pass ~~one of the defined~~ the stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in and Section 13.
 - a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Commented [CD162]: suggest expanding header ... [46]

Commented [X163]: Seems to imply that only SPIA ... [47]

Commented [VM22164R163]: Edits to address th ... [48]

Commented [CD165]: suggest rewording to just s ... [49]

Commented [VM22166R165]: Edits to address th ... [50]

Commented [X167]: Typo. Delete for clarity. ... [51]

Commented [VM22168R167]: Edits to address th ... [51]

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

Commented [X169]: We believe this guidance not ... [52]

Commented [X170]: ... [53]

Commented [VM22171R170]: Subgroup agreed ... [54]

Commented [X172]: ... [55]

Commented [VM22173R172]: Subgroup voted to ... [56]

Commented [CD174]: for clarity, change this refe ... [57]

Commented [VM22175R174]: Edits to address th ... [58]

Commented [CD176]: again, suggest rewording th ... [59]

Commented [VM22177R176]: Edits to address th ... [60]

2. ~~The approach for grouping contracts company may not group together contract types with significantly different risk profiles when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above test.~~

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 4.13, with the exception of contract following Section 3.E which are to be calculated on a seriatim basis.

Commented [X178]: Based on VM-20 language. ... [61]

Commented [X179]: Either in this item or in Secti ... [61]

Commented [VM22180R179]: Edits to address th ... [62]

Commented [X181]: This sub-section seems more ... [63]

Commented [CD182]: VM-21 Section 3.H on ... [64]

G. Prudent Estimate Assumptions

1. With respect to the Stochastic Reserve SR in Section 3.DC, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically at least every 3 years review and update the assumptions as appropriate in accordance with these requirements.
2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing the review indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary Company shall set a new, adequate, anticipated experience assumption for the factor.
3. To determine the prudent estimate assumptions, the stochastic reserve SR shall also follow the requirements in Sections 4 and general assumptions including Section 9 for asset assumptions, Section 10 for contract policy holder behavior assumptions, and Section 11 for mortality assumptions, and Section 12 for general guidance and expense assumptions.

Commented [CD183]: should this be "Section 3.D"? ... [65]

Commented [VM22184R183]: Edits to address th ... [65]

Commented [X185]: Recommend to periodically r ... [66]

Commented [CD186]: Should this be "the compar ... [67]

Commented [VM22187R186]: Edits to address th ... [68]

Commented [X188]: Suggest replacing "If the res ... [69]

Commented [VM22189R188]: Edits to address th ... [70]

Commented [X190]: Recommend replacing "the t ... [71]

Commented [VM22191R190]: Edits to address th ... [72]

Commented [CD192]: should this be "the compar ... [73]

Commented [VM22193R192]: Edits to address th ... [74]

Commented [CD194]: should this be "contract holder"? ... [75]

Commented [VM22195R194]: Edits to address th ... [75]

Commented [X196]: Need a new section for the s ... [76]

Commented [VM22197R196]: Edits to address th ... [77]

H. Approximations, Simplifications, and Modeling Efficiency Techniques

A company may use simplifications, approximations, and modeling efficiency techniques to calculate the SR and/or the additional standard projection amount required by this section if the company can demonstrate that the use of such techniques does not understate the reserve by a material amount, and the expected value of the reserve calculated using simplifications, approximations, and modeling efficiency techniques is not less than the expected value of the reserve calculated that does not use them.

Guidance Note:

Examples of modeling efficiency techniques include, but are not limited to:

1. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters.
2. Generating a smaller liability or asset model to represent the full seriatim model using grouping compression techniques or other similar simplifications.

There are multiple ways of providing the demonstration required by Section 3.H. The complexity of the demonstration depends upon the simplifications, approximations or modeling efficiency techniques used. Examples include, but are not limited to:

1. Rounding at a transactional level in a direction that is clearly and consistently conservative or is clearly and consistently unbiased with an obviously immaterial impact on the result (e.g., rounding to the nearest dollar) would satisfy 3.H without needing a demonstration. However, rounding to too few significant digits relative to the quantity being rounded, even in an unbiased way, may be material and in that event, the company may need to provide a demonstration that the rounding would not produce a material understatement of the reserve.
2. A brute force demonstration involves calculating the minimum reserve both with and without the simplification, approximation or modeling efficiency technique, and making a direct comparison between the resulting reserve. Regardless of the specific simplification, approximation or modeling efficiency technique used, brute force demonstrations always satisfy the requirements of Section 3.H.
3. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters and providing a detailed demonstration of why it did not understate the reserve by a material amount and the expected value of the reserve would not be less than the expected value of the reserve that would otherwise be calculated. This demonstration may be a theoretical, statistical or mathematical argument establishing, to the satisfaction of the insurance commissioner, general bounds on the potential deviation in the reserve estimate rather than a brute force demonstration.
4. Justify the use of randomly sampling withdrawal ages for each contract instead of following the exact prescribed WDCM method by demonstrating that the random sampling method is materially equivalent to the exact prescribed approach, and the simplification does not materially reduce the Additional Standard Projection Amount and the final reported reserve. In particular, the company should demonstrate that the statistical variability of the results based on the random sampling approach is immaterial by testing different random sets, e.g., if randomly selecting a withdrawal age for each contract, the probability distribution of the withdrawal age should be stable and not vary

significantly when using different random number sets.

Commented [X198]: Specific example should be tailored based on the SPA developed.

Commented [X199]: Added consistent with VM-21 Section 3.H, which was added to the 2022 VM.

Commented [VM22200R199]: Edits to address this comment will be reflected in next exposure

Section 4: Determination of Stochastic Reserve SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Sections 4 and 9.D. The company shall project cash flows including the following:

- a. ~~Revenues~~ Gross premium received by the company including gross premiums received from the ~~policyholder~~ policyholder contract holder (including any due premiums as of the projected start date).

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

- b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).
- c. All material benefits projected to be paid to contract policyholders including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

- a.d. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.II.
- b.e. Insurance company expenses (including overhead and investment maintenance expense), commissions, contractual fees and charges, and revenue sharing income received by the company (net of applicable expenses) other acquisition expenses associated with business inforce as of the valuation date.
- e.f. Net Cash flows associated with any reinsurance.
- d.g. Cash flows from hedging instruments as described in Section 4.A.4.

Commented [NJ201]: Consider including stochastic mortality in the SR for longevity reinsurance

Commented [CD202]: Should this refer to Section 4 and Section 9?

Commented [VM22203R202]: Edits to address this comment will be reflected in next exposure

Commented [CD204]: "contract holder"?

Commented [VM22205R204]: Edits to address this comment will be reflected in next exposure

Commented [X206]: If due premium as of the projected start date is included in the modeling, the final reported reserve should be adjusted by adding the due premium, otherwise there would be a double counting of the due premium asset. This needs to be clarified - see guidance note added below.
Recommend specifying the revenue in this bullet to be gross premium since there are other revenue items that are discussed in other bullets.

Commented [VM22207R206]: Edits to address this comment will be reflected in next exposure

Commented [CD208]: "contract holders"

Commented [VM22209R208]: Edits to address this comment will be reflected in next exposure

Commented [X210]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

Commented [VM22211R210]: Edits to address this comment will be reflected in next exposure

Commented [CD212]: should this be Section 10.I?

Commented [VM22213R212]: Edits to address this comment will be reflected in next exposure

Commented [X214]: Changed investment expense to be maintenance expense so that it does not repeat what is included in bullet h.

Commented [VM22215R214]: Edits to address this comment will be reflected in next exposure

Commented [X216]: Added acquisition expenses.

Commented [VM22217R216]: Edits to address this comment will be reflected in next exposure

Commented [X218]: Take out the revenues that covers the investment expenses and added a separate bullet under bullet "a" for other revenues.

Commented [VM22219R218]: Edits to address this comment will be reflected in next exposure

Commented [CD220]: Both net and gross cash flows have to be considered, so I don't agree with the addition of "Net" here

Commented [VM22221R220]: Edits to address this comment will be reflected in next exposure

e.h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

f.i. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

Commented [X222]: Guidance Note regarding the market value adjustment seems still applies and should not be deleted. We reinstated the guidance note.

2. Grouping of Index Crediting Strategies

Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [X223]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term "investment guideline" as follows: "Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy."

Commented [VM2224R223]: Edits to address this comment will be reflected in next exposure

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy's specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

a. For a company that does not have a future hedging program tied directly to supporting the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
- ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. The hedge assets may then be considered in one of two ways:
 - a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

b. For a company that has a future hedging program tied directly to supporting the contracts falling under the scope of VM-22 stochastic reserve SR requirements:

- i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to policyholders/contract holders.
 - b) Existing hedging instruments that are currently held by the company for this purpose offsetting the indexed credits in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company not for any other purpose offsetting the indexed credits should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these hedge instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible

Commented [X225]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

Commented [X226]: VM-22 took out the CDHS requirement and replaced it with "future hedging program". Future hedging should not materially reduce reserves or TAR if it is not well documented. The hedging DG is currently working on this for VM-20/VM-21. We will work with VM-22 subgroup to edit VM-22 accordingly.

Commented [X227]: Suggest rewording "Future hedging program" to "hedging program with future transactions" to avoid ambiguity.

Commented [CD228]: The word "future" to describe the "hedging program" here is confusing. What about current hedging programs with expected future hedge purchases? Why not just say "hedging program"? Also, I wanted to note that removing the concept of CDHS creates inconsistency with both VM-20 and VM-21. Why not retain it?

Commented [CD229]: same comment as above, about the word "future" being confusing

Commented [CD230]: "contract holders"

Commented [VM22231R230]: Edits to address this comment will be reflected in next exposure

Commented [X232]: "Any other purpose" in the last sentence seems overly broad and should be narrowed.

Commented [VM22233R232]: Edits to address this comment will be reflected in next exposure

Commented [X234]: Specify "for this purpose" as "for offsetting the indexed credits", specify "for any other purposes" as "not for offsetting the indexed credits".

Commented [VM22235R234]: Edits to address this comment will be reflected in next exposure

Commented [X236]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as possible, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Commented [VM22237R236]: Subgroup agreed to revisit this discussion after field testing.

Commented [CD238]: clarify verbiage by saying "hedge instruments" or "derivative instruments"

Commented [VM22239R238]: Edits to address this comment will be reflected in next exposure

company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.

- ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
 - a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve SR.
 - b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.
 - c) Consistent with Section 4.A.4.b.i., if the company has an indexed credit hedging program, the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c); in both the “best efforts” run and the “adjusted” run.
 - d) The use of products not falling under the scope of these VM-22 PBR Section 1 through 13 requirements (e.g., variable annuities) (e.g., equity indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [X240]: It is not clear how the stress testing can be used to support the index credit hedge margin. It is a test of the modeled strategy not actual performance and does not reflect any model error. We suggest that both back testing and stress testing be required and elaborated further:
Clearly specify method and metrics used for the back testing with focus on all available recent relevant history, not limited to 12 months
Recommend defined stress periods for stress testing, e.g., 2008 financial crisis, 2020 COVID impaired market conditions.

Commented [X241R240]: We will repeat the comment from our first letter: "Regarding hedge breakage expense assumptions, are both sources of error reflected here - error in the hedging itself, and error in the ability to accurately model it? Should we be separately considering the two limitations to make sure they are both clear: 1) the real-world hedging error and 2) the modeling error in reflecting the future hedging? Current error factor discussions seem muddled."

Commented [X242]: Again, need to coordinate with Hedging DG.

Commented [X243]: Margins are discussed in a different section, so recommend deleting.

Commented [X244]: Edits were made to provide context and clarification for the requirements.

Commented [VM22245R244]: Edits to address this comment will be reflected in next exposure

Commented [X246]: Clarify that “these requirements” should be specified as “VM-22 PBR requirements”. Again, we suggest reconsidering the use of “VM-23”, though.

Commented [VM22247R246]: Edits to address this comment will be reflected in next exposure

Commented [CD248]: It might be helpful to keep the parenthetical statement, with “variable annuities” as the example

Commented [VM22249R248]: Edits to address this comment will be reflected in next exposure

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other

fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the following requirements are met:

Commented [X250]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods. Obligations remain at the end of the projection periods. Company can choose to run a shorter projection period but not shorter than 20 years and include the present value of the terminal benefits and expenses in the accumulated deficiency calculation.

Commented [X251]: Clarify that for revenue sharing, the entire subsection of VM-21 Section 4.A.5 applies.

Commented [VM22252R251]: Edits to address this comment will be reflected in next exposure

Commented [CD253]: The "requirements are met" list is only in Section 4.A.5.a. Was the intent also to define the amount of net revenue-sharing income allowed in the projections? If so, will need to add verbiage to reference VM-21 Section 4.A.5.a through 4.A.5.f.

Commented [VM22254R253]: Edits to address this comment will be reflected in next exposure

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

Commented [X255]: We recommend that the projection period requirement be in line with that of VM-20. Instead of meeting the immateriality requirement, calculate the present value of the terminal benefits and expenses and include it in the accumulated deficiency calculation.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [VM22256]: See Bill Wilton's comment letter, expressing opposition to inclusion of pre-tax IMR.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Commented [CD257]: should we consider these changes to VM-21 as well, for consistency?

Commented [VM22258R257]: Edits to address this comment will be reflected in next exposure

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

Commented [X259]: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

The scenario reserve for any given scenario shall not be less than the cash surrender value with market value adjustment in aggregate on the valuation date for the group of contracts modeled in the projection.

Commented [X260]: For products that do not have a cash surrender value, it is recommended that VM-22 use a “working reserve” concept, similar to VM-21 Section 3.G requirement. Otherwise, there will be an issue aggregating those with and without CSV.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

Commented [X261]: For products with market value adjustment, needs to be floored at cash surrender value with MVA.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [X262]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
 - i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company’s investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the

projection period for the scenario. This vector will be the NAER for the given scenario.

- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

Commented [X263]: The wording “unreasonably high” is not clear or appropriate. Recommend this requirement be revised as part of a holistic fix to address extreme outliers in NAER both on the low and high side to handle anomalies for all of VM-20, VM-21, and VM-22. Some upper/lower cutoffs could be used that depend on scenario returns.

Commented [CD264]: “unreasonably high” is not well defined. Also, do we need to consider guardrails in the case of “unreasonably high” positive NAERs, not just negative NAERs?

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the ~~stochastic reserve~~ SR, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:
 - i. Any hedge instruments held in support of the contracts being valued; and
 - ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).
- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described

above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company’s state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company’s investment policy, subject to the following requirements:
 - i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in ~~the model~~modeled company investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results

Commented [X265]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22266R265]: Edits to address this comment will be reflected in next exposure

in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.

- b. Notwithstanding the above requirements, the modeled aggregate reserve shall be the higher of that produced by the modeled company investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained produced by substituting an alternative investment strategy in which all the fixed income reinvestment assets ~~are~~ have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:

- i. ~~5%~~ Treasury
- ii. ~~15%~~ 20% PBR credit rating 3 (Aa2/AA)
- iii. ~~80%~~ 40% PBR credit rating 6 (A2/A)
- iv. ~~40%~~ 40% PBR credit rating 9 (Baa/BBB)

- c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above "provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period" is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:

Commented [CD267]: should this be "stochastic reserve", since this is within Section 4: Determination of Stochastic Reserve

Commented [VM22268R267]: Edits to address this comment will be reflected in next exposure

Commented [X269]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [VM22270R269]: Edits to address this comment will be reflected in next exposure

Commented [CD271]: Suggest making this plural ("Treasures") to be consistent with Section 13.B.9

Commented [VM22272R271]: Edits to address this comment will be reflected in next exposure

Commented [X273]: The proposed reinvestment mix comes from a different assumption context in current VM-22, i.e., it is designed to calculate the maximum allowed valuation interest rates, while the reinvestment mix for VM-22 PBR draft is to put a guardrail around the fixed income reinvestment assets. A guardrail is not intended to identify outliers and should not be tied to an average. The biggest concern is with the higher allocation percentage in BBB assets. The valuation manual should build an appropriate level of conservatism in the valuation standards instead of reflecting industry trends. By moving from VM-20 and VM-21 required mix of 50%/50% AA/A to the proposed mix, the gross spreads increased by 20-30 bps for almost all WAL. We do not object to using a lower credit quality guardrail to get rid of any excessive conservatism. We recommend considering and comparing with other alternative allocations, something between the current and the proposed, e.g., 20% AA and 80% A. This will help regulators make informed decisions. In any case, we should be consistent with VM-20 and VM-21. If a change is made, it needs to be for all three.

Commented [VM22274R273]: Varying opinions among the Subgroup. Voted to revisit and determine the guardrail after the field test.

Commented [CD275]: These references should be Section 4.D.3.a.iii and 4.D.3.a.v

Commented [VM22276R275]: Edits to address this comment will be reflected in next exposure

- i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
- ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
- iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
- iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F as noted in 4.a.ii above.

b. Cash flows from general account index funds and general account equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate—including starting and reinvestment assets, shall be reflected in the projection as follows:

- i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
- ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
- iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.

c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.H.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such purchase/payout rates shall reflect the payout rate specified in the contract.
- b. For purposes of projecting future elective annuitization benefits (including annuitizations stemming from the election of a GMIB) and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined

Commented [X277]: Correct an inaccurate VM section reference. The prescribed asset default spreads assumption should be referred to VM-20 Section 9.F. VM-20 Section 7.E and 7.F are requirements for reinvestment assets, disinvestment and cash flows for invested assets. In 7.F, VM-20 just refers to 9.F for defaults.

Commented [VM22278R277]: Edits to address this comment will be reflected in next exposure

Commented [X279]: Request clarification around the meaning of "general account index funds".

Commented [VM22280R279]: Edits to address this comment will be reflected in next exposure

Commented [CD281]: should this reference Section 10.H?

Commented [VM22282R281]: Edits to address this comment will be reflected in next exposure

Commented [CD283]: Is there a difference between "purchase rates" and "payout rates"? Both terms are used, so that makes the language unclear. If they are the same, suggest sticking with "purchase rates".

Commented [VM22284R283]: Edits to address this comment will be reflected in next exposure

Commented [X285]: Suggest deleting "In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract." as it appears to be covered by E.1.a.

Commented [VM22286R285]: Edits to address this comment will be reflected in next exposure

Commented [X287]: Reinstate the parenthetical content "(including annuitizations stemming from the election of a GMIB)" since there are GMIB riders attached to fixed annuity products.

Commented [VM22288R287]: Edits to address this comment will be reflected in next exposure

assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. ~~In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.~~

Commented [X289]: Delete sentence since it repeats 4.E.1.a.

Commented [VM22290R289]: Edits to address this comment will be reflected in next exposure

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

- a. For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections ~~may~~ shall assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [X291]: Suggest deleting "may" as there appears to be only option.

Commented [VM22292R291]: Edits to address this comment will be reflected in next exposure

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency ("timestep") is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.

Commented [X293]: Projection Period is already covered in 4.A.6. Should not be in two places with different guidance.

Commented [VM22294R293]: Edits to address this comment will be reflected in next exposure

Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption.~~ It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Commented [X295]: Reinstate the deleted example of "For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption."

Commented [VM22296R295]: Edits to address this comment will be reflected in next exposure

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve SR, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded—i.e., the stochastic reserve additional standard projection amount, the SR, DR, and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2. Stochastic Reserve

Reflection of Reinsurance Cash Flows in the DR or SR

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve SR and DR shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.

i. In this section, reinsurance includes retrocession, and assuming company includes retrocessionaire.

ii. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

iii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.

iv. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the stochastic aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum aggregate reserve by the absolute value of such reductions in surplus.

Commented [X297]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

Commented [VM22298R297]: Edits to address this comment will be reflected in next exposure

Commented [X299]: Delete and just have title be "Reinsurance". Should structure be more like VM-20?

Commented [X300R299]: I, II (and III –VM-21 needs edits)

Commented [VM22301R299]: Edits to address this comment will be reflected in next exposure

Commented [CD302]: "and Assumed" is added here, but there is still only a subsection 5.A that addresses reinsurance ceded (at least in the section header).

Commented [VM22303R302]: Edits to address this comment will be reflected in next exposure

Commented [CD304]: need to add "and Assumed" here?

Commented [VM22305R304]: Edits to address this comment will be reflected in next exposure

Commented [X306]: reinstate

Commented [VM22307R306]: Edits to address this comment will be reflected in next exposure

Commented [X308]: Can take out vague approximation references, since now have a general allowance for appropriate approximations.

Commented [VM22309R308]: Edits to address this comment will be reflected in next exposure

Commented [X310]: Consistent with VM-20

Commented [VM22311R310]: Edits to address this comment will be reflected in next exposure

Commented [X312]: VM-20 Section 8.A.1 makes sense here as well.

Commented [VM22313R312]: Edits to address this comment will be reflected in next exposure

Commented [CD314]: should this be "stochastic reserve"?

Commented [VM22315R314]: Edits to address this comment will be reflected in next exposure

Commented [X316]: VM-22 draft so far uses aggregate, not minimum.

Commented [VM22317R316]: Edits to address this comment will be reflected in next exposure

- b. In order to determine the ~~stochastic reserve~~ SR and DR on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting ~~stochastic reserve~~ SR and DR shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
- i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties ~~(does that do not include experience refunds)~~, where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

Commented [X318]: Correct phrasing.

Commented [VM22319R318]: Edits to address this comment will be reflected in next exposure

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company’s experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.
- d. The company shall assume that the counterparties to a reinsurance agreement are knowledgeable about the contingencies involved in the agreement and likely to exercise the terms of the agreement to their respective advantage, taking into account the context of the agreement in the entire economic relationship between the parties. In setting assumptions for the NGE in reinsurance cash flows, the company shall include, but not be limited to, the following:
 - i. The usual and customary practices associated with such agreements.
 - ii. Past practices by the parties concerning the changing of terms, in an economic environment similar to that projected.
 - iii. Any limits placed upon either party’s ability to exercise contractual options in the reinsurance agreement.
 - iv. The ability of the direct-writing company to modify the terms of its policies in response to changes in reinsurance terms.
 - v. Actions that might be taken by a party if the counterparty is in financial difficulty.

Commented [X320]: VM-20 Section 8.C.7 seems particularly applicable. We encourage others to also review VM-20 Section 8 for other sections that should also apply. VM-20 Section 8 is much more developed than VM-21 Section 5 with many more considerations for assumption setting, and we would suggest the VM-22 subgroup consider rewriting starting with VM-20 instead of VM-21.

Commented [VM22321R320]: Subgroup agreed with reflecting this language in the VM-22 draft

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the ~~pre-reinsurance-ceded~~ and ~~post-reinsurance-ceded~~ reserves may result in different outcomes for the exclusion test. In particular, it is possible that the ~~pre-reinsurance-ceded~~ reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the ~~post-reinsurance-ceded~~ reserves might not, or vice versa.

4. Additional Standard Projection Amount

Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre-reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.

- Commented [X322]: Both referring to reinsurance ceded. Should be clarified.
- Commented [VM22323R322]: Edits to address this comment will be reflected in next exposure
- Commented [X324]: ~~ceded~~
- Commented [VM22325R324]: Edits to address this comment will be reflected in next exposure
- Commented [X326]: ~~ceded~~
- Commented [VM22327R326]: Edits to address this comment will be reflected in next exposure
- Commented [X328]: Opposite could also be true.
- Commented [VM22329R328]: Edits to address this comment will be reflected in next exposure
- Commented [X330]: The current VM-21 language here looks to work for VM-22 without needing to know the specific assumptions, etc., for the SPA.
- Commented [VM22331R330]: Edits to address this comment will be reflected in next exposure

Section 6: Standard Projection Amount To Be Determined

Commented [VM22332]: NY Comment Letter: Current CARVM standards should be a minimum floor for VM-22 policies, and only the stochastic reserve should permit grouping whereas the minimum floor should be seriatim.

Commented [X333]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22334R333]: Edit to update the title of this section will be reflected in next exposure

Commented [VM22335]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

Commented [X336]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22337]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

Commented [NJ338]: Once this is written, the language from 4.A.1.a for longevity reinsurance could be added here as well, i.e. the standard projection would use net premiums based on the k factor approach, using the standard projection prescribed assumptions. Floor on std projection is at the contract level

~~Section 6: To Be Determined~~

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation if the stochastic exclusion test (SET) is satisfied for that each of the group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then for each group of contracts that passes the SET, the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups that group of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve SR requirements if there are one or more future hedging programs associated with supporting the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.
 - d. A company may elect to automatically exclude one or more groups of policies from the stochastic reserve calculation without passing the stochastic exclusion test (SET) if all of the following are met for all contracts in the group or groups:
 - i. All of the contracts are either:
 - Single Premium Immediate Annuities,
 - Term Certain Payout Annuities, or
 - Structured Settlement Contracts;
 - ii. None of the contracts are pension risk transfer annuities (PRT) or are covered under a longevity reinsurance agreement;
 - iii. Future payout benefits are either level or stay within 5% of the initial payout benefit amount over time;
 - iv. There is either no or an immaterial level of policyholder options permitted within the contracts; and
 - v. The average [Macauley duration] of the liabilities of the contracts as measured from the issue date (or premium determination date) is less than [X].

B. Requirement to Pass the Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

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Commented [X339]: Need to modify exclusion testing section to reflect SPA.

Commented [NJ340]: Longevity reinsurance likely to be scoped out of the stochastic reserve unless the stochastic reserve includes consideration of stochastic mortality. If it stays as stochastic interest only, then it probably does make sense that it would meet the exclusion testing. For exclusion testing, the k factor approach should continue to apply, and it should not be combined with other blocks of business

Commented [X341]: Inconsistent groups vs. group references.

Commented [VM22342R341]: Edits to address this comment will be reflected in next exposure

Commented [CD343]: should this be "stochastic reserve", since Section 4 is about determining the stochastic reserve.

Commented [VM22344R343]: Follow Section 4 method of stochastic reserve for Section 3 aggregate reserve if not using the SET

Commented [X345]: Decision is independent for each group the SET is performed on.

Commented [VM22346R345]: Edits to address this comment will be reflected in next exposure

Commented [CD347]: suggest deleting this highlighted part of the sentence

Commented [VM22348R347]: Edits to address this comment will be reflected in next exposure

Commented [CD349]: see earlier comment about the phrase "future hedge program" being confusing.

Commented [X350]: Is "associated with the contracts" the same as the earlier use of "supporting the contracts"? Should the same verbiage be used here? If there is asset hedging for the assets supporting the contracts, it should be included. Need to define "solely supporting" index credits, and also have criteria on the effectiveness/error and documentation of any such hedging that is allowed for excluded business.

Commented [VM22351]: Subgroup voted to permit SPAs below a certain duration to automatically pass the exclusion test, assuming there is limited optionality level/near-level payments, and not PRT or longevity reinsurance. The Academy has agreed to develop a proposed duration threshold

Commented [CD352]: Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SET, Demonstration or Certifications). The language gets confusing (here and elsewhere) when you start saying there are different "types" of SETs.

Commented [VM22353R352]: Edits to address this comment will be reflected in next exposure

1. Stochastic Exclusion Ratio Test (SERT)—Annually ~~within 12 months before the valuation date~~ ~~within 12 months before the valuation date~~ the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. ~~SET~~ Certification Method—For groups of contracts that do not have guaranteed living benefits, ~~future hedging programs, or pension risk transfer business~~, in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material ~~aggregate risk levels across interest rate risk, mortality and/or longevity risk, or asset return volatility risk~~ (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). ~~The company shall provide the certification and documentation supporting the certification to the commissioner upon request.~~

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary’s conclusion that the group of contracts is not subject to material interest rate risk, mortality and/or longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that, ~~using requirements under VM-A and VM-C~~ for the group of contracts, reserves calculated ~~using requirements under VM-A and VM-C~~ are at least as great as the assets required to support the group of contracts ~~and certificates~~ using the company’s cash-flow testing model under each of the ~~1648~~ scenarios identified in ~~this section~~ Section 7.C.1 or alternatively each of the New York seven ~~scenarios~~ economic scenarios, ~~under each of the three mortality adjustment factors identified in Section 7.C.1.~~
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk, mortality and/or longevity risk, or asset return volatility risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk, mortality and/or longevity risk, or asset return volatility. Such assessment would include an analysis of product guarantees, the company’s non-guaranteed elements (NGEs) policy, assets backing the group of contracts, the company’s longevity risk, and the company’s investment strategy.

C. Stochastic Exclusion Ratio Test

1. In order to ~~exclude a group of contracts from the stochastic reserve~~ SR requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of $(b-a)/a$ is less than the greater of [x]% where and the percentage change that would trigger the company’s materiality standard, where:

- Commented [CD354]: not sure why this part is deleted. Suggest adding it back in. ... [78]
- Commented [VM22355R354]: Edits to address this comment will be reflected in next exposure
- Commented [X356]: We recommend removing "pension risk transfer business" from products scoped out of SERT certification method. It is unclear why this business ... [78]
- Commented [VM22357R356]: Subgroup voted to ... [79]
- Commented [CD358]: See earlier comments about ... [80]
- Commented [X359]: Needs to be defined.
- Commented [X360]: Needs a comma
- Commented [VM22361R360]: Edits to address t ... [82]
- Commented [CD362]: need comma after "business"
- Commented [VM22363R362]: Edits to address t ... [81]
- Commented [CD364]: what is meant by "aggrega ... [83]
- Commented [VM22365R364]: Edits to address t ... [84]
- Commented [X366]: This is not in VM-20 and wou ... [85]
- Commented [VM22367R366]: Edits to address t ... [86]
- Commented [X368]: This is covered by VM-31
- Commented [VM22369R368]: Edits to address t ... [87]
- Commented [CD370]: note, there is no insertion ... [88]
- Commented [VM22371R370]: Edits to address t ... [89]
- Commented [CD372]: This wording is a little clun ... [90]
- Commented [VM22373R372]: Edits to address t ... [91]
- Commented [X374]: Replace all "contracts" with ... [93]
- Commented [VM22375R374]: Edits to address t ... [92]
- Commented [X376]: Need mortality stresses if using NY7
- Commented [X377]: Need complete list of risks
- Commented [VM22378R377]: Edits to address t ... [94]
- Commented [CD379]: need to insert "longevity risk" here
- Commented [VM22380R379]: Edits to address t ... [95]
- Commented [X381]: Need complete list of risks
- Commented [VM22382R381]: Edits to address t ... [96]
- Commented [X383]: Need to add a review of the ... [97]
- Commented [VM22384R383]: Edits to address t ... [98]
- Commented [X385]: ~~Remove the SERT assum~~ ... [99]
- Commented [VM22386R385]: Consensus to us ... [100]
- Commented [X387]: ~~Remove (a) in the denomina~~ ... [101]
- Commented [VM22388R387]: Consensus to us ... [102]
- Commented [X389]: The variability should be as ... [103]

- a. a = the adjusted scenario reserve described in Paragraph 7.C.2.a below using economic scenario 9- and 100% as the adjustment factor for mortality, the baseline economic scenario, as described in Appendix 1.E of VM-20.
- b. b = the largest adjusted scenario reserve described in Paragraph 7.C.2.b-a below under any of the other 1516 economic scenarios described in Appendix 1.E of VM-20 under both [95]%, 100%, and [105]% of anticipated experience mortality excluding margins. Because mortality variability may differ by company, if the magnitude of the company's margin for mortality exceeds 5%, then the company shall use the baseline mortality and the mortality augmented by plus and minus the company's margin for this exercise.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, both of which could lead to an incorrect test result. There are 47 (=16x3-1) combined economic and mortality scenarios that should be compared for the determination of b.

2. In calculating the ratio in subsection (Section 7.C.1) above:

- a. The company shall calculate an adjusted scenario reserve for the group of contracts for each of each of the 16 scenarios economic scenarios using the three levels of mortality adjustment factors that is equal to either (i) or (ii) below:
 - i. The scenario reserve defined in Section 4, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph Section 7.C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.
 - d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
 - e) Shall not reflect correlation between longevity and economic risks.
 - ii. The gross premium reserve developed from the cash flows from the company's asset adequacy analysis models, using the experience assumptions of the company's cash-flow analysis, but with the following differences:
 - a) Using the interest rates and equity return assumptions specific to each scenario.

- Commented [X390]: Correcting reference
- Commented [VM22391R390]: Edits to address this comment will be reflected in next exposure
- Commented [CD392]: better to keep the reference to the full Section (i.e., Section 7.C.2.a.i)
- Commented [VM22393R392]: Edits to address this comment will be reflected in next exposure
- Commented [X394]: Correcting reference
- Commented [VM22395R394]: Edits to address this comment will be reflected in next exposure
- Commented [CD396]: better to keep the reference to the full Section (i.e., Section 7.C.2.b)
- Commented [VM22397R396]: Edits to address this comment will be reflected in next exposure
- Commented [X398]: Need to modify in case largest result is just from the mortality stress on the same scenario.
- Commented [VM22399R398]: Edits to address this comment will be reflected in next exposure
- Commented [X400]: Need to modify in case largest result is just from the economic stress on the same mortality level.
- Commented [X401]: Need to ensure we have captured a prudent level of mortality variation for any given company in this test.
- Commented [X402]: Updating to reflect mortality/economic scenario combinations.
- Commented [X403]: For clarity
- Commented [X404]: Be consistent with standard VM references
- Commented [VM22405R404]: Edits to address this comment will be reflected in next exposure
- Commented [CD406]: better to keep the reference to the full Section (i.e., Section 7.C.1)
- Commented [VM22407R406]: Edits to address this comment will be reflected in next exposure
- Commented [CD408]: why delete this? seems like it wouldn't hurt to keep this language, for additional clarity
- Commented [VM22409R408]: Edits to address this comment will be reflected in next exposure
- Commented [X410]: Be consistent with standard VM references
- Commented [VM22411R410]: Edits to address this comment will be reflected in next exposure
- Commented [CD412]: better to reference the full Section (i.e., Section 7.C.1.b)
- Commented [VM22413R412]: Edits to address this comment will be reflected in next exposure

- b) Using the mortality scalars described in ~~Paragraph~~ Section 7.C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company’s cash-flow testing assumptions for default costs and reinvestment earnings.
- Commented [X414]:** Be consistent with standard VM references
- Commented [VM22415R414]:** Edits to address this comment will be reflected in next exposure
- Commented [CD416]:** better to reference the full Section
- Commented [VM22417R416]:** Edits to address this comment will be reflected in next exposure
- b. The company shall use the most current ~~16~~ available baseline economic scenario and the 15 other economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
 - c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
 - d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.
 - e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the stochastic exclusion ratio test ~~under only a pre-reinsurance ceded single basis upon determining the, either pre-reinsurance ceded basis upon determining the prior post-reinsurance reserve ceded aggregate reserve.~~
- Commented [X418]:** No reason for change/inconsistency with other chapters - reject edit.
- Commented [VM22419R418]:** Edits to address this comment will be reflected in next exposure
- Commented [X420]:** Clarification is needed around reference to “significantly different risk profiles”.
- 3. If the ratio calculated in this section is less than [x]% pre-non-proportional reinsurance, but is greater than [x]% post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.
- Commented [CD421]:** to be more specific, say “stochastic exclusion ratio test”
- Commented [VM22422R421]:** Edits to address this comment will be reflected in next exposure
- Commented [X423]:** Original did not make sense. Also, the point is that you just need one basis, either pre-reinsurance or post-reinsurance.
- Commented [VM22424R423]:** Edits to address this comment will be reflected in next exposure
- Commented [X425]:** We request clarification or definition of the term “non-proportional reinsurance”.
- a. An example of an acceptable demonstration:
 - i. For convenience in notation • SERT = the ratio (b–a)/a defined in Section 7.C.1 above
 - a) The pre-non-proportional reinsurance results are “gross of non-proportional,” with a subscript “gn,” so denoted SERT_{gn}
 - b) The post-non-proportional results are “net of non-proportional,” with subscript “nn,” so denoted SERT_{nn}
 - ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of non-proportional” to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and “net of non-proportional” to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.
- Commented [X426]:** Does this make sense for VM-20 as well?
- Commented [VM22427R426]:** Subgroup to only focus on VM-22 for now

iii. So, if $SERT_{gn} \leq [x]_{t-1}^{\%}$ but $SERT_{nn} > [x]_{t-1}^{\%}$, then compute the largest percent increase in reserve (LPIR) = $(b-a)/a$, both “gross of non-proportional” and “net of non-proportional.”

$$LPIR_{gn} = (b_{gy} - a_{gy}) / b_{gn} - a_{gn} / a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny}) / b_{nn} - a_{nn} / a_{nn}$$

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn} .

If $SERT_{gn} \times LPIR_{nn} / LPIR_{gn} < [x]_{t-1}^{\%}$, then the block of contracts passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 1648 combined economic and mortality scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
- 4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section of Section 7.D.2.a or Section 7.D.2.b and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements using the methodology in this section, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:

a. The demonstration shall provide a reasonable assurance that if the stochastic reserve SR was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve SR exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve SR requirements.

b. If, as of the end of any calendar year, the company determines the aggregate statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT for those contracts.

c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an

Commented [X428]: We believe subscript “gy” should be “gn”.

Commented [VM22429R428]: Edits to address this comment will be reflected in next exposure

Commented [X430]: % missing

Commented [VM22431R430]: Edits to address this comment will be reflected in next exposure

Commented [X432]: Note that LPIR is just the SERT using the VM-22 formulation (b-a)/a.

Commented [VM22433R432]: Edits to address this comment will be reflected in next exposure

Commented [X434]: The first and last terms on the left side of this equation cancel out, so it just ends up with needing to pass the SERT on the net basis again. This worked when (c) was the denominator, but now with (a) in the denominator this adjustment is meaningless. Take out the whole example, or revise the SERT to use benefits in the denominator again. Or some new formulation for SERT.

Commented [VM22435R434]: Updated denominator, addressing this issue

Commented [X436]: In VM-20, it is only prohibited for the clearly sufficiently robust attempts of the demonstration method where failing shows the SR would be greater. The other two options could have been incomplete demonstrations and not necessarily imply the SR would be dominant.

Commented [X437]: Clearer language

Commented [VM22438R437]: Edits to address this comment will be reflected in next exposure

Commented [X439]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

Commented [CD440]: should this, instead, refer to the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C?

Commented [VM22441R440]: Edits to address this comment will be reflected in next exposure

Commented [X442]: Typo is also in VM-20

Commented [VM22443R442]: Will follow-up upon addressing VM-30 disclosure requirements

explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.

- d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
- 2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with ~~subsection~~Section 7.D.1 above:
 - a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis.
 - b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.
 - c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis, but using a representative sample of contracts in the ~~stochastic reserve~~SR calculations.
 - d. Demonstrate that any risk characteristics that would otherwise cause the ~~stochastic reserve~~SR calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the ~~contract~~policyholder by contract provision.

Commented [CD444]: should say "Section"

Commented [VM22445R444]: Edits to address this comment will be reflected in next exposure

E. Deterministic Certification Option

- 1. The company ~~has the option to may~~ determine the ~~stochastic reserve~~SR for a group of contracts using a single deterministic economic scenario, subject to the following conditions.
 - a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of ~~policies, contracts and certificates~~. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.
 - b. The company certifies that the group of ~~policies, contracts and certificates~~ is not supported by a reinvestment strategy that contains ~~future hedge purchases~~.
 - c. ~~The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing and the scenario reserve volatility across various company must pass the SERT when considering only the 16 economic scenarios, paired with the 100% mortality scenario.~~

Commented [CD446]: "contract holder"

Commented [VM22447R446]: Edits to address this comment will be reflected in next exposure

Commented [X448]: Need SPA for DR as well as SR

Commented [CD449]: suggest saying "may" instead of "has the option to"

Commented [VM22450R449]: Edits to address this comment will be reflected in next exposure

Commented [CD451]: "contracts"

Commented [VM22452R451]: Edits to address this comment will be reflected in next exposure

Commented [X453]: Clarify if this was the intent to exclude contracts supported by index hedging.

Commented [X454]: this is needed to assure the SR is not needed. Otherwise this section is incomplete and does not support using a DR

Commented [VM22455R454]: Subgroup agrees with including the 100% mortality scenario.

- d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

Commented [X456]: Agree with drafting note. Ed

Commented [VM22457R456]: Subgroup agrees with including the 100% mortality scenario.

- 2. The stochastic reserve SR for the group of contracts under the Deterministic Certification Option is determined as follows:

- a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
- b. The stochastic reserve SR equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Commented [X458]: It may not be appropriate to use scenario 12 to calculate the scenario reserve for SPIA. See this article <https://www.soa.org/sections/financial-reporting/financial-reporting-newsletter/2021/july/fr-2021-07-su/>

“in an increasing interest rate environment for business where policyholder behavior is sensitive to prevailing interest rates, life insurers may face an increase in disintermediation risk (i.e., the risk of having to sell assets, potentially at a loss, to fund policyholder surrender benefits) For example, rising interest rates, particularly sudden jumps (e.g., New York 7 pop-up scenario with an immediate interest rate increase of 3 percent), may lead to higher actual and projected policyholder surrenders as policyholders seek out higher yielding investment opportunities. These increasing cash demands may require fixed income assets to be sold at depressed prices, and resultant projected losses (or lower gains) may result in reserve insufficiencies, necessitating the need for AAT reserves.”

Commented [X459]: Recommend deleting guidance note, as it doesn't provide full or clear scope of what may be excluded, so could be misread to either guarantee option for certain products or exclude the option for other products.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a Future Non-Index Credit Hedging Strategy

A. Initial Considerations

1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits. ~~If the company, or (b) clearly separates index credit hedging from other hedging, then only the section only pertains to the other hedging if the index hedging follows.~~ In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the ~~stochastic reserve~~SR, determined in accordance with Section 3.D and Section 4.D.
3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. ~~Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months,~~ including the hedging strategy, used to implement the investment policy.
4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the ~~stochastic reserve~~SR otherwise calculated.
2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

Commented [X460]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [VM22461R460]: Edits to address this comment will be reflected in next exposure

Commented [CD462]: see previous comments about use of the word "future" to describe "hedging strategy"

Commented [X463]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [VM22464R463]: Edits to address this comment will be reflected in next exposure

Commented [X465]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

Commented [VM22466R465]: Edits to address this comment will be reflected in next exposure

Commented [CD467]: is this a typo? should this be "purchases"?

Commented [VM22468R467]: Edits to address this comment will be reflected in next exposure

Commented [X469]: This 6 month exclusion creates unintended optionality for inclusion/exclusion based on whether a hedge strategy is considered "new". Instead, this should be addressed through the Error factor for new programs being temporarily larger.

Commented [VM22470R469]: Edits to address this comment will be reflected in next exposure

Commented [X471]: Reinstate the original sentence which puts the reflection of hedging into the greater context of reflecting the company's investment policy.

Commented [VM22472R471]: Edits to address this comment will be reflected in next exposure

Commented [X473]: Agree that the uncertainty associated with new strategies should be handled via the E factor, not through blanket exclusion.

Commented [VM22474R473]: Edits to address this comment will be reflected in next exposure

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the ~~stochastic reserve~~SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the ~~stochastic reserve~~SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the ~~stochastic reserve~~SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or ~~mode~~ tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

Commented [X475]: Is delta-only hedging common in VM-22 hedging? Could the example be replaced with something more relevant to VM-22 hedging?

C. Calculation of ~~Stochastic Reserve~~SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no ~~future hedging purchases~~ strategy, except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the ~~stochastic reserve~~SR is given by:

Commented [X476]: The Hedging DG is currently working on language and we will want to be consistent across VM-20, VM-21, and VM-22.

Commented [CD477]: perhaps better to say “no future hedge purchases...”

Commented [VM22478R477]: Edits to address this comment will be reflected in next exposure

$$\text{Stochastic reserveSR} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for *E* (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of *E*. The value of *E* may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, *E* must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of ~~at least the most recent~~ available relevant period of data (but no less than 12 months), to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for *E*.
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of *E*, the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of *E* by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.
 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

Commented [X479]: We have been getting weak E factor support, with minimum backtesting due to the current phrasing.

Commented [X480R479]: Recommend adding stress testing language similar to Section 4.A.4.b.i.c) but with edits based on TDI’s comments/suggestions to Section 4.A.4.b.i.c).

Commented [VM22481R479]: Edits to address this comment will be reflected in next exposure

Commented [X482]: Recommend adding reporting requirement to VM-31 to disclose if company has switched between explicit method and implicit method, discuss rationale of the change and the change impact.

Commented [VM22483R482]: Edits to address this comment will be reflected in next exposure

- iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with ~~no less than 6 months of history~~, E should be ~~at least 1.0-50~~. However, E may be lower than ~~1.0-50~~ if ~~some~~ at least 6 months of reliable experience is available and/or if the change in strategy is a minor refinement rather than a substantial material change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Commented [X484]: 6 month restriction should be handled in the error factor. Other language for clarity. Edited guidance note below to be consistent with this.

Commented [VM22485R484]: Edits to create consistency with recently adopted APF 2020-12 will be considered for the next exposure

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy).
- An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).

8. The company shall set the value of E reflecting the extent to which the future hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining the future hedging program. To the extent that documentation outlining the future hedging program is incomplete, the value of E shall be increased. Any increases required to the value of E to reflect that documentation is not available to support that the future hedging program is clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results.

E. Additional Considerations for CTE70 (best efforts)

If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the stochastic reserve SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions

Commented [X486]: Work is being done by the hedging DG. This is a placeholder. Need to reflect how clearly defined and well documented the hedge program is, to be able to rely on the backtesting provided. To the extent that hedge programs are not clearly defined, E should be increased to reflect that the backtesting cannot be relied on as an indicator of future effectiveness.

Commented [X487]: [Redacted] create this disclosure from what is a rough responsibility check for regulatory review/information on the modeled hedge and add an [Redacted] prompt further discussion.

Commented [VM22488R487]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

Commented [CD489]: [Redacted] not sure why this section is being deleted. Perhaps references to CDHS could be deleted, but otherwise this section still seems applicable.

Commented [VM22490R489]: Subgroup voted in favor of retaining the fair value disclosure wording here, which is only subject to non-index credit hedges at this point

on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity and other in-scope products account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserveSR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserveSR otherwise calculated.

Commented [X491]: Suggest replacing "indexed" with "fixed" since this would apply to all fixed annuities.

Commented [VM22492R491]: Edits to address this comment will be reflected in next exposure

Commented [X493]: Editorial change of "variable fixed indexed annuity" to be "fixed indexed annuity and other in-scope products".

Commented [VM22494R493]: Edits to address this comment will be reflected in next exposure

Commented [X495]: Recommend deleting "including a delta hedging strategy" as it is already covered by "any hedging strategy" and it is not clear if delta hedging strategy is the most common strategy in VM-22 hedging to be used as a general example.

Commented [VM22496R495]: Edits to address this comment will be reflected in next exposure

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the ~~results~~ reserves level. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B and Section 12.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may or may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [X497]: Editorial clarification

Commented [VM22498R497]: Edits to address this comment will be reflected in next exposure

Commented [X499]: Need general assumption setting section, see APF 2021-11.

Commented [VM22500R499]: Edits to address this comment will be reflected in next exposure

Commented [X501]: We would suggest rewording this section to be considerations rather than posed as questions.

Commented [X502]: Editorial clarification

Commented [VM22503R502]: Edits to address this comment will be reflected in next exposure

Commented [X504]: Recommend adding some examples here if this is included.

Commented [VM22505R504]: Edits to address this comment will be reflected in next exposure

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more material behavior assumptions, if relevant to the risks in the product, and thus the approach will not understate the reserve.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, ~~the company qualified actuary to whom responsibility for this group of contracts is assigned~~ shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Account transfers.
- Future deposits.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently (but no less than every 3 years) when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.

Commented [X506]: Clarification

Commented [VM22507R506]: Edits to address this comment will be reflected in next exposure

Commented [X508]: Suggest updating bullet to "Other material behavior assumptions if relevant to the risks in the product."

Commented [VM22509R508]: Edits to address this comment will be reflected in next exposure

Commented [X510]: Sensitivity testing is covered by the submitted APF 2021-11 for VM-21, and we should be consistent. VM-21 is currently lacking on sensitivity testing.

Commented [VM22511R510]: Make edits to be consistent with VM-21 APFs prior to adoption of VM-22

Commented [VM22512R510]: Edits to address this comment will be reflected in next exposure

Commented [CD513]: why assign this specifically to the QA rather than leaving it as the responsibility of "the company", like we do elsewhere in the requirements?

Commented [VM22514R513]: Edits to address this comment will be reflected in next exposure

Commented [X515]: include for completion

Commented [VM22516R515]: Edits to address this comment will be reflected in next exposure

Commented [X517]: Consistent with APF 2021-11.

Commented [VM22518R517]: Edits to address this comment will be reflected in next exposure

- 2. Using data from prior periods.

D. Specific Considerations and Requirements

- 1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date for the benefit utilization.
 - h. Commutation of benefit (from periodic payment to lump sum) or vice versa.
- 2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic ~~asset~~ re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

~~Guidance Note: For some non elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.~~

- 3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

Commented [X519]: Clarification

Commented [VM22520R519]: Edits to address this comment will be reflected in next exposure

Commented [X521]: Clarification

Commented [VM22522R521]: Edits to address this comment will be reflected in next exposure

Commented [CD523]: delete this word

Commented [VM22524R523]: Edits to address this comment will be reflected in next exposure

Commented [X525]: Reviewing, this guidance note does not exist in the 2019, 2020, 2021, or 2022 versions of VM-21. Where is this from? Should this be added to VM-21?

4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, transaction fees or other contract charges.
 - l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.
6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. SR. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.
8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

Commented [X526]: This also applies to VM-21, as there are fixed accounts. Is there any reason not to be consistent?

Commented [VM22527R526]: Only to focus on VM-22 for now

Commented [X528]: This is not a synonym (perhaps transfer fees is a subset of transaction fees) - why would transaction fees apply for VM-21, but only transfer fees for VM-22?

Commented [VM22529R528]: Edits to address this comment will be reflected in next exposure

Commented [X530]: This section states that "contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally." This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states "When advantageous, policyholders will commence living benefit payouts if not started yet.". We suggest revising 6.H.2 to align with the text of 10.D.8.

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not ~~dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder~~ stochastically modeled.
2. ~~The company should exercise care in using static assumptions when it would be more natural and reasonable~~ appropriate to use a dynamic model or other scenario-dependent formulation for behavior. ~~With due regard to considerations of materiality and practicality~~ allowance for appropriate simplifications, approximations and modeling efficiency techniques, the use of dynamic models is encouraged, but not mandatory. ~~Static assumptions~~ Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers), may require higher margins and/or signal a need for higher margins for certain other assumptions.
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [X531]: Recommend replacing "dynamic" with "stochastic." Risk factors with dynamic assumptions still need margins (although for an assumption that was part fixed and part dynamic, only one piece may have the margin but still the risk factor would have a margin).

Commented [VM22532R531]: Edits to address this comment will be reflected in next exposure

Commented [X533]: Suggest replacing "Risk factors that are not scenario tested but" with "Static assumptions that" to improve clarity in the wording.

Commented [VM22534R533]: Edits to address this comment will be reflected in next exposure

Commented [X535]: Get rid of some of the vague adjectives and be consistent with VM framework for simplifications.

Commented [VM22536R535]: Edits to address this comment will be reflected in next exposure

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~non-variable~~ fixed annuities, these "valuation" scenarios would typically display one or more of the following attributes:
 - a. ~~Declining-, increasing~~ and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. ~~Rapidly changing~~ Volatile interest rates ~~or~~ persistently low interest rates.
 - d. ~~Volatile credit spreads.~~
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:

Commented [CD537]: "non-variable"?

Commented [VM22538R537]: Edits to address this comment will be reflected in next exposure

Commented [X539]: Editorial clarification to cover scenarios for all products/guarantees in scope

Commented [VM22540R539]: Edits to address this comment will be reflected in next exposure

Commented [X541]: Editorial for consistency with (a) above

Commented [VM22542R541]: Edits to address this comment will be reflected in next exposure

Commented [X543]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

Commented [VM22544R543]: Edits to address this comment will be reflected in next exposure

- a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10.A to Section 10.G above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's contract's utilization or to reflect average utilization over a model segment or sub-segments, if the results are materially similar.
 - c. Model policy loan interest in a manner consistent with policy contract provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)

Commented [CD545]: Okay to keep the term "Policy Loans"

Commented [VM22546R545]: Edits to address this comment will be reflected in next exposure

Commented [X547]: Clarify reference to be more specific

Commented [VM22548R547]: Edits to address this comment will be reflected in next exposure

Commented [X549]: Editorial - VM-22 should consistently use contracts

Commented [VM22550R549]: Edits to address this comment will be reflected in next exposure

Commented [CD551]: "contract's"

Commented [VM22552R551]: Edits to address this comment will be reflected in next exposure

Commented [X553]: We have concern that reflecting average utilization may have material impact on benefit projections. Recommend adding "if the results are materially similar". This change is also applied to VM-20 and added to VM-21.

Commented [VM22554R553]: Edits to address this comment will be reflected in next exposure

Commented [X555]: Editorial - VM-22 should consistently use contracts

Commented [VM22556R555]: Edits to address this comment will be reflected in next exposure

Commented [CD557]: "contract"

Commented [VM22558R557]: Edits to address this comment will be reflected in next exposure

- d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
- e. Model ~~additional~~ policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with negative policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect ~~policy contract~~ costs or values and are not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to ~~non-variable~~ fixed annuities include but are not limited to the following: ~~fixed~~ the credited rates on fixed accounts, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

- 1. Except as noted below in Section ~~10.H.5~~ 10.H.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
- 2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company’s past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
- 3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
- 4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
- 5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the ~~policy’s or~~ contract’s experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude

Commented [CD559]: The wording of "additional" is unclear. Does this mean maintaining a certain level of policy loan utilization throughout the projection (i.e., adding principal as repayments are made), or actually increasing policy loan utilization (i.e., adding more principal) over time? The former would seem more appropriate than the latter.

Commented [VM22560R559]: Edits to address this comment will be reflected in next exposure

Commented [X561]: Clarification

Commented [VM22562R561]: Edits to address this comment will be reflected in next exposure

Commented [CD563]: suggest: "contract holder"

Commented [VM22564R563]: Edits to address this comment will be reflected in next exposure

Commented [X565]: Editorial - VM-22 should consistently use contracts

Commented [VM22566R565]: Edits to address this comment will be reflected in next exposure

Commented [CD567]: suggest: "are not"

Commented [VM22568R567]: Edits to address this comment will be reflected in next exposure

Commented [CD569]: suggest: "non-variable annuities"

Commented [VM22570R569]: Edits to address this comment will be reflected in next exposure

Commented [X571]: Clarity

Commented [VM22572R571]: Edits to address this comment will be reflected in next exposure

Commented [X573]: Correct section reference

Commented [VM22574R573]: Edits to address this comment will be reflected in next exposure

Commented [CD575]: delete "policy's or"

Commented [VM22576R575]: Edits to address this comment will be reflected in next exposure

Commented [X577]: Why does being authorized mean it can be excluded? This seems backwards. Does this mean it has already transpired?

from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

- 6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company’s option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting ~~aggregate stochastic reserve~~SR.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting ~~aggregate stochastic reserve~~SR should be reduced by the amount of the dividend liability.
- 7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Commented [CD578]: delete "aggregate"

Commented [VM22579R578]: Edits to address this comment will be reflected in next exposure

Commented [CD580]: delete "aggregate"

Commented [VM22581R580]: Edits to address this comment will be reflected in next exposure

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the ~~stochastic reserve, SR~~. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. ~~(Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)~~

Commented [X582]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

Commented [VM22583R582]: Will address SPA separately

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Commented [X584]: Recommend removing reference to actuarial judgment being "unsupported" from VM-21 and VM-22 because actuarial judgment should always be supportable - it is "judgment" not an arbitrary decision.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are "PRT contracts," it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a ~~plus (minus)~~ mortality (longevity) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a ~~mortality (longevity) plus (minus)~~ segment to a ~~longevity (mortality) minus (plus)~~ segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

Commented [X585]: Recommend deleting this guidance note since it is unnecessary - there is no such restriction for any of VM-20, VM-21 or VM-22. It would be an absurd level of granular distinction, such that it is not clear you could actually perform the projection, given that assumptions vary by attained age, etc.

Commented [VM22586R585]: Edits to address this comment will be reflected in next exposure

Commented [X587]: Terming the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

Commented [VM22588R587]: Edits to address this comment will be reflected in next exposure

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

Commented [X589]: It is unclear how to interpretate the statement and how to review it for both VM-21 and VM-22. If a company reinsures GMWB riders, then does it mean that on a net basis the segment would no longer be considered as minus? So, there would be distinct designations for the pre and post reinsurance runs? Recommend discussing the statement and adding additional language or a guidance note to make it clear.

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

Commented [X590]: Delete period, it is a typo

Commented [VM22591R590]: Edits to address this comment will be reflected in next exposure

3. No Data Requirements

Commented [X592]: Does this need to be edited to be consistent with "little or no" data?

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

[2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table "a"] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F_x
<=65	80.0%
66	81.5%
67	83.0%
68	84.5%
69	86.0%
70	87.5%
71	89.0%
72	90.5%
73	92.0%
74	93.5%
75	95.0%
76	96.5%
77	98.0%
78	99.5%
79	101.0%
80	102.5%
81	104.0%

Commented [X593]: Section 11.B.3.i only has one item "a". There is no need to specifically have a single item "a". Recommend delete the notation "a" and have "Section 11.B.3.i" only.

Commented [VM22594R593]: Will be updated upon SPA assumption development

Commented [X595]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it's not clear in B.3 ii c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Commented [VM22596R595]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X597]: The 1983 Table "a" and 1994 GAR are used for structured settlements and group annuities, respectively. These tables seem to be out of date. If Standard Projected Amount work develops more granular and up to date tables, should these tables be updated to use consistent tables?

Commented [VM22598R597]: Will be updated upon SPA assumption development

Commented [X599]: The percentage factors (F_x) are over 100% from attained age 79 to age 104. Is it appropriate to set the factors above 100% for the older ages with no credibility?

Commented [VM22600R599]: Will be updated upon SPA assumption development

Commented [CD601]: does the F_x factor need any consideration for FIAs with GLBs?

Commented [VM22602R601]: Will be updated upon SPA assumption development

82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	
86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, when little or no experience or information is available on a business segment, an established industry or national mortality table and mortality improvement scale may be used, with approval from the domiciliary commissioner.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by

Commented [X603]: The phrase "When little or no experience or information is available on a business segment" is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

Commented [VM22604R603]: Edits to address this comment will be reflected in next exposure

Commented [X605]: Reference to the MI scale missing for international business

Commented [VM22606R605]: Edits to address this comment will be reflected in next exposure

contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves including margins for uncertainty with the mortality assumption assumptions described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the industry mortality assumption described in Section 11.B.3 ~~table~~ used in the blending.

2. Adjustment of ~~Statutory Valuation~~ Industry Mortality for Improvement

For purposes of the adjustment for credibility, the ~~industry~~ mortality table for a plus segment may be and the ~~industry~~ mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective ~~industry~~ mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.

Commented [X607]: Both plan and industry data should be weighted for business such as PRT. This text says blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.

Commented [VM22608R607]: Subgroup voted to only allow a prescribed table (to be determined upon SPA development) and not permit the use of third-party data provider upon a limited credibility

Commented [X609]: Clarification

Commented [VM22610R609]: Edits to address this comment will be reflected in next exposure

Commented [X611]: Editoria

Commented [VM22612R611]: Edits to address this comment will be reflected in next exposure

Commented [X613]: The “statutory valuation” is struck but in the guidance note. Recommend replacing “statutory valuation” with either “reference of Section 11.B.3” or “industry”. Otherwise, it is a vague reference since we have both a company mortality table and an industry mortality table.

Commented [VM22614R613]: Edits to address this comment will be reflected in next exposure

Commented [CD615]: need to reference “the mortality assumption described in Section 11.B.3” here? Otherwise, the sentence is unclear.

Commented [VM22616R615]: Edits to address this comment will be reflected in next exposure

Commented [X617]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

Commented [X618]: “Statutory Valuation” was stricken from all the body, but left in this title. Consider replacing with “industry”.

Commented [VM22619R618]: Edits to address this comment will be reflected in next exposure

Commented [CD620]: for consistency, need to delete this reference to “Statutory Valuation”

Commented [VM22621R620]: Edits to address this comment will be reflected in next exposure

- b. Not tend to bias the results in any material way.
 - c. Be practical to implement.
 - d. Give consideration to the need to balance responsiveness and stability.
 - e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
 - f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting ~~stochastic reserve~~SR. If such an adjustment would reduce the ~~stochastic reserve~~SR, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Other Guidance and Requirements for AssumptionsA. Overview

This section provides guidance and requirements in general for setting prudent estimate assumptions when determining either the SR or DR. It also provides specific guidance and requirements for expense assumptions.

B. General Assumption Requirements

1. The company shall use prudent estimate assumptions for risk factors that are not stochastically modeled by applying margins to the anticipated experience assumptions if such risk factors have been categorized as material risks by following Section 1.B Principle 3 and requirements in Section 12.C.
2. The company shall establish the prudent estimate assumptions for risk factors in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
3. The company shall model the following risk factors stochastically unless the company elects the stochastic modeling exclusion defined in Section 7:
 - a. Interest rate movements (i.e., Treasury interest rate curves).
 - b. Equity performance (e.g., Standard & Poor's 500 index [S&P 500] returns and returns of other equity investments).
4. If the company elects to stochastically model risk factors in addition to the economic scenarios, the requirements in this section for determining prudent estimate assumptions for these risk factors do not apply.

Guidance Note: It is expected that companies will not stochastically model risk factors other than the economic scenarios, such as contract holder behavior or mortality, until VM-22 has more specific guidance and requirements available. Companies shall discuss with domiciliary regulators if they wish to stochastically model other risk factors.

5. The company shall use its own experience, if relevant and credible, to establish an anticipated experience assumption for any risk factor. To the extent that company experience is not available or credible, the company may use industry experience or other data to establish the anticipated experience assumption, making modifications as needed to reflect the circumstances of the company.
 - a. For risk factors (such as mortality) to which statistical credibility theory may be appropriately applied, the company shall establish anticipated experience assumptions for the risk factor by combining relevant company experience with industry experience data, tables or other applicable data in a manner that is consistent with credibility theory and accepted actuarial practice.

Commented [X622]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Commented [X623]: Filed to add a Section 12 for general guidance on prudent assumption setting and on expenses. For VM-21, APF 2021-11 is currently exposed. Should be consistent with that APF, after any tweaks are made. <https://transact.naic.org/sites/default/files/inline-images/APF%2021-11%20to%20review%20assumptions%20and%20expenses.pdf>

Commented [VM22624R623]: Subgroup agreed on adding this as a new Section 12

- b. For risk factors (such as utilization of guaranteed living benefits) that do not lend themselves to the use of statistical credibility theory, and for risk factors (such as some of the lapse assumptions) to which statistical credibility theory can be appropriately applied but cannot currently be applied due to lack of industry data, the company shall establish anticipated experience assumptions in a manner that is consistent with accepted actuarial practice and that reflects any available relevant company experience, any available relevant industry experience, or any other experience data that are available and relevant. Such techniques include:
- i. Adopting standard assumptions published by professional, industry or regulatory organizations to the extent they reflect any available relevant company experience or reasonable expectations.
 - ii. Applying factors to relevant industry experience tables or other relevant data to reflect any available relevant company experience and differences in expected experience from that underlying the base tables or data due to differences between the risk characteristics of the company experience and the risk characteristics of the experience underlying the base tables or data.
 - iii. Blending any available relevant company experience with any available relevant industry experience and/or other applicable data using weightings established in a manner that is consistent with accepted actuarial practice and that reflects the risk characteristics of the underlying contracts and/or company practices.
- c. For risk factors that have limited or no experience or other applicable data to draw upon, the assumptions shall be established using sound actuarial judgment and the most relevant data available, if such data exists.
- d. For any assumption that is set in accordance with the requirements of Section 12.B.5.c, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing and disclose the analysis performed to ensure that the assumption is set at the conservative end of the plausible range.
- e. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
6. The company shall sensitivity test risk factors that are not stochastically modeled and examine the impact on the stochastic reserve. The company shall update the sensitivity tests periodically as appropriate. The company may update the tests less frequently, but no less than every 3 years, when the tests show less sensitivity of the stochastic reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company

may perform sensitivity testing:

- a. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- b. Using data from prior periods.

Guidance Note: Sensitivity testing every risk factor on an annual basis is not required. For some risk factors, it may be reasonable, in lieu of sensitivity testing, to employ statistical measures for margins, such as adding one or more standard deviations to the anticipated experience assumption.

- 7. The company shall vary the prudent estimate assumptions from scenario to scenario within the stochastic reserve calculation in an appropriate manner to reflect the scenario-dependent risks.

C. Assumption Margins

The company shall include margins to provide for adverse deviations and estimation error in the prudent estimate assumption for each risk factor that is not stochastically modeled or prescribed, subject to the following:

- 1. The level of margin applied to the anticipated experience assumptions may be determined in aggregate or independently as discussed in Section 1.B Principle 3. It is not permissible to set a margin less toward the conservative end of the spectrum to recognize, in whole or in part, implicit or prescribed margins that are present, or are believed to be present, in other risk factors.

Risks that are stochastically modeled (e.g., interest rates, equity returns) or have prescribed margins or guardrails (e.g., assets, revenue sharing) shall be considered material risks. Other risks generally considered to be material include, but are not limited to, mortality, contract holder behavior, maintenance and overhead expenses, inflation and implied volatility. In some cases, the list of material risks may also include acquisition expenses, partial withdrawals, policy loans, annuitizations, account transfers and deposits, and/or option elections that contain an element of anti-selection.

- 2. The greater the uncertainty in the anticipated experience assumption, the larger the required margin, with the margin added or subtracted as needed to produce a larger Sr or DR than would otherwise result. For example, the company shall use a larger margin when:

- a. The experience data have less relevance or lower credibility.
- b. The experience data are of lower quality, such as incomplete, internally inconsistent or not current.
- c. There is doubt about the reliability of the anticipated experience assumption, such as, but not limited to, recent changes in circumstances or changes in company policies.
- d. There are constraints in the modeling that limit an effective reflection of the risk factor.

Commented [X625]: Edit for VM-22 vs. VM-21?

Commented [VM22626R625]: Will include this language in the next exposure and will solicit any comments

3. In complying with the sensitivity testing requirements in Section 12.B.6 above, greater analysis and more detailed justification are needed to determine the level of uncertainty when establishing margins for risk factors that produce greater sensitivity on the stochastic reserve.
4. A margin is permitted but not required for assumptions that do not represent material risks.
5. A margin should reflect the magnitude of fluctuations in historical experience of the company for the risk factor, as appropriate.
6. The company shall apply the method used to determine the margin consistently on each valuation date but is permitted to change the method from the prior year if the rationale for the change and the impact on the stochastic reserve is disclosed.

D. Expense Assumptions

1. General Prudent Estimate Expense Assumption Requirements

In determining prudent estimate expense assumptions, the company:

- a. May spread certain information technology development costs and other capital expenditures over a reasonable number of years in accordance with accepted statutory accounting principles as defined in the Statements of Statutory Accounting Principles.

Guidance Note: Care should be taken with regard to the potential interaction with the inflation assumption below.

- b. Shall assume that the company is a going concern.
- c. Shall choose an appropriate expense basis that properly aligns the actual expense to the assumption. If values are not significant, they may be aggregated into a different base assumption.

Guidance Note: For example, death benefit expenses should be modeled with an expense assumption that is per death incurred.

- d. Shall reflect the impact of inflation.
- e. Shall not assume future expense improvements.
- f. Shall not include assumptions for federal income taxes (and expenses paid to provide fraternal benefits in lieu of federal income taxes) and foreign income taxes.
- g. Shall use assumptions that are consistent with other related assumptions.
- h. Shall use fully allocated expenses.

Guidance Note: Expense assumptions should reflect the direct costs associated with the block of contracts being modeled, as well as indirect costs and overhead costs that have been allocated to the modeled contracts.

- i. Shall allocate expenses using an allocation method that is consistent across

company lines of business. Such allocation must be determined in a manner that is within the range of actuarial practice and methodology and consistent with applicable ASOPs. Allocations may not be done for the purpose of decreasing the stochastic reserve.

- j. Shall reflect expense efficiencies that are derived and realized from the combination of blocks of business due to a business acquisition or merger in the expense assumption only when any future costs associated with achieving the efficiencies are also recognized.

Guidance Note: For example, the combining of two similar blocks of business on the same administrative system may yield some expense savings on a per unit basis, but any future cost of the system conversion should also be considered in the final assumption. If all costs for the conversion are in the past, then there would be no future expenses to reflect in the valuation.

- k. Shall reflect the direct costs associated with the contracts being modeled, as well as an appropriate portion of indirect costs and overhead (i.e., expense assumptions representing fully allocated expenses should be used), including expenses categorized in the annual statement as “taxes, licenses and fees” (Exhibit 3 of the annual statement) in the expense assumption.
- l. Shall include acquisition expenses associated with business in force as of the valuation date and significant non-recurring expenses expected to be incurred after the valuation date in the expense assumption.
- m. For contracts sold under a new policy form or due to entry into a new product line, the company shall use expense factors that are consistent with the expense factors used to determine anticipated experience assumptions for contracts from an existing block of mature contracts taking into account:
- i. Any differences in the expected long-term expense levels between the block of new contacts and the block of mature contracts.
 - ii. That all expenses must be fully allocated as required under Section 12.D.1.h above.

2. Margins for Prudent Estimate Expense Assumptions

The company shall determine margins for expense assumptions following Section 12.C.

Section 13: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The allocation shall be made separately for DR and SR. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

Commented [X627]: This method only makes sense if done separately for the DR and SR.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\sum Ai * [Aggregate Reserve - \sum Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the ~~stochastic reserve~~ SR defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows, as well as any cash flows that are scenario dependent.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the ~~stochastic reserve~~ SR defined in Section 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Commented [X628]: This method depends on the NAER, so would not work for companies that use direct iteration.

Commented [X629]: This could give an unstable allocation if there is an even mix of products with different risk profiles, so that the tail is populated with some scenarios where Product A does poorly and some where Product B does poorly. The single scenario will only reflect the riskiness of one of the products.

Commented [X630]: Not just the NAER, but the cashflows are also scenario dependent.

Commented [VM22631R630]: Edits to address this comment will be reflected in next exposure

Commented [CD632]: "Section 3.D"

Commented [VM22633R632]: Edits to address this comment will be reflected in next exposure

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}\{(2)-(1), 0\}$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}\{[(4 \text{ Total}) - (1 \text{ Total}), 0]\}$	Allocated Excess Reserve (6) = (3) x $\{[(5 \text{ Total}) / (3 \text{ Total})]\}$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value
**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Commented [CD634]: should be "Max{(2)-(1), 0}"

Commented [VM22635R634]: Edits to address this comment will be reflected in next exposure

Section ~~13~~14: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, ~~are covered in this section and all contracts not passing the SET covered by Sections 1 through 13 of VM-22, are covered Section 14 of VM-22:~~
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Commented [X636]: Under A.2: need to exclude contracts being covered by the earlier sections of VM-22 not passing the exclusion tests and need a clearer reference instead of "covered in this section"

Commented [VM22637R636]: Edits to address this comment will be reflected in next exposure

Guidance Note: For Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f and Section ~~13~~14.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f, Section ~~13~~14.A.2.g or Section ~~13~~14.A.2.h, the

company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13.14 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.14.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section ~~13~~¹⁴ current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets
 - a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
 - b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section ~~13~~14.C.1) and its Premium Determination Date (Section ~~13~~14.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section ~~13~~14.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section ~~13~~14.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section ~~13~~14.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section ~~13~~14.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section ~~13~~14.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section ~~13~~14.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 4314.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 4314.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 4314.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 4314.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 14.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 14.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
 - i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for

individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section ~~13~~14.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different

dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 14 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 13 of VM-22.

The requirements in this section are still considered a part of PBR requirements and therefore are applicable to VM-G.

The below principles may serve as key considerations for assessing whether VM 21 or VM 22 requirements apply:

D. Minimum reserve requirements apply:

- E. ~~Index for index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM 22 requirements and are issued on 1/1/2024 and later are those requirements: as found in Sections 1 through 13 of VM-22.:~~
 - 1. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
 - 2.b. Credits a rate of interest under the contract prior to the application of any market value adjustments that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

~~Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM 22 requirements.~~

Minimum reserve requirements.

Commented [X638]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22639R638]: Waylon Peoples comment letter: Extend small company exemption in place for life PBR (VM-20) to VM-22.

Commented [VM22640R638]: The Subgroup voted in favor of a VM-22 PBR Exemption. The ACLI will follow-up with proposed criteria for determining the exemption.

Commented [CD641]: "non-variable annuity"?

Commented [VM22642R641]: Edits to address this comment will be reflected in next exposure

Commented [X643]: "Section 13 of VM-22" may need to be updated if it is decided to have separate chapters for VM-22 VIR and VM-22 PBR.

Commented [VM22644R643]: Edits to address this comment will be reflected in next exposure

Commented [CD645]: "non-variable annuity"?

Commented [VM22646R645]: Edits to address this comment will be reflected in next exposure

Commented [CD647]: Consider adding the sentence: "The minimum reserve requirements of VM-22 are considered PBR requirements for purposes of the Valuation Manual." This is so VM-G will apply to VM-22, which would be appropriate.

Commented [VM22648R647]: Edits to address this comment will be reflected in next exposure

Commented [X649]: "Index-linked" annuity is not defined – only RILA and FIA in VM-22, recommend to revise the language or add a definition to define "index linked".

Commented [X650]: Recommend adding this part to E.1.b and delete the Guidance Note.

Commented [VM22651R650]: Edits to address this comment will be reflected in next exposure

for index

F. ~~2. Index-linked or modified guaranteed annuity contracts or riders that do not satisfy either of the two conditions listed above criteria in Paragraph Section 2.E.1 and Section 2.E.2 above and E.1.ii may be a key consideration for application of VM-21 are issued on 1/1/2024 and later are those requirements as found in VM-21.~~

Commented [X652]: VM-21 specifically says “These requirements do not apply to contracts falling under the scope of VM-A-255: Modified Guaranteed Annuities; however, they do apply to contracts listed above that include one or more subaccounts containing features similar in nature to those contained in modified guaranteed annuities (MGAs) (e.g., market value adjustments).” Is this a contradiction?

Commented [X653]: Consistent with E above.

Commented [VM22654R653]: Edits to address this comment will be reflected in next exposure

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies ~~Designs~~ of policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

Commented [X655]: Still need the word "designs" otherwise this is saying the whole policy/contract was only created to disguise benefits, which would never be true.

Commented [VM22658R655]: Edits to address this comment will be reflected in next exposure

A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.

B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, ~~Nursing Home Benefits~~ or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.

Commented [X657]: This reference is another place where there would be a benefit distinguishing the PBR sections of VM-22 from the non-PBR sections.

Commented [VM22658R657]: Edits to address this comment will be reflected in next exposure

~~C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.~~

~~D.C. Anyany~~ guaranteed minimum benefits on life insurance policies or annuity contracts ~~not subject to Paragraph C above~~ including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

Commented [X659]: These parallel requirements can be combined.

Commented [VM22660R659]: Edits to address this comment will be reflected in next exposure

~~E.D.~~ If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

1. The rider or supplemental benefit does not have a separately identified premium or charge.
2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~F.E.~~ If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is

separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

G.F. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

H.G. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve (for VM-20 and VM-22) or TAR (for VM-21) if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves (for VM-20 and VM-22) or reserves and TAR (for VM-21) using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. When advantageous, policyholders will commence living benefit payouts if not started yet.

Commented [X661]: Simplifications are judged relative to reserves for VM-20/VM-21 and TAR for VM-21.

Commented [VM22662R661]: Edits to address this comment will be reflected in next exposure

Commented [X663]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

Page 7: [1] Commented [CD49] CA DOI 12/30/2021 3:11:00 PM

The format of this Definitions section is inconsistent with other parts of the VM. In VM-01 and VM-21, each defined term is numbered, and is defined in this format (for example):

1. The term "buffer annuity" is interchangeable with the term "registered index-linked annuity (RILA)", as defined in Section 1.D.?

Page 7: [2] Commented [X51] TDI 11/9/2021 9:04:00 AM

The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "Floor". Recommend deleting Buffer Annuity or add descriptions for Buffer Annuity as a subtype in the RILA definition.

Page 7: [3] Commented [X53] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 7: [4] Commented [X55] TDI 11/9/2021 9:05:00 AM

The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Page 7: [5] Commented [X57] ACLI

Is "typically" intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Page 7: [6] Commented [X61] TDI 11/9/2021 9:07:00 AM

The definition of FIA describes the account value as typically with guaranteed principal. Since FIA always has the guaranteed principal, recommend deleting the wording "typically".

Page 9: [7] Commented [X87] ACLI

Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Page 9: [8] Commented [X89] TDI 11/9/2021 9:06:00 AM

The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Page 9: [9] Commented [X91] ACLI

Suggest striking sentence "Adverse mortality is typically expected for these contracts." from definition. Additionally, it is possible that there may be non-substandard settlements.

Page 11: [10] Commented [VM22108R105] VM-22 Subgroup 6/23/2022 9:14:00 AM

The VM-22 Subgroup voted to adopted "Option 1" for Reserving Categories

Page 11: [11] Commented [VM22107R105] VM-22 Subgroup 3/2/2022 4:12:00 PM

See Equitable comment letter: supports full aggregation, but if choosing between the two exposed options for two reserving categories, prefers option 2.

Page 11: [12] Commented [VM22106R105] VM-22 Subgroup 3/2/2022 2:59:00 PM

See NY comment letter: supports option 1, with additional category for “other” for any other contract with supporting assets such that there is greater reinvestment and longevity risks, than disintermediation risk and other risks associated with policyholder behavior as of the valuation date.

Page 11: [13] Commented [X105] TDI 11/9/2021 9:23:00 AM

The reserving categories for VM-22 are not included in Scope. Recommend including the defined reserving categories in the section when outlining Scope.

Page 11: [14] Commented [X103] ACLI

We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Page 11: [15] Commented [VM22104R103] VM-22 Subgroup 6/23/2022 9:16:00 AM

ACLI will follow up with a proposed revision to the definitions and scope section

Page 11: [16] Commented [VM22110R109] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [17] Commented [CD109] CA DOI 12/30/2021 3:27:00 PM

suggest numbering the paragraphs within this section

Page 11: [18] Commented [CD111] CA DOI 12/30/2021 3:27:00 PM

suggest swapping the order of this section. That is, start with the "in scope" list, rather than the "out of scope" list.

Also, it seems like there should be specific mentions of GMDBs and GLBs, as there are in VM-21, since those guarantees can also be found on FIAs.

Page 11: [19] Commented [VM22112R111] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [20] Commented [X113] TDI 11/9/2021 9:12:00 AM

Since buffer annuities are a subset of RILA, recommend deleting buffer annuities.

Page 11: [21] Commented [VM22114R113] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [22] Commented [CD115] CA DOI 12/30/2021 3:28:00 PM

this is not defined in the Definition section. should it be?

Page 11: [23] Commented [VM22116R115] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [24] Commented [X117] TDI 11/9/2021 9:17:00 AM

This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" list and adding a cross-reference to VM-21 Section 2.A.

Page 11: [25] Commented [VM22118R117] VM-22 Subgroup 6/23/2022 9:16:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [26] Commented [CD119] CA DOI 12/30/2021 3:28:00 PM

should this be "non-variable annuities" since that is term used in Section 1.A?

Page 11: [27] Commented [VM22120R119] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [28] Commented [VM22124R123] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [29] Commented [VM22122R121] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [30] Commented [VM22126R125] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [31] Commented [VM22128R127] VM-22 Subgroup 6/23/2022 9:17:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [32] Commented [CD129] CA DOI 12/30/2021 3:31:00 PM

should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined in the Definitions section?

Page 11: [33] Commented [VM22130R129] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [34] Commented [CD131] CA DOI 12/30/2021 3:31:00 PM

for consistency, make plural; i.e., change to "ies"

Page 11: [35] Commented [VM22132R131] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [36] Commented [X133] ACLI

We suggest moving or deleting the sentence “The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.” from this section as it does not seem fitting here.

Page 11: [37] Commented [VM22134R133] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [38] Commented [CD135] CA DOI 12/30/2021 3:32:00 PM

self-referencing "VM-22" is not necessary

Page 11: [39] Commented [VM22136R135] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [40] Commented [X137] TDI 11/9/2021 9:19:00 AM

Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 interest rate determinations are left in the same chapter as the VM-22 PBR requirements)?

It is normal to then list what requirements such excluded contracts would follow. However, the statement here is more problematic because you can be excluded from the SR but still subject to VM-22.

Page 11: [41] Commented [VM22138R137] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [42] Commented [CD139] CA DOI 12/30/2021 3:32:00 PM

again, suggest numbering the paragraphs within this section

Page 11: [43] Commented [VM22140R139] VM-22 Subgroup 6/23/2022 9:18:00 AM

Edits to address this comment will be reflected in next exposure

Page 11: [44] Commented [X141] TDI 11/9/2021 9:25:00 AM

We still have a question about whether RBC factors are still at an appropriate level, if principles-based capital is not developed. Were they set assuming that this reserve was at a CTE(70) level in the first place, or were they dependent on the prior framework?

Page 15: [45] Commented [X161] TDI 11/9/2021 9:48:00 AM

Recommend replacing “the scenario reserve” with “the deterministic reserve”. Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

Page 15: [46] Commented [CD162] CA DOI 12/30/2021 3:35:00 PM

suggest expanding header to "Stochastic Exclusion Test", for clarity

Page 15: [47] Commented [X163] ACLI

Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Page 15: [48] Commented [VM22164R163] VM-22 Subgroup 6/23/2022 11:26:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [49] Commented [CD165] CA DOI 12/30/2021 3:36:00 PM

Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ways of passing it. Therefore, the current wording is confusion because it suggests that there are multiple SETs.

Page 15: [50] Commented [VM22166R165] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [51] Commented [VM22168R167] VM-22 Subgroup 6/23/2022 9:23:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [52] Commented [X169] ACLI

We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

Page 15: [53] Commented [X170] TDI 11/9/2021 9:57:00 AM

The statement in this section is not acceptable as discussed in the previous TX comment letter. This will have the effect of potentially masking blocks that need PBR.

Page 15: [54] Commented [VM22171R170] VM-22 Subgroup 6/23/2022 9:26:00 AM

Subgroup agreed that wording for exclusion test aggregation should be consistent with VM-20. Edits to address this comment will be reflected in next exposure

Page 15: [55] Commented [X172] ACLI

This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

Page 15: [56] Commented [VM22173R172] VM-22 Subgroup 6/23/2022 9:27:00 AM

Subgroup voted to use wording consistent with VM-20, which prohibits aggregating contracts with significantly different risk profiles.

Page 15: [57] Commented [CD174] CA DOI 12/30/2021 3:42:00 PM

for clarity, change this reference to "Section 3.D"

Page 15: [58] Commented [VM22175R174] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [59] Commented [CD176] CA DOI 12/30/2021 3:41:00 PM

again, suggest rewording this to just say "the stochastic exclusion test"

Page 15: [60] Commented [VM22177R176] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [61] Commented [X179] ACLI

Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

Page 15: [62] Commented [VM22180R179] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [63] Commented [X181] ACLI

This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Page 15: [64] Commented [CD182] CA DOI 12/30/2021 3:43:00 PM

VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques is missing (including the Guidance Note). Would it make sense to add it?

Page 15: [65] Commented [VM22184R183] VM-22 Subgroup 6/23/2022 9:24:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [66] Commented [X185] TDI 11/9/2021 9:59:00 AM

Recommend to periodically review at least every three years.

Page 15: [67] Commented [CD186] CA DOI 12/30/2021 3:45:00 PM

Should this be "the company... shall", rather than the "qualified actuary... shall"? Not sure why this particular task falls on the QA, when "the company" generally has responsibility for PBR and, in the subsection directly before this one, the company is assigned the task of establishing prudent estimate assumptions.

Page 15: [68] Commented [VM22187R186] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [69] Commented [X188] ACLI

Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Page 15: [70] Commented [VM22189R188] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [71] Commented [X190] TDI 11/9/2021 10:01:00 AM

Recommend replacing “the qualified actuary” with “the Company” consistent with general PBR requirements that the company set assumptions.

Page 15: [72] Commented [VM22191R190] VM-22 Subgroup 6/23/2022 9:27:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [73] Commented [CD192] CA DOI 12/30/2021 3:48:00 PM

should this be "the company"? See prior comment.

Page 15: [74] Commented [VM22193R192] VM-22 Subgroup 6/23/2022 9:28:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [75] Commented [VM22195R194] VM-22 Subgroup 6/23/2022 9:28:00 AM

Edits to address this comment will be reflected in next exposure

Page 15: [76] Commented [X196] TDI 11/9/2021 10:15:00 AM

Need a new section for the general assumptions, including specifics for the expense assumptions. APF currently exposed for VM-21. We should be consistent with any edits.

Page 15: [77] Commented [VM22197R196] VM-22 Subgroup 6/23/2022 9:28:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [78] Commented [X356] ACLI

We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Page 35: [79] Commented [VM22357R356] VM-22 Subgroup 3/2/2022 2:51:00 PM

Subgroup voted to keep PRT ineligible for the Certification Method

Page 35: [80] Commented [CD358] CA DOI 12/30/2021 4:12:00 PM

See earlier comments about the use of “future”

Page 35: [81] Commented [VM22363R362] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [82] Commented [VM22361R360] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [83] Commented [CD364] CA DOI 12/30/2021 4:14:00 PM

what is meant by "aggregate risk levels"? Aggregated across what? Need clarification on the intentions for adding this phrase, when it is not in VM-20. Otherwise, i would suggest deleting this.

Page 35: [84] Commented [VM22365R364] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [85] Commented [X366] TDI 11/18/2021 9:49:00 PM

This is not in VM-20 and would substantially change the exclusion. The intent is not to allow you to group a block that has material interest rate risk with a larger block that is insensitive to interest rate risks and thereby pass. If "aggregate" referred to potential compounding of interest rate, longevity, or asset risk then this could be redrafted to clearly call out a 4th category of risk due to a combination of the first three. However, I think this is already implicitly covered.

Page 35: [86] Commented [VM22367R366] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [87] Commented [VM22369R368] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [88] Commented [CD370] CA DOI 12/30/2021 4:15:00 PM

note, there is no insertion of "aggregate risk levels across" here, like there was above. (to be clear, i don't support adding it.)

Page 35: [89] Commented [VM22371R370] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [90] Commented [CD372] CA DOI 12/30/2021 4:16:00 PM

This wording is a little clunky here. My suggestion:

"A demonstration that, for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great..."

Page 35: [91] Commented [VM22373R372] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [92] Commented [VM22375R374] VM-22 Subgroup 6/23/2022 10:11:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [93] Commented [X374] TDI 9/7/2021 9:28:00 AM

Replace all "contracts" with "contracts and certificates"

Page 35: [94] Commented [VM22378R377] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [95] Commented [VM22380R379] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [96] Commented [VM22382R381] VM-22 Subgroup 6/23/2022 1:36:00 PM

Edits to address this comment will be reflected in next exposure

Page 35: [97] Commented [X383] TDI 11/18/2021 10:37:00 PM

Need to add a review of the company's mortality and/or longevity risk.

Page 35: [98] Commented [VM22384R383] VM-22 Subgroup 6/23/2022 10:12:00 AM

Edits to address this comment will be reflected in next exposure

Page 35: [99] Commented [X385] ACLI

As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Page 35: [100] Commented [VM22386R385] VM-22 Subgroup 6/23/2022 10:12:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [101] Commented [X387] TDI 11/18/2021 9:53:00 PM

Using (a) in the denominator instead of VM-20's (c) which is a PV of benefits could make this ratio unstable when the scenario reserve (a) is very small. This is particularly applicable if the block being tested does not have CSV.

Page 35: [102] Commented [VM22388R387] VM-22 Subgroup 6/23/2022 10:13:00 AM

Consensus to use a denominator that only includes benefits and expenses, consistent with VM-20

Page 35: [103] Commented [X389] TDI 11/18/2021 9:59:00 PM

The variability should be assured to be immaterial based on the company's materiality standard.

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
June 14, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met June 14, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Mike Yanacheak (IA); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Mike Boerner and Yujie Huang (TX); and Craig Chupp (VA).

1. Exposed the Longevity Reinsurance Proposal

Ms. Eom shared the draft of the proposal for addressing longevity risk (Attachment Twenty-Two-A) in the proposed VM-22 framework as discussed during the Subgroup's June 1 meeting. She proposed that longevity reinsurance be excluded from the payout annuity reserving category and be listed as a separate reserving category. She said the proposal recommends using net premiums instead of gross premiums for the calculation of longevity reinsurance accumulated deficiencies. The proposal recommends reducing the gross premiums by a k-factor to determine the net premium. She expressed openness to suggestions on how the k-factor is determined or alternative calculations that do not use a k-factor.

Mr. Carmello made a motion, seconded by Mr. Boerner, to expose the longevity reinsurance proposal for a 60-day public comment period ending Aug. 14. The motion passed unanimously.

2. Discussed the Stochastic Exclusion Ratio Test

Mr. Slutsker said that during the Subgroup's June 1 meeting, the Academy agreed to review the proposal for using the VM-20, Requirements for Principle-Based Reserves for Life Products, approach for determining the numerator and denominator of the stochastic exclusion ratio test (SERT). Chris Conrad (American Academy of Actuaries—Academy) said the Academy has reviewed the proposal and agrees with the approach.

3. Discussed Tier Two Comments on the Proposed VM-22 Framework

Mr. Slutsker said the Texas Department of Insurance (TDI) proposes using the reinsurance language from VM-20 in Section 5 of the proposed VM-22 framework. Mr. Conrad said that while the Academy believes that the language is not necessary in a principle-based approach, it is comfortable with using the language in Section 5.

Mr. Slutsker said the TDI and the California Department of Insurance (DOI) proposes adding VM-21, Requirements for Principle-Based Reserves for Variable Annuities, language for fair value disclosures to the conditional tail expectations 70 (CTE-70) best efforts. Mr. Reedy said the language was added to be consistent with VM-21. Connie Tang (Prudential) said some clarifying notes may be needed because the methodology for some index credit products does not have "best efforts" versus "adjusted." Al Zlogar (Academy) said that if the hedging program is only for index crediting, the proposed language is not needed. Mr. Slutsker said the language is in a section addressing non-indexed hedging strategies supporting guarantees. He said comments on whether it should be extended to all hedges can be submitted during the exposure period.

Mr. Slutsker said the proposed VM-22 framework lists the 1994 group annuity reserving table (1994 GAR) as the table a company should use if it has little pension risk transfer (PRT) mortality experience. He said the ACLI asked

if the mortality assumption can be based on third-party data rather than an industry table. He said the question is also pertinent to the credibility section of the proposal. Ms. Eom asked how state insurance regulators might get comfortable with the data from a third party. Mr. Bayerle said the ACLI will give that some thought. Mr. Carmello said the Subgroup should require a prescribed table. The Subgroup voted not to allow the use of third-party data.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/06 14/6_14 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/06 14/6_14 VM-22 Minutes.docx)

RESERVING CATEGORY DEFINITIONS

The Term “Payout Annuity Reserving Category” includes the following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits provided by variable annuities. For the purposes of the “Payout Annuity Reserving Category”, Longevity Reinsurance shall be excluded from the following categories of contracts, certificates and contract features.

:

1. Immediate annuity contracts;
2. Deferred income annuity contracts;
3. Structured settlements in payout or deferred status;
4. Fixed income payment streams resulting from the exercise of settlement options or annuitizations of host contracts issued;
5. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest);
6. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts, once the contract funds are exhausted;
7. Certificates, emanating from non- variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders fixed income payment streams upon their retirement; and
8. Pension Risk Transfer Annuities; ~~and~~
9. ~~Longevity Reinsurance.~~

The term “Longevity Reinsurance Reserving Category” refers to Longevity Reinsurance under the definition provided in [VM-01 or VM-22 Section 1.d of the Valuation Manual].

The term “Accumulation Reserving Category” are all annuities within scope of VM-22 under Section II of the NAIC Valuation Manual that are not in the “Payout Reserving Category” or “Longevity Reinsurance Reserving Category”.

Drafting Note: *Intent is to not permit aggregation between longevity reinsurance and other contracts for VM-22 PBR calculations.*

Section 4: Determination of SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Sections 4 and 9. The company shall project cash flows including the following:

- a. Gross premium received by the company from the contract holder (including any due premiums as of the projected start date). For purposes of Longevity Reinsurance, net premium shall be used in the projection and defined as the gross premium multiplied by a “K-factor,” where the K-factor is determined as:
 - i. The present value of the expected future benefits at contract inception using the prudent estimate assumptions determined at contract inception and an interest rate equal to the prescribed interest rate under VM-A and VM-C, divided by item ii immediately below.
 - ii. The present value of the expected future gross premiums at contract inception using the prudent estimate assumptions determined at contract inception and an interest rate equal to the prescribed interest rate under VM-A and VM-C.
 - iii. The resulting amount is capped at 1, in other words the application of the K-factor shall not result in the net premium exceeding the gross premium.

Commented [NJ1]: Another option for assumptions would be to calculate the k factor using assumptions prior to margins, which would lower the k factor. Another option for the interest rate would be to use the standard projection interest rate scenario

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

- b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses). For purposes of Longevity Reinsurance, it is not expected that any such other revenues will apply. To the extent there are other revenues, they should be included with item ii under a. immediately above so that the calculation of the K-factor includes all expected future revenues from the contract holder.
- a-c. All material benefits projected to be paid to contract holders—including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

- b.d. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.I.
- e.e. Insurance company expenses (including overhead and maintenance expense), commissions and other acquisition expenses associated with business inforce as of the valuation date.
- f.f. Cash flows associated with any reinsurance.
- e.g. Cash flows from hedging instruments as described in Section 4.A.4.
- f.h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
June 1, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met June 1, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Vincent Tsang (IL); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Mike Boerner and Yujie Huang (TX); Tomasz Serbinowski (UT); and Craig Chupp (VA).

1. Discussed the VM-22 Draft Comment Tracker

Mr. Slutsker said a drafting discussion log (Attachment Twenty-Three-A) has been created to track Subgroup progress on comments received on the proposed VM-22 framework (Attachment Twenty-Three-B).

2. Discussed Tier Two Comments on the Proposed VM-22 Framework

Mr. Slutsker reviewed the list of VM-22 framework discussion topics (Attachment Twenty-Three-C). He said the American Council of Life Insurers (ACLI) questioned whether single premium immediate annuities (SPIAs) should be allowed the option to use the Commissioners Annuity Reserve Valuation Method (CARVM) without having to pass an exclusion test to avoid having to do principle-based reserving (PBR). Brian Bayerle said that in general, SPIAs will pass the exclusion test and do not carry any significant risk not captured by CARVM. Ms. Eom agreed with allowing the option to automatically exclude SPIAs but suggested that the exclusion would only apply to vanilla SPIAs. Mr. Chupp asked if the rates currently in VM-22, Statutory Maximum Valuation Interest Rates for Income Annuities, would be applicable. Mr. Bayerle confirmed that would be the case. Mr. Tsang agreed with using the pre-PBR methodology but said the exclusion should only apply prospectively. Mr. Carmello said that once the company selects the option, it should not be able to reverse it. He said he would prefer that instead of providing an option, the Subgroup should decide whether to exempt SPIAs from PBR. Mr. Bayerle said the ACLI would like SPIAs that pass the exclusion test to retain the option to do PBR. Chris Conrad (American Academy of Actuaries—Academy) said the Academy believes that SPIAs should be subjected to exclusion testing. He said SPIAs with terms greater than 20 years would potentially fail the exclusion test because they have greater reinvestment risk. He said the Academy intends to include SPIA exclusion testing in the VM-22 field study to determine if 20 years is the right cutoff. Mr. Chupp recommended basing the eligibility for exclusion testing on an average duration threshold instead of the length of the term. Subgroup members voted unanimously to allow SPIAs to automatically pass the exclusion test. The Subgroup then unanimously voted to limit the automatic pass to SPIAs with liability durations less than a certain threshold to be determined by the Subgroup. Mr. Slutsker said he will work with Mr. Chupp, Ms. Eom, and Mr. Carmello to determine if additional criteria are needed. Mr. Conrad agreed that the Academy would work to determine the appropriate durations for the threshold, as well as analyze how the automatic pass might affect the deterministic reserve.

Mr. Bayerle said the ACLI supports using the certification method for pension risk transfer (PRT) business. Ms. Eom said she is considering proposing additional language to reflect the influence of mortality on PRT contracts. Mr. Conrad said the Academy excluded PRT business from the certification method due to the potentially long durations of PRT business. Subgroup members voted to retain the language that prohibits PRT business to use the certification method.

Mr. Slutsker said the Texas Department of Insurance (TDI) suggested that the product grouping for exclusion testing should be similar to the grouping for PBR modeling. He said that the aggregation of blocks of business with

significantly different risk profiles would not be allowed. He said the ACLI favors allowing products to be grouped in alignment with the payout and accumulation categories determined for non-variable annuities. Mr. Bayerle said that aggregating on a higher level will force more products into stochastic modeling. Subgroup members agreed with the approach suggested by the TDI.

Mr. Slutsker said the TDI recommended having products pass, not merely disclose, the 16 scenarios from the exclusion ratio test to be eligible for the deterministic reserve. The Subgroup voted, with Mr. Chupp abstaining, to require that products pass the 16 scenarios to be eligible for the deterministic reserve.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/06 01/6_01 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/06 01/6_01 VM-22 Minutes.docx)

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
1	VM-22 Scope and Definitions	Keep current definitions for what is in-scope or focus only on non-variable annuities out of scope	4/13/2022	1	Openness to use Section II of the Valuation Manual to determine scope rather than relying on definitions; ACU to provide potential draft wording
2	Reserving categories and aggregation	Determine Option 1 or Option 2 from exposed reserve category definitions	4/13/2022	1	Preliminary vote to pursue Option 1
3	Small Company Exemption	Fixed Annuity PBR exemption, similar to life PBR exemption for smaller carriers?	4/13/2022	1	Voted to pursue a "Fixed Annuity PBR Exemption"; ACU to propose a set of potential draft criteria for the exemption
4	Reinvestment Guardrail	Keep VM-20/VM-21 mix, Academy mix, TX mix, or other? Wait until field test for final decision?	4/27/2022	1	Wait until observing impact in field testing results before voting on a reinvestment mix guardrail
5	Principles & Risks Across VM Chapters	Build one section in the Valuation Manual for principles that apply to VM-20, VM-21, and VM-22	4/27/2022	2	Openness to interested party proposals for a common "principles" section, but will focus on working through other VM-22 decisions before exploring
6	General Assumptions Section	Add a section to the VM-22 draft on general considerations and requirements for assumption	4/27/2022	2	Will include a proposed general assumptions section ("Section 13") from Texas to be consistent with a recent APF adoption on VM-21
7	Transition Period	Permit 1) early adoption and 2) retrospective adoption to the start of the 3-year transition period?	4/27/2022	2	Decided to not pursue early adoption; VM-22 will say silent on retrospective adoption to start of transition period, similar to VM-20
8	Minimum Error for Index Credit Hedges	What should be the minimum breakage expense (i.e., error) for modeling hedges supporting index credits?	5/11/2022	2	Will wait until seeing field testing results before minimum threshold
9	Longevity Reinsurance	How should longevity reinsurance be defined and treat negative reserves/recurring premiums?	5/11/2022	2	Academy presented on longevity reinsurance and will provide a refined definition; New Jersey will provide a proposal for reserving requirements
10	Categories for VM-31 Disclosures	What level of granularity should be required for disclosing PBR reserves for product groups in VM-31?	5/11/2022	2	Will wait until seeing field testing results before determining granularity of disclosures
11	Exclusion Test: SPIA contracts	Allow SPIAs to have the option of PBR vs. pre-PBR valuation without an exclusion test?	6/1/2022	2	
12	Exclusion Test: PRT Certification Method	Allow PRT contracts to use the Certification Method for exclusion testing?	6/1/2022	2	
13	Exclusion Test: Grouping	Group between products with significantly different risk profiles?	6/1/2022	2	
14	Exclusion Test: Future Premiums	For the stochastic exclusion ratio test, determine whether to include future premiums	6/1/2022	2	
15	Exclusion Test: Deterministic Reserve	To pass the deterministic test, does the company need to pass or disclose 16 scenarios with baseline mortality?	6/1/2022	2	
16	Working Reserve	Use a working reserve concept to serve as a floor for contracts without cash surrender value?	TBD	2	
17	PRT Mortality	Permit PRT mortality with limited credibility to follow a third-party provider instead of an industry table?	TBD	2	
18	Import Reinsure Wording from VM-20	Import VM-20 wording on incorporating contractual or additional characteristics for modeling reinsurance?	TBD	2	
19	Fair Value Certification	Include fair value certification, similar to existing VM-21 requirement?	TBD	2	

NAIC VM-22 Drafting Discussion Log

#	Topic	Description	Date	Tier	Outcome
20	Allocation Method	Determine Option 1 or Option 2? Wait until observing field test results before deciding?	TBD	2	
21	Grouping for Fund Value Depletion	Appropriate reserving category for deferred annuities with GMMBS/GMLBS that have depleted fund value	TBD	2	
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Comment Categories:

- Tier 1: Key Decision Points – Discuss first
- Tier 2: High Substance Edits – Discuss second
- Tier 3: Moderate Substance Edits – Discuss third
- Tier 4: Noncontroversial or Low Substance Edits – Will expose and only discuss upon comment

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

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Commented [CD1]: Please clarify which version (i.e., effective date) of the VM was used for the comparison. Before any changes for VM-22 are adopted, a final comparison against the latest version of the VM will need to be performed.

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Commented [X2]: Note that part of the 2022 VM updates was to replace all instances of "stochastic reserve" with "SR" other than the initial definition in VM-01.

Section 1: Background

A. Purpose

Sections 1 through 13 of these requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. Section 14 of these requirements establish the maximum valuation rate for payout annuities for contracts issued on or after 1/1/2018. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts and certificates, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

B. Principles

The projection methodology used to calculate the stochastic reserve_{SR} is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve_{SR} is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve_{SR} is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve_{SR} at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Guidance Note: Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the

Commented [X3]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

Commented [CD4]: might be clearer to refer to "Section 2.A" here

Commented [X5]: The statement only addresses "contracts". Recommend adding "and certificates". Need to do a holistic review if where "and certificates" may be needed.

Commented [X6]: (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, "products that calculate a stochastic reserve", since the relationship to RBC would likely be maintained.

Commented [X7]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like-set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section 1. Introduction" or "VM-01" and equally applying to VM-20.

Commented [CD8]: for consistency, will this edit be considered for VM-21 as well?

Commented [X9]: We support this principle but note that later sections appear to contradict this principle. For example, the statement "The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario." contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Commented [X10]: Principle 2: Recommend reinstating Guidance Note in Principle 2 to be consistent with VM-21.

company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the ~~stochastic reserve~~SR at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the ~~stochastic reserve~~SR, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle. More guidance and requirements for setting assumptions in general are provided in Section 12.

Commented [X11]: We suggest deleting the sentence "Generally, assumptions are..." since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Commented [X12]: Need general assumption guidance section

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the ~~stochastic reserve~~SR is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model ~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~ can completely quantify a company's exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the ~~stochastic reserve~~SR. ~~Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve~~SR without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit "foreknowledge" of the components of the required methodology.

Commented [X13]: Principle 5 has the statement "nor a method based on factors calibrated to the results of a cash flow scenario model" which is intended for the Alternative Methodology in VM-21. The statement should be deleted from VM-22.

Commented [X14]: We recommend deleting the third sentence (starting with "Therefore, the use of assumptions...") because this lacks historical context and is covered by the final sentence.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.

Commented [X15]: Consistent with our comments on 1.B, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.

Commented [CD16]: VM-21 has "... and Risks Not Reflected" in this section header, which should be retained here since the section on risks not reflected is still in here.

2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:

a. Asset risks

- i. Credit risks (e.g., default or rating downgrades).
- ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
- iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
- iv. Performance of equities, real estate, and Schedule BA assets.
- v. Call risk on callable assets.
- vi. Separate account fund performance.
- vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
- viii. Currency risk.

Commented [CD17]: Can a non-variable annuity have a separate account fund? I am not aware of any such annuity, that is not a variable annuity. Furthermore, all references to separate accounts and fund performance were deleted from this draft. Thus, we should consider deleting this item from the list.

b. Liability risks

- i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
- ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
- iii. Utilization risk associated with guaranteed living benefits.
- iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
- v. Annuitization risks.
- vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
- vii. Applicable expense risks, including fluctuation in maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.

Commented [CD18]: Is there a distinction between "dump-ins" and "deposits"? Why are both words needed? Also, if it's determined that both words are needed, should this same change be made in VM-21?

Commented [X19]: Recommend change to "fluctuation in" maintenance expenses for clarity.

Commented [CD20]: should this same change also be made to VM-21?

c. Combination risks

- i. Risks modeled in the company's risk assessment processes that are related to the contracts, as described above.
- ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).

Commented [X21]: We recommend removing the bullet "Risks modeled in the company's risk assessment processes that are related to the contracts, as described above" as this is unclear and probably extraneous.

- iii. Risks associated with revenue-sharing income.
- 3. The risks not necessarily reflected in the calculation of reserves under these requirements are:
 - a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
- 4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Liquidity risks associated with a sudden and significant levels of withdrawals and surrenders; "run on the bank."
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks
 - i. Deterioration of reputation.
 - ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
 - iii. Poor management performance.
 - iv. The expense risks associated with fluctuating amounts of new business.
 - v. Risks associated with future economic viability of the company.
 - vi. Moral hazards.
 - vii. Fraud and theft.
 - viii. Operational.
 - ix. Litigation.

Commented [X22]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

Commented [CD23]: Suggest eliminated "policies or", since customarily, annuities are "contracts"

Commented [CD24]: This is not in VM-21, and my suggestion would be to delete this

Commented [X25]: Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly reflected. Recommend deleting the whole section 1.C.3 including item (a) and item (b).

Commented [CD26]: should this same change also be made to VM-21?

Commented [X27]: The revised language "sudden and significant levels of withdrawal and surrenders" replaces the original language "run on the bank" and is less clear. Does "significant" mean severe or extreme? Or just appreciably? Withdraws and surrenders certainly may vary by projected economic scenarios. Recommend using the original language "run on the bank" that had a clearer intent.

Commented [X28]: We recommend deleting the wording "fundamentally". If a breakthrough is known to have fundamentally changed expected future mortality, but is not yet significantly reflected in historical experience, why is it not reflected? Do we know about this fundamental shift for years before it is reflected? This issue also applies to the VM-21 requirement.

Commented [X29]: We recommend removing the bullet "Significant future reserve increases as an unfavorable scenario is realized" as this is extraneous.

Commented [X30]: List could be expanded to include operational risk and litigation risk.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

• **Deferred Income Annuity (DIA)**

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year, 13 months or later after (or from) the issue date if the contract holder survives to a predetermined future age.

• **Fixed Indexed Annuity (FIA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, subject to certain limits, typically with guaranteed principal.

• **Flexible Premium Deferred Annuity (FPDA)**

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

• **Funding Agreement**

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

• **Guaranteed Investment Contract (GIC)**

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

• **Index Credit Hedge Margin**

A margin capturing the risk of inefficiencies in the company's hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

• **Index Credit**

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to contract policy values that is linked to an index or indices. Amounts credited to the contract policy resulting from a floor on an index account are included.

Commented [X31]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [CD32]: The format of this Definitions section is inconsistent with other parts of the VM. In VM-01 and VM-21, each defined term is numbered, and is defined in this format (for example):
1. The term "buffer annuity" is interchangeable with the term "registered index-linked annuity (RILA)", as defined in Section 1.D.?

Commented [X33]: The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "Floor". Recommend deleting Buffer Annuity or add descriptions for Buffer Annuity as a subtype in the RILA definition.

Commented [X34]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Commented [X35]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [X36]: Is "typically" intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Commented [CD37]: insert: "subject to certain limits,"

Commented [X38]: The definition of FIA describes the account value as typically with guaranteed principal. Since FIA always has the guaranteed principal, recommend deleting the wording "typically".

Commented [CD39]: should be "contract"

Commented [CD40]: should be "contract"

• **Index Crediting Strategy**

The strategy defined in a contract to determine index credits for a contract. ~~This refers to~~For example, this may refer to underlying index, index parameters, date, timing, performance triggers, and other elements of the crediting method.

• **Index Parameter**

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Commented [X41]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

• **Longevity Reinsurance**

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Commented [X42]: The definition states that "Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition". Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in "2.A. Scope" if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing "typically" from the definition.

Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Commented [VM2243R42]: Target resolving definition of longevity reinsurance prior to addressing NJ comment letter on using a potential net premium method

Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

Commented [VM2244]: New Jersey comment letter: due to future premiums, longevity reinsurance may generate negative reserves, which can be used to eliminate or reduce other immediate annuity reserves. Suggest using net premium methodology, solving for a k-factor at issue to solve for $PV(\text{premiums}) = PV(\text{benefits})$.

Commented [VM2245R44]: Target resolving definition of longevity reinsurance prior to addressing NJ comment.

• **Market Value Adjustment (MVA) Annuity**

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

• **Modified Guaranteed Annuity (MGA)**

A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values and death benefits that are based upon a market-value adjustment formula if held for shorter periods.

Commented [X46]: We recommend editing the definition as follows "A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account..."

Commented [X47]: To clarify definition of MGA, recommend adding "death benefits".

- **Multiple-Year Guaranteed Annuity (MYGA)**
 A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.
- **Pension Risk Transfer (PRT) Annuity**
 An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).
- **Registered Index-Linked Annuity (RILA)**
 An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.
- **Single Premium Immediate Annuity (SPIA)**
 An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within 13 months one year after (or from) the issue date issue date.
- **Single Premium Deferred Annuity (SPDA)**
 An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.
- **Stable Value Contract**
 A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer's general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.
- **Structured Settlement Contract (SSC)**
 A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.
- **Synthetic Guaranteed Investment Contract (Synthetic GIC)**

Commented [CD48]: should this be "Multi-Year" instead of "Multiple Year"? The former is the more commonly used term for MYGA

Commented [CD49]: "fixed annuity" is not defined. Is it better to change all instances of "fixed annuity" to "non-variable annuity" to be consistent with the terminology introduced in Section 1.A (and to be aligned with the actual VM-22 chapter name)? An alternative could be to add a definition for "fixed annuity", with the definition of it being a "non-variable annuity"

Commented [CD50]: ok to keep this as "multiple year"

Commented [X51]: Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of "annuity contract" in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.

Commented [X52]: It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

Commented [X53]: If need to address Buffer Annuity (not sure this is needed), can add here as a subset of RILA.

Commented [X54]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Commented [X55]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [X56]: Suggest striking sentence "Adverse mortality is typically expected for these contracts." from definition. Additionally, it is possible that there may be non-standard settlements.

Commented [CD57]: suggest spelling out GIC first, followed by the acronym

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the contract policyholder or plan trust.

Commented [CD58]: should be "contract holder"

- **Term Certain Payout Annuity**

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

- **Two-Tiered Annuity**

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

The term "cash surrender value" means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.

Commented [CD59]: this definition still applies, should we keep it?

The term "guaranteed minimum death benefit" (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:

Commented [CD60]: this definition still applies, should we keep it?

- is increased by an amount that may be either specified by or computed from other policy or contract values; and

- has the potential to produce a contractual total amount payable on such death that exceeds the account value; or

- in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.

E. Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks.

Commented [X61]: Add consistent with VM-21 Section 1.E, which was added to the 2022 VM.

Commented [X62]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this Sections 1 to 13 of VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

Products in scope of VM-22 include non-variable fixed annuities which consist of, but are not limited to, the following the list:

Account Value Based Annuities

1. Deferred Annuities (SPDA & FPDA)
2. Multi-Year Guarantee Annuities (MYGA)
3. Fixed Indexed Annuities (FIA)
4. Market Value Adjustments (MVA)
5. Two-tiered Annuities
6. Guarantees/Benefits/Riders on Non-Variable Fixed Annuity Contracts

Payout Annuities

1. Single Premium Immediate Annuities (SPIA)
2. Deferred Income Annuities (DIA)
3. Term Certain Payout Annuities
4. Pension Risk Transfer Annuities (PRT)
5. Structured Settlement Contracts (SSC)
6. Longevity Reinsurance

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities and RILAs)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

The company may elect to exclude one or more groups of contracts from the stochastic reserveSR calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Commented [X63]: We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Commented [X64]: The reserving categories for VM-22 are not included in Scope. Recommend including the defined reserving categories in the section when outlining Scope.

Commented [VM2265R64]: See NY comment letter; supports option 1, with additional category for "other" for any other contract with supporting assets such that there is greater reinvestment and longevity risks, than disintermediation risk and other risks associated with policyholder behavior as of the valuation date.

Commented [VM2266R64]: See Equitable comment letter; supports full aggregation, but if choosing between ... [1]

Commented [CD67]: suggest numbering the paragraphs within this section

Commented [CD68]: suggest swapping the order of this section. That is, start with the "in scope" list, rather than ... [2]

Commented [X69]: Since buffer annuities are a subset of RILA, recommend deleting buffer annuities.

Commented [CD70]: this is not defined in the Definition section. should it be?

Commented [X71]: This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" ... [3]

Commented [CD72]: should this be "non-variable annuities" since that is term used in Section 1.A?

Commented [X73]: Typo. Delete extra "the".

Commented [CD74]: grammar - delete "the"

Commented [CD75]: should have space instead of dash

Commented [CD76]: delete the "s" and add "Annuities"

Commented [CD77]: should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined ... [4]

Commented [CD78]: for consistency, make plural; i.e., change to "ies"

Commented [X79]: We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserveSR calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." ... [5]

Commented [CD80]: self-referencing "VM-22" is not necessary

Commented [X81]: Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 ... [6]

Commented [CD82]: again, suggest numbering the paragraphs within this section

Commented [X83]: We still have a question about whether RBC factors are still at an appropriate level, if ... [7]

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the ~~three years~~ year transition period elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Commented [X84]: Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters. After having reviewed, we think it would be much more clear to reconsider the use of "VM-23" for the PBR requirements to avoid ambiguity around scope/exclusions. The non-PBR sections also just don't seem to fit in this draft, and there is now ambiguity around whether other parts of VM-22 apply to them (scope, effective date, principles, etc.).

Commented [X85]: To be more clear, recommend adding "transition period" to "the three years".

Commented [X86]: Can a company wait until the end of the transition period to start PBR, but then apply PBR to the issues from during the transition period? This was unclear for VM-20, and still seems unclear here. Need to be explicit one way or the other.

Commented [CD87]: Will we (or should we) allow for any early adopters (like we did for VM-21)? It would seem reasonable to us to consider accommodating early adopters

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the ~~stochastic reserve~~SR (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) plus the DR for those contracts satisfying the Deterministic Certification Option,~~ less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Commented [X88]: Reinstated and modify later as needed - SPA being developed in separate workflow.

Commented [X89]: One of the most confused parts of the draft was referring to a DR as the SR for certain contracts. Need to handle and refer to separately.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR ~~stochastic reserves~~SRs, per the requirements in Section 3.E.

B. Impact of Reinsurance | ~~Ceded~~ |

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

Commented [X90]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

~~C. To Be Determined~~The Additional Standard Projection Amount

D. The Stochastic Reserve

~~The stochastic reserve~~

The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.

Commented [X91]: Reinstated and modify later as needed - SPA being developed in separate workflow.

D. The SR

1. The SR shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section ~~3.GF~~ herein.
2. The ~~stochastic reserve~~SR amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the ~~scenario reserve~~DR following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the ~~stochastic reserve if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles;~~SR

Commented [CD92]: Should this be Section 3.G?

Commented [X93]: Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

a. Aggregate in a manner that is consistent with the company's risk management strategy and reflects the likelihood of any change in risk offsets that could arise from shifts between product types, and

a.
b.

b. Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together

4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

5.4. To the extent that these limits on the aggregation results results in more than one model segment, the stochastic reserve SR shall equal the sum of the stochastic reserve SR amounts computed for each model segment and scenario reserve DR amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

1. To the extent that certain groups of contracts pass one of the defined the stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in Section 13.

a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

2. The approach for grouping contracts company may not group together contract types with significantly different risk profiles when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above test.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 4.2.1.3, with the exception of contract following Section 3.E which are to be calculated on a seriatim basis.

G. Prudent Estimate Assumptions:

1. With respect to the Stochastic Reserve SR in Section 3.D, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements

Commented [X94]: As we have seen with VM-20, these types of extremely fuzzy requirements lead to full aggregation. If full aggregation is the intent, just explicitly allow it. We do recommend granular disclosures of the aggregation benefit for FIAs w/ GLBs, FIAs w/o GLBs, FDAs w/ GLBs, FDAs w/o GLBs, SPIAs, PRT, DIAs, and SSC.

Commented [VM2295R94]: In addition, consider NJ comment letter about longevity reinsurance, and how this fits into the above categories.

Commented [X96]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

Commented [X97]: Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

Commented [CD98]: suggest expanding header to "Stochastic Exclusion Test", for clarity

Commented [X99]: Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate ... [8]"

Commented [CD100]: Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ... [9]"

Commented [X101]: Typo. Delete for clarity.

Commented [X102]: We believe this guidance note is unnecessary as the intent of the section is clear, and ... [10]"

Commented [X103]: The statement in this section is not acceptable as discussed in the previous TX comment ... [11]"

Commented [X104]: This section seems to indicate that the grouping of contracts in exclusion testing should ... [12]"

Commented [CD105]: for clarity, change this reference to "Section 3.D"

Commented [CD106]: again, suggest rewording this to just say "the stochastic exclusion test"

Commented [X107]: Based on VM-20 language.

Commented [X108]: Either in this item or in Section 12 allocation to contracts not covered by PBR methodol ... [13]"

Commented [X109]: This sub-section seems more appropriate in Section 4 (or pulled out completely an ... [14]"

Commented [CD110]: VM-21 Section 3.H on simplifications, approximations, and modeling efficie ... [15]"

Commented [CD111]: should this be "Section 3.D"?

in Section 12 of Model #820 and must ~~periodically~~ at least every 3 years review and update the assumptions as appropriate in accordance with these requirements.

Commented [X112]: Recommend to periodically review at least every three years.

2. ~~The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing the review indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary/Company shall set a new, adequate, anticipated experience assumption for the factor.~~

Commented [CD113]: Should this be "the company... shall", rather than the "qualified actuary... shall"? Not sure why this particular task falls on the QA, when "the company" generally has responsibility for PBR and, in the subsection directly before this one, the company is assigned the task of establishing prudent estimate assumptions.

3. To determine the prudent estimate assumptions, the ~~stochastic reserve~~SR shall also follow the requirements in Sections 4 and ~~general assumptions including Section 9 for asset assumptions, Section 10 for contract/policy holder behavior assumptions, and Section 11 for mortality assumptions, and Section 12 for general guidance and expense assumptions.~~

Commented [X114]: Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Commented [X115]: Recommend replacing "the qualified actuary" with "the Company" consistent with general PBR requirements that the company set assumptions.

H. A company may use simplifications, approximations, and modeling efficiency techniques to calculate the SR and/or the additional standard projection amount required by this section if the company can demonstrate that the use of such techniques does not understate the reserve by a material amount, and the expected value of the reserve calculated using simplifications, approximations, and modeling efficiency techniques is not less than the expected value of the reserve calculated that does not use them.

Commented [CD116]: should this be "the company"? See prior comment.

Commented [CD117]: should this be "contract holder"?

Commented [X118]: Need a new section for the general assumptions, including specifics for the expense assumptions. APF currently exposed for VM-21. We should be consistent with any edits.

Guidance Note:

Examples of modeling efficiency techniques include, but are not limited to:

1. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters.
2. Generating a smaller liability or asset model to represent the full seriatim model using grouping compression techniques or other similar simplifications.

There are multiple ways of providing the demonstration required by Section 3.H. The complexity of the demonstration depends upon the simplifications, approximations or modeling efficiency techniques used. Examples include, but are not limited to:

1. Rounding at a transactional level in a direction that is clearly and consistently conservative or is clearly and consistently unbiased with an obviously immaterial impact on the result (e.g., rounding to the nearest dollar) would satisfy 3.H without needing a demonstration. However, rounding to too few significant digits relative to the quantity being rounded, even in an unbiased way, may be material and in that event, the company may need to provide a demonstration that the rounding would not produce a material understatement of the reserve.
2. A brute force demonstration involves calculating the minimum reserve both with and without the simplification, approximation or modeling efficiency technique, and making a direct comparison between the resulting reserve. Regardless of the specific simplification, approximation or modeling efficiency technique used, brute force demonstrations always satisfy the requirements of Section 3.H.

- 3. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters and providing a detailed demonstration of why it did not understate the reserve by a material amount and the expected value of the reserve would not be less than the expected value of the reserve that would otherwise be calculated. This demonstration may be a theoretical, statistical or mathematical argument establishing, to the satisfaction of the insurance commissioner, general bounds on the potential deviation in the reserve estimate rather than a brute force demonstration.
- 4. Justify the use of randomly sampling withdrawal ages for each contract instead of following the exact prescribed WDCM method by demonstrating that the random sampling method is materially equivalent to the exact prescribed approach, and the simplification does not materially reduce the Additional Standard Projection Amount and the final reported reserve. In particular, the company should demonstrate that the statistical variability of the results based on the random sampling approach is immaterial by testing different random sets, e.g., if randomly selecting a withdrawal age for each contract, the probability distribution of the withdrawal age should be stable and not vary significantly when using different random number sets.

Commented [X119]: Specific example should be tailored based on the SPA developed.

Commented [X120]: Added consistent with VM-21 Section 3.H, which was added to the 2022 VM.

Section 4: Determination of ~~Stochastic Reserve~~SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in ~~Sections 4 and 9.D~~. The company shall project cash flows including the following:

Commented [CD121]: Should this refer to Section 4 and Section 9?

a. ~~Revenues~~Gross premium received by the company including gross premiums received from the ~~policyholder~~ policyholder/contract holder (including any due premiums as of the projected start date).

Commented [CD122]: "contract holder"?

Commented [X123]: If due premium as of the projected start date is included in the modeling, the final reported reserve should be adjusted by adding the due premium, otherwise there would be a double counting of the due premium asset. This needs to be clarified - see guidance note added below.
Recommend specifying the revenue in this bullet to be gross premium since there are other revenue items that are discussed in other bullets.

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).

c. All material benefits projected to be paid to ~~contract~~ policyholders including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Commented [CD124]: "contract holders"

~~Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.~~

Commented [X125]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

~~a.d.~~ Non-Guaranteed Elements (NGE) cash flows as described in Section 10.I.

Commented [CD126]: should this be Section 10.I?

~~b.e.~~ Insurance company expenses (including overhead and investment maintenance expense), commissions, contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses) other acquisition expenses associated with business in force as of the valuation date.

Commented [X127]: Changed investment expense to be maintenance expense so that it does not repeat what is included in bullet h.
Commented [X128]: Added acquisition expenses.

~~e.f.~~ ~~Net~~Cash flows associated with any reinsurance.

Commented [X129]: Take out the revenues that covers the investment expenses and added a separate bullet under bullet "a" for other revenues.

~~e.g.~~ Cash flows from hedging instruments as described in Section 4.A.4.

Commented [CD130]: Both net and gross cash flows have to be considered, so I don't agree with the addition of "Net" here

e.h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital

gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

- fi. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

Commented [X131]: Guidance Note regarding the market value adjustment seems still applies and should not be deleted. We reinstated the guidance note.

2. Grouping of Index Crediting Strategies

Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [X132]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term “investment guideline” as follows: “Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy.”

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy’s specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

Commented [X133]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

Commented [X134]: VM-22 took out the CDHS requirement and replaced it with “future hedging program”. Future hedging should not materially reduce reserves or TAR if it is not well documented. The hedging DG is currently working on this for VM-20/VM-21. We will work with VM-22 subgroup to edit VM-22 accordingly.

4. Modeling of Hedges

- a. For a company that does not have a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 ~~stochastic reserve~~ SR requirements:
 - i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. ~~The hedge assets may then be considered in one of two ways:~~
 - a) ~~Include the asset cash flows from any contractual payments and maturity values in the projection model; or~~
 - b) ~~No hedge positions in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.~~

Commented [X135]: Suggest rewording "Future hedging program" to "hedging program with future transactions" to avoid ambiguity.

Commented [CD136]: The word "future" to describe the "hedging program" here is confusing. What about current hedging programs with expected future hedge purchases? Why not just say "hedging program"? Also, I wanted to note that removing the concept of CDHS creates inconsistency with both VM-20 and VM-21. Why not retain it?

Guidance Note: ~~If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.~~

~~A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.~~

- b. For a company that has a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 ~~stochastic reserve~~ SR requirements:
 - i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to ~~policyholders~~ contract holders.
 - b) Existing hedging instruments that are currently held by the company for ~~this purpose~~ offsetting the indexed credits in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company ~~not for any other purpose~~ offsetting the indexed credits should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these hedge instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible company experience and be no less than [X%] multiplicatively of

Commented [CD137]: same comment as above, about the word "future" being confusing

Commented [CD138]: "contract holders"

Commented [X139]: "Any other purpose" in the last sentence seems overly broad and should be narrowed.

Commented [X140]: Specify "for this purpose" as "for offsetting the indexed credits", specify "for any other purposes" as "not for offsetting the indexed credits".

Commented [X141]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as 0, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Commented [CD142]: clarify verbiage by saying "hedge instruments" or "derivative instruments"

the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.

ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.

- a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the ~~stochastic reserve~~ SR.
- b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a ~~stochastic reserve~~ SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.
- c) ~~Consistent with Section 4.A.4.b.i., if the company has an indexed credit hedging program,~~ the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c) in both the “best efforts” run and the “adjusted” run.
- d) The use of products not falling under the scope of ~~these~~ VM-22 PBR Section 1 through 13 requirements (e.g., variable annuities) ~~(e.g., equity indexed annuities)~~ as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [X143]: It is not clear how the stress testing can be used to support the index credit hedge margin. It is a test of the modeled strategy not actual performance and does not reflect any model error. We suggest that both back testing and stress testing be required and elaborated further:
 Clearly specify method and metrics used for the back testing with focus on all available recent relevant history, not limited to 12 months
 Recommend defined stress periods for stress testing, e.g., 2008 financial crisis, 2020 COVID impaired market conditions.

Commented [X144R143]: We will repeat the comment from our first letter: “Regarding hedge breakage expense assumptions, are both sources of error reflected here - error in the hedging itself, and error in the ability to accurately model it? Should we be separately considering the two limitations to make sure they are both clear: 1) the real-world hedging error and 2) the modeling error in reflecting the future hedging? Current error factor discussions seem muddled.”

Commented [X145]: Again, need to coordinate with Hedging DG.

Commented [X146]: Margins are discussed in a different section, so recommend deleting.

Commented [X147]: Edits were made to provide context and clarification for the requirements.

Commented [X148]: Clarify that “these requirements” should be specified as “VM-22 PBR requirements”. Again, we suggest reconsidering the use of “VM-23”, though.

Commented [CD149]: it might be helpful to keep the parenthetical statement, with “variable annuities” as the example

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other fixed income assets supporting the contracts, and a margin is reflected rather than modeling using

a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the following requirements set forth in VM-21 Sections 4.A.5.a through 4.A.5.f are met.

Commented [X150]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods. Obligations remain at the end of the projection periods. Company can choose to run a shorter projection period but not shorter than 20 years and include the present value of the terminal benefits and expenses in the accumulated deficiency calculation.

Commented [X151]: Clarify that for revenue sharing, the entire subsection of VM-21 Section 4.A.5 applies.

Commented [CD152]: The "requirements are met" list is only in Section 4.A.5.a. Was the intent also to define the amount of net revenue-sharing income allowed in the projections? If so, will need to add verbiage to reference VM-21 Section 4.A.5.a through 4.A.5.f.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

Commented [X153]: We recommend that the projection period requirement be in line with that of VM-20. Instead of meeting the immateriality requirement, calculate the present value of the terminal benefits and expenses and include it in the accumulated deficiency calculation.

Commented [VM22154]: See Bill Wilton's comment letter, expressing opposition to inclusion of pre-tax IMR.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [CD155]: should we consider these changes to VM-21 as well, for consistency?

Commented [X156]: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

The scenario reserve for any given scenario shall not be less than the cash surrender value with market value adjustment in aggregate on the valuation date for the group of contracts modeled in the projection.

Commented [X157]: For products that do not have a cash surrender value, it is recommended that VM-22 use a “working reserve” concept, similar to VM-21 Section 3.G requirement. Otherwise, there will be an issue aggregating those with and without CSV.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

Commented [X158]: For products with market value adjustment, needs to be floored at cash surrender value with MVA.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [X159]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
 - i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company’s investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the

projection period for the scenario. This vector will be the NAER for the given scenario.

- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

Commented [X160]: The wording “unreasonably high” is not clear or appropriate. Recommend this requirement be revised as part of a holistic fix to address extreme outliers in NAER both on the low and high side to handle anomalies for all of VM-20, VM-21, and VM-22. Some upper/lower cutoffs could be used that depend on scenario returns.

Commented [CD161]: “unreasonably high” is not well defined. Also, do we need to consider guardrails in the case of “unreasonably high” positive NAERs, not just negative NAERs?

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the ~~stochastic reserve~~ SR, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:
 - i. Any hedge instruments held in support of the contracts being valued; and
 - ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).
- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described

above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company's state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company's investment policy, subject to the following requirements:
- i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in ~~the model~~modeled company investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results

Commented [X162]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.

- b. Notwithstanding the above requirements, the ~~modeled aggregate reserve shall be the higher of that produced by the modeled company investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained produced~~ by substituting an alternative investment strategy in which all the fixed income reinvestment assets ~~are~~ have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:
 - i. ~~5% Treasury~~
 - ii. ~~15~~ 20% PBR credit rating 3 (Aa2/AA)
 - iii. ~~40~~ 80% PBR credit rating 6 (A2/A)
 - iv. ~~40~~ 40% PBR credit rating 9 (Baa/BBB)

Commented [CD163]: should this be "stochastic reserve", since this is within Section 4: Determination of Stochastic Reserve

Commented [X164]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [CD165]: Suggest making this plural ("Treasuries") to be consistent with Section 13.B.9

Commented [X166]: The proposed reinvestment mix comes from a different assumption context in current VM-22, i.e., it is designed to calculate the maximum allowed valuation interest rates, while the reinvestment mix for VM-22 PBR draft is to put a guardrail around the fixed income reinvestment assets. A guardrail is not intended to identify outliers and should not be tied to an average. The biggest concern is with the higher allocation percentage in BBB assets. The valuation manual should build an appropriate level of conservatism in the valuation standards instead of reflecting industry trends. By moving from VM-20 and VM-21 required mix of 50%/50% AA/A to the proposed mix, the gross spreads increased by 20-30 bps for almost all WAL. We do not object to using a lower credit quality guardrail to get rid of any excessive conservatism. We recommend considering and comparing with other alternative allocations, something between the current and the proposed, e.g., 20% AA and 80% A. This will help regulators make informed decisions. In any case, we should be consistent with VM-20 and VM-21. If a change is made, it needs to be for all three.

Commented [CD167]: These references should be Section 4.D.3.a.iii and 4.D.3.a.v

- c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above "provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period" is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:

- i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
- ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
- iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
- iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F as noted in 4.a.ii above.

b. Cash flows from ~~general account index funds and general account equity assets—~~ i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate— including starting and reinvestment assets, shall be reflected in the projection as follows:

- i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
- ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
- iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.

c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section ~~10.H~~.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such ~~purchase~~ ~~rates~~ shall reflect the payout rate specified in the contract.
- b. For purposes of projecting future elective annuitization benefits ~~(including annuitizations stemming from the election of a GMIB) and withdrawal amounts from GMWBs,~~ the projected annuitization purchase rates shall be determined

Commented [X168]: Correct an inaccurate VM section reference. The prescribed asset default spreads assumption should be referred to VM-20 Section 9.F. VM-20 Section 7.E and 7.F are requirements for reinvestment assets, disinvestment and cash flows for invested assets. In 7.F, VM-20 just refers to 9.F for defaults.

Commented [X169]: Request clarification around the meaning of "general account index funds".

Commented [CD170]: should this reference Section 10.H?

Commented [CD171]: is there a difference between "purchase rates" and "payout rates"? Both terms are used, so that makes the language unclear. If they are they same, suggest sticking with "purchase rates".

Commented [X172]: Suggest deleting "In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract." as it appears to be covered by E.1.a.

Commented [X173]: Reinstate the parenthetical content "(including annuitizations stemming from the election of a GMIB)" since there are GMIB riders attached to fixed annuity products.

assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. ~~In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.~~

Commented [X174]: Delete sentence since it repeats 4.E.1.a.

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

- a. For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections ~~may~~ shall assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [X175]: Suggest deleting “may” as there appears to be only option.

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency (“timestep”) is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.

Commented [X176]: Projection Period is already covered in 4.A.6. Should not be in two places with different guidance.

Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption. It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.~~

Commented [X177]: Reinstate the deleted example of “For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption.”

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve SR, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded—i.e., the stochastic reserve additional standard projection amount, the SR, DR, and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2.

2. Stochastic Reserve

Reflection of Reinsurance Cash Flows in the DR or SR

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve SR and DR shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.

i. In this section, reinsurance includes retrocession, and assuming company includes retrocessionaire.

ii. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

iii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.

iv. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the stochastic aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum aggregate reserve by the absolute value of such reductions in surplus.

Commented [X178]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

Commented [X179]: Delete and just have title be "Reinsurance". Should structure be more like VM-20?

Commented [X180R179]: I, II (and III –VM-21 needs edits)

Commented [CD181]: "and Assumed" is added here, but there is still only a subsection 5.A that addresses reinsurance ceded (at least in the section header).

Commented [CD182]: need to add "and Assumed" here?

Commented [X183]: reinstate

Commented [X184]: Can take out vague approximation references, since now have a general allowance for appropriate approximations.

Commented [X185]: Consistent with VM-20

Commented [X186]: VM-20 Section 8.A.1 makes sense here as well.

Commented [CD187]: should this be "stochastic reserve"?

Commented [X188]: VM-22 draft so far uses aggregate, not minimum.

- b. In order to determine the ~~stochastic reserve~~ SR and DR on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting ~~stochastic reserve~~ SR and DR shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
- i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties ~~(does that do not include experience refunds)~~, where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

Commented [X189]: Correct phrasing.

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company’s experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.
- d. The company shall assume that the counterparties to a reinsurance agreement are knowledgeable about the contingencies involved in the agreement and likely to exercise the terms of the agreement to their respective advantage, taking into account the context of the agreement in the entire economic relationship between the parties. In setting assumptions for the NGE in reinsurance cash flows, the company shall include, but not be limited to, the following:
 - i. The usual and customary practices associated with such agreements.
 - ii. Past practices by the parties concerning the changing of terms, in an economic environment similar to that projected.
 - iii. Any limits placed upon either party’s ability to exercise contractual options in the reinsurance agreement.
 - iv. The ability of the direct-writing company to modify the terms of its policies in response to changes in reinsurance terms.
 - v. Actions that might be taken by a party if the counterparty is in financial difficulty.

Commented [X190]: VM-20 Section 8.C.7 seems particularly applicable. We encourage others to also review VM-20 Section 8 for other sections that should also apply. VM-20 Section 8 is much more developed than VM-21 Section 5 with many more considerations for assumption-setting, and we would suggest the VM-22 subgroup consider rewriting starting with VM-20 instead of VM-21.

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the ~~pre-reinsurance-ceded~~ and ~~post-reinsurance-ceded~~ reserves may result in different outcomes for the exclusion test. In particular, it is possible that the ~~pre-reinsurance-ceded~~ reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the ~~post-reinsurance-ceded~~ reserves might not, or vice versa.

4. Additional Standard Projection Amount

Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre-reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.

Commented [X191]: Both referring to reinsurance ceded. Should be clarified.

Commented [X192]: ceded

Commented [X193]: ceded

Commented [X194]: Opposite could also be true.

Commented [X195]: The current VM-21 language here looks to work for VM-22 without needing to know the specific assumptions, etc., for the SPA.

Section 6: To Be Determined

Commented [VM22196]: NY Comment Letter: Current CARVM standards should be a minimum floor for VM-22 policies, and only the stochastic reserve should permit grouping whereas the minimum floor should be seriatim.

Commented [X197]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22198]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

~~Section 6: To Be Determined~~

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation if the stochastic exclusion test (SET) is satisfied for ~~that~~ each of the group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then for each group of contracts that passes the SET, the company shall choose whether or not to use the reserve methodology described in Section 4 for these groups that group of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve SR requirements if there are one or more future hedging programs associated with supporting the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.

Commented [X199]: Need to modify exclusion testing section to reflect SPA.

Commented [X200]: Inconsistent groups vs. group references.

Commented [CD201]: should this be "stochastic reserve", since Section 4 is about determining the stochastic reserve.

Commented [VM22202R201]: Follow Section 4 method of stochastic reserve for Section 3 aggregate reserve if not using the SET

Commented [X203]: Decision is independent for each group the SET is performed on.

Commented [CD204]: suggest deleting this highlighted part of the sentence

Commented [CD205]: see earlier comment about the phrase "future hedge program" being confusing.

Commented [X206]: Is "associated with the contracts" the same as the earlier use of "supporting the contracts"? Should the same verbiage be used here? If there is asset hedging for the assets supporting the contracts, it should be included. Need to define "solely supporting" index credits, and also have criteria on the effectiveness/error and documentation of any such hedging that is allowed for excluded business.

B. Requirement to Pass the Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

1. Stochastic Exclusion Ratio Test (SERT)—Annually within 12 months before the valuation date within 12 months before the valuation date the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. SET Certification Method—For groups of contracts that do not have guaranteed living benefits, future hedging programs, or pension risk transfer business, in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material aggregate risk levels across interest rate risk, mortality and/or longevity risk, or asset return volatility risk (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). The company shall provide the certification and documentation supporting the certification to the commissioner upon request.

Commented [CD207]: Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstration or Certifications). The language gets confusing (here and elsewhere) when you start saying there are different "types" of SETs.

Commented [CD208]: not sure why this part is deleted. Suggest adding it back in.

Commented [X209]: We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business ... [16]

Commented [VM22210R209]: Determine whether to address longevity reinsurance in this topic, in light of ... [17]

Commented [CD211]: See earlier comments about the use of "future"

Commented [X212]: Needs to be defined.

Commented [X213]: Needs a comma

Commented [CD214]: need comma after "business"

Commented [CD215]: what is meant by "aggregate risk levels"? Aggregated across what? Need clarification ... [18]

Commented [X216]: This is not in VM-20 and would substantially change the exclusion. The intent is not ... [19]

Commented [X217]: This is covered by VM-31

Commented [CD218]: note, there is no insertion of "aggregate risk levels across" here, like there was ab ... [20]

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary's conclusion that the group of contracts is not subject to material interest rate risk, mortality and/or longevity risk, or asset return volatility risk.

Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that, using requirements under VM-A and VM-C for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great as the assets required to support the group of contracts and certificates using the company's cash-flow testing model under each of the 1648 scenarios identified in this section Section 7.C.1 or alternatively each of the New York seven scenarios, economic scenarios, under each of the three mortality adjustment factors identified in Section 7.C.1.
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk, mortality and/or longevity risk, or asset return volatility risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk, mortality and/or longevity risk, or asset return volatility. Such assessment would include an analysis of product guarantees, the company's non-guaranteed elements (NGEs) policy, assets backing the group of contracts, the company's longevity risk, and the company's investment strategy.

Commented [CD219]: This wording is a little clunky here. My suggestion: "A demonstration that, for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great..."

Commented [X220]: Replace all "contracts" with "contracts and certificates"

Commented [X221]: Need mortality stresses if using NY7

Commented [X222]: Need complete list of risks

Commented [CD223]: need to insert "longevity risk" here

Commented [X224]: Need complete list of risks

Commented [X225]: Need to add a review of the company's mortality and/or longevity risk.

Commented [X226]: As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Commented [X227]: Using (a) in the denominator instead of VM-20's (c) which is a PV of benefits could make this ratio unstable when the scenario reserve (a) is very small. This is particularly applicable if the block being tested does not have CSV.

Commented [X228]: The variability should be assured to be immaterial based on the company's materiality standard.

Commented [X229]: Correcting reference

Commented [CD230]: better to keep the reference to the full Section (i.e., Section 7.C.2.a.i)

Commented [X231]: Correcting reference

Commented [CD232]: better to keep the reference to the full Section (i.e., Section 7.C.2.b)

Commented [X233]: Need to modify in case largest result is just from the mortality stress on the same scenario.

Commented [X234]: Need to modify in case largest result is just from the economic stress on the same mortality level.

Commented [X235]: Need to ensure we have captured a prudent level of mortality variation for any given company in this test.

Commented [X236]: Updating to reflect mortality/economic scenario combinations.

C. Stochastic Exclusion Ratio Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of (b-a)/a is less than the greater of [x]% where x is the percentage change that would trigger the company's materiality standard, where:
 - a. a = the adjusted scenario reserve described in Paragraph 7.C.2.a below using economic scenario 9, and 100% as the adjustment factor for mortality, the baseline economic scenario, as described in Appendix 1.E of VM-20.
 - b. b = the largest adjusted scenario reserve described in Paragraph 7.C.2.b-a below under any of the other 1516 economic scenarios described in Appendix 1.E of VM-20 under both [95]%, 100%, and [105]% of anticipated experience mortality excluding margins. Because mortality variability may differ by company, if the magnitude of the company's margin for mortality exceeds 5%, then the company shall use the baseline mortality and the mortality augmented by plus and minus the company's margin for this exercise.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario, and 100% as the adjustment factor for mortality. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, both of which could lead to an incorrect test result.

There are 47 (=16x3-1) combined economic and mortality scenarios that should be compared for the determination of b.

Commented [X237]: For clarity

2. In calculating the ratio in ~~subsection (Section 7.C.1)~~ above:

Commented [X238]: Be consistent with standard VM references

a. The company shall calculate an adjusted scenario reserve for the group of contracts for ~~each of each of the 16 scenarios~~ economic scenarios using the three levels of mortality adjustment factors that is equal to either (i) or (ii) below:

Commented [CD239]: better to keep the reference to the full Section (i.e., Section 7.C.1)

Commented [CD240]: why delete this? seems like it wouldn't hurt to keep this language, for additional clarity

i. The scenario reserve defined in Section 4, but with the following differences:

- a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in ~~Paragraph Section 7.C.1.b~~ of this section.
- b) Using the interest rates and equity return assumptions specific to each scenario.
- c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.
- d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
- e) Shall not reflect correlation between longevity and economic risks.

Commented [X241]: Be consistent with standard VM references

Commented [CD242]: better to reference the full Section (i.e., Section 7.C.1.b)

ii. The gross premium reserve developed from the cash flows from the company's asset adequacy analysis models, using the experience assumptions of the company's cash-flow analysis, but with the following differences:

- a) Using the interest rates and equity return assumptions specific to each scenario.
- b) Using the mortality scalars described in ~~Paragraph Section 7.C.1.b~~ of this section.
- c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company's cash-flow testing assumptions for default costs and reinvestment earnings.

Commented [X243]: Be consistent with standard VM references

Commented [CD244]: better to reference the full Section

b. ~~The company shall use the most current 16 available baseline economic scenario and the 15 other~~-economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.

Commented [X245]: No reason for change/inconsistency with other chapters - reject edit.

c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.

d. ~~The company may not group together contract types with significantly different risk profiles~~ for purposes of calculating this ratio.

Commented [X246]: Clarification is needed around reference to "significantly different risk profiles".

- e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the stochastic exclusion ratio test under only a pre-reinsurance-ceded single basis upon determining the, either pre-reinsurance-ceded basis upon determining the pre or post-reinsurance-reserve-ceded aggregate reserve.
3. If the ratio calculated in this section is less than [x] % pre-non-proportional reinsurance, but is greater than [x] % post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.

Commented [CD247]: to be more specific, say "stochastic exclusion ratio test"

Commented [X248]: Original did not make sense. Also, the point is that you just need one basis, either pre-reinsurance or post-reinsurance.

Commented [X249]: We request clarification or definition of the term "non-proportional reinsurance".

Commented [X250]: Does this make sense for VM-20 as well?

- a. An example of an acceptable demonstration:
- i. For convenience in notation • SERT = the ratio (b-a)/a defined in Section 7.C.1 above
- a) The pre-non-proportional reinsurance results are "gross of non-proportional," with a subscript "gn," so denoted SERT_{gn}
- b) The post-non-proportional results are "net of non-proportional," with subscript "nn," so denoted SERT_{nn}
- ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take "gross of non-proportional" to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and "net of non-proportional" to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.

iii. So, if SERT_{gn} ≤ [x] % but SERT_{nn} > [x] %, then compute the largest percent increase in reserve (LPIR) = (b-a)/a, both "gross of non-proportional" and "net of non-proportional."

Commented [X251]: We believe subscript "gy" should be "gn".

Commented [X252]: % missing

$$LPIR_{gn} = (b_{gy} - a_{gy}) / a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny}) / a_{nn}$$

Commented [X253]: Note that LPIR is just the SERT using the VM-22 formulation (b-a)/a.

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn}.

If SERT_{gn} × LPIR_{nn} / LPIR_{gn} < [x] %, then the block of contracts passes the SERT.

Commented [X254]: The first and last terms on the left side of this equation cancel out, so it just ends up with needing to pass the SERT on the net basis again. This worked when (c) was the denominator, but now with (a) in the denominator this adjustment is meaningless. Take out the whole example, or revise the SERT to use benefits in the denominator again. Or some new formulation for SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the ~~1648~~ combined economic and mortality scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.

4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section of Section 7.D.2.a or Section 7.D.2.b and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

Commented [X255]: In VM-20, it is only prohibited for the clearly sufficiently robust attempts of the demonstration method where failing shows the SR would be greater. The other two options could have been incomplete demonstrations and not necessarily imply the SR would be dominant.

D. Stochastic Exclusion Demonstration Test

1. In order to exclude a group of contracts from the stochastic reserve SR requirements using the methodology in this section Stochastic Exclusion Demonstration Test, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:

Commented [X256]: Clearer language

- a. The demonstration shall provide a reasonable assurance that if the stochastic reserve SR was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve SR exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve SR requirements.

Commented [X257]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

- b. If, as of the end of any calendar year, the company determines the aggregate statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT SET for those contracts.

Commented [CD258]: should this, instead, refer to the "statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C?"

Commented [X259]: Typo is also in VM-20

- c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.
- d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.

2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with subsection Section 7.D.1 above:

Commented [CD260]: should say "Section"

- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve SR calculated on a stand-alone basis.
- b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.

- c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis, but using a representative sample of contracts in the ~~stochastic reserve~~SR calculations.
- d. Demonstrate that any risk characteristics that would otherwise cause the ~~stochastic reserve~~SR calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the ~~contract policyholder~~ by contract provision.

Commented [CD261]: "contract holder"

E. Deterministic Certification Option

Commented [X262]: Need SPA for DR as well as SR

- 1. The company ~~has the option to may~~ determine the ~~stochastic reserve~~SR for a group of contracts using a single deterministic economic scenario, subject to the following conditions.

Commented [CD263]: suggest saying "may" instead of "has the option to"

- a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of ~~policies, contracts and certificates~~. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.

Commented [CD264]: "contracts"

- b. The company certifies that the group of ~~policies, contracts and certificates~~ is not supported by a reinvestment strategy that contains ~~future hedge purchases~~.

Commented [X265]: Clarify if this was the intent to exclude contracts supported by index hedging.

- c. ~~The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing and the scenario reserve volatility across various company must pass the SERT when considering only the 16 economic scenarios, paired with the 100% mortality scenario.~~

Commented [X266]: This is needed to assure the SR is not needed. Otherwise, this section is incomplete and does not support using a DR.

- d. The company must disclose a description of contracts and associated features in ~~the certification~~.

Commented [X267]: Agree with drafting note. Edits above.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

Commented [X268]: It may not be appropriate to use scenario 12 to calculate the scenario reserve for SPIA. See this article <https://www.soa.org/sections/financial-reporting/financial-reporting-newsletter/2021/july/fr-2021-07-su/>

- 2. The ~~stochastic reserve~~SR for the group of contracts under the Deterministic Certification Option is determined as follows:
 - a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
 - b. The ~~stochastic reserve~~SR equals the scenario reserve following the requirements for Section 4.

"in an increasing interest rate environment for business where policyholder behavior is sensitive to prevailing interest rates, life insurers may face an increase in disintermediation risk (i.e., the risk of having to sell assets, potentially at a loss, to fund policyholder surrender benefits) For example, rising interest rates, particularly sudden jumps (e.g., New York 7 pop-up scenario with an immediate interest rate increase of 3 percent), may lead to higher actual and projected policyholder surrenders as policyholders seek out higher yielding investment opportunities. These increasing cash demands may require fixed income assets to be sold at depressed prices, and resultant projected losses (or lower gains) may result in reserve insufficiencies, necessitating the need for AAT reserves."

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Commented [X269]: Recommend deleting guidance note, as it doesn't provide full or clear scope of what may be excluded, so could be misread to either guarantee option for certain products or exclude the option for other products.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a ~~Future~~ Non-Index Credit Hedging Strategy

A. Initial Considerations

1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits. ~~If the company, or (b) clearly separates index credit hedging from other hedging, then only the section only pertains to the other hedging if the index hedging follows.~~ In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the ~~stochastic reserve~~SR, determined in accordance with Section 3.D and Section 4.D.
3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. ~~Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months, including the hedging strategy, used to implement the investment policy.~~
4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

Commented [X270]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [CD271]: see previous comments about use of the word "future" to describe "hedging strategy"

Commented [X272]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [X273]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

Commented [CD274]: is this a typo? should this be "purchases"?

Commented [X275]: This 6 month exclusion creates unintended optionality for inclusion/exclusion based on whether a hedge strategy is considered "new". Instead, this should be addressed through the Error factor for new programs being temporarily larger.

Commented [X276]: Reinstate the original sentence which puts the reflection of hedging into the greater context of reflecting the company's investment policy.

Commented [X277]: Agree that the uncertainty associated with new strategies should be handled via the E factor, not through blanket exclusion.

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the ~~stochastic reserve~~SR otherwise calculated.
2. The fundamental characteristic of the first type of method, referred to as the "explicit method," is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the ~~stochastic reserve~~SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the ~~stochastic reserve~~SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the ~~stochastic reserve~~SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or ~~mode~~ tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

Commented [X278]: Is delta-only hedging common in VM-22 hedging? Could the example be replaced with something more relevant to VM-22 hedging?

C. Calculation of ~~Stochastic Reserve~~SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has ~~no future hedging purchases strategy~~ except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the ~~stochastic reserve~~SR is given by:

Commented [X279]: The Hedging DG is currently working on language and we will want to be consistent across VM-20, VM-21, and VM-22.

Commented [CD280]: perhaps better to say “no future hedge purchases...”

$$\text{Stochastic reserve SR} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for *E* (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of *E*. The value of *E* may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, *E* must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.

5. The company shall conduct a formal back-test, based on an analysis of at least the most recent available relevant period of data (but no less than 12 months), to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for *E*.

6. Such a back-test shall involve one of the following analyses:

a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of *E*, the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of *E* by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.

b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:

- i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
- ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

Commented [X281]: We have been getting weak E factor support, with minimum backtesting due to the current phrasing.

Commented [X282R281]: Recommend adding stress testing language similar to [Section 4.A.4.b.i.c.](#) but with edits based on TD’s comments/suggestions to [Section 4.A.4.b.i.c.](#)

Commented [X283]: Recommend adding reporting requirement to VM-31 to disclose if company has switched between explicit method and implicit method, discuss rationale of the change and the change impact.

- iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with ~~no less than 6 months of history~~, E should be ~~at least 1.0-50~~. However, E may be lower than ~~1.0-50~~ if ~~some~~ at least 6 months of reliable experience is available and/or if the change in strategy is a minor refinement rather than a ~~substantial~~ material change in strategy.

Commented [X284]: 6 month restriction should be handled in the error factor. Other language for clarity. Edited guidance note below to be consistent with this.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

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- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy).
- An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).

8. The company shall set the value of E reflecting the extent to which the future hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining the future hedging program. To the extent that documentation outlining the future hedging program is incomplete, the value of E shall be increased. Any increases required to the value of E to reflect that documentation is not available to support that the future hedging program is clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results.

Commented [X285]: Work is being done by the hedging DG. This is a placeholder. Need to reflect how clearly defined and well documented the hedge program is, to be able to rely on the backtesting provided. To the extent that hedge programs are not clearly defined, E should be increased to reflect that the backtesting cannot be relied on as an indicator of future effectiveness.

E. Additional Considerations for CTE70 (best efforts)

If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

Commented [X286]: Reinstate this disclosure item, which is a rough reasonability check for regulator review/information on the modeled hedge benefit and can prompt further discussion.

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the ~~stochastic reserve~~ SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions

Commented [CD287]: not sure why this section is being deleted? Perhaps references to CDHS could be deleted, but otherwise this section still seems applicable.

on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity and other in-scope products account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserveSR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserveSR otherwise calculated.

Commented [X288]: Suggest replacing “indexed” with “fixed” since this would apply to all fixed annuities.

Commented [X289]: Editorial change of “variable fixed indexed annuity” to be “fixed indexed annuity and other in-scope products”.

Commented [X290]: Recommend deleting “including a delta hedging strategy” as it is already covered by “any hedging strategy” and it is not clear if delta hedging strategy is the most common strategy in VM-22 hedging to be used as a general example.

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the results-reserves level. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B and Section 12.

Commented [X291]: Editorial clarification

Commented [X292]: Need general assumption setting section, see APF 2021-11.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may or may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [X293]: We would suggest rewording this section to be considerations rather than posed as questions.

Commented [X294]: Editorial clarification

Commented [X295]: Recommend adding some examples here if this is included.

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more material behavior assumptions, if relevant to the risks in the product, and thus the approach will not understate the reserve.

Commented [X296]: Clarification

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the company/qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

Commented [X297]: Suggest updating bullet to "Other material behavior assumptions if relevant to the risks in the product."

Commented [X298]: Sensitivity testing is covered by the submitted APF 2021-11 for VM-21, and we should be consistent. VM-21 is currently lacking on sensitivity testing.

Commented [VM22299R298]: Make edits to be consistent with VM-21 APFs prior to adoption of VM-22

Commented [CD300]: why assign this specifically to the QA rather than leaving it as the responsibility of "the company", like we do elsewhere in the requirements?

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Account transfers.
- Future deposits.

Commented [X301]: Include for completion

- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently (but no less than every 3 years) when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

Commented [X302]: Consistent with APF 2021-11.

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.

- 2. Using data from prior periods.

D. Specific Considerations and Requirements

- 1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date for the benefit utilization.
 - h. Commutation of benefit (from periodic payment to lump sum) or vice versa.
- 2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

Commented [X303]: Clarification

Commented [X304]: clarification

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic asset re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

Commented [CD305]: delete this word

Commented [X306]: Reviewing, this guidance note does not exist in the 2019, 2020, 2021, or 2022 versions of VM-21. Where is this from? Should this be added to VM-21?

~~Guidance Note: For some non-elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.~~

- 3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, ~~transaction~~ fees or other contract charges.
 - l. Distribution channel.

5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.

6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.

7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the ~~stochastic reserve~~ SR. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.

8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

Commented [X307]: This also applies to VM-21, as there are fixed accounts. Is there any reason not to be consistent?

Commented [X308]: This is not a synonym (perhaps transfer fees is a subset of transaction fees) - why would transaction fees apply for VM-21, but only transfer fees for VM-22?

Commented [X309]: This section states that "contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally." This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states "When advantageous, policyholders will commence living benefit payouts if not started yet.". We suggest revising 6.H.2 to align with the text of 10.D.8.

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder stochastically modeled.
2. ~~The company should exercise care in using static assumptions when it would be more natural and reasonable~~ appropriate to use a dynamic model or other scenario-dependent formulation for behavior. With due regard to considerations of materiality and practicality ~~allowance for appropriate simplifications, approximations and modeling efficiency techniques~~, the use of dynamic models is encouraged, but not mandatory. Static assumptions ~~Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers), may require higher margins and/or signal a need for higher margins for certain other assumptions.~~
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [X310]: Recommend replacing “dynamic” with “stochastic.” Risk factors with dynamic assumptions still need margins (although for an assumption that was part fixed and part dynamic, only one piece may have the margin but still the risk factor would have a margin).

Commented [X311]: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.

Commented [X312]: Get rid of some of the vague adjectives and be consistent with VM framework for simplifications.

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~non-variable~~ fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. ~~Declining-, increasing~~ and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. ~~Rapidly changing~~ Volatile interest rates or persistently low interest rates.
 - d. ~~Volatile credit spreads.~~
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:

Commented [CD313]: “non-variable”?

Commented [X314]: Editorial clarification to cover scenarios for all products/guarantees in scope

Commented [X315]: Editorial for consistency with (a) above

Commented [X316]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

- a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10.A to Section 10.G above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's contract's utilization or to reflect average utilization over a model segment or sub-segments if the results are materially similar.
 - c. Model policy loan interest in a manner consistent with policy contract provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)

Commented [CD317]: Okay to keep the term "Policy Loans"

Commented [X318]: Clarify reference to be more specific.

Commented [X319]: Editorial - VM-22 should consistently use contracts

Commented [CD320]: "contract's"

Commented [X321]: We have concern that reflecting average utilization may have material impact on benefit projections. Recommend adding "if the results are materially similar". This change is also applied to VM-20 and added to VM-21.

Commented [X322]: Editorial - VM-22 should consistently use contracts

Commented [CD323]: "contract"

- d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
- e. ~~Model additional~~ policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with ~~negative~~ policy loan cash flows or insurance expense cash flows.

Commented [CD324]: The wording of "additional" is unclear. Does this mean maintaining a certain level of policy loan utilization throughout the projection (i.e., adding principal as repayments are made), or actually increasing policy loan utilization (i.e., adding more principal) over time? The former would seem more appropriate than the latter.

Commented [X325]: Clarification

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect ~~policy contract~~ costs or values and are not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to ~~non-variable~~ ~~fixed~~ annuities include but are not limited to the following: ~~fixed~~ the credited rates on ~~fixed~~ accounts, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

Commented [CD326]: suggest: "contract holder"

Commented [X327]: Editorial - VM-22 should consistently use contracts

Commented [CD328]: suggest: "are not"

Commented [CD329]: suggest: "non-variable annuities"

Commented [X330]: Clarity

- 1. Except as noted below in Section ~~10.H.5~~, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
- 2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company's past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
- 3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
- 4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
- 5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the ~~policy's or~~ contract's experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

Commented [X331]: Correct section reference

Commented [CD332]: delete "policy's or"

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude

Commented [X333]: Why does being authorized mean it can be excluded? This seems backwards. Does this mean it has already transpired?

from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company's option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting ~~aggregate stochastic reserve~~SR.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting ~~aggregate stochastic reserve~~SR should be reduced by the amount of the dividend liability.
7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Commented [CD334]: delete "aggregate"

Commented [CD335]: delete "aggregate"

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the ~~stochastic reserve, SR~~. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. ~~(Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)~~

Commented [X336]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

Commented [VM22337R336]: Will address SPA separately

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Commented [X338]: Recommend removing reference to actuarial judgment being "unsupported" from VM-21 and VM-22 because actuarial judgment should always be supportable - it is "judgment" not an arbitrary decision.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are "PRT contracts," it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a ~~plus (minus)~~ mortality (longevity) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a ~~mortality (longevity) plus (minus)~~ segment to a ~~longevity (mortality) minus (plus)~~ segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

Commented [X339]: Recommend deleting this guidance note since it is unnecessary - there is no such restriction for any of VM-20, VM-21 or VM-22. It would be an absurd level of granular distinction, such that it is not clear you could actually perform the projection, given that assumptions vary by attained age, etc.

Commented [X340]: Terming the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2 for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

Commented [X341]: It is unclear how to interpretate the statement and how to review it for both VM-21 and VM-22. If a company reinsures GMWB riders, then does it mean that on a net basis the segment would no longer be considered as minus? So, there would be distinct designations for the pre and post reinsurance runs? Recommend discussing the statement and adding additional language or a guidance note to make it clear.

Commented [X342]: Delete period, it is a typo

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

3. No Data Requirements

Commented [X343]: Does this need to be edited to be consistent with "little or no" data?

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

[2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table "a"] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F _x
<=65	80.0%
66	81.5%
67	83.0%
68	84.5%
69	86.0%
70	87.5%
71	89.0%
72	90.5%
73	92.0%
74	93.5%
75	95.0%
76	96.5%
77	98.0%
78	99.5%
79	101.0%
80	102.5%
81	104.0%

Commented [X344]: Section 11.B.3.i only has one item "a". There is no need to specifically have a single item "a". Recommend delete the notation "a" and have "Section 11.B.3.i" only.

Commented [VM22345R344]: Will be updated upon SPA assumption development

Commented [X346]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it's not clear in B.3.ii.c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Commented [X347]: The 1983 Table "a" and 1994 GAR are used for structured settlements and group annuities, respectively. These tables seem to be out of date. If Standard Projected Amount work develops more granular and up to date tables, should these tables be updated to use consistent tables?

Commented [VM22348R347]: Will be updated upon SPA assumption development

Commented [X349]: The percentage factors (F_x) are over 100% from attained age 79 to age 104. Is it appropriate to set the factors above 100% for the older ages with no credibility?

Commented [VM22350R349]: Will be updated upon SPA assumption development

Commented [CD351]: does the F_x factor need any consideration for FIAs with GLBs?

Commented [VM22352R351]: Will be updated upon SPA assumption development

82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	
86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, when little or no experience or information is available on a business segment, an established industry or national mortality table and mortality improvement scale may be used, with approval from the domiciliary commissioner.

Commented [X353]: The phrase “When little or no experience or information is available on a business segment” is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

Commented [X354]: Reference to the MI scale missing for international business

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by

contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves including margins for uncertainty with the mortality assumption assumptions described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the industry mortality assumption described in Section 11.B.3 table used in the blending.

2. Adjustment of Statutory Valuation Industry Mortality for Improvement

For purposes of the adjustment for credibility, the industry mortality table for a plus segment may be and the industry mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective industry mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.

Commented [X355]: Both plan and industry data should get weighted for business such as PRT. This text says to blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.

Commented [X356]: Clarification

Commented [X357]: Editorial

Commented [X358]: The “statutory valuation” is struck out in the guidance note. Recommend replacing “statutory valuation” with either “reference of Section 11.B.3” or “industry”. Otherwise, it is a vague reference since we have both a company mortality table and an industry mortality table.

Commented [CD359]: need to reference "the mortality assumption described in Section 11.B.3" here? Otherwise, the sentence is unclear.

Commented [X360]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

Commented [X361]: "Statutory Valuation" was stricken from all the body, but left in this title. Consider replacing with "industry".

Commented [CD362]: for consistency, need to delete this reference to "Statutory Valuation"

- b. Not tend to bias the results in any material way.
 - c. Be practical to implement.
 - d. Give consideration to the need to balance responsiveness and stability.
 - e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
 - f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting ~~stochastic reserve~~SR. If such an adjustment would reduce the ~~stochastic reserve~~SR, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Other Guidance and Requirements for AssumptionsA. Overview

This section provides guidance and requirements in general for setting prudent estimate assumptions when determining either the SR or DR. It also provides specific guidance and requirements for expense assumptions.

B. General Assumption Requirements

1. The company shall use prudent estimate assumptions for risk factors that are not stochastically modeled by applying margins to the anticipated experience assumptions if such risk factors have been categorized as material risks by following Section 1.B Principle 3 and requirements in Section 12.C.
2. The company shall establish the prudent estimate assumptions for risk factors in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
3. The company shall model the following risk factors stochastically unless the company elects the stochastic modeling exclusion defined in Section 7:
 - a. Interest rate movements (i.e., Treasury interest rate curves).
 - b. Equity performance (e.g., Standard & Poor's 500 index [S&P 500] returns and returns of other equity investments).
4. If the company elects to stochastically model risk factors in addition to the economic scenarios, the requirements in this section for determining prudent estimate assumptions for these risk factors do not apply.

Guidance Note: It is expected that companies will not stochastically model risk factors other than the economic scenarios, such as contract holder behavior or mortality, until VM-22 has more specific guidance and requirements available. Companies shall discuss with domiciliary regulators if they wish to stochastically model other risk factors.

5. The company shall use its own experience, if relevant and credible, to establish an anticipated experience assumption for any risk factor. To the extent that company experience is not available or credible, the company may use industry experience or other data to establish the anticipated experience assumption, making modifications as needed to reflect the circumstances of the company.
 - a. For risk factors (such as mortality) to which statistical credibility theory may be appropriately applied, the company shall establish anticipated experience assumptions for the risk factor by combining relevant company experience with industry experience data, tables or other applicable data in a manner that is consistent with credibility theory and accepted actuarial practice.

Commented [X363]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Commented [X364]: Need to add a Section 12 for general guidance on prudent assumption setting and on expenses. For VM-21, APF 2021-11 is currently exposed. Should be consistent with that APF, after any tweaks are made.
https://content.naic.org/sites/default/files/inline-files/APF%202021-11%20VM21%20assumptions_20211021-exposed.docx

- b. For risk factors (such as utilization of guaranteed living benefits) that do not lend themselves to the use of statistical credibility theory, and for risk factors (such as some of the lapse assumptions) to which statistical credibility theory can be appropriately applied but cannot currently be applied due to lack of industry data, the company shall establish anticipated experience assumptions in a manner that is consistent with accepted actuarial practice and that reflects any available relevant company experience, any available relevant industry experience, or any other experience data that are available and relevant. Such techniques include:
- i. Adopting standard assumptions published by professional, industry or regulatory organizations to the extent they reflect any available relevant company experience or reasonable expectations.
 - ii. Applying factors to relevant industry experience tables or other relevant data to reflect any available relevant company experience and differences in expected experience from that underlying the base tables or data due to differences between the risk characteristics of the company experience and the risk characteristics of the experience underlying the base tables or data.
 - iii. Blending any available relevant company experience with any available relevant industry experience and/or other applicable data using weightings established in a manner that is consistent with accepted actuarial practice and that reflects the risk characteristics of the underlying contracts and/or company practices.
- c. For risk factors that have limited or no experience or other applicable data to draw upon, the assumptions shall be established using sound actuarial judgment and the most relevant data available, if such data exists.
- d. For any assumption that is set in accordance with the requirements of Section 12.B.5.c, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing and disclose the analysis performed to ensure that the assumption is set at the conservative end of the plausible range.
- e. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
6. The company shall sensitivity test risk factors that are not stochastically modeled and examine the impact on the stochastic reserve. The company shall update the sensitivity tests periodically as appropriate. The company may update the tests less frequently, but no less than every 3 years, when the tests show less sensitivity of the stochastic reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company

may perform sensitivity testing:

- a. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- b. Using data from prior periods.

Guidance Note: Sensitivity testing every risk factor on an annual basis is not required. For some risk factors, it may be reasonable, in lieu of sensitivity testing, to employ statistical measures for margins, such as adding one or more standard deviations to the anticipated experience assumption.

- 7. The company shall vary the prudent estimate assumptions from scenario to scenario within the stochastic reserve calculation in an appropriate manner to reflect the scenario-dependent risks.

C. Assumption Margins

The company shall include margins to provide for adverse deviations and estimation error in the prudent estimate assumption for each risk factor that is not stochastically modeled or prescribed, subject to the following:

- 1. The level of margin applied to the anticipated experience assumptions may be determined in aggregate or independently as discussed in Section 1.B Principle 3. It is not permissible to set a margin less toward the conservative end of the spectrum to recognize, in whole or in part, implicit or prescribed margins that are present, or are believed to be present, in other risk factors.

Risks that are stochastically modeled (e.g., interest rates, equity returns) or have prescribed margins or guardrails (e.g., assets, revenue sharing) shall be considered material risks. Other risks generally considered to be material include, but are not limited to, mortality, contract holder behavior, maintenance and overhead expenses, inflation and implied volatility. In some cases, the list of material risks may also include acquisition expenses, partial withdrawals, policy loans, annuitizations, account transfers and deposits, and/or option elections that contain an element of anti-selection.

Commented [X365]: Edit for VM-22 vs. VM-21?

- 2. The greater the uncertainty in the anticipated experience assumption, the larger the required margin, with the margin added or subtracted as needed to produce a larger Sr or DR than would otherwise result. For example, the company shall use a larger margin when:
 - a. The experience data have less relevance or lower credibility.
 - b. The experience data are of lower quality, such as incomplete, internally inconsistent or not current.
 - c. There is doubt about the reliability of the anticipated experience assumption, such as, but not limited to, recent changes in circumstances or changes in company policies.
 - d. There are constraints in the modeling that limit an effective reflection of the risk factor.

3. In complying with the sensitivity testing requirements in Section 12.B.6 above, greater analysis and more detailed justification are needed to determine the level of uncertainty when establishing margins for risk factors that produce greater sensitivity on the stochastic reserve.
4. A margin is permitted but not required for assumptions that do not represent material risks.
5. A margin should reflect the magnitude of fluctuations in historical experience of the company for the risk factor, as appropriate.
6. The company shall apply the method used to determine the margin consistently on each valuation date but is permitted to change the method from the prior year if the rationale for the change and the impact on the stochastic reserve is disclosed.

D. Expense Assumptions

1. General Prudent Estimate Expense Assumption Requirements

In determining prudent estimate expense assumptions, the company:

- a. May spread certain information technology development costs and other capital expenditures over a reasonable number of years in accordance with accepted statutory accounting principles as defined in the Statements of Statutory Accounting Principles.

Guidance Note: Care should be taken with regard to the potential interaction with the inflation assumption below.

- b. Shall assume that the company is a going concern.
- c. Shall choose an appropriate expense basis that properly aligns the actual expense to the assumption. If values are not significant, they may be aggregated into a different base assumption.

Guidance Note: For example, death benefit expenses should be modeled with an expense assumption that is per death incurred.

- d. Shall reflect the impact of inflation.
- e. Shall not assume future expense improvements.
- f. Shall not include assumptions for federal income taxes (and expenses paid to provide fraternal benefits in lieu of federal income taxes) and foreign income taxes.
- g. Shall use assumptions that are consistent with other related assumptions.
- h. Shall use fully allocated expenses.

Guidance Note: Expense assumptions should reflect the direct costs associated with the block of contracts being modeled, as well as indirect costs and overhead costs that have been allocated to the modeled contracts.

- i. Shall allocate expenses using an allocation method that is consistent across

company lines of business. Such allocation must be determined in a manner that is within the range of actuarial practice and methodology and consistent with applicable ASOPs. Allocations may not be done for the purpose of decreasing the stochastic reserve.

- j. Shall reflect expense efficiencies that are derived and realized from the combination of blocks of business due to a business acquisition or merger in the expense assumption only when any future costs associated with achieving the efficiencies are also recognized.

Guidance Note: For example, the combining of two similar blocks of business on the same administrative system may yield some expense savings on a per unit basis, but any future cost of the system conversion should also be considered in the final assumption. If all costs for the conversion are in the past, then there would be no future expenses to reflect in the valuation.

- k. Shall reflect the direct costs associated with the contracts being modeled, as well as an appropriate portion of indirect costs and overhead (i.e., expense assumptions representing fully allocated expenses should be used), including expenses categorized in the annual statement as “taxes, licenses and fees” (Exhibit 3 of the annual statement) in the expense assumption.
- l. Shall include acquisition expenses associated with business in force as of the valuation date and significant non-recurring expenses expected to be incurred after the valuation date in the expense assumption.
- m. For contracts sold under a new policy form or due to entry into a new product line, the company shall use expense factors that are consistent with the expense factors used to determine anticipated experience assumptions for contracts from an existing block of mature contracts taking into account:
- i. Any differences in the expected long-term expense levels between the block of new contacts and the block of mature contracts.
 - ii. That all expenses must be fully allocated as required under Section 12.D.1.h above.

2. Margins for Prudent Estimate Expense Assumptions

The company shall determine margins for expense assumptions following Section 12.C.

Section 13: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The allocation shall be made separately for DR and SR. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

Commented [X366]: This method only makes sense if done separately for the DR and SR.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\sum Ai * [Aggregate Reserve - \sum Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the ~~stochastic reserve~~ SR defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows, as well as any cash flows that are scenario dependent.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the ~~stochastic reserve~~ SR defined in Section 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Commented [X367]: This method depends on the NAER, so would not work for companies that use direct iteration.

Commented [X368]: This could give an unstable allocation if there is an even mix of products with different risk profiles, so that the tail is populated with some scenarios where Product A does poorly and some where Product B does poorly. The single scenario will only reflect the riskiness of one of the products.

Commented [X369]: Not just the NAER, but the cashflows are also scenario dependent.

Commented [CD370]: "Section 3.D"

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}[(2)-(1), 0]$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}[(4 \text{ Total}) - (1 \text{ Total}), 0]$	Allocated Excess Reserve (6) = (3) x $[(5 \text{ Total}) / (3 \text{ Total})]$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

Commented [CD371]: should be "Max[(2)-(1), 0]"

*Cash Surrender Value
**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Section ~~13~~14: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, ~~are covered in this section, and all contracts not passing the SET covered by Sections 1 through 13 of VM-22, are covered Section 14 of VM-22:~~
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Commented [X372]: Under A.2: need to exclude contracts being covered by the earlier sections of VM-22 not passing the exclusion tests and need a clearer reference instead of "covered in this section"

Guidance Note: For Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f and Section ~~13~~14.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f, Section ~~13~~14.A.2.g or Section ~~13~~14.A.2.h, the

company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13.14 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.14.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section ~~13~~14 current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets

- a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
- b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 1314.C.1) and its Premium Determination Date (Section 1314.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 1314.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 1314.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 1314.C.6);

and

- d. E is the spread deduction defined as 0.25%.
- e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- C_{d-1} is the daily corporate rate (defined in Section ~~13~~14.C.7) for the business day immediately preceding the premium determination date; and
- C_q is the average daily corporate rate (defined in Section ~~13~~14.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section ~~13~~14.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 4314.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 4314.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 4314.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 4314.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 14.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 14.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
- i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for

individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section ~~13~~14.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different

dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II, Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in ~~Section 13.14 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.~~
- D. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through ~~12~~ 13 of VM-22.

Commented [X373]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22374R373]: Waylon Peoples comment letter: Extend small company exemption in place for life PBR (VM-20) to VM-22.

Commented [CD375]: "non-variable annuity"?

Commented [X376]: "Section 13 of VM-22" may need to be updated if it is decided to have separate chapters for VM-22 VIR and VM-22 PBR.

Commented [CD377]: "non-variable annuity"?

Commented [CD378]: Consider adding the sentence: "The minimum reserve requirements of VM-22 are considered PBR requirements for purposes of the Valuation Manual." This is so VM-G will apply to VM-22, which would be appropriate.

The requirements in this section are still considered a part of PBR requirements and therefore are applicable to VM-G.

The below principles may serve as key considerations for assessing whether VM 21 or VM 22 requirements apply:

D. Minimum reserve requirements apply:

- E. ~~Index for index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM 22 requirements and are issued on 1/1/2024 and later are those requirements; as found in Sections 1 through 13 of VM-22.:~~

Commented [X379]: "Index-linked" annuity is not defined – only RILA and FIA in VM-22, recommend to revise the language or add a definition to define "index linked".

- 1. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
- 2.b. Credits a rate of interest under the contract prior to the application of any market value adjustments that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

~~Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM 22 requirements.~~

Minimum reserve requirements.

Commented [X380]: Recommend adding this part to E.1.b and delete the Guidance Note.

for index

F. ~~2. Index-linked or modified guaranteed annuity contracts or riders that do not satisfy either of the two conditions listed above criteria in Paragraph Section 2.E.1 and Section 2.E.2 above and E.1.ii may be a key consideration for application of VM-21 are issued on 1/1/2024 and later are those requirements as found in VM-21.~~

Commented [X381]: VM-21 specifically says “These requirements do not apply to contracts falling under the scope of VM-A-255: Modified Guaranteed Annuities; however, they do apply to contracts listed above that include one or more subaccounts containing features similar in nature to those contained in modified guaranteed annuities (MGAs) (e.g., market value adjustments).” Is this a contradiction?

Commented [X382]: Consistent with E above.

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies ~~Designs~~ of policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

Commented [X383]: Still need the word “designs” otherwise this is saying the whole policy/contract was only created to disguise benefits, which would never be true.

A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.

B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, ~~Nursing Home Benefits~~ or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.

Commented [X384]: This reference is another place where there would be a benefit distinguishing the PBR sections of VM-22 from the non-PBR sections.

~~C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.~~

~~D.C. Any~~ any guaranteed minimum benefits on life insurance policies or annuity contracts ~~not subject to Paragraph C above~~ including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

Commented [X385]: These parallel requirements can be combined.

~~E.D.~~ E.D. If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

1. The rider or supplemental benefit does not have a separately identified premium or charge.
2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~F.E.~~ F.E. If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is

separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

~~G.F.~~ For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

~~H.G.~~ Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve (for VM-20 and VM-22) or TAR (for VM-21) if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves (for VM-20 and VM-22) or reserves and TAR (for VM-21) using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. ~~When advantageous, policyholders will commence living benefit payouts if not started yet.~~

Commented [X386]: Simplifications are judged relative to reserves for VM-20/VM-21 and TAR for VM-21.

Commented [X387]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

Page 11: [1] Commented [VM2266R64] VM-22 Subgroup 3/2/2022 4:12:00 PM

See Equitable comment letter: supports full aggregation, but if choosing between the two exposed options for two reserving categories, prefers option 2.

Page 11: [2] Commented [CD68] CA DOI 12/30/2021 3:27:00 PM

suggest swapping the order of this section. That is, start with the "in scope" list, rather than the "out of scope" list.

Also, it seems like there should be specific mentions of GMDBs and GLBs, as there are in VM-21, since those guarantees can also be found on FIAs.

Page 11: [3] Commented [X71] TDI 11/9/2021 9:17:00 AM

This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" list and adding a cross-reference to VM-21 Section 2.A.

Page 11: [4] Commented [CD77] CA DOI 12/30/2021 3:31:00 PM

should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined in the Definitions section?

Page 11: [5] Commented [X79] ACLI

We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." from this section as it does not seem fitting here.

Page 11: [6] Commented [X81] TDI 11/9/2021 9:19:00 AM

Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 interest rate determinations are left in the same chapter as the VM-22 PBR requirements)?

It is normal to then list what requirements such excluded contracts would follow. However, the statement here is more problematic because you can be excluded from the SR but still subject to VM-22.

Page 11: [7] Commented [X83] TDI 11/9/2021 9:25:00 AM

We still have a question about whether RBC factors are still at an appropriate level, if principles-based capital is not developed. Were they set assuming that this reserve was at a CTE(70) level in the first place, or were they dependent on the prior framework?

Page 14: [8] Commented [X99] ACLI

Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Page 14: [9] Commented [CD100] CA DOI 12/30/2021 3:36:00 PM

Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ways of passing it. Therefore, the current wording is confusion because it suggests that there are multiple SETs.

Page 14: [10] Commented [X102] ACLI

We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

Page 14: [11] Commented [X103] TDI 11/9/2021 9:57:00 AM

The statement in this section is not acceptable as discussed in the previous TX comment letter. This will have the effect of potentially masking blocks that need PBR.

Page 14: [12] Commented [X104] ACLI

This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

Page 14: [13] Commented [X108] ACLI

Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

Page 14: [14] Commented [X109] ACLI

This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Page 14: [15] Commented [CD110] CA DOI 12/30/2021 3:43:00 PM

VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques is missing (including the Guidance Note). Would it make sense to add it?

Page 33: [16] Commented [X209] ACLI

We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Page 33: [17] Commented [VM22210R209] VM-22 Subgroup 3/2/2022 2:51:00 PM

Determine whether to address longevity reinsurance in this topic, in light of NJ comment letter.

Page 33: [18] Commented [CD215] CA DOI 12/30/2021 4:14:00 PM

what is meant by "aggregate risk levels"? Aggregated across what? Need clarification on the intentions for adding this phrase, when it is not in VM-20. Otherwise, i would suggest deleting this.

Page 33: [19] Commented [X216] TDI 11/18/2021 9:49:00 PM

This is not in VM-20 and would substantially change the exclusion. The intent is not to allow you to group a block that has material interest rate risk with a larger block that is insensitive to interest rate risks and thereby pass. If

"aggregate" referred to potential compounding of interest rate, longevity, or asset risk then this could be redrafted to clearly call out a 4th category of risk due to a combination of the first three. However, I think this is already implicitly covered.

Page 33: [20] Commented [CD218] CA DOI 12/30/2021 4:15:00 PM

note, there is no insertion of "aggregate risk levels across" here, like there was above. (to be clear, i don't support adding it.)

VM-22 Subgroup Discussion Topics*June 1, 2022*Remaining Tier 2 Comments

- Allow SPIAs to be optional without exclusion test? (page 14)
 - ACLI comments
- Allow PRT to undergo certification method (rather than being ineligible) (page 33)
 - ACLI comments
- Exclusion Test Grouping (page 14)
 - Group with risks with significantly different profiles?
 - Same grouping as general PBR modeling or not?
 - ACLI comments
 - TDI comments
- Denominator for SERT (page 34)
 - Only benefits are also future premiums?
 - ACLI comments
 - TDI comments
- Deterministic Exclusion Test Criteria (page 38)
 - Does the company need to A) only disclose or B) pass the results of the 16 scenarios from the exclusion ratio test to be eligible for the deterministic reserve?
 - TDI comments
- Reinsurance Modeling (page 29)
 - Reflect contractual/other characteristics for considering reinsurance modeling?
 - TDI comments
- Include fair value certification? (page 45)
 - CA OPBR comments
 - TDI comments
- Permit PRT mortality with no or less than full credibility to follow a table from a third-party data provider instead of an industry table if available? (pages 58 & 60)
 - ACLI comments
- Allocation: method 1 or 2? (page 67)
 - ACLI comments
- Floor for contracts without cash surrender value (pages 21-22)
 - Working reserve concept, similar to a requirement in VM-21?
 - Include a floor for the deterministic-type reserve concept?
 - Academy comments

- TDI comments
- Reserving category for deferred annuities with depleted fund value
 - Payout or accumulation reserving category?

Draft: 8/2/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
May 11, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met May 11, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Vincent Tsang (IL); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Yujie Huang (TX); Tomasz Serbinowski (UT); and Craig Chupp (VA).

1. Discussed Tier Two Comments on the Proposed VM-22 Framework

Mr. Slutsker reviewed the list of discussion topics (Attachment Twenty-Four-A). Mr. Tsang said the proposed VM-22 framework should be consistent with VM-21, Requirements for Principle-Based Reserves for Variable Annuities. He said VM-21 has a 5% minimum error on the hedging program breakage expense, so VM-22 should also set 5% as its minimum error even though the hedging for the fixed annuity is not as complex as the hedging for the variable annuity. He said that due to the availability of policyholder options, a minimum error equal to zero is almost impossible to justify. He said he would consider a minimum error other than 5% if the industry can present the supporting data. Brian Bayerle (American Council of Life Insurers—ACLI) said the VM-22 minimum error is applicable only to static hedges. He said the ACLI could provide an example of static hedges on vanilla payout annuities for which a zero minimum error is appropriate. He suggested separating static hedges from dynamic hedges to maintain alignment with VM-21. John Miller (American Academy of Actuaries—Academy) said the Academy supports the bifurcation of static and dynamic hedges. He said the Academy believes that the minimum error for static hedges should be close to zero. He suggested adding the minimum error to the issues considered during the VM-22 field test. The Subgroup agreed to have back testing of the minimum error over multiple years of issues with assorted product designs either provided by industry prior to the field test or included as part of the field test.

Brent Dooley (Academy) gave an overview of the Academy longevity reinsurance presentation (Attachment Twenty-Four-B). He noted that much of the longevity reinsurance business covers annuitants who live in other countries. He said the product is primarily purchased by pension plans attempting to reduce longevity risk exposure and insurance companies writing pension risk transfer (PRT) annuities. He explained that of the five categories of longevity reinsurance listed in the presentation, only indexed based longevity swaps are excluded from the scope of the proposed VM-22 framework. Mark Hutchinson (Academy) said longevity reinsurance does not fit neatly into the current statutory accounting and valuation guidance. However, he suggested that longevity reinsurance be considered to fall under the exclusion of “certain non-proportional reinsurance” as stated in the *Life and Health Reinsurance Agreements Model Regulation* (#791). Mr. Slutsker noted that there are aspects of the Academy presentation that should be shared with the Life Risk-Based Capital (E) Working Group and the Statutory Accounting Principles (E) Working Group. Mr. Bayerle said that the ACLI comment letter (Attachment Twenty-Four-C) asked why the definition of longevity reinsurance in the draft VM-22 framework excludes agreements that *Statement of Statutory Accounting Principles (SSAP) No. 61R—Life, Deposit-Type and Accident and Health Insurance* indicates should not be treated as reinsurance. Mr. Dooley said that longevity reinsurance was intentionally excluded. He said a note could be added to the draft to clarify the reasoning.

Ms. Eom said the New Jersey Department of Banking and Insurance (NJ DOBI) comment letter (Attachment Twenty-Four-D) was written with longevity reinsurance considered as a stand-alone product that is to be treated differently from traditional ceded or assumed reinsurance. She proposed a limitation that would prohibit a standard projection amount (SPA) reserve for an individual contract from being negative. She said that the

stochastic reserve (SR) for a product line would be allowed to have a negative reserve for an individual line of business, but the negative reserve would not be allowed to offset reserves for other lines of business when determining the aggregate VM-22 reserve. She agreed to draft language supporting the proposal. She noted that principle #2 of the proposed VM-22 framework already prohibits aggregation of different product lines.

Mr. Slutsker said the Texas Department of Insurance (TDI) commented that the VM-31, PBR Actuarial Report Requirements for Business Subject to a Principle-Based Valuation, disclosures should be made more granular, to separately cover fixed indexed annuities (FIAs), fixed deferred annuities (FDAs), single premium immediate annuities (SPIAs), deferred income annuities (DIAs), PRT, guaranteed living benefits (GLBs), and non-GLBs. Ms. Eom said longevity reinsurance should also be included. She said that if longevity reinsurance is included with PRT, a note to that effect should be included in VM-22. Mr. Chupp said that he would prefer to have the VM-22 level of granularity match the granularity required for VM-20, Requirements for Principle-Based Reserves for Life Products. He noted that with a higher level of granularity, there is a risk that new products may not fit into an existing category. Mr. Carmello and several other Subgroup members said that it is important to get as much product information as possible.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/05 11/5_11 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/05 11/5_11 VM-22 Minutes.docx)

VM-22 Subgroup Discussion Topics*May 11, 2022***Remaining Tier 2 Comments**

- What to determine as the minimum error on the new index credit hedging program breakage expense? (page 19)
 - Continue prior discussion

- Longevity Reinsurance (page 8)
 - Overview of longevity reinsurance contracts
 - Academy presentation
 - Why are longevity reinsurance agreements not applicable to SSAP 61R not in scope of VM-22, and does this imply longevity swaps are not part of VM-22?
 - ACLI comments
 - Addressing future premiums
 - NJ comments

- Granularity of Disclosures (page 13)
 - Require disclosures for FIAs vs. FDAs vs. SPIAs vs. PRT vs. DIAs & GLBs vs. no GLBs
 - TDI comments
 - Separate category for longevity reinsurance?
 - NJ comments

- Allow SPIAs to be optional without exclusion test? (page 14)
 - ACLI comments

- Allow PRT to undergo certification method (rather than being ineligible) (page 33)
 - ACLI comments

- Exclusion Test Grouping (page 14)
 - Group with risks with significantly different profiles?
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- Denominator for SERT (page 34)
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 - TDI comments

- Permit PRT mortality with no or less than full credibility to follow a table from a third-party data provider instead of an industry table if available? (pages 58 & 60)
 - ACLI comments

- Allocation: method 1 or 2? (page 67)
 - ACLI comments

- Floor for contracts without cash surrender value (pages 21-22)
 - Working reserve concept, similar to a requirement in VM-21?
 - Include a floor for the deterministic-type reserve concept?
 - Academy comments
 - TDI comments

Annuity Reserves & Capital Work Group Presentation on Longevity Reinsurance/Swaps: A Primer



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May 11, 2022

Valuation Manual (VM)-22 (A) Subgroup

Background on Longevity Reinsurance and Longevity Swaps

- **Goals for today's discussion**
 - Provide an overview of the major product designs in the market today.
 - Discuss the key features and similarities/differences among the designs
 - Provide input regarding which types of longevity reinsurance/swaps should be in-scope for VM-22 principle-based reserving (PBR) and discuss statutory considerations unique to these products
- **Who buys longevity reinsurance / swaps?**
 - Pension plans who want to reduce exposure to longevity risk; access reinsurance market through captives or insurance intermediaries
 - Insurance carriers who write pension risk transfer (PRT) group annuities or individual payout annuities looking to manage risk and/or optimize capital
 - Public announcements of transactions are the primary source of market data, with tens of billions of disclosed each year, denominated in a variety of currencies
 - Markets with large, publicly-disclosed transactions include the U.S., U.K., Netherlands, and Canada
- **Wide variety of product designs exist in the market, and nomenclature is not standardized**
 - Most contracts are bespoke, and underwriting is typically facultative
 - Many executed transactions and terms are not publicly disclosed



Longevity Reinsurance and Swaps

Category	Covers Named Annuitants vs. Index	Term of coverage	Single vs. Recurring Payments	Risks Transferred	Degree of Basis Risk	Moneyness at Issue	Potential U.S. STAT Classification
Classical Longevity Reinsurance	Named annuitants	Tied to life of block	Recurring premium and benefits, typically net settled	Longevity risk only	Limited (some structuring is common)	At the money	Proportional reinsurance
Temporary Longevity Reinsurance (a.k.a. "Cancellable Swap")	Named annuitants	Fixed horizon less than life of block (typically several years)	Recurring premium and benefits, typically net settled	Longevity risk only	Limited (some structuring is common)	At the money	Unclear; Conceptually similar to yearly renewable term (YRT), but longer term
Funded Reinsurance	Named annuitants	Tied to life of block	Single premium; recurring benefit payments	Longevity and asset risks	None (i.e., reinsurer makes actual benefit payments) to limited (some structuring)	At the money	Proportional reinsurance
Tail Longevity Coverage	Named annuitants	Tied to life of block, but attaches at fixed horizon	Risk fee payable in initial years; may never pay any benefits	Longevity risk only	Limited (some structuring is common)	Deeply out-of-the-money	Non-proportional reinsurance
Index-Based Longevity Swap	Population / Index	Fixed horizon less than life of block	Typically net settled; may be single or recurring settlement	Longevity risk only	Can be significant	Any	Derivative; Suggest including as asset in asset adequacy testing (AAT) / PBR calcs

Proposed In-scope VM-22

3


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Other Statutory Accounting and Valuation Considerations

- **Longevity Reinsurance doesn't fit neatly into existing statutory accounting and valuation guidance**
 - Not specifically contemplated by Statement of Statutory Accounting Principles (SSAP) 50, SSAP 61R, or model laws (MDL) 791/Appendix A-791
 - Agreements may be either temporary or permanent and may be either proportional or non-proportional
 - In some cases, only a single risk is reinsured from the underlying direct contract, which contains multiple risks
- **How should ceding companies calculate reinsurance credit? Should assuming companies use the commissioners' reserve valuation method (CRVM) or the commissioners' annuity reserve valuation method (CARVM)?**
- **MDL 791 requires transfer of ALL defined risks (i.e. Credit, Reinvestment, Mortality) for Immediate Annuities to receive statutory credit for reinsurance**
 - Scope excludes only YRT, assumption reinsurance, and "certain nonproportional reinsurance such as stop-loss or catastrophe reinsurance"
 - MDL 791 original intent: "improper...to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured"
 - Unclear under VM-30/AAT whether to allow projection of proportional reinsurance without meeting statutory risk transfer requirements
- **For assuming companies, how should the "fee leg" of these transactions be treated?**
 - Guaranteed future fees are available to fund unfavorable future longevity experience.
 - How should VM-22 requirements coordinate with RBC C-2 requirements to properly reflect the net retained longevity risk?
- **How does one treat the "tail mortality risk" to which some of these designs are sensitive? Should stochastic mortality modeling be required?**
 - For Non-Proportional Reinsurance, SSAP 61R paragraph 38 says to review "present value of expected recoveries using realistic assumptions".

4

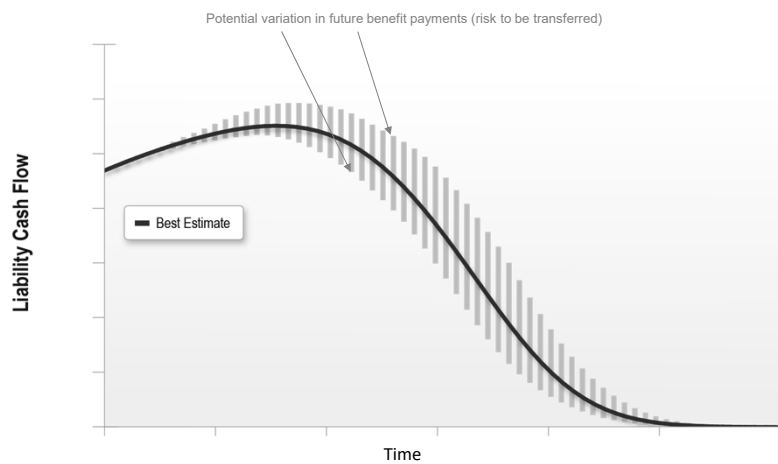

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Appendix

5



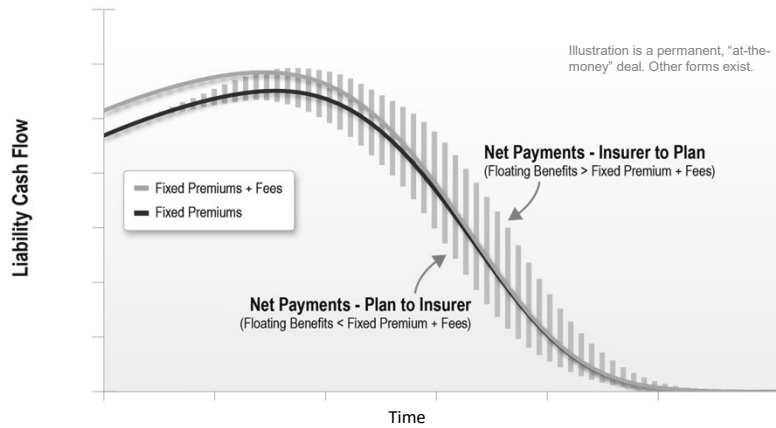
Designing a Classical Longevity Reinsurance agreement starts by projecting out the future expected benefit payments, similar to a pension risk transfer deal



6



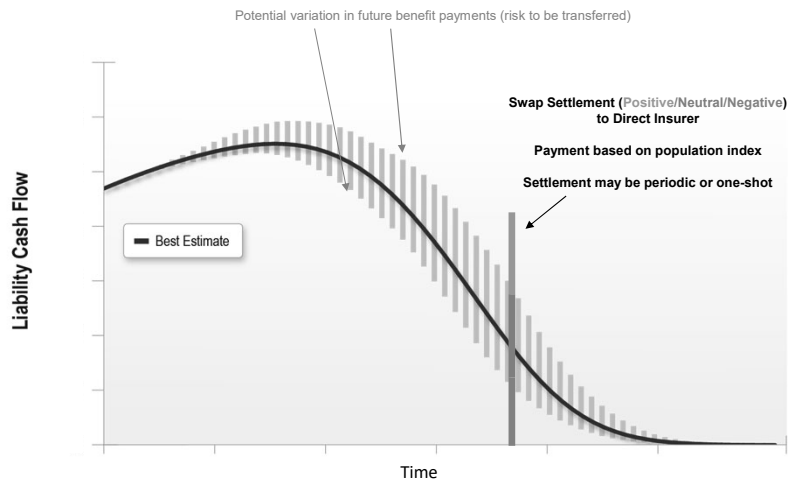
Classical Longevity Reinsurance decomposes the projected benefit payments into the underlying longevity and asset risks, with the goal of transferring only the longevity risks



7



Instead of being directly tied to a pool of annuitants, indexed-based longevity swaps are designed to transfer longevity risk in a more simplified manner, with a greater degree of basis risk



8



Questions?

- For more information, please contact the Academy's life policy analyst, Amanda Barry-Moilanen, at barrymoilanen@actuary.org.



Brian Bayerle
Senior Actuary

November 19, 2021

Mr. Bruce Sartain
Chair, NAIC Valuation Manual (VM)-22 (A) Subgroup (Subgroup)

Re: ACLI Comments on ARCWG VM-22 Framework Draft Proposal

Dear Mr. Sartain:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide comments on the American Academy of Actuaries (the Academy) Annuity Reserves and Capital Work Group) VM-22 Framework Exposure.

ACLI appreciates all the hard work of the Subgroup and ARCWG in development of this draft. We believe the framework is an excellent first step towards principles-based requirements for fixed annuities. We look forward to working with the Subgroup and ARCWG in further development of the framework, and on notable areas that were not addressed in this first exposure.

ACLI supports the continued development of principles-based reserving. We believe that this development is the natural progression of measurement of underlying risks in company portfolios. PBR enables better measurement of complex guarantees and other risks and reflects the underlying experience of the block, while maintaining appropriate flexibility consistent with the complexity of the risks being measured,

Our comments are broken into two sections: priority areas for requested comment and comments on individual sections of the VM-22. You will also find our comments in the accompanying Word document.

VM-22 Exposure Comments and Priorities Comments:

- **Standard Projection Amount (SPA):** If any reserve method includes a SPA, the ACLI supports making the SPA a nonbinding disclosure item across the applicable VM chapters. We appreciate the use of the SPA to help identify outlier assumptions; however, we note that having one-size-fits-all prescribed assumptions is extremely challenging due to the variety of designs in the market. Further, a binding floor introduces non-economic considerations to the reserve that do not align with management of the portfolio. Consistent with our feedback regarding the variable annuity framework, we are concerned

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about the possibility of this approach producing false positives and false negatives regarding outliers.

- **Reserving Categories:** We believe aggregation should be consistent with management of liabilities and assets throughout the lifecycle of the portfolio and VM-22 should allow for companies to designate aggregation of blocks consistent with their operational and investment management. Multiple categories and other aggregation limits could create disconnects with the actual management and asset portfolio of the company. Further, a greater level of aggregation encourages well-diversified portfolios and sound-risk management.

Were multiple reserve categories to be defined, we would support a principles-based categorization to accommodate innovation in the market. Further, we suggest an “at issue” approach to better align with management of the block and to avoid any disconnects in the level of the reserve were a block to switch between categories. Additionally, certain additional disclosures may not be applicable under this approach, such as those related to investment strategy when the company is not modeling it; we would suggest limiting the disclosures and reporting to items actually used in the calculation. For Option 1, we suggest deleting item #6 to be consistent with VM-21 or at least need to exclude payment streams from VAs which are scoped into VM-21.

- **Model Segments (Section 3.E):** Consistent with our comments on reserving categories, we believe the model segments should appropriately align with the internal management framework of companies to appropriately reflect inherent offsets in risks, which is in the spirit of a principle-based framework. We do not believe restrictive requirements around segments serves to solve any known problems, as two disjoint scenarios cannot occur at the same time within a company’s portfolio. We suggest consistency of this text with the existing VM-20 Section 7.A.1.b.
- **Allocation (Section 12):** We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.
- **VM-21 vs. VM-22 Distinction (VM Section II edits):** Consistent with the exposed framework, we support the continued inclusion of RILA and RILA-like products within VM-21. We are appreciative of the key considerations outlined in Valuation Manual Section II. Reserve Requirements Subsection 2.E and support further clarification of the intent of this text for greater clarity on the applicable guidance.
- **Exclusion Test:** ACLI is supportive of the exclusion test, however, we believe there are areas that could be clarified. We think there could be greater clarity regarding how exactly the exclusion test should be executed. For the Deterministic Certification Option, we request the text to be clarified regarding what business can use this option due to potential confusion in the current text; it would be clearer if the Guidance Note after 7.E.2 were moved to the beginning of Section 7.E to clarify what type of business falls into this category.

We do not believe in the necessity of including longevity risk within the scope of the exclusion test since we are not attempting to model longevity/mortality stochastically. We recommend striking longevity risk related components of this section throughout, including in 7.B and 7.C.1, and deleting the Drafting Note after 7.E.1.d.

Please find additional comments below in Section 7.

Specific feedback on sections:

- Section 1
 - A (Purpose): The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).
 - A (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, “products that calculate a stochastic reserve”, since the relationship to RBC would likely be maintained.
 - B (Principles): We would support consistent application of principles across all chapters as currently VM-20 does not have a like-set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section I. Introduction" or "VM-01" and equally applying to VM-20.
 - B (Principle 2): We support this principle but note that later sections appear to contradict this principle. For example, the statement “The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario.” contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).
 - B (Principle 3): We suggest deleting the sentence "Generally, assumptions are..." since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.
 - B (Principle 5): We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.
 - C (Risks Reflected): Consistent with our comments on 1.B, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.
 - C.2.c.i: We recommend removing the bullet “Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above” as this is unclear and probably extraneous.
 - C.3: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with

other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

- C.4.b.iv: We recommend removing the bullet “Significant future reserve increases as an unfavorable scenario is realized” as this is extraneous.
- C.4.c (General business risks): List could be expanded to include operational risk and litigation risk.
- D (Specific definitions for VM-22): It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of “Fixed Annuity” instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.
- D (Deferred Income Annuity (DIA) definition/Single Premium Immediate Annuity (SPIA) definition): Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.
- D (Fixed Indexed Annuity (FIA) definition): Is “typically” intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?
- D (Index Parameter definition): We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.
- D (Longevity Reinsurance definition): The definition states that “Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition”. Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out-of-scope list in “2.A. Scope” if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing “typically” from the definition.
- D (Modified Guaranteed Annuity): We recommend editing the definition as follows “A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account...”
- D (Pension Risk Transfer (PRT) Annuity definition): Is “typically” intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of “annuity contract” in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.
- D (Registered Index-Linked Annuity (RILA)): It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

- D (Structured Settlement Contracts (SSC)): Suggest striking sentence “Adverse mortality is typically expected for these contracts.” from definition. Additionally, it is possible that there may be non-substandard settlements.
- Section 2
 - Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.
 - We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.
 - We suggest moving or deleting the sentence “The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.” from this section as it does not seem fitting here.
- Section 3
 - B: Guidance is needed on how a pre-reinsurance reserve is to be determined.
 - D: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."
 - E.1: Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:
 - "these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."
 - E.2: This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.
 - E (Guidance note beginning “The intention of contracts that pass the stochastic exclusion test...”): We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.
 - F (Allocation) Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.
 - G (Prudent Estimate Assumptions): This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

- G.2: Suggest replacing “If the results of statistical testing or other testing” with “If the results of the review” to simplify language and avoid possible confusion.
- Section 4
 - A.1.b (Guidance Note): The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.
 - A.2: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term “investment guideline” as follows: “Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the ~~investment guidelines~~ and objectives of each index crediting strategy.”
 - Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.
 - A.4: Suggest rewording “Future hedging program” to “hedging program with future transactions” to avoid ambiguity.
 - A.4.b.ii.b): “Any other purpose” in the last sentence seems overly broad and should be narrowed.
 - A.4.b.ii.c): Margins are discussed in a different section, so recommend deleting.
 - A.4.b.i.c): We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as 0, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.
 - A.5: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.
 - B.1: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.
 - B.3.a We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.
 - D.4.b: Request clarification around the meaning of “general account index funds.”
 - E.1.b. Suggest deleting “In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.” as it appears to be covered by E.1.a.
 - E.2: Suggest deleting “may” as there appears to be only option.
- Section 5: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.
- Section 7
 - B.3: We recommend removing “pension risk transfer business” from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

- C.1: As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).
 - C.2.d: Clarification is needed around reference to “significantly different risk profiles.”
 - C.3: We request clarification or definition of the term “non-proportional reinsurance.”
 - C.3.a.iii: We believe subscript “gy” should be “gn.”
 - D.1.a: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.
- Section 9
 - Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.
 - A.1: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?
 - A.3: The sentence “Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months.” seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.
 - D.2: Suggest replacing “indexed” with “fixed” since this would apply to all fixed annuities.
 - Section 10
 - A.7: We would suggest rewording this section to be considerations rather than posed as questions.
 - D.8: This section states that “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally.” This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states “When advantageous, policyholders will commence living benefit payouts if not started yet.” We suggest revising 6.H.2 to align with the text of 10.D.8.
 - C (Sensitivity Testing): Suggest updating bullet to “Other material behavior assumptions if relevant to the risks in the product.”
 - E.2: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.
 - F.1.d (Volatile credit spreads): Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

- Section 11
 - Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated, and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.
 - A.4: Terming the segments “mortality (longevity) segments” would be easier to understand than “plus (minus) segments.”
 - B.3.ii.c: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it is not clear in B.3.ii.c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.
 - B.3.iiiThe phrase “When little or no experience or information is available on a business segment” is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.
 - C.1: Both plan and industry data should get weighted for business such as PRT. This text says to blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.
 - C.2: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.
- Section 12: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.
- Section II. Reserve Requirements
 - We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.
 - 6.H.2: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

We appreciate the consideration of our comments and look forward to discussing at a future meeting.

Sincerely,



cc: Reggie Mazyck, NAIC



State of New Jersey

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Governor

SHEILA OLIVER
Lt. Governor

MARLENE CARIDE
Commissioner

Mr. Ben Slutsker
Chair, VM-22 Subgroup
National Association of Insurance Commissioners

Dear Mr. Slutsker,

The New Jersey Department of Banking and Insurance (NJ DOBI) appreciates the opportunity to provide input to the VM-22 Subgroup regarding the currently exposed draft framework for VM-22. The purpose of this letter is to provide input related to the aggregation approach outlined in VM-22. Specifically, our comments relate to current Section 3.D.3.

We understand that there is current work underway regarding the appropriate approach for aggregation under VM-22, and the current language of subparagraph 3 states “The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the SR.” While we understand that under a principle-based framework there may be a desire to allow “credit” in the reserves for diversification across individual products or individual policies, we have some concern that full aggregation of all business in the scope of VM-22 may produce inappropriately low reserves. In some instances, products subject to VM-22 may involve future premium or fee revenue that exceeds future benefits, resulting in a negative reserve. If VM-22 indicates that all business may be aggregated, this could imply that certain blocks of business will have reserves that implicitly rely on the future premiums or fees associated with other blocks of business.

As an example, consider a company that has two blocks of business: traditional Single Premium Immediate Annuities (SPIAs) and Longevity Reinsurance (both of which are defined in VM-22). The reserves for the SPIAs would be based on the present value of future benefits and expenses, and a positive reserve would result under a principle-based calculation. For Longevity Reinsurance (which has periodic premium payments throughout the contract life), a principle-based calculation would likely produce a negative reserve, at least in early durations, since the present value of future premiums would exceed the present value of future benefits and expenses (assuming the product was appropriately priced). Under an aggregation approach across all lines of business, the positive SPIA reserves would be reduced by the Longevity Reinsurance negative reserve.

Under current statutory reserving approaches, negative reserves are avoided via the use of net premium approaches. For example, for annual premium whole life insurance, reserves are calculated using net premiums rather than gross premiums to avoid a negative reserve at issue. This net premium reserve approach was maintained as a floor in VM-20.

We strongly recommend a similar approach for Longevity Reinsurance and other products within VM-22 that may generate negative reserves. Rather than including all future premiums in the principle-based reserve calculation under VM-22, reserves should be calculated and floored using only the net premiums that are solved for at issues such that the starting reserve is no less than \$0. This would serve to ensure that a negative reserve is not held on any product group, and then offset with positive reserves for other product groups.

If there is general agreement regarding such a modification, we would be happy to work with the VM-22 subgroup to draft specific language outlining this approach for inclusion in VM-22.

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If you have any questions regarding this letter, please do not hesitate to contact me at Seong-min Eom, dobin ov.

Sincerely,



Seong-min Eom, FSA, MAAA, PRM
Chief Actuary, Life and Health
New Jersey Department of Banking and Insurance

Draft: 5/12/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
April 27, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met April 27, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Vincent Tsang (IL); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Yujie Huang (TX); Tomasz Serbinowski (UT); and Craig Chupp (VA).

1. Discussed Tier One Comments on the Proposed VM-22 Framework

Chris Conrad (American Academy of Actuaries—Academy) said the Academy comment letter (Attachment Twenty-Five-A) references a spreadsheet (Attachment Twenty-Five-B) that compares VM-22, Statutory Maximum Valuation Interest Rates for Income Annuities, net spreads to net spreads from VM-20, Requirements for Principle-Based Reserves for Life Products, and VM-21, Requirements for Principle-Based Reserves for Variable Annuities, in a high spread environment (3/31/2020) and a low spread environment (3/31/2021). He said the comparison shows that the yields are not dramatically different. He said the takeaway is that there is a lot of conservatism in the baseline defaults that have been subtracted to get the net spreads. He noted that the VM-22 credit quality distribution adds conservatism by not considering private placements, commercial mortgages, structured securities, and below-investment-grade bonds in the rate determination. He said the Academy recommends using the VM-22 credit quality distribution as the investment guardrail. Mr. Carmello said he favors the VM-20 approach and does not support using the VM-22 credit quality distribution. Ms. Eom said she would like to wait to see field test results showing how reserve calculations using the VM-22 credit quality are affected by the current economic environment. Several Subgroup members concurred with Ms. Eom. Mr. Tsang said the Subgroup should determine the credit quality distribution prior to initiating the field test. Brian Bayerle (American Council of Life Insurers—ACLI) said the ACLI favors a credit quality distribution that better reflects companies' existing portfolios.

Mr. Slutsker reviewed the comments submitted by the Texas Department of Insurance (TDI), the California Office of Principle-Based Reserving (OPBR), and the ACLI on the proposed VM-22 revisions document (Attachment Twenty-Five-C). He said the TDI is recommending that the credit quality distribution be set consistently for VM-20, VM-21, and VM-22 at 20% AA-rated bonds and 80% A-rated bonds. Steve Tizzoni (Equitable) said the Equitable comment letter (Attachment Twenty-Five-D) supports the current VM-22 credit quality distribution, which he believes is representative of an A or A- credit quality. He agreed that the approach proposed by the TDI would also be reasonable. Mr. Bayerle asked whether Subgroup members prefer having the same credit quality distribution for VM-20, VM-21, and VM-22 or continuing with separate credit quality distributions for each chapter. Ms. Lam said the California OPBR prefers having separate distributions for each chapter. Mr. Carmello said an argument could be made for having separate credit quality distributions for each product. Mr. Leung expressed the desire to have credit quality distributions differ by product reserving category. Mr. Bayerle said that separating by individual product or product reserving category would increase the complexity for companies. Mr. Leung asked if the Academy might be able to perform model office runs to generate the results for the different credit quality distributions. Mr. Conrad said the Academy, the ACLI, and the NAIC are jointly working to engage a consultant to lead the field test. He said the consultant's task will include model office development. He added that it will be a while before any work results from that effort. Mr. Slutsker asked if it might be possible to use the Academy's existing VM-21 model office to do preliminary testing. Mr. Conrad agreed to check. Mr. Slutsker noted that the majority of Subgroup members favor waiting until field test results are available before deciding on the credit quality distribution approach.

2. Discussed Tier Two Comments on Proposed VM-22 Framework

Mr. Bayerle said the ACLI believes that *Valuation Manual* chapters should share a consistent set of principles. He suggested that there should be a separate chapter in which core principles reside. Several Subgroup members agreed that there should be consistency across chapters. Mr. Boerner said the ACLI could develop a proposal for consistency across the chapters and submit it to the Life Actuarial (A) Task Force. He then said the Subgroup should be allowed to complete its work on the VM-22 proposal before attempting the consolidation of principles into a single chapter.

Mr. Slutsker discussed the TDI recommendation to add a general assumptions section to VM-22 to match similar sections in VM-20 and VM-21. Subgroup members agreed to adding a general assumptions section.

Mr. Slutsker said a TDI comment questioned whether a company should be allowed to retrospectively apply the proposed VM-22 requirements back to the beginning of the transition period. Mr. Leung said he is aware that some companies retrospectively applied VM-20 during its transition period. Ms. Lam said that VM-20 is silent on the question of retrospective application. She said that the California OPBR would want the company to get the approval of its domiciliary commissioner before retrospective application is allowed. The Subgroup agreed that the VM-22 proposal will be silent on retrospective application, with the expectation that any such request must receive domiciliary commissioner approval.

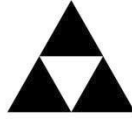
Ms. Lam said that the California OPBR wishes to reconsider its comment requesting early adoption of the proposed requirement. She said the comment considered that VM-21 allowed early adoption but given the Subgroup determination that the application of the proposed VM-22 requirements will be prospective only, early adoption is no longer warranted.

Mr. Slutsker said an ACLI comment asked about the determination of the minimum error on the new index credit hedging program breakage expense. Mr. Bayerle said the minimum error should be tied to the demonstration of the effectiveness of the hedge instrument, with a range as low as zero. Mr. Slutsker said one option is to include the issue in the field test. Mr. Tsang asked if the ACLI could provide data to support the zero minimum error level. Mr. Bayerle said the ACLI will work with companies to provide the support.

Mr. Bayerle said the ACLI proposes the optionality for some products to be exempted from the requirements of the proposed VM-22 requirements without having to pass an exclusion test. He identified the single premium immediate annuity as a product that should qualify for such an exemption.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/04 27/4_27 VM-22 Minutes.docx](https://Support Staff Hub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/04 27/4_27 VM-22 Minutes.docx)



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February 9, 2022

Ben Slutsker, Chair
Valuation Manual (VM)-22 (A) Subgroup
National Association of Insurance Commissioners (NAIC)

Dear Mr. Slutsker,

The American Academy of Actuaries¹ Annuity Reserves and Capital Work Group (ARCWG) has recommended a reinvestment credit quality assumption consistent with the current VM-22 mix. The work group is recommending the VM-22 mix rather than the VM-20/VM-21 reinvestment mix because the VM-22 credit quality distribution is more representative of the actual investment practices of companies. Summarized below are the two different credit quality distributions:

- VM-20/VM-21: 50% AA, 50% A
- VM-22: 5% Treasury, 15% AA, 40% A, 40% BBB (Note: weights are spread out over the three rating notches for non-Treasuries)

The work group thought it might be useful in regulator deliberations to provide an analysis of the difference in the credit spreads net of conditional tail expectation 70 (CTE70) default costs between the VM-20/VM-21 and VM-22 reinvestment mix credit quality assumptions. To this end, the work group created the accompanying spreadsheet showing the credit spreads net of CTE70 defaults for the two reinvestment assumptions for securities with weighted average lives (WALs) of two years, five years, 10 years, and 30 years. The analysis was performed at two points in time: March 31, 2020 (spreads were above the long-term average) and March 31, 2021 (spreads were below the long-term average). Recall that the work group has recommended consistency in methodology with VM-20 and VM-21, so the net spreads grade to the long-term assumptions by year four in both cases. Table A is a summary of the difference between net spreads of the VM-22 mix less net spreads of the VM-20/VM-21 mix:

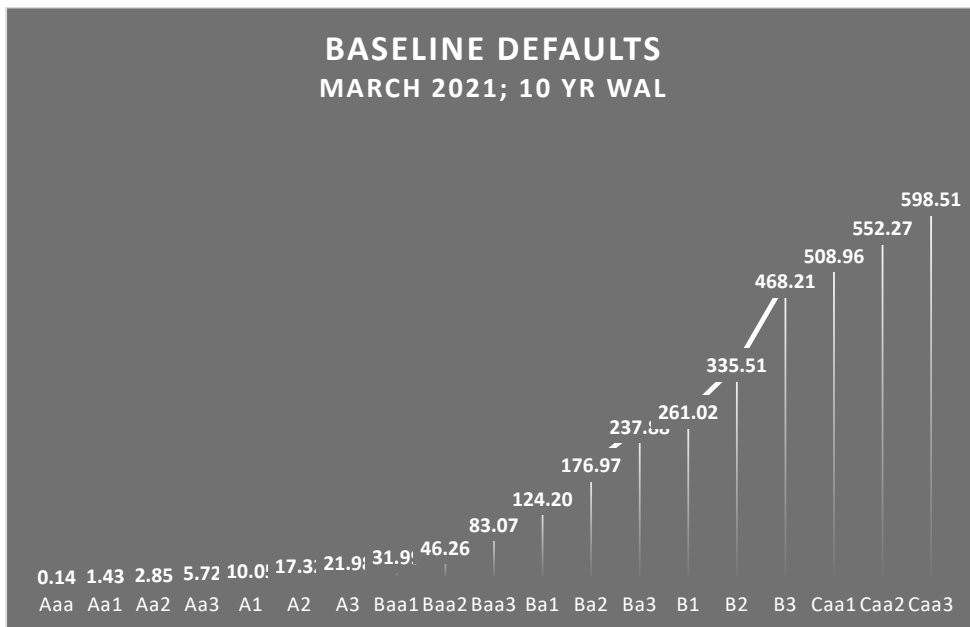
¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Table A

Net Spread Differences for Reinvested Assets by Projection Year									
3/1/2021 ("Low" Spread Environment)					3/1/2020 ("High" Spread Environment)				
(VM-22) - (VM-20/VM-21 Spreads)					(VM-22) - (VM-20/VM-21 Spreads)				
Net of CTE70 Defaults in bps					Net of CTE70 Defaults in bps				
Projection	Year				Projection	Year			
	2Y	5Y	10Y	30Y		2Y	5Y	10Y	30Y
1	21.8	16.3	11.8	6.7	1	36.5	47.3	41.1	34.2
2	21.3	16.9	12.7	8.3	2	30.6	37.1	31.7	26.3
3	20.9	17.6	13.6	10.0	3	24.7	26.9	22.2	18.3
4+	20.5	18.3	14.5	11.6	4+	18.8	16.7	12.8	10.4

Also note that the CTE70 default costs rise exponentially as credit quality decreases, significantly blunting the increase in net spreads (as Table A shows). This relationship is displayed in Table B for a 10-year WAL security.

Table B



That being said, fixed annuities rely on yields in the general account to a greater degree than many other products—e.g., variable annuities—meaning a small change in net spread can have a material impact on the reserve. Taking this into account, and due to the VM-22 distribution better reflecting actual industry investment practices of companies, the work group is recommending a reinvestment credit quality assumption consistent with the current VM-22 mix. We also note that this mix still has significant elements of conservatism, as it omits consideration of private placements, commercial mortgages, structured securities, and below-investment-grade bonds.

Please let us know if you have any follow-up inquiries in response to this analysis. Again, we appreciate the opportunity to present the fixed annuity framework and all of the efforts made by the NAIC VM-22 Subgroup to focus on this topic.

Sincerely,

Chris Conrad
 Chairperson, Annuity Reserves and Capital Work Group
 American Academy of Actuaries

CC: Reggie Mazyck, NAIC

**Comparison of VM-22 and VM-20/VM-21 Spreads Net of CTE70 Defaults
At 3/31/20 and 3/31/21**

Net Spreads for Reinvested Assets by Projection Year					Net Spreads for Reinvested Assets by Projection Year				
3/1/2021 ("Low" Spread Environment)					3/1/2020 ("High" Spread Environment)				
(VM-22) - (VM-20/VM-21 Spreads) Net of CTE70 Defaults in bps					(VM-22) - (VM-20/VM-21 Spreads) Net of CTE70 Defaults in bps				
Projection Year	2Y	5Y	10Y	30Y	Projection Year	2Y	5Y	10Y	30Y
1	21.8	16.3	11.8	6.7	1	36.5	47.3	41.1	34.2
2	21.3	16.9	12.7	8.3	2	30.6	37.1	31.7	26.3
3	20.9	17.6	13.6	10.0	3	24.7	26.9	22.2	18.3
4+	20.5	18.3	14.5	11.6	4+	18.8	16.7	12.8	10.4

March 2021, VM-20/VM-21

Spreads Net of CTE70 Defaults

Year	2Y	5Y	10Y	30Y
1	32.9	53.4	71.9	114.4
2	46.9	68.0	86.3	125.5
3	60.9	82.6	100.7	136.7
4+	74.9	97.2	115.2	147.8

March 2020, VM-20/VM-21

Spreads Net of CTE70 Defaults

Year	2Y	5Y	10Y	30Y
1	188.6	166.6	177.8	196.5
2	150.5	143.2	156.2	179.2
3	112.3	119.7	134.6	162.0
4+	74.1	96.2	113.0	144.7

March 2021, VM-22

Spreads Net of CTE70 Defaults

Year	2Y	5Y	10Y	30Y
1	54.7	69.7	83.7	121.1
2	68.2	84.9	99.0	133.8
3	81.8	100.2	114.3	146.6
4+	95.4	115.5	129.6	159.4

March 2020, VM-22

Spreads Net of CTE70 Defaults

Year	2Y	5Y	10Y	30Y
1	225.1	214.0	218.9	230.6
2	181.0	180.3	187.9	205.5
3	137.0	146.6	156.8	180.3
4+	92.9	112.9	125.8	155.1

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

Drafting Overview: This document is the ARCWG-proposed draft Valuation Manual wording for VM-22 PBR for non-variable annuities. The edits reflected in this draft are made in association with the recommendations in the Annuity Reserves Work Group-proposed VM-22 presentation, exposed by the VM-22 Subgroup in October 2020. Each section shows editorial mark-ups compared to existing VM-20 or VM-21 wording, which is included as a draft note at the beginning of each section (with the only exceptions being Sections 1 and 2 that do not contain mark-ups to existing Valuation Manual wording).

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Section 1: Background

A. Purpose

These requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

Commented [A1]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

B. Principles

The projection methodology used to calculate the stochastic reserve is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Commented [A2]: (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, “products that calculate a stochastic reserve”, since the relationship to RBC would likely be maintained.

Commented [A3]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like-set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to “Section I. Introduction” or “VM-01” and equally applying to VM-20.

Principle 1: The objective of the approach used to determine the stochastic reserve is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Commented [A4]: We support this principle but note that later sections appear to contradict this principle. For example, the statement “The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario.” contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the

stochastic reserve at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle.

Commented [A5]: We suggest deleting the sentence "Generally, assumptions are..." since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model nor a method based on factors calibrated to the results of a cash-flow scenario model can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve. ~~Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.~~

Commented [A6]: We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.
2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Credit risks (e.g., default or rating downgrades).

Commented [A7]: Consistent with our comments on 1.B, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.

- ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
 - iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
 - iv. Performance of equities, real estate, and Schedule BA assets.
 - v. Call risk on callable assets.
 - vi. Separate account fund performance.
 - vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
 - viii. Currency risk.
- b. Liability risks
- i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
 - ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
 - iii. Utilization risk associated with guaranteed living benefits.
 - iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
 - v. Annuitization risks.
 - vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
 - vii. Applicable expense risks, including fluctuation maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.
- c. Combination risks
- i. Risks modeled in the company's risk assessment processes that are related to the contracts, as described above.
 - ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).
 - iii. Risks associated with revenue-sharing income.

Commented [A8]: We recommend removing the bullet "Risks modeled in the company's risk assessment processes that are related to the contracts, as described above" as this is unclear and probably extraneous.

3. The risks not necessarily reflected in the calculation of reserves under these requirements are:

Commented [A9]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

- a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
- a. Asset risks
 - i. Liquidity risks associated with sudden and significant levels of withdrawals and surrenders.
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks
 - i. Deterioration of reputation.
 - ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
 - iii. Poor management performance.
 - iv. The expense risks associated with fluctuating amounts of new business.
 - v. Risks associated with future economic viability of the company.
 - vi. Moral hazards.
 - vii. Fraud and theft.

Commented [A10]: We recommend removing the bullet "Significant future reserve increases as an unfavorable scenario is realized" as this is extraneous.

Commented [A11]: List could be expanded to included operational risk and litigation risk.

Commented [A12]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [A13]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

Deferred Income Annuity (DIA)

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year or later after (or from) the issue date if the contract holder survives to a predetermined future age.

Fixed Indexed Annuity (FIA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, typically with guaranteed principal.

Commented [A14]: Is “typically” intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Flexible Premium Deferred Annuity (FPDA)

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

Funding Agreement

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

Guaranteed Investment Contract (GIC)

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

Index Credit Hedge Margin

A margin capturing the risk of inefficiencies in the company’s hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

Index Credit

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to policy values that is linked to an index or indices. Amounts credited to the policy resulting from a floor on an index account are included.

Index Crediting Strategy

The strategy defined in a contract to determine index credits for a contract. This refers to underlying index, index parameters, date, timing, and other elements of the crediting method.

Commented [A15]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

Index Parameter

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Commented [A16]: The definition states that “Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition”. Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in “2.A. Scope” if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing “typically” from the definition.

Longevity Reinsurance

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with

periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

Market Value Adjustment (MVA) Annuity

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

Modified Guaranteed Annuity (MGA)

A type of market-value adjusted annuity contract where the underlying assets are held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods.

Commented [A17]: We recommend editing the definition as follows “A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account...”

Multiple Year Guaranteed Annuity (MYGA)

A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.

Pension Risk Transfer (PRT) Annuity

An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).

Commented [A18]: Is “typically” intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of “annuity contract” in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.

Registered Index-Linked Annuity (RILA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.

Commented [A19]: It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

Single Premium Immediate Annuity (SPIA)

An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within one year after (or from) the issue date.

Commented [A20]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Single Premium Deferred Annuity (SPDA)

An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.

Stable Value Contract

A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer's general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.

Structured Settlement Contract (SSC)

A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.

Commented [A21]: Suggest striking sentence "Adverse mortality is typically expected for these contracts." from definition. Additionally, it is possible that there may be non-standard settlements.

Synthetic GIC

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the policyholder or plan trust.

Term Certain Payout Annuity

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Two-Tiered Annuity

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

- Contracts or benefits that are subject to VM-21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)
- GICs
- Synthetic GICs
- Stable Value Contracts
- Funding Agreements

Products in scope of VM-22 include fixed annuities which consist of, but are not limited to, the following the list:

- **Account Value Based Annuities**
 - Deferred Annuities (SPDA & FPDA)
 - Multi-Year Guarantee Annuities (MYGA)
 - Fixed Indexed Annuities (FIA)
 - Market-Value Adjustments (MVA)
 - Two-tiered Annuities
 - Guarantees/Benefits/Riders on Fixed Annuity Contracts
- **Payout Annuities**
 - Single Premium Immediate Annuities (SPIA)
 - Deferred Income Annuities (DIA)
 - Term Certain Payout Annuity
 - Pension Risk Transfer Annuities (PRT)
 - Structured Settlement Contracts (SSC)
 - Longevity Reinsurance

The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the

Commented [A22]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.

Commented [A23]: We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Commented [A24]: We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." from this section as it does not seem fitting here.

first three years following the effective date of VM-22 PBR. If a company during the three years elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the stochastic reserve (following the requirements of Section 4) less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR stochastic reserves, per the requirements in Section 3.E.

B. Impact of Reinsurance Ceded

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

Commented [A25]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

C. To Be Determined

D. The Stochastic Reserve

1. The stochastic reserve shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section 3.F herein.
2. The stochastic reserve amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the scenario reserve following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the stochastic reserve if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:
 - a. Aggregate in a manner that is consistent with the company’s risk management strategy and reflects the likelihood of any change in risk offsets that could arise from shifts between product types, and
 - b. Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together
4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

Commented [A26]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

5. To the extent that these limits on aggregation result in more than one model segment, the stochastic reserve shall equal the sum of the stochastic reserve amounts computed for each model segment and scenario reserve amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

1. To the extent that certain groups of contracts pass one of the defined stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in Section 13.
 - a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

Commented [A27]: Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Commented [A28]: We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

2. The approach for grouping contracts when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above.

Commented [A29]: This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 12.

Commented [A30]: Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

G. Prudent Estimate Assumptions:

1. With respect to the Stochastic Reserve in Section 3.C, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
3. To determine the prudent estimate assumptions, the stochastic reserve shall also follow the requirements in Sections 4 and 9 for asset assumptions, Section 10 for policyholder behavior assumptions, and Section 11 for mortality assumptions.

Commented [A31]: This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Commented [A32]: Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Section 4: Determination of Stochastic Reserve

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Section 4.D. The company shall project cash flows including the following:

- a. Revenues received by the company including gross premiums received from the policyholder (including any due premiums as of the projected start date).
- b. All material benefits projected to be paid to policyholders—including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

Commented [A33]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

- c. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.J.
- d. Insurance company expenses (including overhead and investment expense), commissions, contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).
- e. Net cash flows associated with any reinsurance.
- f. Cash flows from hedging instruments as described in Section 4.A.4.
- g. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.
- h. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy

loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

2. Grouping of Index Crediting Strategies

Index crediting strategies may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [A34]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term “investment guideline” as follows: “Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy.”

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy’s specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

a. For a company that does not have a future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:

Commented [A35]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
- ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. The hedge assets may then be considered in one of two ways:
 - a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions—in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Commented [A36]: Suggest rewording “Future hedging program” to “hedging program with future transactions” to avoid ambiguity.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company’s investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

- b. For a company that has a future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:
 - i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to policyholders
 - b) Existing hedging instruments that are currently held by the company for this purpose in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company for any other purpose should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.
 - ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
 - a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve.
 - b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future.

Commented [A37]: “Any other purpose” in the last sentence seems overly broad and should be narrowed.

Commented [A38]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as 0, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.

- c) Consistent with Section 4.A.4.b.i., the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c).
- d) The use of products not falling under the scope of these requirements as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [A39]: Margins are discussed in a different section, so recommend deleting.

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the requirements set forth in VM 21 Section 4.A.5 are met.

Commented [A40]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company’s cash flow testing, and the amounts should be adjusted to a pre-tax basis.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [A41]: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

The scenario reserve for any given scenario shall not be less than the cash surrender value in aggregate on the valuation date for the group of contracts modeled in the projection.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [A42]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:
 Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.
 It is assumed that the accumulated deficiencies for this scenario projection are known.

b. To determine the NAER on additional invested assets for a given scenario:

- i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company’s investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
- ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
- iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the projection period for the scenario. This vector will be the NAER for the given scenario.
- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the stochastic reserve, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:
 - i. Any hedge instruments held in support of the contracts being valued; and
 - ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).
- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company's state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company's investment policy, subject to the following requirements:
 - i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;

- ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in the model investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.
- b. Notwithstanding the above requirements, the model investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained by substituting an alternative investment strategy in which all fixed income reinvestment assets are public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:
- i. 5% Treasury
 - ii. 15% PBR credit rating 3 (Aa2/AA)
 - iii. 40% PBR credit rating 6 (A2/A)
 - iv. 40% PBR credit rating 9 (Baa/BBB)
- c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.ii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above “provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period” is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
 - ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
 - iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
 - iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F.
- b. Cash flows from general account index funds and equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate— including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
 - ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
 - iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.

Commented [A43]: Request clarification around the meaning of “general account index funds”.

- c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.I.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such payout rates shall reflect the payout rate specified in the contract.
- b. For purposes of projecting future elective annuitization benefits and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.

Commented [A44]: Suggest deleting “In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.” as it appears to be covered by E.1.a.

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections may assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [A45]: Suggest deleting “may” as there appears to be only option.

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency (“timestep”) is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.
- 2. Care must be taken in simulating fee income and expenses when using an annual time step. It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

Commented [A46]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded. Therefore, it is necessary to determine the components needed to determine the aggregate reserve—i.e., the stochastic reserve and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2. Stochastic Reserve

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.
 - i. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

- ii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.
 - iii. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum reserve by the absolute value of such reductions in surplus.
- b. In order to determine the stochastic reserve on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
 - i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection

based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties (does not include experience refunds), where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company's experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the pre-reinsurance and post-reinsurance reserves may result in different outcomes for the exclusion test. In particular, it is possible that the pre-reinsurance reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the post-reinsurance reserves might not.

4. To Be Determined

Section 6: To Be Determined

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation if the stochastic exclusion test (SET) is satisfied for that group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve requirements if there are one or more future hedging programs associated with the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.

B. Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

1. Stochastic Exclusion Ratio Test (SERT)—Annually the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. ~~SET Certification Method—For groups of contracts that do not have guaranteed living benefits, future hedging programs, or pension risk transfer business in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material aggregate risk levels across interest rate risk, longevity risk, or asset return volatility risk (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). The company shall provide the certification and documentation supporting the certification to the commissioner upon request.~~

Commented [A47]: We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary's conclusion that the group of contracts is not subject to material interest rate risk, longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that using requirements under VM-A and VM-C for the group of contracts calculated are at least as great as the assets required to support the group of contracts using the company's cash-flow testing model under each of the 16 scenarios identified in this section or alternatively each of the New York seven scenarios.
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk or asset return volatility. Such assessment would include an analysis of product guarantees, the company's non-guaranteed elements (NGEs) policy, assets backing the group of contracts and the company's investment strategy.

C. Stochastic Exclusion Ratio Test

1. **In order to exclude a group of contracts from the stochastic reserve requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of $(b-a)/a$ is less than $[x]\%$ where:**
 - a. a = the adjusted scenario reserve described in Paragraph C.2.a.i below using economic scenario 9, the baseline economic scenario, as described in Appendix 1.E of VM-20.
 - b. b = the largest adjusted scenario reserve described in Paragraph C.2.b below under any of the other 15 economic scenarios described in Appendix 1.E of VM-20 under both $[95]\%$ and $[105]\%$ of anticipated experience mortality excluding margins.

Commented [A48]: As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario, both of which could lead to an incorrect test result.

2. In calculating the ratio in subsection (1) above:
 - a. The company shall calculate an adjusted scenario reserve for the group of contracts for the 16 scenarios that is equal to either (i) or (ii) below:
 - i. The scenario reserve defined in Section 4, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.

- d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
- e) Shall not reflect correlation between longevity and economic risks.
- ii. The gross premium reserve developed from the cash flows from the company’s asset adequacy analysis models, using the experience assumptions of the company’s cash-flow analysis, but with the following differences:
 - a) Using the interest rates and equity return assumptions specific to each scenario.
 - b) Using the mortality scalars described in Paragraph C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company’s cash-flow testing assumptions for default costs and reinvestment earnings.
- b. The company shall use the most current 16 economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
- c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
- d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.
- e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the exclusion test under a pre-reinsurance-ceded basis upon determining the pre-reinsurance reserve-ceded aggregate reserve.
- 3. If the ratio calculated in this section is less than [x]% pre-non-proportional reinsurance, but is greater than [x]% post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.
 - a. An example of an acceptable demonstration:
 - i. For convenience in notation • $SERT = \frac{(b-a)}{a}$ defined in Section 7.C.1 above
 - a) The pre-non-proportional reinsurance results are “gross of non-proportional,” with a subscript “gn,” so denoted $SERT_{gn}$
 - b) The post-non-proportional results are “net of non-proportional,” with subscript “nn,” so denoted $SERT_{nn}$

Commented [A49]: Clarification is needed around reference to “significantly different risk profiles”.

Commented [A50]: We request clarification or definition of the term “non-proportional reinsurance”.

- ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of non-proportional” to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and “net of non-proportional” to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.

iii. So, if $SERT_{gn} \leq [x]$ but $SERT_{nn} > [x]$, then compute the largest percent increase in reserve $(LPIR) = (b-a)/a$, both “gross of non-proportional” and “net of non-proportional.”

$$LPIR_{gn} = (b_{gy} - a_{gy})/a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny})/a_{nn}$$

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn} .

If $SERT_{gn} \times LPIR_{nn}/LPIR_{gn} < [x]$, then the block of contracts passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 16 scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

Commented [A51]: We believe subscript “gy” should be “gn”.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve requirements using the methodology in this section, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:

- a. The demonstration shall provide a reasonable assurance that if the stochastic reserve was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve requirements.
- b. If, as of the end of any calendar year, the company determines the aggregate reserve for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT for those contracts.

Commented [A52]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

- c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.
 - d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with subsection 7.D.1 above:
- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve calculated on a stand-alone basis.
 - b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.
 - c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve calculated on a stand-alone basis, but using a representative sample of contracts in the stochastic reserve calculations.
 - d. Demonstrate that any risk characteristics that would otherwise cause the stochastic reserve calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the policyholder by contract provision.

E. Deterministic Certification Option

1. The company has the option to determine the stochastic reserve for a group of contracts using a single deterministic economic scenario, subject to the following conditions.
- a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of policies. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.
 - b. The company certifies that the group of policies is not supported by a reinvestment strategy that contains future hedge purchases.
 - c. The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing the scenario reserve volatility across various economic scenarios.

- d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

2. The stochastic reserve for the group of contracts under the Deterministic Certification Option is determined as follows:
 - a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
 - b. The stochastic reserve equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a Future Hedging Strategy

A. Initial Considerations

- i. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits, or (b) clearly separates index credit hedging from other hedging. In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
- 2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the stochastic reserve, determined in accordance with Section 3.D and Section 4.D.
- 3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months.
- 4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
- 5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

Commented [A53]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [A54]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [A55]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

B. Modeling Approaches

- 1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the stochastic reserve otherwise calculated.
- 2. The fundamental characteristic of the first type of method, referred to as the "explicit method," is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the stochastic reserve otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the stochastic reserve needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the stochastic reserve attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or mock tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

C. Calculation of Stochastic Reserve (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no hedging strategy except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the stochastic reserve is given by:

$$\text{Stochastic reserve} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent 12 months, to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E , the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.
 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).
 - iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.

- iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with no history, E should be at least 0.50. However, E may be lower than 0.50 if some reliable experience is available and/or if the change in strategy is a refinement rather than a substantial change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

D. Specific Considerations and Requirements

- 1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for

purposes of reducing the stochastic reserve, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserve, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
- a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserve otherwise calculated.

Commented [A56]: Suggest replacing “indexed” with “fixed” since this would apply to all fixed annuities.

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the results. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [A57]: We would suggest rewording this section to be considerations rather than posed as questions.

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.
2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to

completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.

3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more behaviors.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
2. Using data from prior periods.

D. Specific Considerations and Requirements

1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).

Commented [A58]: Suggest updating bullet to “Other material behavior assumptions if relevant to the risks in the product.”

- b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date
 - h. Commutation of benefit (from periodic payment to lump sum)
2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.
- For example:
- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic asset re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
 - b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
 - c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.
3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.
4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
- a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, transfer fees or other contract charges.
 - l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders’ efficiency will increase over time.

6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section I.B, and with the guidance and requirements in this section.
8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

Commented [A59]: This section states that “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally.” This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states “When advantageous, policyholders will commence living benefit payouts if not started yet.”. We suggest revising 6.H.2 to align with the text of 10.D.8.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder.
2. The company should exercise care in using static assumptions when it would be more natural and reasonable to use a dynamic model or other scenario-dependent formulation for behavior. With due regard to considerations of materiality and practicality, the use of dynamic models is encouraged, but not mandatory. Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers) may require higher margins and/or signal a need for higher margins for certain other assumptions.
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [A60]: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of

the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:

- a. Declining and/or volatile index values, where applicable.
- b. Price gaps and/or liquidity constraints.
- c. Rapidly changing interest rates or persistently low interest rates.
- d. Volatile credit spreads.

Commented [A61]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

- 2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:
 - a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
- 4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
- 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

- 1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10 above in this section.

2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's utilization or to reflect average utilization over a model segment or sub-segments.
 - c. Model policy loan interest in a manner consistent with policy provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)
 - d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
 - e. Model additional policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
 - f. Model any investment expenses allocated to policy loans and include them either with policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect policy costs or values and not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to fixed annuities include but are not limited to the following: fixed credited rates, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

1. Except as noted below in Section 10.J.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company's past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.

4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the policy's or contract's experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.
6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company's option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting aggregate stochastic reserve.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting aggregate stochastic reserve should be reduced by the amount of the dividend liability.
7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

Commented [A62]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the stochastic reserve. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. (Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are “PRT contracts,” it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

- 4. **Margin for Data Uncertainty**
 The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

Commented [A63]: Termining the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a plus (minus) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a plus (minus) segment to a minus (plus) segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

3. No Data Requirements

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

- a. [2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table “a”] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Commented [A64]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it’s not clear in B.3.ii.c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Table 11.1

Attained Age (x)	F _x	
<=65	80.0%	
66	81.5%	
67	83.0%	
68	84.5%	
69	86.0%	
70	87.5%	
71	89.0%	
72	90.5%	
73	92.0%	
74	93.5%	
75	95.0%	
76	96.5%	
77	98.0%	
78	99.5%	
79	101.0%	
80	102.5%	
81	104.0%	
82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	

86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, an established industry or national mortality table may be used, with approval from the domiciliary commissioner.

Commented [A65]: The phrase “When little or no experience or information is available on a business segment” is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves with the mortality assumption described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Commented [A66]: Both plan and industry data should get weighted for business such as PRT. This text says to blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the mortality table used in the blending.

2. Adjustment of Statutory Valuation Mortality for Improvement

For purposes of the adjustment for credibility, the mortality table for a plus segment may be and the mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

Commented [A67]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.
- b. Not tend to bias the results in any material way.
- c. Be practical to implement.
- d. Give consideration to the need to balance responsiveness and stability.
- e. Take into account not only the level of aggregate claims but the shape of the mortality curve.

- f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting stochastic reserve. If such an adjustment would reduce the stochastic reserve, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Allocation of Aggregate Reserves to the Contract Level

Commented [A68]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.
 - 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai) \sum Ai * [Aggregate Reserve - \sum Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the stochastic reserve defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the stochastic reserve defined in 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}[(2), 0]$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}[(4 \text{ Total}) - (1 \text{ Total}), 0]$	Allocated Excess Reserve (6) = (3) x $[(5 \text{ Total}) / (3 \text{ Total})]$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value

**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Section 13: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, are covered in this section:
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Guidance Note: For Section 13.A.2.d, Section 13.A.2.e, Section 13.A.2.f and Section 13.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section 13.A.2.d, Section 13.A.2.e, Section 13.A.2.f, Section 13.A.2.g or Section 13.A.2.h, the company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such

permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo

contract.

4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section 13 current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets

- a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
- b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 13.C.1) and its Premium Determination Date (Section 13.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 13.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 13.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 13.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section 13.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section 13.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section 13.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 13.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 13.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 13.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 13.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
 - i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for individual annuities for males (ANB).
- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.

- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section 13.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II, Reserve Requirements

Commented [A69]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 13 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 12 of VM-22.
- E. The below principles may serve as key considerations for assessing whether VM-21 or VM-22 requirements apply:
 - 1. Index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM-22 requirements:
 - a. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
 - b. Credits a rate of interest under the contract that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM-22 requirements.

- 2. Index-linked or modified guaranteed annuity contracts that do not satisfy either of the two conditions listed above in Paragraph E.1.i and E.1.ii may be a key consideration for application of VM-21 requirements.

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

- A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.
- B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, Nursing Home Benefits or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.
- C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.
- D. Any guaranteed minimum benefits on life insurance policies or annuity contracts not subject to Paragraph C above including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
- E. If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
 - 1. The rider or supplemental benefit does not have a separately identified premium or charge.
 - 2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
 - 3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.
- F. If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

- G. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.
- H. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves using the following principles:
1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
 2. When advantageous, policyholders will commence living benefit payouts if not started yet.

Commented [A70]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.



EQUITABLE

DATE: November 19, 2021

FROM: Stephen Tizzoni, Head of Actuarial Regulatory Affairs

SUBJECT: Equitable Comments on Fixed Annuity Principles Based Reserve (PBR) Proposal

Equitable appreciates the opportunity to comment on the exposed Fixed Annuity PBR framework. Below are our views on two key aspects of the framework: (1) Standard Projection Amount; and (2) Aggregation of Reserves. The remainder of our views are appropriately captured in the ACLI comment letter.

Standard Projection Amount (SPA): Equitable favors the Standard Projection Amount as a binding floor over a non-binding disclosure item. A binding Standard Projection Amount mitigates the risk of overly optimistic company assumptions feeding reserves that will ultimately be insufficient to pay for future policyholder obligations. We cite several reasons in support of its use as a binding floor:

- Success of precedent: VM-21 is the industry precedent for holding a Standard Projection Amount as a binding floor. While some argue that this aspect of the framework may produce a non-economic reserve, in practice, the VM-21 Standard Projection Amount has had no such effect; rather, we believe its enactment motivated several companies to strengthen their weakest assumptions.
- Resource prioritization: The scope of VM-22 is vast, and therefore the Standard Projection Amount assumptions may be resource-intensive to develop. We believe that making the Standard Projection a binding floor will attract appropriate focus on its calibration.
- Leverages valuable industry data: Companies have differential amounts of experience data upon which to formulate assumptions. The SPA will ensure companies without access to credible experience data have a guardrail to use in their otherwise judgmental assumption setting process.
- Safeguard against actuarial judgment for untested assumptions: The Standard Projection Amount allows regulators to safeguard the industry against historically untested assumptions, such as policyholder behavior (e.g. lapses) when interest rates change significantly from business conditions at issue, or very long-dated lapse or persistency risk.
- Addresses a priority gap in the regulatory framework: The mis-estimation of complex actuarial processes has been the root cause behind the most acute insurer insolvencies. At present, the reserve and capital framework (a) omit any RBC charge for the preponderance of complex actuarial risks and (b) the provision for adverse deviations in reserves has frequently failed to protect insurers from severe losses. The establishment of properly calibrated guardrails on assumptions material in impact and high in uncertainty will eliminate the likelihood of severe insolvencies driven by actuarial mis-estimation and rectify a gap in the regulatory framework.

We also recommend that regulators carefully define the scope of the Standard Projection Amount assumptions and, for insignificant assumptions that are difficult to develop, rely on the company's own principles-based assumptions with appropriate scrutiny and disclosure.

Aggregation of Reserves / Reserving Categories: Per Equitable’s December 2020 comment letter, we support full aggregation for purposes of calculating the VM-22 reserve as the aggregation of risk is at the core of the insurance industry. As noted previously, the key risk of including aggregation within reserving is the risk that the projected profits are not realized and are not available to supplement reserves for in-the-money contracts/product lines. As such, the risk of aggregation equates to the risk that economic and policyholder behavior assumptions on profitable product lines are not realized. These risks can be mitigated through mechanisms such as a binding Standard Projection Amount that ensures company assumptions are not idealistic.

If less than full aggregation was permitted, we support splitting products based on payout vs. accumulation phase as reflected in Option 2 in the exposure draft.

Conclusion: Equitable appreciates the opportunity to comment on the exposed VM-22 proposal and we look forward to continuing to work with regulators to reach an appropriate principle based reserving framework for fixed annuities. We are available to discuss our comments further as desired.

Sincerely,



Stephen M. Tizzoni, FSA, MAAA

Stephen Tizzoni, Head of Actuarial Regulatory Affairs

Draft: 4/27/22

Valuation Manual (VM)-22 (A) Subgroup
Virtual Meeting
April 13, 2022

The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force met April 13, 2022. The following Subgroup members participated: Ben Slutsker, Chair (MN); Ahmad Kamil, Elaine Lam, and Thomas Reedy (CA); Lei Rao-Knight (CT); Mike Yanacheak (IA); Vincent Tsang (IL); Nicole Boyd (KS); William Leung (MO); Seong-min Eom (NJ); Bill Carmello and Amanda Fenwick (NY); Rachel Hemphill (TX); Tomasz Serbinowski (UT); and Craig Chupp (VA).

1. Heard an Update on Revisions to VM-22

Mr. Slutsker discussed a spreadsheet (Attachment Twenty-Six-A) developed to categorize the 378 comments on the American Academy of Actuaries' (Academy's) proposed revisions (Attachment Twenty-Six-B) to VM-22, Statutory Maximum Valuation Interest Rates for Income Annuities. He said the comments are categorized into four tiers based on significance: 1) Key Decision Points; 2) High Substance Edits; 3) Moderate Substance Edits; and 4) Noncontroversial or Low Substance Edits, with the preponderance of comments falling into the latter tier.

Mr. Slutsker said the implementation date of the VM-22 revisions is scheduled for January 2024 but hinges upon the completion of a VM-22 field test. He noted that the date of the VM-22 field test is dependent on the completion of the economic scenario generator (ESG) field test to be conducted by the Life Actuarial (A) Task Force. He said deferring the VM-22 field test to 2023 could push the VM-22 implementation date to January 2025.

Ms. Lam said the California Department of Insurance (CDI) Office of Principle-Based Reserving (OPBR) comments (Attachment Twenty-Six-C) on the revisions to VM-22 highlighted formatting and definitions that are inconsistent with what is used in VM-20, Requirements for Principle-Based Reserves for Life Products. She also suggested listing the products that are in scope ahead of the products that are not in scope.

Paul S. Graham (American Council of Life Insurers—ACLI) said the ACLI comment letter (Attachment Twenty-Six-D) advocates for a principle-based approach to determining whether an annuity product is covered by VM-22 or VM-21, Requirements for Principle-Based Reserves for Variable Annuities. Chris Conrad (Academy) said the Academy favors an exclusion approach, which would identify annuity products that are in scope for VM-21 and have all other annuities fall under VM-22. Mr. Graham said the ACLI would be comfortable with that approach. Mr. Leung suggested using the Indexed-Linked Variable Annuity (ILVA) as a test case when developing the principles. Mr. Graham agreed that the ACLI could develop draft language it could share with the Academy before presenting it to the Task Force. He suggested that once the principle-based language is deemed acceptable for VM-22, it should also be considered for use in VM-21.

Mr. Slutsker discussed the two options that the Subgroup considered in July 2021 for determining reserving categories for aggregating annuity contracts. He said the first option lists the specific products in the Payout Annuity Reserving category, and the second option uses the principle-based approach of broadly defining both the Payout Annuity Reserving category and the Accumulation Annuity Reserving category. Mr. Conrad said the Academy supports principle-based aggregation that is consistent with the company's risk management strategy and reflects any potential risk offsets. He said the same aggregation principles should be applied to exclusion testing, CTE-70 calculation grouping, and comparing final reserve components. Ms. Hemphill said while the Texas Department of Insurance (TDI) supports full aggregation, it would support the decision of the Subgroup if it chose something more conservative. She caveated that the TDI would want the Subgroup's position to be clearly defined. Mr. Carmello said the New York State Department of Financial Services (NYDFS) prefers Option 1 but

would like to see “Other” listed as the tenth product type of the list provided in Option 1. Steve Tizzoni (Equitable) said Equitable supports full aggregation as a core of the way risks are measured and managed. He said of the two available options, Equitable favors Option 2. Ms. Lam said the OPBR would be in favor of Option 2 if it also requires the company to disclose the thought behind each product categorization. Ms. Rao-Knight said she also prefers full aggregation but would support Option 2 with disclosures. Mr. Leung said he prefers Option 1, as it would provide clarity without requiring disclosures. Cindy Barnard (Pacific Life) said if a company has products with both disintermediation risk and longevity risk, the risks may fluctuate, making it difficult to disclose which is the greater risk at any given time. Mr. Slutsker called for a straw vote. Option 1 received seven votes, while Option 2 received four votes. Mr. Slutsker said Option 1 will serve as placeholder as VM-22 development continues.

Mr. Slutsker began discussion on the potential for including an exemption, like the VM-20 Life Principle-Based Reserving (PBR) exemption, in VM-22. Mr. Graham expressed the ACLI’s support of an exemption that may be applied to small blocks of business. He suggested that the exemption may be based on a comparison of reserves held in the previous year. Mr. Slutsker said exemption comments were also submitted by Erie Family Life (Attachment Twenty-Six-E). Ms. Hemphill, Mr. Leung, and Mr. Chupp agreed that an exemption of some type should exist. Mr. Tsang also agreed, but he added that the exemption should be accompanied by asset adequacy testing (AAT). Ms. Hemphill said requiring AAT concepts is more akin to an exclusion than an exemption criterion. Ms. Lam said the CDI OPBR suggested that the exemption should consider the nature of the block of business, in the same way the VM-20 exemption prohibits material universal life policies with secondary guarantees (ULSG) from exemption. Mr. Graham said he is concerned that the companies desiring exemption due to a lack of resources would also have challenges allocating the resources to AAT. The ACLI agreed to develop an initial draft of VM-22 exemption language in 45 days. John Robinson (unaffiliated) said historically, there has been concern that payout annuities are under reserved. He suggested that Subgroup members keep that issue in mind when deciding whether and how to allow exemptions.

Having no further business, the VM-22 (A) Subgroup adjourned.

[https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/Summer LATF Calls/VM-22 Subgroup/04 13/4_13 VM-22 Minutes.docx](https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/Summer LATF Calls/VM-22 Subgroup/04 13/4_13 VM-22 Minutes.docx)

VM-22 Draft Comment Overview - Breakdown by Section & Tier

Section	Tier 1	Tier 2	Tier 3	Tier 4	Total	%
Title and TOC	0	0	0	2	2	1%
VM-22 Section 1	2	4	18	33	57	15%
VM-22 Section 2	2	3	2	18	25	7%
VM-22 Section 3	0	4	11	17	32	8%
VM-22 Section 4	1	3	17	36	57	15%
VM-22 Section 5	0	1	0	17	18	5%
VM-22 Section 6	0	0	2	1	3	1%
VM-22 Section 7	0	5	20	44	69	18%
VM-22 Section 8	0	0	0	0	0	0%
VM-22 Section 9	0	2	4	15	21	6%
VM-22 Section 10	0	0	4	40	44	12%
VM-22 Section 11	0	2	4	20	26	7%
VM-22 Section 12	0	2	0	1	3	1%
VM-22 Section 13	0	0	3	3	6	2%
VM-22 Section 14	0	0	0	1	1	0%
VM II Subsection 2	1	1	1	6	9	2%
VM II Subsection 6	0	0	1	4	5	1%
Total	6	27	87	258	378	100%
	2%	7%	23%	68%	100%	

Comment Categories:

- Tier 1: Key Decision Points – Discuss first
- Tier 2: High Substance Edits – Discuss second
- Tier 3: Moderate Substance Edits – Discuss third
- Tier 4: Noncontroversial or Low Substance Edits – Will expose and only discuss upon comment

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

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Commented [CD1]: Please clarify which version (i.e., effective date) of the VM was used for the comparison. Before any changes for VM-22 are adopted, a final comparison against the latest version of the VM will need to be performed.

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Commented [X2]: Note that part of the 2022 VM updates was to replace all instances of "stochastic reserve" with "SR" other than the initial definition in VM-01.

Section 1: Background

A. Purpose

~~Sections 1 through 13 of these requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. Section 14 of these requirements establish the maximum valuation rate for payout annuities for contracts issued on or after 1/1/2018. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts and certificates, the Commissioners Reserve Valuation Method (CRVM).~~

Guidance Note: CRVM requirements apply to some group pension contracts.

B. Principles

The projection methodology used to calculate the ~~stochastic reserve~~SR is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the ~~stochastic reserve~~SR is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the ~~stochastic reserve~~SR is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the ~~stochastic reserve~~SR at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Guidance Note: Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the

Commented [X3]: The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).

Commented [CD4]: might be clearer to refer to "Section 2.A" here

Commented [X5]: The statement only addresses "contracts". Recommend adding "and certificates". Need to do a holistic review if where "and certificates" may be needed.

Commented [X6]: (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, "products that calculate a stochastic reserve", since the relationship to RBC would likely be maintained.

Commented [X7]: We would support consistent application of principles across all chapters as currently VM-20 does not have a like-set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section I. Introduction" or "VM-01" and equally applying to VM-20.

Commented [CD8]: for consistency, will this edit be considered for VM-21 as well?

Commented [X9]: We support this principle but note that later sections appear to contradict this principle. For example, the statement "The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario." contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).

Commented [X10]: Principle 2: Recommend reinstating Guidance Note in Principle 2 to be consistent with VM-21.

company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the ~~stochastic reserve~~SR at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the ~~stochastic reserve~~SR, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle. More guidance and requirements for setting assumptions in general are provided in Section 12.

Commented [X11]: We suggest deleting the sentence "Generally, assumptions are..." since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.

Commented [X12]: Need general assumption guidance section

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the ~~stochastic reserve~~SR is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model ~~nor a method based on factors calibrated to the results of a cash-flow scenario model~~ can completely quantify a company's exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the ~~stochastic reserve~~SR. ~~Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve~~SR without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit "foreknowledge" of the components of the required methodology.

Commented [X13]: Principle 5 has the statement "nor a method based on factors calibrated to the results of a cash flow scenario model" which is intended for the Alternative Methodology in VM-21. The statement should be deleted from VM-22.

Commented [X14]: We recommend deleting the third sentence (starting with "Therefore, the use of assumptions...") because this lacks historical context and is covered by the final sentence.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.

Commented [X15]: Consistent with our comments on 1.B, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.

Commented [CD16]: VM-21 has "... and Risks Not Reflected" in this section header, which should be retained here since the section on risks not reflected is still in here.

2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:

a. Asset risks

- i. Credit risks (e.g., default or rating downgrades).
- ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
- iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
- iv. Performance of equities, real estate, and Schedule BA assets.
- v. Call risk on callable assets.
- vi. Separate account fund performance.
- vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
- viii. Currency risk.

Commented [CD17]: Can a non-variable annuity have a separate account fund? I am not aware of any such annuity, that is not a variable annuity. Furthermore, all references to separate accounts and fund performance were deleted from this draft. Thus, we should consider deleting this item from the list.

b. Liability risks

- i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
- ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
- iii. Utilization risk associated with guaranteed living benefits.
- iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
- v. Annuitization risks.
- vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
- vii. Applicable expense risks, including fluctuation in maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.

Commented [CD18]: Is there a distinction between "dump-ins" and "deposits"? Why are both words needed? Also, if it's determined that both words are needed, should this same change be made in VM-21?

Commented [X19]: Recommend change to "fluctuation in" maintenance expenses for clarity.

Commented [CD20]: should this same change also be made to VM-21?

c. Combination risks

- i. Risks modeled in the company's risk assessment processes that are related to the contracts, as described above.
- ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).

Commented [X21]: We recommend removing the bullet "Risks modeled in the company's risk assessment processes that are related to the contracts, as described above" as this is unclear and probably extraneous.

iii. Risks associated with revenue-sharing income.

3. The risks not necessarily reflected in the calculation of reserves under these requirements are:

a. Those not associated with the policies or contracts being valued, or their supporting assets.

b. Determined to not be capable of materially affecting the reserve.

Commented [X22]: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

Commented [CD23]: Suggest eliminated "policies or", since customarily, annuities are "contracts"

4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:

a. Asset risks

i. Liquidity risks associated with a sudden and significant levels of withdrawals and surrenders; "run on the bank."

Commented [CD24]: This is not in VM-21, and my suggestion would be to delete this

Commented [X25]: Proposed revision is not appropriate. Item (a) is unnecessary, and items under (b) would be addressed via simplifications and thus are indirectly reflected. Recommend deleting the whole section 1.C.3 including item (a) and item (b).

b. Liability risks

i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.

ii. Catastrophic events (e.g., epidemics or terrorist events).

iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.

iv. Significant future reserve increases as an unfavorable scenario is realized.

Commented [CD26]: should this same change also be made to VM-21?

Commented [X27]: The revised language "sudden and significant levels of withdrawal and surrenders" replaces the original language "run on the bank" and is less clear. Does "significant" mean severe or extreme? Or just appreciably? Withdraws and surrenders certainly may vary by projected economic scenarios. Recommend using the original language "run on the bank" that had a clearer intent.

c. General business risks

i. Deterioration of reputation.

ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.

iii. Poor management performance.

iv. The expense risks associated with fluctuating amounts of new business.

v. Risks associated with future economic viability of the company.

vi. Moral hazards.

vii. Fraud and theft.

viii. Operational.

ix. Litigation.

Commented [X28]: We recommend deleting the wording "fundamentally". If a breakthrough is known to have fundamentally changed expected future mortality, but is not yet significantly reflected in historical experience, why is it not reflected? Do we know about this fundamental shift for years before it is reflected? This issue also applies to the VM-21 requirement.

Commented [X29]: We recommend removing the bullet "Significant future reserve increases as an unfavorable scenario is realized" as this is extraneous.

Commented [X30]: List could be expanded to include operational risk and litigation risk.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

• **Deferred Income Annuity (DIA)**

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year, 13 months or later after (or from) the issue date if the contract holder survives to a predetermined future age.

• **Fixed Indexed Annuity (FIA)**

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, subject to certain limits, typically with guaranteed principal.

• **Flexible Premium Deferred Annuity (FPDA)**

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

• **Funding Agreement**

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

• **Guaranteed Investment Contract (GIC)**

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

• **Index Credit Hedge Margin**

A margin capturing the risk of inefficiencies in the company's hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

• **Index Credit**

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to contract policy values that is linked to an index or indices. Amounts credited to the contract policy resulting from a floor on an index account are included.

Commented [X31]: It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of "Fixed Annuity" instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.

Commented [CD32]: The format of this Definitions section is inconsistent with other parts of the VM. In VM-01 and VM-21, each defined term is numbered, and is defined in this format (for example):
1. The term "buffer annuity" is interchangeable with the term "registered index-linked annuity (RILA)", as defined in Section 1.D.?

Commented [X33]: The term Buffer Annuity is not interchangeable to Registered Index-Linked Annuity (RILA) since Buffer Annuity is a subset of RILA. RILA can have different downside protections such as "Buffer" or "Floor". Recommend deleting Buffer Annuity or add descriptions for Buffer Annuity as a subtype in the RILA definition.

Commented [X34]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Commented [X35]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [X36]: Is "typically" intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?

Commented [CD37]: insert: "subject to certain limits,"

Commented [X38]: The definition of FIA describes the account value as typically with guaranteed principal. Since FIA always has the guaranteed principal, recommend deleting the wording "typically".

Commented [CD39]: should be "contract"

Commented [CD40]: should be "contract"

- **Index Crediting Strategy**

The strategy defined in a contract to determine index credits for a contract. ~~This refers to~~For example, this may refer to underlying index, index parameters, date, timing, performance triggers, and other elements of the crediting method.

- **Index Parameter**

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Commented [X41]: We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.

- **Longevity Reinsurance**

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Commented [X42]: The definition states that "Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition". Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out of scope list in "2.A. Scope" if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing "typically" from the definition.

- Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Commented [VM2243R42]: Target resolving definition of longevity reinsurance prior to addressing NJ comment letter on using a potential net premium method

Commented [VM2244]: New Jersey comment letter: due to future premiums, longevity reinsurance may generate negative reserves, which can be used to eliminate or reduce other immediate annuity reserves. Suggest using net premium methodology, solving for a k-factor at issue to solve for $PV(\text{premiums}) = PV(\text{benefits})$.

- Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

Commented [VM2245R44]: Target resolving definition of longevity reinsurance prior to addressing NJ comment.

- **Market Value Adjustment (MVA) Annuity**

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

- **Modified Guaranteed Annuity (MGA)**

A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values and death benefits that are based upon a market-value adjustment formula if held for shorter periods.

Commented [X46]: We recommend editing the definition as follows "A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account..."

Commented [X47]: To clarify definition of MGA, recommend adding "death benefits".

- **Multiple-Year Guaranteed Annuity (MYGA)**
 A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.
- **Pension Risk Transfer (PRT) Annuity**
 An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).
- **Registered Index-Linked Annuity (RILA)**
 An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.
- **Single Premium Immediate Annuity (SPIA)**
 An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within 13 months one year after (or from) the issue date issue date.
- **Single Premium Deferred Annuity (SPDA)**
 An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.
- **Stable Value Contract**
 A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer's general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.
- **Structured Settlement Contract (SSC)**
 A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.
- **Synthetic Guaranteed Investment Contract (Synthetic GIC)**

Commented [CD48]: should this be "Multi-Year" instead of "Multiple Year"? The former is the more commonly used term for MYGA

Commented [CD49]: "fixed annuity" is not defined. Is it better to change all instances of "fixed annuity" to "non-variable annuity" to be consistent with the terminology introduced in Section 1.A (and to be aligned with the actual VM-22 chapter name)? An alternative could be to add a definition for "fixed annuity", with the definition of it being a "non-variable annuity"

Commented [CD50]: ok to keep this as "multiple year"

Commented [X51]: Is "typically" intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of "annuity contract" in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.

Commented [X52]: It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

Commented [X53]: If need to address Buffer Annuity (not sure this is needed), can add here as a subset of RILA.

Commented [X54]: Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.

Commented [X55]: The wording "after (or from)" the issue date used in the DIA and SPIA definitions is confusing. Recommend keeping it simple as "from" the issue date.

Commented [X56]: Suggest striking sentence "Adverse mortality is typically expected for these contracts." from definition. Additionally, it is possible that there may be non-standard settlements.

Commented [CD57]: suggest spelling out GIC first, followed by the acronym

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the contract policyholder or plan trust.

Commented [CD58]: should be "contract holder"

• **Term Certain Payout Annuity**

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

• **Two-Tiered Annuity**

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

The term "cash surrender value" means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.

Commented [CD59]: this definition still applies, should we keep it?

The term "guaranteed minimum death benefit" (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:

Commented [CD60]: this definition still applies, should we keep it?

- is increased by an amount that may be either specified by or computed from other policy or contract values; and

- has the potential to produce a contractual total amount payable on such death that exceeds the account value; or

- in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.

E. Materiality

The company shall establish a standard containing the criteria for determining whether an assumption, risk factor, or other element of the principle-based valuation has a material impact on the size of the reserve. This standard shall be applied when identifying material risks.

Commented [X61]: Add consistent with VM-21 Section 1.E, which was added to the 2022 VM.

Commented [X62]: Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of ~~this Sections 1 to 13~~ of VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

1. ~~Contracts or benefits that are subject to VM 21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)~~
2. ~~GICs~~
3. ~~Synthetic GICs~~
4. ~~Stable Value Contracts~~
5. ~~Funding Agreements~~

Products in scope of VM-22 include ~~non-variable fixed annuities~~ which consist of, but are not limited to, the following ~~the~~ list:

▪ **Account Value Based Annuities**

1. Deferred Annuities (SPDA & FPDA)
2. Multi-Year Guarantee Annuities (MYGA)
3. Fixed Indexed Annuities (FIA)
4. Market Value Adjustments (MVA)
5. Two-tiered Annuities
6. Guarantees/Benefits/Riders on Non-Variable Fixed Annuity Contracts

▪ **Payout Annuities**

1. Single Premium Immediate Annuities (SPIA)
2. Deferred Income Annuities (DIA)
3. Term Certain Payout Annuities
4. Pension Risk Transfer Annuities (PRT)
5. Structured Settlement Contracts (SSC)
6. Longevity Reinsurance

Products out of scope include:

1. Contracts or benefits that are subject to VM-21 (such as variable annuities and RILAs)
2. GICs
3. Synthetic GICs
4. Stable Value Contracts
5. Funding Agreements

~~The company may elect to exclude one or more groups of contracts from the stochastic reserveSR calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM 22.~~

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Commented [X63]: We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.

Commented [X64]: The reserving categories for VM-22 are not included in Scope. Recommend including the defined reserving categories in the section when outlining Scope.

Commented [VM2265R64]: See NY comment letter; supports option 1, with additional category for "other" for any other contract with supporting assets such that there is greater reinvestment and longevity risks, than disintermediation risk and other risks associated with policyholder behavior as of the valuation date.

Commented [VM2266R64]: See Equitable comment letter; supports full aggregation, but if choosing betwe ... [1]

Commented [CD67]: suggest numbering the paragraphs within this section

Commented [CD68]: suggest swapping the order of this section. That is, start with the "in scope" list, rather th ... [2]

Commented [X69]: Since buffer annuities are a subset of RILA, recommend deleting buffer annuities.

Commented [CD70]: this is not defined in the Definition section. should it be?

Commented [X71]: This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" ... [3]

Commented [CD72]: should this be "non-variable annuities" since that is term used in Section 1.A?

Commented [X73]: Typo. Delete extra "the".

Commented [CD74]: grammar - delete "the"

Commented [CD75]: should have space instead of dash

Commented [CD76]: delete the "s" and add "Annuities"

Commented [CD77]: should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defin ... [4]

Commented [CD78]: for consistency, make plural; i.e., change to "ies"

Commented [X79]: We suggest moving or deleting the sentence "The company may elect to exclude one or n ... [5]

Commented [CD80]: self-referencing "VM-22" is not necessary

Commented [X81]: Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old V ... [6]

Commented [CD82]: again, suggest numbering the paragraphs within this section

Commented [X83]: We still have a question about whether RBC factors are still at an appropriate level, if ... [7]

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the ~~three years~~ year transition period elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Commented [X84]: Need to clarify what is meant by "VM-22 PBR Requirements". Add specific section references, or update proposal to have the PBR and non-PBR sections of this VM-22 draft in different chapters. After having reviewed, we think it would be much more clear to reconsider the use of "VM-23" for the PBR requirements to avoid ambiguity around scope/exclusions. The non-PBR sections also just don't seem to fit in this draft, and there is now ambiguity around whether other parts of VM-22 apply to them (scope, effective date, principles, etc.).

Commented [X85]: To be more clear, recommend adding "transition period" to "the three years".

Commented [X86]: Can a company wait until the end of the transition period to start PBR, but then apply PBR to the issues from during the transition period? This was unclear for VM-20, and still seems unclear here. Need to be explicit one way or the other.

Commented [CD87]: Will we (or should we) allow for any early adopters (like we did for VM-21)? It would seem reasonable to us to consider accommodating early adopters

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the ~~stochastic reserve~~SR (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) plus the DR for those contracts satisfying the Deterministic Certification Option,~~ less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Commented [X88]: Reinstate and modify later as needed - SPA being developed in separate workflow.

Commented [X89]: One of the most confused parts of the draft was referring to a DR as the SR for certain contracts. Need to handle and refer to separately.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR ~~stochastic reserves~~SRs, per the requirements in Section 3.E.

B. Impact of Reinsurance | ~~Ceded~~ |

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

Commented [X90]: Guidance is needed on how a pre-reinsurance reserve is to be determined.

~~C. To Be Determined~~The Additional Standard Projection Amount

D. The Stochastic Reserve

~~The stochastic reserve~~

The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.

Commented [X91]: Reinstate and modify later as needed - SPA being developed in separate workflow.

D. The SR

1. The SR shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section ~~3.GF~~ herein.
2. The ~~stochastic reserve~~SR amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the ~~scenario reserve~~DR following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the ~~stochastic reserve if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles;~~SR

Commented [CD92]: Should this be Section 3.G?

Commented [X93]: Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

a. Aggregate in a manner that is consistent with the company's risk management strategy and reflects the likelihood of any change in risk offsets that could arise from shifts between product types, and

a.
b.

b. Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together

4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

5.4. To the extent that these limits on the aggregation results results in more than one model segment, the stochastic reserve SR shall equal the sum of the stochastic reserve SR amounts computed for each model segment and scenario reserve DR amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

1. To the extent that certain groups of contracts pass one of the defined the stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in Section 13.

a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

2. The approach for grouping contracts company may not group together contract types with significantly different risk profiles when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above test.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 4.2.1.3, with the exception of contract following Section 3.E which are to be calculated on a seriatim basis.

G. Prudent Estimate Assumptions:

1. With respect to the Stochastic Reserve SR in Section 3.D, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements

Commented [X94]: As we have seen with VM-20, these types of extremely fuzzy requirements lead to full aggregation. If full aggregation is the intent, just explicitly allow it. We do recommend granular disclosures of the aggregation benefit for FIAs w/ GLBs, FIAs w/o GLBs, FDAs w/ GLBs, FDAs w/o GLBs, SPIAs, PRT, DIAs, and SSC.

Commented [VM2295R94]: In addition, consider NJ comment letter about longevity reinsurance, and how this fits into the above categories.

Commented [X96]: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."

Commented [X97]: Recommend replacing "the scenario reserve" with "the deterministic reserve". Note that we also disagree with calling the deterministic reserve a stochastic reserve (later in draft), which adds a good deal of confusion.

Commented [CD98]: suggest expanding header to "Stochastic Exclusion Test", for clarity

Commented [X99]: Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate ... [8]"

Commented [CD100]: Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ... [9]"

Commented [X101]: Typo. Delete for clarity.

Commented [X102]: We believe this guidance note is unnecessary as the intent of the section is clear, and ... [10]"

Commented [X103]: The statement in this section is not acceptable as discussed in the previous TX comment ... [11]"

Commented [X104]: This section seems to indicate that the grouping of contracts in exclusion testing should ... [12]"

Commented [CD105]: for clarity, change this reference to "Section 3.D"

Commented [CD106]: again, suggest rewording this to just say "the stochastic exclusion test"

Commented [X107]: Based on VM-20 language.

Commented [X108]: Either in this item or in Section 12 allocation to contracts not covered by PBR methodol ... [13]"

Commented [X109]: This sub-section seems more appropriate in Section 4 (or pulled out completely an ... [14]"

Commented [CD110]: VM-21 Section 3.H on simplifications, approximations, and modeling efficie ... [15]"

Commented [CD111]: should this be "Section 3.D"?

in Section 12 of Model #820 and must ~~periodically~~ at least every 3 years review and update the assumptions as appropriate in accordance with these requirements.

Commented [X112]: Recommend to periodically review at least every three years.

2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of ~~statistical testing or other testing~~ the review indicate that previously anticipated experience for a given factor is inadequate, then the ~~qualified actuary/Company~~ shall set a new, adequate, anticipated experience assumption for the factor.

Commented [CD113]: Should this be "the company... shall", rather than the "qualified actuary... shall"? Not sure why this particular task falls on the QA, when "the company" generally has responsibility for PBR and, in the subsection directly before this one, the company is assigned the task of establishing prudent estimate assumptions.

3. To determine the prudent estimate assumptions, the ~~stochastic reserve~~ SR shall also follow the requirements in Sections 4 and general assumptions including Section 9 for asset assumptions, Section 10 for ~~contract/policy holder~~ behavior assumptions, and Section 11 for mortality assumptions, and Section 12 for general guidance and expense assumptions.

Commented [X114]: Suggest replacing "If the results of statistical testing or other testing" with "If the results of the review" to simplify language and avoid possible confusion.

Commented [X115]: Recommend replacing "the qualified actuary" with "the Company" consistent with general PBR requirements that the company set assumptions.

H. A company may use simplifications, approximations, and modeling efficiency techniques to calculate the SR and/or the additional standard projection amount required by this section if the company can demonstrate that the use of such techniques does not understate the reserve by a material amount, and the expected value of the reserve calculated using simplifications, approximations, and modeling efficiency techniques is not less than the expected value of the reserve calculated that does not use them.

Commented [CD116]: should this be "the company"? See prior comment.

Commented [CD117]: should this be "contract holder"?

Commented [X118]: Need a new section for the general assumptions, including specifics for the expense assumptions. APF currently exposed for VM-21. We should be consistent with any edits.

Guidance Note:

Examples of modeling efficiency techniques include, but are not limited to:

1. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters.
2. Generating a smaller liability or asset model to represent the full seriatim model using grouping compression techniques or other similar simplifications.

There are multiple ways of providing the demonstration required by Section 3.H. The complexity of the demonstration depends upon the simplifications, approximations or modeling efficiency techniques used. Examples include, but are not limited to:

1. Rounding at a transactional level in a direction that is clearly and consistently conservative or is clearly and consistently unbiased with an obviously immaterial impact on the result (e.g., rounding to the nearest dollar) would satisfy 3.H without needing a demonstration. However, rounding to too few significant digits relative to the quantity being rounded, even in an unbiased way, may be material and in that event, the company may need to provide a demonstration that the rounding would not produce a material understatement of the reserve.
2. A brute force demonstration involves calculating the minimum reserve both with and without the simplification, approximation or modeling efficiency technique, and making a direct comparison between the resulting reserve. Regardless of the specific simplification, approximation or modeling efficiency technique used, brute force demonstrations always satisfy the requirements of Section 3.H.

3. Choosing a reduced set of scenarios from a larger set consistent with prescribed models and parameters and providing a detailed demonstration of why it did not understate the reserve by a material amount and the expected value of the reserve would not be less than the expected value of the reserve that would otherwise be calculated. This demonstration may be a theoretical, statistical or mathematical argument establishing, to the satisfaction of the insurance commissioner, general bounds on the potential deviation in the reserve estimate rather than a brute force demonstration.

4. Justify the use of randomly sampling withdrawal ages for each contract instead of following the exact prescribed WDCM method by demonstrating that the random sampling method is materially equivalent to the exact prescribed approach, and the simplification does not materially reduce the Additional Standard Projection Amount and the final reported reserve. In particular, the company should demonstrate that the statistical variability of the results based on the random sampling approach is immaterial by testing different random sets, e.g., if randomly selecting a withdrawal age for each contract, the probability distribution of the withdrawal age should be stable and not vary significantly when using different random number sets.

Commented [X119]: Specific example should be tailored based on the SPA developed.

Commented [X120]: Added consistent with VM-21 Section 3.H, which was added to the 2022 VM.

Section 4: Determination of ~~Stochastic Reserve~~SR

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in ~~Sections 4 and 9.D~~. The company shall project cash flows including the following:

Commented [CD121]: Should this refer to Section 4 and Section 9?

a. ~~Revenues~~Gross premium received by the company including gross premiums received from the ~~policyholder~~ policyholder/contract holder (including any due premiums as of the projected start date).

Commented [CD122]: "contract holder"?

Commented [X123]: If due premium as of the projected start date is included in the modeling, the final reported reserve should be adjusted by adding the due premium, otherwise there would be a double counting of the due premium asset. This needs to be clarified - see guidance note added below.
Recommend specifying the revenue in this bullet to be gross premium since there are other revenue items that are discussed in other bullets.

Guidance Note: If due premiums are modeled, the final reported reserve needs to be adjusted by adding the due premium asset.

b. Other revenues, including contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).

c. All material benefits projected to be paid to ~~contract~~ policyholders including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Commented [CD124]: "contract holders"

~~Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.~~

Commented [X125]: The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.

~~a.d.~~ Non-Guaranteed Elements (NGE) cash flows as described in Section 10.14.

Commented [CD126]: should this be Section 10.1?

~~b.e.~~ Insurance company expenses (including overhead and investment maintenance expense), commissions, contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses) other acquisition expenses associated with business in force as of the valuation date.

Commented [X127]: Changed investment expense to be maintenance expense so that it does not repeat what is included in bullet h.
Commented [X128]: Added acquisition expenses.

~~e.f.~~ ~~Net~~Cash flows associated with any reinsurance.

Commented [X129]: Take out the revenues that covers the investment expenses and added a separate bullet under bullet "a" for other revenues.

~~e.g.~~ Cash flows from hedging instruments as described in Section 4.A.4.

Commented [CD130]: Both net and gross cash flows have to be considered, so I don't agree with the addition of "Net" here

e.h. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital

gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.

- fi. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

Commented [X131]: Guidance Note regarding the market value adjustment seems still applies and should not be deleted. We reinstated the guidance note.

2. Grouping of Index Crediting Strategies

Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Commented [X132]: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term “investment guideline” as follows: “Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy.”

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy’s specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

Commented [X133]: Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.

Commented [X134]: VM-22 took out the CDHS requirement and replaced it with “future hedging program”. Future hedging should not materially reduce reserves or TAR if it is not well documented. The hedging DG is currently working on this for VM-20/VM-21. We will work with VM-22 subgroup to edit VM-22 accordingly.

4. Modeling of Hedges

- a. For a company that does not have a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 ~~stochastic reserve~~ SR requirements:
 - i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. ~~The hedge assets may then be considered in one of two ways:~~
 - a) ~~Include the asset cash flows from any contractual payments and maturity values in the projection model; or~~
 - b) ~~No hedge positions in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.~~

Commented [X135]: Suggest rewording "Future hedging program" to "hedging program with future transactions" to avoid ambiguity.

Commented [CD136]: The word "future" to describe the "hedging program" here is confusing. What about current hedging programs with expected future hedge purchases? Why not just say "hedging program"? Also, I wanted to note that removing the concept of CDHS creates inconsistency with both VM-20 and VM-21. Why not retain it?

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

- b. For a company that has a future hedging program ~~hed directly to supporting~~ the contracts falling under the scope of VM-22 ~~stochastic reserve~~ SR requirements:
 - i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to ~~policyholders~~ contract holders.
 - b) Existing hedging instruments that are currently held by the company for ~~this purpose~~ offsetting the indexed credits in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company ~~not for any other purpose~~ offsetting the indexed credits should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these hedge instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible company experience and be no less than [X%] multiplicatively of

Commented [CD137]: same comment as above, about the word "future" being confusing

Commented [CD138]: "contract holders"

Commented [X139]: "Any other purpose" in the last sentence seems overly broad and should be narrowed.

Commented [X140]: Specify "for this purpose" as "for offsetting the indexed credits", specify "for any other purposes" as "not for offsetting the indexed credits".

Commented [X141]: We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as 0, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.

Commented [CD142]: clarify verbiage by saying "hedge instruments" or "derivative instruments"

the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.

ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.

a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the ~~stochastic reserve~~ SR.

b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a ~~stochastic reserve~~ SR as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.

c) ~~Consistent with Section 4.A.4.b.i., if the company has an indexed credit hedging program, the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c); in both the “best efforts” run and the “adjusted” run.~~

d) The use of products not falling under the scope of ~~these~~ VM-22 PBR Section 1 through 13 requirements (e.g., variable annuities) (e.g., equity indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

Commented [X143]: It is not clear how the stress testing can be used to support the index credit hedge margin. It is a test of the modeled strategy not actual performance and does not reflect any model error. We suggest that both back testing and stress testing be required and elaborated further:
Clearly specify method and metrics used for the back testing with focus on all available recent relevant history, not limited to 12 months
Recommend defined stress periods for stress testing, e.g., 2008 financial crisis, 2020 COVID impaired market conditions.

Commented [X144R143]: We will repeat the comment from our first letter: “Regarding hedge breakage expense assumptions, are both sources of error reflected here - error in the hedging itself, and error in the ability to accurately model it? Should we be separately considering the two limitations to make sure they are both clear: 1) the real-world hedging error and 2) the modeling error in reflecting the future hedging? Current error factor discussions seem muddled.”

Commented [X145]: Again, need to coordinate with Hedging DG.

Commented [X146]: Margins are discussed in a different section, so recommend deleting.

Commented [X147]: Edits were made to provide context and clarification for the requirements.

Commented [X148]: Clarify that “these requirements” should be specified as “VM-22 PBR requirements”. Again, we suggest reconsidering the use of “VM-23”, though.

Commented [CD149]: it might be helpful to keep the parenthetical statement, with “variable annuities” as the example

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other fixed income assets supporting the contracts, and a margin is reflected rather than modeling using

a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the following requirements set forth in VM-21 Sections 4.A.5.a through 4.A.5.f are met.

Commented [X150]: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods. Obligations remain at the end of the projection periods. Company can choose to run a shorter projection period but not shorter than 20 years and include the present value of the terminal benefits and expenses in the accumulated deficiency calculation.

Commented [X151]: Clarify that for revenue sharing, the entire subsection of VM-21 Section 4.A.5 applies.

Commented [CD152]: The "requirements are met" list is only in Section 4.A.5.a. Was the intent also to define the amount of net revenue-sharing income allowed in the projections? If so, will need to add verbiage to reference VM-21 Section 4.A.5.a through 4.A.5.f.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

Commented [X153]: We recommend that the projection period requirement be in line with that of VM-20. Instead of meeting the immateriality requirement, calculate the present value of the terminal benefits and expenses and include it in the accumulated deficiency calculation.

Commented [VM22154]: See Bill Wilton's comment letter, expressing opposition to inclusion of pre-tax IMR.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

Commented [CD155]: should we consider these changes to VM-21 as well, for consistency?

Commented [X156]: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.

a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

The scenario reserve for any given scenario shall not be less than the cash surrender value with market value adjustment in aggregate on the valuation date for the group of contracts modeled in the projection.

Commented [X157]: For products that do not have a cash surrender value, it is recommended that VM-22 use a “working reserve” concept, similar to VM-21 Section 3.G requirement. Otherwise, there will be an issue aggregating those with and without CSV.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

Commented [X158]: For products with market value adjustment, needs to be floored at cash surrender value with MVA.

3. Determination of NAER on Additional Invested Asset Portfolio

a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Commented [X159]: We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
 - i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company’s investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the

projection period for the scenario. This vector will be the NAER for the given scenario.

- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

Commented [X160]: The wording “unreasonably high” is not clear or appropriate. Recommend this requirement be revised as part of a holistic fix to address extreme outliers in NAER both on the low and high side to handle anomalies for all of VM-20, VM-21, and VM-22. Some upper/lower cutoffs could be used that depend on scenario returns.

Commented [CD161]: “unreasonably high” is not well defined. Also, do we need to consider guardrails in the case of “unreasonably high” positive NAERs, not just negative NAERs?

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the ~~stochastic reserve~~ SR, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:

- i. Any hedge instruments held in support of the contracts being valued; and
- ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).

- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described

above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company’s state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company’s investment policy, subject to the following requirements:
 - i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in ~~the model~~modeled company investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results

Commented [X162]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.

- b. Notwithstanding the above requirements, the ~~model aggregate reserve shall be the higher of that produced by the modeled company investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained produced~~ by substituting an alternative investment strategy in which all the fixed income reinvestment assets ~~are~~ have the same weighted average life (WAL) as the reinvestment assets in the modeled company investment strategy and are all public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:
 - i. ~~5% Treasury~~
 - ii. ~~15~~ 20% PBR credit rating 3 (Aa2/AA)
 - iii. ~~40~~ 80% PBR credit rating 6 (A2/A)
 - iv. ~~40~~ 40% PBR credit rating 9 (Baa/BBB)

Commented [CD163]: should this be "stochastic reserve", since this is within Section 4: Determination of Stochastic Reserve

Commented [X164]: This change was adopted for VM-20 and VM-21 for the 2022 VM.

Commented [CD165]: Suggest making this plural ("Treasuries") to be consistent with Section 13.B.9

- c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Commented [X166]: The proposed reinvestment mix comes from a different assumption context in current VM-22, i.e., it is designed to calculate the maximum allowed valuation interest rates, while the reinvestment mix for VM-22 PBR draft is to put a guardrail around the fixed income reinvestment assets. A guardrail is not intended to identify outliers and should not be tied to an average. The biggest concern is with the higher allocation percentage in BBB assets. The valuation manual should build an appropriate level of conservatism in the valuation standards instead of reflecting industry trends. By moving from VM-20 and VM-21 required mix of 50%/50% AA/A to the proposed mix, the gross spreads increased by 20-30 bps for almost all WAL. We do not object to using a lower credit quality guardrail to get rid of any excessive conservatism. We recommend considering and comparing with other alternative allocations, something between the current and the proposed, e.g., 20% AA and 80% A. This will help regulators make informed decisions. In any case, we should be consistent with VM-20 and VM-21. If a change is made, it needs to be for all three.

Commented [CD167]: These references should be Section 4.D.3.a.iii and 4.D.3.a.v

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above "provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period" is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:

- i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
 - ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
 - iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
 - iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F, as noted in 4.a.ii above.
- b. ~~Cash flows from general account index funds and general account equity assets—~~ i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate— including starting and reinvestment assets, shall be reflected in the projection as follows:
- i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
 - ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
 - iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.
- c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section ~~10.HI~~.

Commented [X168]: Correct an inaccurate VM section reference. The prescribed asset default spreads assumption should be referred to VM-20 Section 9.F. VM-20 Section 7.E and 7.F are requirements for reinvestment assets, disinvestment and cash flows for invested assets. In 7.F, VM-20 just refers to 9.F for defaults.

Commented [X169]: Request clarification around the meaning of "general account index funds".

Commented [CD170]: should this reference Section 10.H?

Commented [CD171]: is there a difference between "purchase rates" and "payout rates"? Both terms are used, so that makes the language unclear. If they are they same, suggest sticking with "purchase rates".

Commented [X172]: Suggest deleting "In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract." as it appears to be covered by E.1.a.

Commented [X173]: Reinstate the parenthetical content "(including annuitizations stemming from the election of a GMIB)" since there are GMIB riders attached to fixed annuity products.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such ~~purchase~~ ~~rates~~ shall reflect the payout rate specified in the contract.
- b. ~~For~~ purposes of projecting future elective annuitization benefits ~~(including annuitizations stemming from the election of a GMIB)~~ and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined

assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. ~~In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.~~

Commented [X174]: Delete sentence since it repeats 4.E.1.a.

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

- a. For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections ~~may~~ shall assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

Commented [X175]: Suggest deleting "may" as there appears to be only option.

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency ("timestep") is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.

Commented [X176]: Projection Period is already covered in 4.A.6. Should not be in two places with different guidance.

Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption. It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.~~

Commented [X177]: Reinstate the deleted example of "For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption."

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve SR, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded—i.e., the stochastic reserve additional standard projection amount, the SR, DR, and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2. Stochastic Reserve

Reflection of Reinsurance Cash Flows in the DR or SR

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve SR and DR shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.
 - i. In this section, reinsurance includes retrocession, and assuming company includes retrocessionaire.
 - ii. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

iii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.

iv. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the stochastic aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum aggregate reserve by the absolute value of such reductions in surplus.

Commented [X178]: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.

Commented [X179]: Delete and just have title be "Reinsurance". Should structure be more like VM-20?

Commented [X180R179]: I, II (and III –VM-21 needs edits)

Commented [CD181]: "and Assumed" is added here, but there is still only a subsection 5.A that addresses reinsurance ceded (at least in the section header).

Commented [CD182]: need to add "and Assumed" here?

Commented [X183]: reinstate

Commented [X184]: Can take out vague approximation references, since now have a general allowance for appropriate approximations.

Commented [X185]: Consistent with VM-20

Commented [X186]: VM-20 Section 8.A.1 makes sense here as well.

Commented [CD187]: should this be "stochastic reserve"?

Commented [X188]: VM-22 draft so far uses aggregate, not minimum.

- b. In order to determine the ~~stochastic reserve~~ SR and DR on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting ~~stochastic reserve~~ SR and DR shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
 - i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties ~~(does that do not include experience refunds)~~, where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

Commented [X189]: Correct phrasing.

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company’s experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.
- d. The company shall assume that the counterparties to a reinsurance agreement are knowledgeable about the contingencies involved in the agreement and likely to exercise the terms of the agreement to their respective advantage, taking into account the context of the agreement in the entire economic relationship between the parties. In setting assumptions for the NGE in reinsurance cash flows, the company shall include, but not be limited to, the following:
 - i. The usual and customary practices associated with such agreements.
 - ii. Past practices by the parties concerning the changing of terms, in an economic environment similar to that projected.
 - iii. Any limits placed upon either party’s ability to exercise contractual options in the reinsurance agreement.
 - iv. The ability of the direct-writing company to modify the terms of its policies in response to changes in reinsurance terms.
 - v. Actions that might be taken by a party if the counterparty is in financial difficulty.

Commented [X190]: VM-20 Section 8.C.7 seems particularly applicable. We encourage others to also review VM-20 Section 8 for other sections that should also apply. VM-20 Section 8 is much more developed than VM-21 Section 5 with many more considerations for assumption-setting, and we would suggest the VM-22 subgroup consider rewriting starting with VM-20 instead of VM-21.

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the ~~pre-reinsurance-ceded~~ and ~~post-reinsurance-ceded~~ reserves may result in different outcomes for the exclusion test. In particular, it is possible that the ~~pre-reinsurance-ceded~~ reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the ~~post-reinsurance-ceded~~ reserves might not, or vice versa.

Commented [X191]: Both referring to reinsurance ceded. Should be clarified.

Commented [X192]: ceded

Commented [X193]: ceded

Commented [X194]: Opposite could also be true.

4. Additional Standard Projection Amount

Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre-reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.

Commented [X195]: The current VM-21 language here looks to work for VM-22 without needing to know the specific assumptions, etc., for the SPA.

Section 6: To Be Determined

Commented [VM22196]: NY Comment Letter: Current CARVM standards should be a minimum floor for VM-22 policies, and only the stochastic reserve should permit grouping whereas the minimum floor should be seriatim.

Commented [X197]: SPA Section placement here still makes sense, but SPA under development.

Commented [VM22198]: Refer to equitable comment letter, which expresses support for the standard projection amount as a binding floor, with the suggestion to rely on company-specific assumptions for insignificant assumptions that are difficult to develop.

~~Section 6: To Be Determined~~

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve SR calculation if the stochastic exclusion test (SET) is satisfied for ~~that each of the group of contracts~~. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then for each group of contracts that passes the SET, the company shall choose whether or not to use the reserve methodology described in Section 4 for ~~those groups that group of contracts~~. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C ~~to calculate the aggregate reserve for those groups of contracts~~.
 - c. A company may not exclude a group of contracts from the stochastic reserve SR requirements if there are one or more future hedging programs ~~associated with supporting~~ the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.

Commented [X199]: Need to modify exclusion testing section to reflect SPA.

Commented [X200]: Inconsistent groups vs. group references.

Commented [CD201]: should this be "stochastic reserve", since Section 4 is about determining the stochastic reserve.

Commented [VM22202R201]: Follow Section 4 method of stochastic reserve for Section 3 aggregate reserve if not using the SET

Commented [X203]: Decision is independent for each group the SET is performed on.

Commented [CD204]: suggest deleting this highlighted part of the sentence

Commented [CD205]: see earlier comment about the phrase "future hedge program" being confusing.

Commented [X206]: Is "associated with the contracts" the same as the earlier use of "supporting the contracts"? Should the same verbiage be used here? If there is asset hedging for the assets supporting the contracts, it should be included. Need to define "solely supporting" index credits, and also have criteria on the effectiveness/error and documentation of any such hedging that is allowed for excluded business.

B. Requirement to Pass the ~~Types of~~ Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

1. Stochastic Exclusion Ratio Test (SERT)—Annually within 12 months before the valuation date ~~within 12 months before the valuation date~~ the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. ~~SET~~ Certification Method—For groups of contracts that do not have guaranteed living benefits, ~~future hedging programs, or pension risk transfer business~~, in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material ~~aggregate risk levels across interest rate risk, mortality and/or longevity risk, or asset return volatility risk~~ (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). ~~The company shall provide the certification and documentation supporting the certification to the commissioner upon request.~~

Commented [CD207]: Suggest renaming this section header/name to "Requirements to Pass the SET". There is only 1 SET, but 3 ways to pass it (SERT, Demonstration or Certifications). The language gets confusing (here and elsewhere) when you start saying there are different "types" of SETs.

Commented [CD208]: not sure why this part is deleted. Suggest adding it back in.

Commented [X209]: We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business ... [16]

Commented [VM22210R209]: Determine whether to address longevity reinsurance in this topic, in light of ... [17]

Commented [CD211]: See earlier comments about the use of "future"

Commented [X212]: Needs to be defined.

Commented [X213]: Needs a comma

Commented [CD214]: need comma after "business"

Commented [CD215]: what is meant by "aggregate risk levels"? Aggregated across what? Need clarification ... [18]

Commented [X216]: This is not in VM-20 and would substantially change the exclusion. The intent is not ... [19]

Commented [X217]: This is covered by VM-31

Commented [CD218]: note, there is no insertion of "aggregate risk levels across" here, like there was ab ... [20]

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary's conclusion that the group of contracts is not subject to material interest rate risk, mortality and/or longevity risk, or asset return volatility risk.

Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that, using requirements under VM-A and VM-C for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great as the assets required to support the group of contracts and certificates using the company's cash-flow testing model under each of the 1648 scenarios identified in this section Section 7.C.1 or alternatively each of the New York seven scenarios, economic scenarios, under each of the three mortality adjustment factors identified in Section 7.C.1.
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk, mortality and/or longevity risk, or asset return volatility risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk, mortality and/or longevity risk, or asset return volatility. Such assessment would include an analysis of product guarantees, the company's non-guaranteed elements (NGEs) policy, assets backing the group of contracts, the company's longevity risk, and the company's investment strategy.

Commented [CD219]: This wording is a little clunky here. My suggestion:
"A demonstration that, for the group of contracts, reserves calculated using requirements under VM-A and VM-C are at least as great..."

Commented [X220]: Replace all "contracts" with "contracts and certificates"

Commented [X221]: Need mortality stresses if using NY7

Commented [X222]: Need complete list of risks

Commented [CD223]: need to insert "longevity risk" here

Commented [X224]: Need complete list of risks

Commented [X225]: Need to add a review of the company's mortality and/or longevity risk.

Commented [X226]: As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).

Commented [X227]: Using (a) in the denominator instead of VM-20's (c) which is a PV of benefits could make this ratio unstable when the scenario reserve (a) is very small. This is particularly applicable if the block being tested does not have CSV.

Commented [X228]: The variability should be assured to be immaterial based on the company's materiality standard.

Commented [X229]: Correcting reference

Commented [CD230]: better to keep the reference to the full Section (i.e., Section 7.C.2.a.i)

Commented [X231]: Correcting reference

Commented [CD232]: better to keep the reference to the full Section (i.e., Section 7.C.2.b)

Commented [X233]: Need to modify in case largest result is just from the mortality stress on the same scenario.

Commented [X234]: Need to modify in case largest result is just from the economic stress on the same mortality level.

Commented [X235]: Need to ensure we have captured a prudent level of mortality variation for any given company in this test.

Commented [X236]: Updating to reflect mortality/economic scenario combinations.

C. Stochastic Exclusion Ratio Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of (b-a)/a is less than the greater of [x]% where x is the percentage change that would trigger the company's materiality standard, where:
 - a. a = the adjusted scenario reserve described in Paragraph 7.C.2.a below using economic scenario 9, and 100% as the adjustment factor for mortality, the baseline economic scenario, as described in Appendix 1.E of VM-20.
 - b. b = the largest adjusted scenario reserve described in Paragraph 7.C.2.b-a below under any of the other 1516 economic scenarios described in Appendix 1.E of VM-20 under both [95]%, 100%, and [105]% of anticipated experience mortality excluding margins. Because mortality variability may differ by company, if the magnitude of the company's margin for mortality exceeds 5%, then the company shall use the baseline mortality and the mortality augmented by plus and minus the company's margin for this exercise.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario, and 100% as the adjustment factor for mortality. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario and 100% as the adjustment factor for mortality, both of which could lead to an incorrect test result.

There are 47 (=16x3-1) combined economic and mortality scenarios that should be compared for the determination of b.

Commented [X237]: For clarity

2. In calculating the ratio in ~~subsection (Section 7.C.1)~~ above:

Commented [X238]: Be consistent with standard VM references

a. The company shall calculate an adjusted scenario reserve for the group of contracts for ~~each of each of the 16 scenarios~~ economic scenarios using the three levels of mortality adjustment factors that is equal to either (i) or (ii) below:

Commented [CD239]: better to keep the reference to the full Section (i.e., Section 7.C.1)

Commented [CD240]: why delete this? seems like it wouldn't hurt to keep this language, for additional clarity

i. The scenario reserve defined in Section 4, but with the following differences:

a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in ~~Paragraph Section 7.C.1.b~~ of this section.

Commented [X241]: Be consistent with standard VM references

b) Using the interest rates and equity return assumptions specific to each scenario.

Commented [CD242]: better to reference the full Section (i.e., Section 7.C.1.b)

c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.

d) Shall reflect future mortality improvement in line with anticipated experience assumptions.

e) Shall not reflect correlation between longevity and economic risks.

ii. The gross premium reserve developed from the cash flows from the company's asset adequacy analysis models, using the experience assumptions of the company's cash-flow analysis, but with the following differences:

a) Using the interest rates and equity return assumptions specific to each scenario.

b) Using the mortality scalars described in ~~Paragraph Section 7.C.1.b~~ of this section.

Commented [X243]: Be consistent with standard VM references

Commented [CD244]: better to reference the full Section

c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company's cash-flow testing assumptions for default costs and reinvestment earnings.

b. The company shall use the most current 16 available baseline economic scenario and the 15 other-economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.

Commented [X245]: No reason for change/inconsistency with other chapters - reject edit.

c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.

d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.

Commented [X246]: Clarification is needed around reference to "significantly different risk profiles".

e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the stochastic exclusion ratio test ~~under only a pre-reinsurance-ceded basis upon determining the~~ either pre-reinsurance-ceded basis upon determining the pre or post-reinsurance-reserve-ceded aggregate reserve.

Commented [CD247]: to be more specific, say "stochastic exclusion ratio test"

Commented [X248]: Original did not make sense. Also, the point is that you just need one basis, either pre-reinsurance or post-reinsurance.

3. If the ratio calculated in this section is less than [x] % pre-non-proportional reinsurance, but is greater than [x] % post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.

Commented [X249]: We request clarification or definition of the term "non-proportional reinsurance".

Commented [X250]: Does this make sense for VM-20 as well?

a. An example of an acceptable demonstration:

i. For convenience in notation • SERT = the ratio (b-a)/a defined in Section 7.C.1 above

- a) The pre-non-proportional reinsurance results are "gross of non-proportional," with a subscript "gn," so denoted SERT_{gn}
- b) The post-non-proportional results are "net of non-proportional," with subscript "nn," so denoted SERT_{nn}

ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take "gross of non-proportional" to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and "net of non-proportional" to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.

iii. So, if SERT_{gn} ≤ [x] % but SERT_{nn} > [x] %, then compute the largest percent increase in reserve (LPIR) = (b-a)/a, both "gross of non-proportional" and "net of non-proportional."

Commented [X251]: We believe subscript "gy" should be "gn".

Commented [X252]: % missing

$$LPIR_{gn} = (b_{gy} - a_{gy}) / (b_{gn} - a_{gn}) / a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny}) / (b_{nn} - a_{nn}) / a_{nn}$$

Commented [X253]: Note that LPIR is just the SERT using the VM-22 formulation (b-a)/a.

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn}.

If SERT_{gn} × LPIR_{nn} / LPIR_{gn} < [x] %, then the block of contracts passes the SERT.

Commented [X254]: The first and last terms on the left side of this equation cancel out, so it just ends up with needing to pass the SERT on the net basis again. This worked when (c) was the denominator, but now with (a) in the denominator this adjustment is meaningless. Take out the whole example, or revise the SERT to use benefits in the denominator again. Or some new formulation for SERT.

b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 4648 combined economic and mortality scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.

- 4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section of Section 7.D.2.a or Section 7.D.2.b and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

Commented [X255]: In VM-20, it is only prohibited for the clearly sufficiently robust attempts of the demonstration method where failing shows the SR would be greater. The other two options could have been incomplete demonstrations and not necessarily imply the SR would be dominant.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve SR requirements using the methodology in this section Stochastic Exclusion Demonstration Test, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:

Commented [X256]: Clearer language

- a. The demonstration shall provide a reasonable assurance that if the stochastic reserve SR was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve SR exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve SR requirements.

Commented [X257]: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.

- b. If, as of the end of any calendar year, the company determines the aggregate statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT SET for those contracts.

Commented [CD258]: should this, instead, refer to the "statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C?"

Commented [X259]: Typo is also in VM-20

- c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.
- d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.

- 2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with subsection Section 7.D.1 above:

Commented [CD260]: should say "Section"

- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve SR calculated on a stand-alone basis.
- b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.

- c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the ~~stochastic reserve~~SR calculated on a stand-alone basis, but using a representative sample of contracts in the ~~stochastic reserve~~SR calculations.
- d. Demonstrate that any risk characteristics that would otherwise cause the ~~stochastic reserve~~SR calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the ~~contract policyholder~~ by contract provision.

Commented [CD261]: "contract holder"

E. Deterministic Certification Option

Commented [X262]: Need SPA for DR as well as SR

- 1. The company ~~has the option to may~~ determine the ~~stochastic reserve~~SR for a group of contracts using a single deterministic economic scenario, subject to the following conditions.

Commented [CD263]: suggest saying "may" instead of "has the option to"

- a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of ~~policies, contracts and certificates~~. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.

Commented [CD264]: "contracts"

- b. The company certifies that the group of ~~policies, contracts and certificates~~ is not supported by a reinvestment strategy that contains ~~future hedge purchases~~.

Commented [X265]: Clarify if this was the intent to exclude contracts supported by index hedging.

- c. ~~The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing and the scenario reserve volatility across various company must pass the SERT when considering only the 16 economic scenarios, paired with the 100% mortality scenario.~~

Commented [X266]: This is needed to assure the SR is not needed. Otherwise, this section is incomplete and does not support using a DR.

- d. The company must disclose a description of contracts and associated features in ~~the certification~~.

Commented [X267]: Agree with drafting note. Edits above.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

Commented [X268]: It may not be appropriate to use scenario 12 to calculate the scenario reserve for SPIA. See this article <https://www.soa.org/sections/financial-reporting/financial-reporting-newsletter/2021/july/fr-2021-07-su/>

"in an increasing interest rate environment for business where policyholder behavior is sensitive to prevailing interest rates, life insurers may face an increase in disintermediation risk (i.e., the risk of having to sell assets, potentially at a loss, to fund policyholder surrender benefits) For example, rising interest rates, particularly sudden jumps (e.g., New York 7 pop-up scenario with an immediate interest rate increase of 3 percent), may lead to higher actual and projected policyholder surrenders as policyholders seek out higher yielding investment opportunities. These increasing cash demands may require fixed income assets to be sold at depressed prices, and resultant projected losses (or lower gains) may result in reserve insufficiencies, necessitating the need for AAT reserves."

- 2. The ~~stochastic reserve~~SR for the group of contracts under the Deterministic Certification Option is determined as follows:
 - a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
 - b. The ~~stochastic reserve~~SR equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Commented [X269]: Recommend deleting guidance note, as it doesn't provide full or clear scope of what may be excluded, so could be misread to either guarantee option for certain products or exclude the option for other products.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a Future Non-Index Credit Hedging Strategy

A. Initial Considerations

- 1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits. If the company, or (b) clearly separates index credit hedging from other hedging, then only the section only pertains to the other hedging if the index hedging follows. In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
- 2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the stochastic reserve SR, determined in accordance with Section 3.D and Section 4.D.
- 3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months, including the hedging strategy, used to implement the investment policy.
- 4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
- 5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

Commented [X270]: Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.

Commented [CD271]: see previous comments about use of the word "future" to describe "hedging strategy"

Commented [X272]: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?

Commented [X273]: The sentence "Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months." seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.

Commented [CD274]: is this a typo? should this be "purchases"?

Commented [X275]: This 6 month exclusion creates unintended optionality for inclusion/exclusion based on whether a hedge strategy is considered "new". Instead, this should be addressed through the Error factor for new programs being temporarily larger.

Commented [X276]: Reinstate the original sentence which puts the reflection of hedging into the greater context of reflecting the company's investment policy.

Commented [X277]: Agree that the uncertainty associated with new strategies should be handled via the E factor, not through blanket exclusion.

B. Modeling Approaches

- 1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the stochastic reserve SR otherwise calculated.
- 2. The fundamental characteristic of the first type of method, referred to as the "explicit method," is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the ~~stochastic reserve~~SR otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the ~~stochastic reserve~~SR needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the ~~stochastic reserve~~SR attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or ~~mode~~ tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

Commented [X278]: Is delta-only hedging common in VM-22 hedging? Could the example be replaced with something more relevant to VM-22 hedging?

C. Calculation of ~~Stochastic Reserve~~SR (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has ~~no future hedging purchases strategy~~ except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the ~~stochastic reserve~~SR is given by:

Commented [X279]: The Hedging DG is currently working on language and we will want to be consistent across VM-20, VM-21, and VM-22.

Commented [CD280]: perhaps better to say “no future hedge purchases...”

$$\text{Stochastic reserve SR} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for *E* (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of *E*. The value of *E* may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, *E* must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.

5. The company shall conduct a formal back-test, based on an analysis of ~~at least the most recent~~ available relevant period of data (but no less than 12 months), to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for *E*.

6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of *E*, the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of *E* by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.

 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.

 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).

Commented [X281]: We have been getting weak E factor support, with minimum backtesting due to the current phrasing.

Commented [X282R281]: Recommend adding stress testing language similar to [Section 4.A.4.b.i.c](#)) but with edits based on TD’s comments/suggestions to [Section 4.A.4.b.i.c](#).

Commented [X283]: Recommend adding reporting requirement to VM-31 to disclose if company has switched between explicit method and implicit method, discuss rationale of the change and the change impact.

- iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with ~~no less than 6 months of history~~, E should be ~~at least 1.0-50~~. However, E may be lower than ~~1.0-50~~ if ~~some~~ at least 6 months of reliable experience is available and/or if the change in strategy is a minor refinement rather than a ~~substantial~~ material change in strategy.

Commented [X284]: 6 month restriction should be handled in the error factor. Other language for clarity. Edited guidance note below to be consistent with this.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily 100% for material changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy).
- An increase in the error factor may not always be needed for minor refinements to the hedge strategy (e.g., moving from swaps to Treasury futures).

8. The company shall set the value of E reflecting the extent to which the future hedging program is clearly defined. To support a value of E below 1.0, there should be very robust documentation outlining the future hedging program. To the extent that documentation outlining the future hedging program is incomplete, the value of E shall be increased. Any increases required to the value of E to reflect that documentation is not available to support that the future hedging program is clearly defined shall be in addition to increases to the value of E to reflect a lack of historical experience or to reflect the back-testing results.

Commented [X285]: Work is being done by the hedging DG. This is a placeholder. Need to reflect how clearly defined and well documented the hedge program is, to be able to rely on the backtesting provided. To the extent that hedge programs are not clearly defined, E should be increased to reflect that the backtesting cannot be relied on as an indicator of future effectiveness.

E. Additional Considerations for CTE70 (best efforts)

If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.

For the purposes of this analysis, the SR and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.

Commented [X286]: Reinstate this disclosure item, which is a rough reasonability check for regulator review/information on the modeled hedge benefit and can prompt further discussion.

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the ~~stochastic reserve~~ SR, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions

Commented [CD287]: not sure why this section is being deleted? Perhaps references to CDHS could be deleted, but otherwise this section still seems applicable.

on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity and other in-scope products account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the variable fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserveSR, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserveSR otherwise calculated.

Commented [X288]: Suggest replacing “indexed” with “fixed” since this would apply to all fixed annuities.

Commented [X289]: Editorial change of “variable fixed indexed annuity” to be “fixed indexed annuity and other in-scope products”.

Commented [X290]: Recommend deleting “including a delta hedging strategy” as it is already covered by “any hedging strategy” and it is not clear if delta hedging strategy is the most common strategy in VM-22 hedging to be used as a general example.

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the ~~results~~ reserves level. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B and Section 12.

Commented [X291]: Editorial clarification

Commented [X292]: Need general assumption setting section, see APF 2021-11.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may or may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

Commented [X293]: We would suggest rewording this section to be considerations rather than posed as questions.

Commented [X294]: Editorial clarification

Commented [X295]: Recommend adding some examples here if this is included.

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more material behavior assumptions, if relevant to the risks in the product, and thus the approach will not understate the reserve.

Commented [X296]: Clarification

C. Sensitivity Testing

Commented [X297]: Suggest updating bullet to "Other material behavior assumptions if relevant to the risks in the product."

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the ~~company/qualified actuary to whom responsibility for this group of contracts is assigned~~ shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

Commented [X298]: Sensitivity testing is covered by the submitted APF 2021-11 for VM-21, and we should be consistent. VM-21 is currently lacking on sensitivity testing.

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Account transfers.
- Future deposits.
- Other behavior assumptions if relevant to the risks in the product.

Commented [VM22299R298]: Make edits to be consistent with VM-21 APFs prior to adoption of VM-22

Commented [CD300]: why assign this specifically to the QA rather than leaving it as the responsibility of "the company", like we do elsewhere in the requirements?

Commented [X301]: Include for completion

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently ~~(but no less than every 3 years)~~ when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

Commented [X302]: Consistent with APF 2021-11.

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.

- 2. Using data from prior periods.

D. Specific Considerations and Requirements

- 1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. Account transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date for the benefit utilization.
 - h. Commutation of benefit (from periodic payment to lump sum) or vice versa.
- 2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

Commented [X303]: Clarification

Commented [X304]: clarification

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic asset re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

Commented [CD305]: delete this word

Commented [X306]: Reviewing, this guidance note does not exist in the 2019, 2020, 2021, or 2022 versions of VM-21. Where is this from? Should this be added to VM-21?

Guidance Note: For some non elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.

- 3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

- 4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, ~~transaction~~ fees or other contract charges.
 - l. Distribution channel.

- 5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.

- 6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.

- 7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the ~~stochastic reserve~~ SR. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.

- 8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

Commented [X307]: This also applies to VM-21, as there are fixed accounts. Is there any reason not to be consistent?

Commented [X308]: This is not a synonym (perhaps transfer fees is a subset of transaction fees) - why would transaction fees apply for VM-21, but only transfer fees for VM-22?

Commented [X309]: This section states that "contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally." This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states "When advantageous, policyholders will commence living benefit payouts if not started yet.". We suggest revising 6.H.2 to align with the text of 10.D.8.

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder stochastically modeled.
2. ~~The company should exercise care in using static assumptions when it would be more natural and reasonable~~ appropriate to use a dynamic model or other scenario-dependent formulation for behavior. With due regard to considerations of materiality and practicality ~~allowance for appropriate simplifications, approximations and modeling efficiency techniques~~, the use of dynamic models is encouraged, but not mandatory. Static assumptions ~~Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers), may require higher margins and/or signal a need for higher margins for certain other assumptions.~~
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

Commented [X310]: Recommend replacing “dynamic” with “stochastic.” Risk factors with dynamic assumptions still need margins (although for an assumption that was part fixed and part dynamic, only one piece may have the margin but still the risk factor would have a margin).

Commented [X311]: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.

Commented [X312]: Get rid of some of the vague adjectives and be consistent with VM framework for simplifications.

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~non-variable~~ fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. ~~Declining-, increasing~~ and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. ~~Rapidly changing~~ Volatile interest rates or persistently low interest rates.
 - d. ~~Volatile credit spreads.~~
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:

Commented [CD313]: “non-variable”?

Commented [X314]: Editorial clarification to cover scenarios for all products/guarantees in scope

Commented [X315]: Editorial for consistency with (a) above

Commented [X316]: Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

- a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10.A to Section 10.G above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's contract's utilization or to reflect average utilization over a model segment or sub-segments if the results are materially similar.
 - c. Model policy loan interest in a manner consistent with policy contract provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)

Commented [CD317]: Okay to keep the term "Policy Loans"

Commented [X318]: Clarify reference to be more specific.

Commented [X319]: Editorial - VM-22 should consistently use contracts

Commented [CD320]: "contract's"

Commented [X321]: We have concern that reflecting average utilization may have material impact on benefit projections. Recommend adding "if the results are materially similar". This change is also applied to VM-20 and added to VM-21.

Commented [X322]: Editorial - VM-22 should consistently use contracts

Commented [CD323]: "contract"

- d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
- e. Model ~~additional~~ policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with negative policy loan cash flows or insurance expense cash flows.

Commented [CD324]: The wording of "additional" is unclear. Does this mean maintaining a certain level of policy loan utilization throughout the projection (i.e., adding principal as repayments are made), or actually increasing policy loan utilization (i.e., adding more principal) over time? The former would seem more appropriate than the latter.

Commented [X325]: Clarification

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect ~~policy contract~~ costs or values and are not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Commented [CD326]: suggest: "contract holder"

Commented [X327]: Editorial - VM-22 should consistently use contracts

Examples of NGEs specific to ~~non-variable~~ fixed annuities include but are not limited to the following: ~~fixed~~ the credited rates on fixed accounts, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

Commented [CD328]: suggest: "are not"

Commented [CD329]: suggest: "non-variable annuities"

Commented [X330]: Clarity

- 1. Except as noted below in Section ~~10.H.5~~, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
- 2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company's past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
- 3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
- 4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
- 5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the ~~policy's or~~ contract's experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

Commented [X331]: Correct section reference

Commented [CD332]: delete "policy's or"

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude

Commented [X333]: Why does being authorized mean it can be excluded? This seems backwards. Does this mean it has already transpired?

from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company's option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting ~~aggregate stochastic reserve~~SR.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting ~~aggregate stochastic reserve~~SR should be reduced by the amount of the dividend liability.
7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Commented [CD334]: delete "aggregate"

Commented [CD335]: delete "aggregate"

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the ~~stochastic reserve SR~~. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. ~~(Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)~~

Commented [X336]: Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.

Commented [VM22337R336]: Will address SPA separately

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Commented [X338]: Recommend removing reference to actuarial judgment being "unsupported" from VM-21 and VM-22 because actuarial judgment should always be supportable - it is "judgment" not an arbitrary decision.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are "PRT contracts," it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a ~~plus (minus)~~ mortality (longevity) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a ~~mortality (longevity) plus (minus)~~ segment to a ~~longevity (mortality) minus (plus)~~ segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

Commented [X339]: Recommend deleting this guidance note since it is unnecessary - there is no such restriction for any of VM-20, VM-21 or VM-22. It would be an absurd level of granular distinction, such that it is not clear you could actually perform the projection, given that assumptions vary by attained age, etc.

Commented [X340]: Terming the segments "mortality (longevity) segments" would be easier to understand than "plus (minus) segments".

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2 for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

Commented [X341]: It is unclear how to interpretate the statement and how to review it for both VM-21 and VM-22. If a company reinsures GMWB riders, then does it mean that on a net basis the segment would no longer be considered as minus? So, there would be distinct designations for the pre and post reinsurance runs? Recommend discussing the statement and adding additional language or a guidance note to make it clear.

Commented [X342]: Delete period, it is a typo

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

3. No Data Requirements

Commented [X343]: Does this need to be edited to be consistent with "little or no" data?

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

[2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table "a"] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F _x	
<=65	80.0%	
66	81.5%	
67	83.0%	
68	84.5%	
69	86.0%	
70	87.5%	
71	89.0%	
72	90.5%	
73	92.0%	
74	93.5%	
75	95.0%	
76	96.5%	
77	98.0%	
78	99.5%	
79	101.0%	
80	102.5%	
81	104.0%	

Commented [X344]: Section 11.B.3.i only has one item "a". There is no need to specifically have a single item "a". Recommend delete the notation "a" and have "Section 11.B.3.i" only.

Commented [VM22345R344]: Will be updated upon SPA assumption development

Commented [X346]: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it's not clear in B.3.ii.c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.

Commented [X347]: The 1983 Table "a" and 1994 GAR are used for structured settlements and group annuities, respectively. These tables seem to be out of date. If Standard Projected Amount work develops more granular and up to date tables, should these tables be updated to use consistent tables?

Commented [VM22348R347]: Will be updated upon SPA assumption development

Commented [X349]: The percentage factors (F_x) are over 100% from attained age 79 to age 104. Is it appropriate to set the factors above 100% for the older ages with no credibility?

Commented [VM22350R349]: Will be updated upon SPA assumption development

Commented [CD351]: does the F_x factor need any consideration for FIAs with GLBs?

Commented [VM22352R351]: Will be updated upon SPA assumption development

82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	
86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, when little or no experience or information is available on a business segment, an established industry or national mortality table and mortality improvement scale may be used, with approval from the domiciliary commissioner.

Commented [X353]: The phrase “When little or no experience or information is available on a business segment” is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

Commented [X354]: Reference to the MI scale missing for international business

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by

contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves including margins for uncertainty with the mortality assumption assumptions described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the industry mortality assumption described in Section 11.B.3 table used in the blending.

2. Adjustment of Statutory Valuation Industry Mortality for Improvement

For purposes of the adjustment for credibility, the industry mortality table for a plus segment may be and the industry mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective industry mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.

Commented [X355]: Both plan and industry data should get weighted for business such as PRT. This text says to blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.

Commented [X356]: Clarification

Commented [X357]: Editorial

Commented [X358]: The “statutory valuation” is struck out in the guidance note. Recommend replacing “statutory valuation” with either “reference of Section 11.B.3” or “industry”. Otherwise, it is a vague reference since we have both a company mortality table and an industry mortality table.

Commented [CD359]: need to reference “the mortality assumption described in Section 11.B.3” here? Otherwise, the sentence is unclear.

Commented [X360]: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.

Commented [X361]: “Statutory Valuation” was stricken from all the body, but left in this title. Consider replacing with “industry”.

Commented [CD362]: for consistency, need to delete this reference to “Statutory Valuation”

- b. Not tend to bias the results in any material way.
 - c. Be practical to implement.
 - d. Give consideration to the need to balance responsiveness and stability.
 - e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
 - f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.
4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting ~~stochastic reserve~~SR. If such an adjustment would reduce the ~~stochastic reserve~~SR, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Other Guidance and Requirements for Assumptions

A. Overview

This section provides guidance and requirements in general for setting prudent estimate assumptions when determining either the SR or DR. It also provides specific guidance and requirements for expense assumptions.

B. General Assumption Requirements

1. The company shall use prudent estimate assumptions for risk factors that are not stochastically modeled by applying margins to the anticipated experience assumptions if such risk factors have been categorized as material risks by following Section 1.B Principle 3 and requirements in Section 12.C.
2. The company shall establish the prudent estimate assumptions for risk factors in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
3. The company shall model the following risk factors stochastically unless the company elects the stochastic modeling exclusion defined in Section 7:
 - a. Interest rate movements (i.e., Treasury interest rate curves).
 - b. Equity performance (e.g., Standard & Poor’s 500 index [S&P 500] returns and returns of other equity investments).
4. If the company elects to stochastically model risk factors in addition to the economic scenarios, the requirements in this section for determining prudent estimate assumptions for these risk factors do not apply.

Guidance Note: It is expected that companies will not stochastically model risk factors other than the economic scenarios, such as contract holder behavior or mortality, until VM-22 has more specific guidance and requirements available. Companies shall discuss with domiciliary regulators if they wish to stochastically model other risk factors.

5. The company shall use its own experience, if relevant and credible, to establish an anticipated experience assumption for any risk factor. To the extent that company experience is not available or credible, the company may use industry experience or other data to establish the anticipated experience assumption, making modifications as needed to reflect the circumstances of the company.
 - a. For risk factors (such as mortality) to which statistical credibility theory may be appropriately applied, the company shall establish anticipated experience assumptions for the risk factor by combining relevant company experience with industry experience data, tables or other applicable data in a manner that is consistent with credibility theory and accepted actuarial practice.

Commented [X363]: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.

Commented [X364]: Need to add a Section 12 for general guidance on prudent assumption setting and on expenses. For VM-21, APF 2021-11 is currently exposed. Should be consistent with that APF, after any tweaks are made.
https://content.naic.org/sites/default/files/inline-files/APF%202021-11%20VM21%20assumptions_20211021-exposed.docx

- b. For risk factors (such as utilization of guaranteed living benefits) that do not lend themselves to the use of statistical credibility theory, and for risk factors (such as some of the lapse assumptions) to which statistical credibility theory can be appropriately applied but cannot currently be applied due to lack of industry data, the company shall establish anticipated experience assumptions in a manner that is consistent with accepted actuarial practice and that reflects any available relevant company experience, any available relevant industry experience, or any other experience data that are available and relevant. Such techniques include:
- i. Adopting standard assumptions published by professional, industry or regulatory organizations to the extent they reflect any available relevant company experience or reasonable expectations.
 - ii. Applying factors to relevant industry experience tables or other relevant data to reflect any available relevant company experience and differences in expected experience from that underlying the base tables or data due to differences between the risk characteristics of the company experience and the risk characteristics of the experience underlying the base tables or data.
 - iii. Blending any available relevant company experience with any available relevant industry experience and/or other applicable data using weightings established in a manner that is consistent with accepted actuarial practice and that reflects the risk characteristics of the underlying contracts and/or company practices.
- c. For risk factors that have limited or no experience or other applicable data to draw upon, the assumptions shall be established using sound actuarial judgment and the most relevant data available, if such data exists.
- d. For any assumption that is set in accordance with the requirements of Section 12.B.5.c, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing and disclose the analysis performed to ensure that the assumption is set at the conservative end of the plausible range.
- e. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
6. The company shall sensitivity test risk factors that are not stochastically modeled and examine the impact on the stochastic reserve. The company shall update the sensitivity tests periodically as appropriate. The company may update the tests less frequently, but no less than every 3 years, when the tests show less sensitivity of the stochastic reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company

may perform sensitivity testing:

- a. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- b. Using data from prior periods.

Guidance Note: Sensitivity testing every risk factor on an annual basis is not required. For some risk factors, it may be reasonable, in lieu of sensitivity testing, to employ statistical measures for margins, such as adding one or more standard deviations to the anticipated experience assumption.

- 7. The company shall vary the prudent estimate assumptions from scenario to scenario within the stochastic reserve calculation in an appropriate manner to reflect the scenario-dependent risks.

C. Assumption Margins

The company shall include margins to provide for adverse deviations and estimation error in the prudent estimate assumption for each risk factor that is not stochastically modeled or prescribed, subject to the following:

- 1. The level of margin applied to the anticipated experience assumptions may be determined in aggregate or independently as discussed in Section 1.B Principle 3. It is not permissible to set a margin less toward the conservative end of the spectrum to recognize, in whole or in part, implicit or prescribed margins that are present, or are believed to be present, in other risk factors.

Risks that are stochastically modeled (e.g., interest rates, equity returns) or have prescribed margins or guardrails (e.g., assets, revenue sharing) shall be considered material risks. Other risks generally considered to be material include, but are not limited to, mortality, contract holder behavior, maintenance and overhead expenses, inflation and implied volatility. In some cases, the list of material risks may also include acquisition expenses, partial withdrawals, policy loans, annuitizations, account transfers and deposits, and/or option elections that contain an element of anti-selection.

Commented [X365]: Edit for VM-22 vs. VM-21?

- 2. The greater the uncertainty in the anticipated experience assumption, the larger the required margin, with the margin added or subtracted as needed to produce a larger Sr or DR than would otherwise result. For example, the company shall use a larger margin when:
 - a. The experience data have less relevance or lower credibility.
 - b. The experience data are of lower quality, such as incomplete, internally inconsistent or not current.
 - c. There is doubt about the reliability of the anticipated experience assumption, such as, but not limited to, recent changes in circumstances or changes in company policies.
 - d. There are constraints in the modeling that limit an effective reflection of the risk factor.

3. In complying with the sensitivity testing requirements in Section 12.B.6 above, greater analysis and more detailed justification are needed to determine the level of uncertainty when establishing margins for risk factors that produce greater sensitivity on the stochastic reserve.
4. A margin is permitted but not required for assumptions that do not represent material risks.
5. A margin should reflect the magnitude of fluctuations in historical experience of the company for the risk factor, as appropriate.
6. The company shall apply the method used to determine the margin consistently on each valuation date but is permitted to change the method from the prior year if the rationale for the change and the impact on the stochastic reserve is disclosed.

D. Expense Assumptions

1. General Prudent Estimate Expense Assumption Requirements

In determining prudent estimate expense assumptions, the company:

- a. May spread certain information technology development costs and other capital expenditures over a reasonable number of years in accordance with accepted statutory accounting principles as defined in the Statements of Statutory Accounting Principles.

Guidance Note: Care should be taken with regard to the potential interaction with the inflation assumption below.

- b. Shall assume that the company is a going concern.
- c. Shall choose an appropriate expense basis that properly aligns the actual expense to the assumption. If values are not significant, they may be aggregated into a different base assumption.

Guidance Note: For example, death benefit expenses should be modeled with an expense assumption that is per death incurred.

- d. Shall reflect the impact of inflation.
- e. Shall not assume future expense improvements.
- f. Shall not include assumptions for federal income taxes (and expenses paid to provide fraternal benefits in lieu of federal income taxes) and foreign income taxes.
- g. Shall use assumptions that are consistent with other related assumptions.
- h. Shall use fully allocated expenses.

Guidance Note: Expense assumptions should reflect the direct costs associated with the block of contracts being modeled, as well as indirect costs and overhead costs that have been allocated to the modeled contracts.

- i. Shall allocate expenses using an allocation method that is consistent across

company lines of business. Such allocation must be determined in a manner that is within the range of actuarial practice and methodology and consistent with applicable ASOPs. Allocations may not be done for the purpose of decreasing the stochastic reserve.

- j. Shall reflect expense efficiencies that are derived and realized from the combination of blocks of business due to a business acquisition or merger in the expense assumption only when any future costs associated with achieving the efficiencies are also recognized.

Guidance Note: For example, the combining of two similar blocks of business on the same administrative system may yield some expense savings on a per unit basis, but any future cost of the system conversion should also be considered in the final assumption. If all costs for the conversion are in the past, then there would be no future expenses to reflect in the valuation.

- k. Shall reflect the direct costs associated with the contracts being modeled, as well as an appropriate portion of indirect costs and overhead (i.e., expense assumptions representing fully allocated expenses should be used), including expenses categorized in the annual statement as “taxes, licenses and fees” (Exhibit 3 of the annual statement) in the expense assumption.

- l. Shall include acquisition expenses associated with business in force as of the valuation date and significant non-recurring expenses expected to be incurred after the valuation date in the expense assumption.

- m. For contracts sold under a new policy form or due to entry into a new product line, the company shall use expense factors that are consistent with the expense factors used to determine anticipated experience assumptions for contracts from an existing block of mature contracts taking into account:

- i. Any differences in the expected long-term expense levels between the block of new contacts and the block of mature contracts.
- ii. That all expenses must be fully allocated as required under Section 12.D.1.h above.

2. Margins for Prudent Estimate Expense Assumptions

The company shall determine margins for expense assumptions following Section 12.C.

Section 13: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The allocation shall be made separately for DR and SR. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

Commented [X366]: This method only makes sense if done separately for the DR and SR.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\sum Ai * [Aggregate Reserve - \sum Ci]$	9.09	10.91	0.00	20
Contract-level reserve $C_i + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the ~~stochastic reserve~~ SR defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows, as well as any cash flows that are scenario dependent.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the ~~stochastic reserve~~ SR defined in Section 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Commented [X367]: This method depends on the NAER, so would not work for companies that use direct iteration.

Commented [X368]: This could give an unstable allocation if there is an even mix of products with different risk profiles, so that the tail is populated with some scenarios where Product A does poorly and some where Product B does poorly. The single scenario will only reflect the riskiness of one of the products.

Commented [X369]: Not just the NAER, but the cashflows are also scenario dependent.

Commented [CD370]: "Section 3.D"

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}[(2)-(1), 0]$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}[(4 \text{ Total}) - (1 \text{ Total}), 0]$	Allocated Excess Reserve (6) = (3) x $[(5 \text{ Total}) / (3 \text{ Total})]$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

Commented [CD371]: should be "Max[(2)-(1), 0]"

*Cash Surrender Value
**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Section ~~13~~14: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, ~~are covered in this section, and all contracts not passing the SET covered by Sections 1 through 13 of VM-22, are covered Section 14 of VM-22:~~
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Commented [X372]: Under A.2: need to exclude contracts being covered by the earlier sections of VM-22 not passing the exclusion tests and need a clearer reference instead of "covered in this section"

Guidance Note: For Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f and Section ~~13~~14.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section ~~13~~14.A.2.d, Section ~~13~~14.A.2.e, Section ~~13~~14.A.2.f, Section ~~13~~14.A.2.g or Section ~~13~~14.A.2.h, the

company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section ~~13~~14 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section ~~13~~14.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section ~~13~~¹⁴ current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets
 - a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
 - b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 1314.C.1) and its Premium Determination Date (Section 1314.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.

d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 1314.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 1314.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 1314.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section ~~13~~14.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section ~~13~~14.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section ~~13~~14.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 4314.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 4314.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 4314.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 4314.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 14.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 14.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
- i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for

individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section ~~13~~14.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different

dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II, Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in ~~Section 13.14~~ of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for ~~non-variable~~ fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through ~~12~~ 13 of VM-22.

Commented [X373]: We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.

Commented [VM22374R373]: Waylon Peoples comment letter: Extend small company exemption in place for life PBR (VM-20) to VM-22.

Commented [CD375]: "non-variable annuity"?

Commented [X376]: "Section 13 of VM-22" may need to be updated if it is decided to have separate chapters for VM-22 VIR and VM-22 PBR.

Commented [CD377]: "non-variable annuity"?

Commented [CD378]: Consider adding the sentence: "The minimum reserve requirements of VM-22 are considered PBR requirements for purposes of the Valuation Manual." This is so VM-G will apply to VM-22, which would be appropriate.

The requirements in this section are still considered a part of PBR requirements and therefore are applicable to VM-G.

The below principles may serve as key considerations for assessing whether VM 21 or VM 22 requirements apply:

D. Minimum reserve requirements apply:

- E. ~~Index for~~ index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions ~~may be a key consideration for application of VM 22 requirements and are issued on 1/1/2024 and later are those requirements; as found in Sections 1 through 13 of VM-22.:~~

Commented [X379]: "Index-linked" annuity is not defined – only RILA and FIA in VM-22, recommend to revise the language or add a definition to define "index linked".

- 1. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
- 2.b. Credits a rate of interest under the contract prior to the application of any market value adjustments that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

~~Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM 22 requirements.~~

Minimum reserve requirements.

Commented [X380]: Recommend adding this part to E.1.b and delete the Guidance Note.

for index

F. ~~2. Index-linked or modified guaranteed annuity contracts or riders that do not satisfy either of the two conditions listed above criteria in Paragraph Section 2.E.1 and Section 2.E.2 above and E.1.ii may be a key consideration for application of VM-21 are issued on 1/1/2024 and later are those requirements as found in VM-21.~~

Commented [X381]: VM-21 specifically says “These requirements do not apply to contracts falling under the scope of VM-A-255: Modified Guaranteed Annuities; however, they do apply to contracts listed above that include one or more subaccounts containing features similar in nature to those contained in modified guaranteed annuities (MGAs) (e.g., market value adjustments).” Is this a contradiction?

Commented [X382]: Consistent with E above.

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies ~~Designs~~ of policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

Commented [X383]: Still need the word “designs” otherwise this is saying the whole policy/contract was only created to disguise benefits, which would never be true.

A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.

B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, ~~Nursing Home Benefits~~ or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.

Commented [X384]: This reference is another place where there would be a benefit distinguishing the PBR sections of VM-22 from the non-PBR sections.

~~C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.~~

~~D.C. Any~~ any guaranteed minimum benefits on life insurance policies or annuity contracts ~~not subject to Paragraph C above~~ including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

Commented [X385]: These parallel requirements can be combined.

~~E.D.~~ E.D. If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.

1. The rider or supplemental benefit does not have a separately identified premium or charge.
2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~F.E.~~ F.E. If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is

separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

G.F. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

H.G. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve (for VM-20 and VM-22) or TAR (for VM-21) if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves (for VM-20 and VM-22) or reserves and TAR (for VM-21) using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. When advantageous, policyholders will commence living benefit payouts if not started yet.

Commented [X386]: Simplifications are judged relative to reserves for VM-20/VM-21 and TAR for VM-21.

Commented [X387]: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

Page 11: [1] Commented [VM2266R64] VM-22 Subgroup 3/2/2022 4:12:00 PM

See Equitable comment letter: supports full aggregation, but if choosing between the two exposed options for two reserving categories, prefers option 2.

Page 11: [2] Commented [CD68] CA DOI 12/30/2021 3:27:00 PM

suggest swapping the order of this section. That is, start with the "in scope" list, rather than the "out of scope" list.

Also, it seems like there should be specific mentions of GMDBs and GLBs, as there are in VM-21, since those guarantees can also be found on FIAs.

Page 11: [3] Commented [X71] TDI 11/9/2021 9:17:00 AM

This needs to be revised to be in line with VM-21 Section 2.A. Consider removing "such as" list and adding a cross-reference to VM-21 Section 2.A.

Page 11: [4] Commented [CD77] CA DOI 12/30/2021 3:31:00 PM

should this be "Non-Variable Annuity"? Otherwise, should "Fixed Annuity" be defined in the Definitions section?

Page 11: [5] Commented [X79] ACLI

We suggest moving or deleting the sentence "The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22." from this section as it does not seem fitting here.

Page 11: [6] Commented [X81] TDI 11/9/2021 9:19:00 AM

Does this belong in Scope? Do these still follow the other VM-22 requirements (if the old VM-22 interest rate determinations are left in the same chapter as the VM-22 PBR requirements)?

It is normal to then list what requirements such excluded contracts would follow. However, the statement here is more problematic because you can be excluded from the SR but still subject to VM-22.

Page 11: [7] Commented [X83] TDI 11/9/2021 9:25:00 AM

We still have a question about whether RBC factors are still at an appropriate level, if principles-based capital is not developed. Were they set assuming that this reserve was at a CTE(70) level in the first place, or were they dependent on the prior framework?

Page 14: [8] Commented [X99] ACLI

Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:

"these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."

Page 14: [9] Commented [CD100] CA DOI 12/30/2021 3:36:00 PM

Suggest rewording to just say "the stochastic exclusion test". There is only 1 SET, with 3 ways of passing it. Therefore, the current wording is confusing because it suggests that there are multiple SETs.

Page 14: [10] Commented [X102] ACLI

We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.

Page 14: [11] Commented [X103] TDI 11/9/2021 9:57:00 AM

The statement in this section is not acceptable as discussed in the previous TX comment letter. This will have the effect of potentially masking blocks that need PBR.

Page 14: [12] Commented [X104] ACLI

This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.

Page 14: [13] Commented [X108] ACLI

Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.

Page 14: [14] Commented [X109] ACLI

This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

Page 14: [15] Commented [CD110] CA DOI 12/30/2021 3:43:00 PM

VM-21 Section 3.H on simplifications, approximations, and modeling efficiency techniques is missing (including the Guidance Note). Would it make sense to add it?

Page 33: [16] Commented [X209] ACLI

We recommend removing "pension risk transfer business" from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

Page 33: [17] Commented [VM22210R209] VM-22 Subgroup 3/2/2022 2:51:00 PM

Determine whether to address longevity reinsurance in this topic, in light of NJ comment letter.

Page 33: [18] Commented [CD215] CA DOI 12/30/2021 4:14:00 PM

what is meant by "aggregate risk levels"? Aggregated across what? Need clarification on the intentions for adding this phrase, when it is not in VM-20. Otherwise, I would suggest deleting this.

Page 33: [19] Commented [X216] TDI 11/18/2021 9:49:00 PM

This is not in VM-20 and would substantially change the exclusion. The intent is not to allow you to group a block that has material interest rate risk with a larger block that is insensitive to interest rate risks and thereby pass. If

"aggregate" referred to potential compounding of interest rate, longevity, or asset risk then this could be redrafted to clearly call out a 4th category of risk due to a combination of the first three. However, I think this is already implicitly covered.

Page 33: [20] Commented [CD218] CA DOI 12/30/2021 4:15:00 PM

note, there is no insertion of "aggregate risk levels across" here, like there was above. (to be clear, i don't support adding it.)

To: Bruce Sartain, FSA, MAAA
Chair, VM-22 (A) Subgroup

CC: Reggie Mazyck, ASA, MAAA
Life Actuary, NAIC

From: Elaine Lam, FSA, CERA, MAAA
Senior Life Actuary, Office of Principle-Based Reserving
California Department of Insurance

Date: 11/19/2021

Subject: Comments on ARCWG-Proposed Draft of VM-22: PBR for Non-Variable Annuities

General comments:

1. Need to change “policy/policies” to “contract/contracts” throughout the document. Similarly, “policyholder(s)” should be changed to “contract holder(s)”.
 - a. The one exception is for the term “policy loan”, which we should keep.
2. Need to incorporate changes (as appropriate) from the most recently adopted version of the VM, including any APFs adopted since that last version of the VM.
3. Should there be an exercise to consider which changes herein should also be made to VM-21 and/or VM-20, for consistency purposes?
4. Need to double check all section references (perhaps not needed until we get closer to a final draft).
5. Need to double check usage of “aggregate reserve” vs. “stochastic reserve”.
6. Adding page numbers to future drafts would be very helpful.

Specific comments:

7. Detailed comments are embedded within the PDF of the exposure draft (appended to this cover letter).



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July 16, 2021
Bruce Sartain, Chair
Valuation Manual (VM)-22 (A) Subgroup
Life Actuarial (A) Task Force
National Association of Insurance Commissioners (NAIC)

Dear Mr. Sartain,

The American Academy of Actuaries¹ Annuity Reserves and Capital Work Group (ARCWG) presented a fixed annuity principle-based reserving (PBR) framework proposal to the VM-22 Subgroup during its October 21, 2020 meeting. This document provides ARCWG's initial draft of NAIC Valuation Manual Section II and VM-22 requirements associated with the ARCWG proposal. We ask for the VM-22 Subgroup's consideration of the language herein as a foundation for further drafting efforts, in your efforts to advance toward an NAIC fixed annuity PBR framework.

Please let us know if you have any follow-up inquiries in response to this document. Again, we appreciate the opportunity to propose the fixed annuity framework and all of the efforts made by the VM-22 Subgroup to focus on this topic.

Sincerely,
Ben Slutsker
Chairperson, Annuity Reserves and Capital Work Group
American Academy of Actuaries

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

VM-22 PBR:- Requirements for Principle-Based Reserves for Non-Variable Annuities

Drafting Overview: This document is the ARCWG-proposed draft Valuation Manual wording for VM-22 PBR for non-variable annuities. The edits reflected in this draft are made in association with the recommendations in the Annuity Reserves Work Group-proposed VM-22 presentation, exposed by the VM-22 Subgroup in October 2020. Each section shows editorial mark-ups compared to existing VM-20 or VM-21 wording, which is included as a draft note at the beginning of each section (with the only exceptions being Sections 1 and 2 that do not contain mark-ups to existing Valuation Manual wording).

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Section 1: Background

Drafting Note: All revisions shown in this section are in comparison to Section 1 in VM-21.

A. Purpose

These requirements establish the minimum reserve valuation standard for non-variable annuity ~~VA and certain other policies and contracts (“contracts”)~~ as defined in the Section 2.A, and issued on or after 1/1/2024 ~~operative date of the Valuation Manual as required by Model #820.~~ ~~For all contracts encompassed by the Scope,~~ these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts ~~encompassed in Section 2.A,~~ the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

The contracts subject to these requirements may be aggregated with the contracts subject to *Actuarial Guideline XLIII – CARVM for Variable Annuities (AG 43)*, published in Appendix C of the AP&P Manual, for purposes of performing and documenting the reserve calculations.

Guidance Note:

Effectively, through reference in AG 43, the reserve requirements in VM 21 also apply to those contracts issued prior to Jan. 1, 2017, that would not otherwise be encompassed by the scope of VM 21. Reserves for contracts subject to VM 21 or AG 43 may be computed as a single group. If a company chooses to aggregate business subject to AG 43 with business subject to VM 21 in calculating the reserve, then the provisions in VM G apply to this aggregate principle based valuation.

Guidance Note:

Relationship to RBC Requirements

These requirements anticipate that the projections described herein are used for the determination of RBC for all of the contracts falling within the scope of these requirements. These requirements and the RBC requirements for the topics covered within Sections 4.A through 4.E are identical. However, while the projections described in these requirements are performed on a basis that ignores federal income tax, a company may elect to conduct the projections for calculating the RBC requirements by including projected federal income tax in the cash flows and reducing the discount interest rates used to reflect the effect of federal income tax as described in the RBC requirements. A company that has elected to calculate RBC requirements in this manner may not switch back to using a calculation that ignores the effect of federal income tax without approval from the domiciliary commissioner.

B. Principles

The projection methodology used to calculate the stochastic reserve, ~~as well as the approach used to develop the Alternative Methodology,~~ is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

~~**Guidance Note:** Examples where full aggregation between contracts may not be possible include experience rated group contracts and the operation of reinsurance treaties.~~

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the stochastic reserve at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to

which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model nor a method based on factors calibrated to the results of a cash-flow scenario model can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve. Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.
2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - ~~i.~~ ~~Separate account fund performance.~~
 - ii. Credit risks (e.g., default or rating downgrades).
 - iii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
 - ~~iiii.~~ Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
 - iv. Performance of equities, real estate, and Schedule BA assets.
 - v. Call risk on callable assets.
 - ~~vi.~~ ~~Separate account fund performance.~~
 - vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
 - viii. Currency risk.

- b. Liability risks
 - i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
 - ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
 - iii. Utilization risk associated with guaranteed living benefits.
 - iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
 - v. Annuitization risks.
 - vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
 - vii. Applicable expense risks, including fluctuation maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.
 - c. Combination risks
 - i. Risks modeled in the company's risk assessment processes that are related to the contracts, as described above.
 - ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).
 - iii. Risks associated with revenue-sharing income.
3. The risks not necessarily reflected in the calculation of reserves under these requirements are:
- a. ~~Those not reflected in the determination of RBC.~~
 - b. ~~Those reflected in the determination of RBC but arising from obligations of the company not directly related to the contracts falling under the scope of these requirements, or their supporting assets, as described above.~~
 - a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
- a. Asset risks

- i. Liquidity risks associated with a sudden and significant levels of withdrawals and surrenders~~“run on the bank.”~~
- b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
- c. General business risks
 - i. Deterioration of reputation.
 - ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
 - iii. Poor management performance.
 - iv. The expense risks associated with fluctuating amounts of new business.
 - v. Risks associated with future economic viability of the company.
 - vi. Moral hazards.
 - vii. Fraud and theft.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

Deferred Income Annuity (DIA)

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year or later after (or from) the issue date if the contract holder survives to a predetermined future age.

Fixed Indexed Annuity (FIA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, typically with guaranteed principal.

Flexible Premium Deferred Annuity (FPDA)

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

Funding Agreement

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

Guaranteed Investment Contract (GIC)

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

Index Credit Hedge Margin

A margin capturing the risk of inefficiencies in the company's hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

Index Credit

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to policy values that is linked to an index or indices. Amounts credited to the policy resulting from a floor on an index account are included.

Index Crediting Strategy

The strategy defined in a contract to determine index credits for a contract. This refers to underlying index, index parameters, date, timing, and other elements of the crediting method.

Index Parameter

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Longevity Reinsurance

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a

permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

Market Value Adjustment (MVA) Annuity

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

Modified Guaranteed Annuity (MGA)

A type of market-value adjusted annuity contract where the underlying assets are held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods.

Multiple Year Guaranteed Annuity (MYGA)

A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.

Pension Risk Transfer (PRT) Annuity

An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).

Registered Index-Linked Annuity (RILA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.

Single Premium Immediate Annuity (SPIA)

An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within one year after (or from) the issue date.

Single Premium Deferred Annuity (SPDA)

An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest

rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.

Stable Value Contract

A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer’s general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.

Structured Settlement Contract (SSC)

A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.

Synthetic GIC

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the policyholder or plan trust.

Term Certain Payout Annuity

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Two-Tiered Annuity

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

1. ~~The term “cash surrender value” means, for the purposes of these requirements, the amount available to the contract holder upon surrender of the contract. Generally, it is equal to the account value less any applicable surrender charges, where the surrender charge reflects the availability of any free partial surrender options. However, for contracts where all or a portion of the amount available to the contract holder upon surrender is subject to a market value adjustment, the cash surrender value shall reflect the market value adjustment consistent with the required treatment of the underlying assets. That is, the cash surrender value shall reflect any market value adjustments where the underlying assets are reported at market value, but it shall not reflect any market value adjustments where the underlying assets are reported at book value.~~
2. ~~The term “clearly defined hedging strategy” (CDHS) is defined in VM 01. In order to be designated as a CDHS, the strategy must meet the principles outlined in Section 1.B (particularly Principle 5) and shall, at a minimum, identify:~~
 - a. ~~The specific risks being hedged (e.g., delta, rho, vega, etc.).~~
 - b. ~~The hedge objectives.~~
 - e. ~~The risks not being hedged (e.g., variation from expected mortality, withdrawal,~~

- and other utilization or decrement rates assumed in the hedging strategy, etc.).
- d. The financial instruments that will be used to hedge the risks.
 - e. The hedge trading rules, including the permitted tolerances from hedging objectives.
 - f. The metric(s) for measuring hedging effectiveness.
 - g. The criteria that will be used to measure hedging effectiveness.
 - h. The frequency of measuring hedging effectiveness.
 - i. The conditions under which hedging will not take place.
 - j. The person or persons responsible for implementing the hedging strategy.

Guidance Note: It is important to note that strategies involving the offsetting of the risks associated with VA guarantees with other products outside of the scope of these requirements (e.g., equity-indexed annuities) do not currently qualify as a clearly defined hedging strategy under these requirements.

3. The term “guaranteed minimum death benefit” (GMDB) means a provision (or provisions) for a guaranteed benefit payable on the death of a contract holder, annuitant, participant or insured where the amount payable is either (i) a minimum amount; or (ii) exceeds the minimum amount and is:
- is increased by an amount that may be either specified by or computed from other policy or contract values; and
 - has the potential to produce a contractual total amount payable on such death that exceeds the account value; or
 - in the case of an annuity providing income payments, guarantees payment upon such death of an amount payable on death in addition to the continuation of any guaranteed income payments.

Guidance Note: The definition of GMDB includes benefits that are based on a portion of the excess of the account value over the net of premiums paid less partial withdrawals made (e.g., an earnings enhanced death benefit).

4. The term “total asset requirement” (TAR) means the sum of the reserve determined from the VM-21 requirements prior to any adjustment for the elective phase in pursuant to Section 2.B plus the C3 RBC amount from LR027 step (paragraph D) prior to any adjustment for phase in or smoothing.

Section 2: Scope and Effective Date

Drafting Note: There are no revisions shown in this section compared to VM-21 or other chapters Valuation Manual, since the write-up is largely new for VM-22.

A. **Scope**

Subject to the requirements of this VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

- Contracts or benefits that are subject to VM-21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)
- GICs
- Synthetic GICs
- Stable Value Contracts
- Funding Agreements

Products in scope of VM-22 include fixed annuities which consist of, but are not limited to, the following the list:

- **Account Value Based Annuities**
 - Deferred Annuities (SPDA & FPDA)
 - Multi-Year Guarantee Annuities (MYGA)
 - Fixed Indexed Annuities (FIA)
 - Market-Value Adjustments (MVA)
 - Two-tiered Annuities
 - Guarantees/Benefits/Riders on Fixed Annuity Contracts
- **Payout Annuities**
 - Single Premium Immediate Annuities (SPIA)
 - Deferred Income Annuities (DIA)
 - Term Certain Payout Annuity
 - Pension Risk Transfer Annuities (PRT)
 - Structured Settlement Contracts (SSC)
 - Longevity Reinsurance

The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.

B. **Effective Date & Transition****Effective Date**

These requirements apply for valuation dates on or after January 1, 2024.

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the first three years following the effective date of VM-22 PBR. If a company during the three years elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Section 3: Reserve Methodology

Drafting Note: All revisions shown in this section are in comparison to Section 3 in VM-21.

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the stochastic reserve (following the requirements of Section 4) ~~plus the additional standard projection amount (following the requirements of Section 6) less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C the Alternative Methodology (Section 7), plus the reserve for any contracts determined using the Alternative Methodology valued under applicable requirements in VM-A and VM-C (following the requirements of Section 7).~~

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR stochastic reserves, per the requirements in Section 3.E.

B. Impact of Reinsurance Ceded

~~Where reinsurance is ceded for all or a portion of the contracts, a~~ All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that ~~would allow the treaty to be accounted for as reinsurance, A, and pre-reinsurance ceded reserve also needs to be determined by, that is ignoring all reinsurance cash flows (such costs and benefits) in the reserve calculation.~~

C. ~~To Be Determined~~ The Additional Standard Projection Amount

~~The additional standard projection amount is determined by applying one of the two standard projection methods defined in Section 6. The same method must be used for all contracts within a group of contracts that are aggregated together to determine the reserve, and the additional standard projection amount excluding any contracts whose reserve is determined using the Alternative Methodology. The company shall elect which method they will use to determine the additional standard projection amount. The company may not change that election for a future valuation without the approval of the domiciliary commissioner.~~

D. The Stochastic Reserve

1. The stochastic reserve shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the ~~methodology pursuant to applicable requirements in VM-A and VM-C~~ Alternative Methodology, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required ~~in Section 3.F~~ herein. ~~The stochastic reserve may be determined in aggregate for all contracts falling within the scope of these requirements—i.e., a single model segment—or, at the option of the company, it may be determined by subgrouping contracts into model segments,~~
2. The stochastic reserve amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, ~~with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the scenario reserve following the requirements of Section 4.~~

3. The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the stochastic reserve if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:
 - a. Aggregate in a manner that is consistent with the company’s risk management strategy and reflects the likelihood of any change in risk offsets that could arise from shifts between product types, and
 - b. Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together
4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.
5. To the extent that these limits on aggregation result in more than one model segment, the stochastic reserve shall equal the sum of the stochastic reserve amounts computed for each model segment and scenario reserve amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion TestAlternative Methodology

~~For a group of variable deferred annuity contracts that contain either no guaranteed benefits or only GMDBs— i.e., no VAGLBs—the reserve may be determined using the Alternative Methodology described in Section 7 rather than using the approach described in Section 3.C and Section 3.D. However, in the event that the approach described in Section 3.C and Section 3.D has been used in prior valuations for that group of contracts, the Alternative Methodology may not be used without approval from the domiciliary commissioner.~~

~~The reserve for the group of contracts to which the Alternative Methodology is applied shall not be less than the aggregate cash surrender value of those contracts.~~

1. To the extent that certain groups of contracts pass one of the defined stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in Section 13.
 - a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

2. The approach for grouping contracts when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 12.

G. Prudent Estimate Assumptions:

1. With respect to the Stochastic Reserve in Section 3.C, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
- 4-3. To determine the prudent estimate assumptions, the stochastic reserve shall also follow the requirements in Sections 4 and 9 for asset assumptions, Section 10 for policyholder behavior assumptions, and Section 11 for mortality assumptions.

G. Reserve to Be Held in the General Account

The portion of the aggregate reserve held in the general account shall not be less than the excess of the aggregate reserve over the aggregate cash surrender value held in the separate account and attributable to the separate account portion of all such contracts. For contracts for which a cash surrender value is not defined, the company shall substitute for cash surrender value held in the separate account the implicit amount for which the contract holder is entitled to receive income based on the performance of the separate account. For example, for a variable payout annuity for which a specific number of units is payable, the implicit amount could be the present value of that number of units, discounted at the assumed investment return and defined mortality, times the unit value as of the valuation date.

Guidance Note: This approach is equivalent to assuming that the separate account performance is equal to the assumed investment return.

Section 4: Determination of Stochastic Reserve

Drafting Note: All revisions shown in this section are in comparison to Section 4 in VM-21.

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Section 4.D. The company shall project cash flows including the following:

- a. Revenues received by the company including gross premiums received from the policyholder (including any due premiums as of the projected start date).
- b. All material benefits projected to be paid to policyholders—including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

- c. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.J.
- d. Insurance company expenses (including overhead and investment expense), ~~commissions~~ fund expenses, contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses), ~~and~~
- e. Net cash flows associated with any reinsurance. ~~or~~
- f. Cash flows from hedging instruments as described in Section 4.A.4. ~~are to be reflected on a basis consistent with the requirements herein.~~
- g. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.
- ~~a.h.~~ If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance). Cash flows from any fixed account options also shall be included. Any market value adjustment assessed on projected withdrawals or surrenders also shall be included (whether or not the cash surrender value reflects market value adjustments). Throughout the projection, all assumptions shall be determined based on the requirements herein. Accumulated deficiencies shall be determined at the end of each projection year as the sum of the accumulated deficiencies for all contracts within each model segment.

Guidance Note: Section 4.A.1 requires market value adjustments (MVAs) on liability cash flows to be reflected because in a cash flow model, assets are assumed to be liquidated at market value to cover the cash outflow of the cash surrender; therefore, inclusion of the market value adjustment aligns the asset and liability cash flows. This may differ from the treatment of MVAs in the definition of cash surrender value (Section 1.D), which defines the statutory reserve floor for which the values must be aligned with the annual statement value of the assets.

2. Grouping of Variable Funds and Subaccounts Index Crediting Strategies

~~The portion of the starting asset amount held in the separate account represented by the variable funds and the corresponding account values~~ Index crediting strategies may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of ~~the funds~~ each index crediting strategy. In assigning each ~~variable fund and the variable subaccounts~~ index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the ~~fund~~ index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy's specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

~~An appropriate proxy fund for each variable subaccount shall be designed in order to develop the investment return paths. The development of the scenarios for the proxy funds is a fundamental step in the modeling and can have a significant impact on results. As such, the company must map each variable account to an appropriately crafted proxy fund normally expressed as a linear combination of recognized market indices, sub-indices or funds.~~

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

- a. For a company that does not have a CDHS future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:
- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
 - ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. The hedge assets may then be considered in one of two ways:
 - a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions—in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

- b. For a company ~~with a CDHS~~ that has a future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:
- i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to policyholders
 - b) Existing hedging instruments that are currently held by the company for this purpose in support of the contracts falling under the scope of these requirements shall be included in the starting assets. -Existing hedging instruments that are currently held by the

company for any other purpose should be modeled consistently with the requirements of Section 4.A.4.a.ii.

- c) An Index Credit Hedge Margin for these instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.
- ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
- a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve.
- b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future through the execution of CDHS. Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and ~~no~~only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9. ~~The stochastic reserve shall be the weighted average of the two CTE70 values, where the weights reflect the error factor (E) determined following the guidance of Section 9.C.4.~~
- c) Consistent with Section 4.A.4.b.i., the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c).

- d) _____ The use of products not falling under the scope of these requirements (e.g., equity indexed annuities) as a hedge shall not be recognized in the determination of accumulated deficiencies.

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging.- In this case the hedge positions are considered similarly to other fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

~~If applicable, P~~projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the ~~following~~ requirements set forth in VM 21 Section 4.A.5 are met.:

~~The net revenue sharing income is received by the company~~company receives the net revenue sharing income.

Guidance Note: For purposes of this section, net revenue sharing income is considered to be received by the company if it is paid directly to the company through a contractual agreement with either the entity providing the net revenue sharing income or an affiliated company that receives the net revenue sharing income. Net revenue sharing income also would be considered to be received if it is paid to a subsidiary that is owned by the company and if 100% of the statutory income from that subsidiary is reported as statutory income of the company. In this case, the company needs to assess the likelihood that future net revenue sharing income is reduced due to the reported statutory income of the subsidiary being less than future net revenue sharing income received.

~~Signed contractual agreement(s) are in place as of the valuation date and support the current payment of the net revenue sharing income.~~

~~The net revenue sharing income is not already accounted for directly or indirectly as a company asset.~~

~~The amount of net revenue sharing income to be used shall reflect the company's assessment of factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):~~

~~The terms and limitations of the agreement(s), including anticipated revenue, associated expenses and any contingent payments incurred or made by either the company or the entity providing the net revenue sharing as part of the agreement(s).~~

~~The relationship between the company and the entity providing the net revenue sharing income that might affect the likelihood of payment and the level of expenses.~~

~~The benefits and risks to both the company and the entity paying the net revenue sharing income of continuing the arrangement.~~

~~The likelihood that the company will collect the net revenue sharing income during the term(s) of the agreement(s) and the likelihood of continuing to receive future revenue after the agreement(s) has ended.~~

~~The ability of the company to replace the services provided to it by the entity providing the net revenue sharing income or to provide the services itself, along with the likelihood that the replaced or provided services will cost more to provide.~~

~~The ability of the entity providing the net revenue sharing income to replace the services provided to it by the company or to provide the services itself, along with the likelihood that the replaced or provided services will cost more to provide.~~

~~The amount of projected net revenue sharing income shall reflect a margin (which decreases the assumed net revenue sharing income) directly related to the uncertainty of the revenue. The greater the uncertainty, the larger the margin. Such uncertainty is driven by many factors, including the potential for changes in the securities laws and regulations, mutual fund board responsibilities and actions, and industry trends. Since it is prudent to assume that uncertainty increases over time, a larger margin shall be applied as time that has elapsed in the projection increases.~~

~~All expenses required or assumed to be incurred by the company in conjunction with the arrangement providing the net revenue sharing income, as well as any expenses assumed to be incurred by the company in conjunction with the assumed replacement of the services provided to it (as discussed in Section 4.A.5.b.v), shall be included in the projections as a company expense under the requirements of Section 4.A.1. In addition, expenses incurred by either the entity providing the net revenue sharing income or an affiliate of the company shall be included in the applicable expenses discussed in Section 4.A.1 and Section 4.A.5.a that reduce the net revenue sharing income.~~

~~The company is responsible for reviewing the revenue sharing agreements and verifying compliance with these requirements.~~

~~The amount of net revenue sharing income assumed in a given scenario shall not exceed the sum of (i) and (ii), where:~~

~~Is the contractually guaranteed net revenue sharing income projected under the scenario;
and~~

~~Is the company's estimate of non contractually guaranteed net revenue sharing income
before reflecting any margins for uncertainty multiplied by the following factors:~~

~~1.00 in the first projection year.~~

~~0.95 in the second projection year.~~

~~0.90 in the third projection year.~~

~~0.85 in the fourth projection year.~~

~~0.80 in the fifth and all subsequent projection years.~~

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

B. Determination of Scenario Reserve

1. ~~General~~ For a given scenario, the scenario reserve ~~is the sum of~~ shall be determined using one of two methods described below:

- a) The ~~starting asset amount plus the~~ greatest present value, as of the projection start date, of the projected accumulated deficiencies; ~~and~~

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

- b) The ~~direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period~~ starting asset amount. ~~When using the direct Iteration method, the scenario reserve will equal the final starting asset amount determined according to Section 4.B.4.~~

The scenario reserve for any given scenario shall not be less than the cash surrender value in aggregate on the valuation date for the group of contracts modeled in the projection.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

3. Determination of NAER on Additional Invested Asset Portfolio

- a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:
- i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company's investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
 - ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
 - iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the projection period for the scenario. This vector will be the NAER for the given scenario.
 - ~~iii~~.iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

~~4. Direct Iteration In lieu of the method described in Section 4.B.2 and Section 4.B.3 above, the company may solve for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no accumulated deficiencies at the end of any projection year during the projection period.~~

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the stochastic reserve, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for ~~general account equity index funds, equities, and fixed income assets and separate account fund performance~~ shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:

~~i. All of the separate account assets supporting the contracts;~~

~~ii. Any hedge instruments held in support of the contracts being valued; and~~

~~iii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i) and (ii).~~

~~**Guidance Note:** Deferred hedge gains/losses developed under SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees are not included in the starting assets.~~

- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

~~To the extent that the sum of the value of hedge assets, or cash, or other general account assets in an amount equal to the aggregate market value of such hedge assets, and the value of separate account assets supporting the contracts is greater than the approximate value of statutory reserves as of the start of the projections, then the company shall include enough negative general account assets or cash such that the starting asset amount equals the approximate value of statutory reserves as of the start of the projections.~~

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company's state of domicile.

3. ~~Separate Account Assets~~

~~For purposes of determining the starting asset amounts in Section 4.D.1 and the valuation of projected assets in Section 4.D.2, assets held in a separate account shall be summarized into asset categories determined by the company as discussed in Section 4.A.2.~~

4.3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company's investment policy, subject to the following requirements:
- i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;
 - ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall

appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;

- iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in the model investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.
- b. Notwithstanding the above requirements, the model investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained by substituting an alternative investment strategy in which all fixed income reinvestment assets are public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:
- i. ~~-5% Treasury~~
 - ii. ~~150% PBR credit rating 3 (Aa2/AA)~~
 - iii. ~~40% 6 (A2/A) and 50% PBR credit rating 63 (Aa2/AA)~~
 - ~~vi.iv. 40% PBR credit rating 9 (Baa/BBB)~~

~~Policy loans, equities and derivative instruments associated with the execution of a clearly defined hedging strategy are not affected by this requirement.~~

~~**Drafting Note:** This limitation is being referred to Life Actuarial (A) Task Force for review.~~

- ~~b.c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.iii and Section 4.D.4.a.iv, recognizing that initial assets that mature~~

during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above “provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period” is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

5.4. Cash Flows from Invested Assets

- a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
 - ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
 - iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
 - iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F.
- b. Cash flows from general account index funds and equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate— including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for ~~separate account assets~~ index crediting strategies, as discussed in Section 4.A.2.
 - ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.

- iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.
- c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.I.
- E. Projection of Annuitization Benefits ~~(Including GMIBs and GMWBs)~~
1. ~~Assumed Annuitization Purchase Rates at Election~~
- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such payout rates shall reflect the payout rate specified in the contract.
- a.b. For purposes of projecting future elective annuitization benefits (including annuitizations stemming from the election of a GMIB) and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.
2. ~~Projected Election of GMIBs, GMWBs and Other Annuitization Options~~
- a. ~~For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections may assume one of the following at the company's option:~~
- ~~The contract is treated as if surrendered at an amount equal to the statutory reserve that would be required at such time for a fixed payout annuity benefit equivalent to the guaranteed benefit amount (e.g., GMIB or GMWB benefit payments)~~
- ~~The contract is assumed to will stay in force, and the projected periodic payments are paid, and the associated maintenance expenses are incurred.~~
- b. ~~Where mortality improvement is used to project future annuitization purchase rates, as discussed in Section 4.E.1 above, mortality improvement also shall be reflected on a consistent basis in either the determination of the reserve in Section 4.E.2.a.i above or the projection of the periodic payments in Section 4.E.2.a.ii.~~
3. ~~Projected Statutory Reserve for Payout Annuity Benefits~~
- ~~If the statutory reserve for payout annuity benefits referenced above in Section 4.E.2.a requires a parameter that is not determined in a formulaic fashion, the company must make a reasonable and supportable assumption regarding this parameter.~~

F. Frequency of Projection and Time Horizon

1. Use of an annual cash-flow frequency (“timestep”) is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.
2. Care must be taken in simulating fee income and expenses when using an annual time step. ~~For example, recognizing fee income at the end of each period after market movements, but prior to persistency decrements, would normally be an inappropriate assumption.~~ It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

Drafting Note: All revisions shown in this section are in comparison to Section 5 in VM-21.

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded. Therefore, it is necessary to determine the components needed to determine the aggregate reserve—i.e., ~~the additional standard projection amount, the stochastic reserve determined using projections, and/or the reserve amount valued using requirements in VM-A and VM-C determined using the Alternative Methodology, as applicable~~—on both bases. Sections 5.A.2 and through 5.A.34 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2. Stochastic Reserve

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all ~~anticipated~~ projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions ~~both premiums and recoveries are determined by recognizing any limitations in the reinsurance treaties, such as caps on recoveries or floors on premiums.~~
 - i. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

- ii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.
- iii. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum reserve by the absolute value of such reductions in surplus.

- b. In order to determine the stochastic reserve on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
- i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, ~~One acceptable approach involves a projection based on using the same starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method amount as for the aggregate reserve post reinsurance ceded and by ignoring, where appropriate, all anticipated reinsurance premiums or other costs and all reinsurance recoveries in the projections.~~

Guidance Note: For standard pro rata insurance treaties (does not include experience refunds), where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company's experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.

3. Reserve Determined Upon Passing the Exclusion Test ~~using the Alternative Methodology~~

If a company passes ~~chooses to use the Alternative Methodology~~ stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, where reinsurance is ceded, the Alternative Methodology reserve must be modified to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties in the determination of the aggregate reserve post reinsurance ceded adjusted for any reinsurance ceded accordingly. In addition, the reserves valued under applicable Sections in VM-A and VM-C ~~Alternative Methodology~~, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the pre-reinsurance and post-reinsurance reserves may result in different outcomes for the exclusion test. In particular, it is possible that the pre-reinsurance reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the post-reinsurance reserves might not.

4. ~~To Be Determined~~ Additional Standard Projection Amount

~~Where reinsurance is ceded, the additional standard projection amount shall be calculated as described in Section 6 to reflect the reinsurance costs and reinsurance recoveries under the reinsurance treaties. The additional standard projection amount shall also be calculated pre reinsurance ceded using the methods described in Section 6 but ignoring the effects of the reinsurance ceded.~~

Section 6: To Be Determined

Section 7: Exclusion Testing

Drafting Note: All revisions shown in this section are in comparison to Section 6 in VM-20.

A. Stochastic Exclusion Test Requirement Overview

1. ~~Requirements to pass the Stochastic Exclusion Test:~~

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation if the stochastic exclusion test (SET) is satisfied for that group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve requirements if there are one or more future hedging programs associated with the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.

B. Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

1. Stochastic Exclusion Ratio Test (SERT)—Annually and within 12 months before the valuation date the company demonstrates that the groups of ~~contracts~~policies pass the SERT defined in Section 7.C6.A.2.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D6.A.3.
3. SET Certification Method—For groups of ~~contracts~~policies other than variable life that do not have guaranteed living benefits, future hedging programs, or ~~ULSG~~pension risk transfer business in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of ~~contracts~~policies is not subject to material aggregate risk levels across interest rate risk, longevity risk, or asset return volatility risk (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). The company shall provide the certification and documentation supporting the certification to the commissioner upon request.

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to

understand the analysis and reasons for the actuary's conclusion that the group of ~~policies~~contracts is not subject to material interest rate risk, longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that ~~NPR~~using requirements under VM-A and VM-C for the group of ~~policies~~contracts calculated according to Section 3 are at least as great as the assets required to support the group of ~~policies~~contracts using the company's cash-flow testing model under each of the 16 scenarios identified in ~~Section 6~~this section or alternatively each of the New York seven scenarios.
- b) A demonstration that the group of ~~policies~~contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk.
- c) A qualitative risk assessment of the group of ~~policies~~contracts that concludes that the group of ~~policies~~contracts does not have material interest rate risk or asset return volatility. Such assessment would include an analysis of product guarantees, the company's non-guaranteed elements (NGEs) policy, assets backing the group of ~~policies~~contracts and the company's investment strategy.

C. Stochastic Exclusion Ratio Test

1. In order to exclude a group of ~~policies~~contracts from the stochastic reserve requirements using the method allowed under ~~Section 6.A.1.a~~the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of $(b-a)/ea$ is less than ~~6%~~ $[x]\%$ where:

- a. ~~a = the adjusted deterministic scenario reserve described in Section 6.A.2.b.i~~Paragraph C.2.a.i below using economic scenario 9, the baseline economic scenario, as described in Appendix 1.E of VM-20.
- b. ~~b = the largest adjusted scenario reserve described in Section 6.A.2.b.i~~Paragraph C.2.b below under any of the other 15 economic scenarios described in Appendix 1.E of VM-20 under both ~~[95]%~~ and ~~[105]%~~ of anticipated experience mortality excluding margins.
- ~~iii. c = an amount calculated from the baseline economic scenario described in Appendix 1.E that represents the present value of benefits for the policies, adjusted for reinsurance by subtracting ceded benefits. For clarity, premium, ceded premium, expense, reinsurance expense allowance, modified coinsurance reserve adjustment and reinsurance experience refund cash flows shall not be considered "benefits," but items such as death benefits, surrender or withdrawal benefits and policyholder dividends shall be. For this purpose, the company shall use the benefits cash flows from the calculation of quantity "a" and calculate the present value of those cash flows using the same path of discount rates as used for "a."~~

Guidance Note: Note that the numerator should be the largest adjusted ~~DR~~scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted ~~DR~~scenario reserve for

the baseline economic scenario. This is not necessarily the same as the biggest difference from the adjusted ~~DR~~scenario reserve for the baseline economic scenario, or the absolute value of the biggest difference from the adjusted ~~DR~~scenario reserve for the baseline economic scenario, both of which could lead to an incorrect test result.

2. In calculating the ratio in ~~Section 6.A.2.a~~subsection (1) above:
 - a. The company shall calculate an adjusted ~~deterministic~~scenario reserve for the group of ~~contracts~~policies for ~~each of the~~ 16 scenarios that is equal to either (a) or (b) below:
 - i. The ~~deterministic~~scenario reserve defined in Section 4.A, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section ~~7.H4~~ specific to each scenario to discount the cash flows.
 - d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
 - e) Shall not reflect correlation between longevity and economic risks.
 - ii. The gross premium reserve developed from the cash flows from the company's asset adequacy analysis models, using the experience assumptions of the company's cash-flow analysis, but with the following differences:
 - a) Using the interest rates and equity return assumptions specific to each scenario.
 - b) Using the mortality scalars described in Paragraph C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section ~~7.H4~~ specific to each scenario to discount the cash flows, but using the company's cash-flow testing assumptions for default costs and reinvestment earnings.
 - b. The company shall use the most current ~~available baseline economic scenario and the 15 other~~ 16 economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
 - c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
 - d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.

- e. ~~Mortality improvement beyond the projection start date may not be reflected in the mortality assumption for the purpose of the calculating the stochastic exclusion ratio.~~
- e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the exclusion test under a pre-reinsurance-ceded basis upon determining the pre-reinsurance reserve-ceded aggregate reserve.
3. If the ratio calculated in Section 6.A.2.a above this section is less than 6%[x]% pre-YRTnon-proportional reinsurance, but is greater than 6%[x]% post-YRTnon-proportional reinsurance, the group of ~~contracts~~ policies will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted ~~deterministic~~ scenario reserve to economic scenarios is comparable pre- and post-YRTnon-proportional reinsurance.
- a. An example of an acceptable demonstration:
- i. For convenience in notation • SERT = the ratio $(b-a)/ea$ defined in Section 7.C.1(a) above
- a) The pre-YRTnon-proportional reinsurance results are “gross of YRTnon-proportional,” with a subscript “gygn,” so denoted $SERT_{gy}, SERT_{gn}$
- b) The post-YRTnon-proportional results are “net of YRTnon-proportional,” with subscript “nynn,” so denoted $SERT_{ny}, SERT_{nn}$
- ii. If a block of business being tested is subject to one or more YRTnon-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of YRTnon-proportional” to mean net of all ~~non-YRTprorata~~ reinsurance but ignoring the YRTnon-proportional contract(s), and “net of YRTnon-proportional” to mean net of *all* reinsurance contracts. That is, treat YRTnon-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.
- iii. So, if $SERT_{gy} \leq 0.060, SERT_{gn} \leq [x]$ but $SERT_{ny} > 0.060, SERT_{nn} > [x]$, then compute the largest percent increase in reserve (LPIR) = $(b-a)/a$, both “gross of YRTnon-proportional” and “net of YRTnon-proportional.”
- $$LPIR_{gy}, LPIR_{gn} = (b_{gy} - a_{gy})/a_{gy}, a_{gn}$$
- $$LPIR_{ny}, LPIR_{nn} = (b_{ny} - a_{ny})/a_{ny}, a_{nn}$$
- Note that the scenario underlying b_{gy}, b_{gn} could be different from the scenario underlying b_{ny}, b_{nn} .
- If $SERT_{gy} \times LPIR_{ny}/LPIR_{gy} < 0.060, SERT_{gn} \times LPIR_{nn}/LPIR_{gn} < [x]$, then the block of ~~contracts~~ policies passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted ~~deterministic~~ scenario reserves for the 16 scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
4. The SERT may not be used for a group of ~~contracts~~ policies if, using the current year's data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method of ~~Section 6.A.3.b.i or Section 6.A.3.b.ii~~ in this section and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method of ~~Section 6.A.1.a.iii~~ in this section and concluded that such certification could not legitimately be made.

D. Stochastic Exclusion Demonstration Test

1. In order to exclude a group of ~~contracts~~ policies from the stochastic reserve requirements ~~using the methodology using the method as allowed under Section 6.A.1.a.ii above~~ in this section, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:
 - a. The demonstration shall provide a reasonable assurance that if the stochastic reserve was calculated on a stand-alone basis for the group of ~~contracts~~ policies subject to the stochastic reserve exclusion, the resulting stochastic minimum reserve for those groups of ~~policies~~ contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C ~~increase~~. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of ~~policies~~ contracts from the stochastic reserve requirements.
 - b. If, as of the end of any calendar year, the company determines the ~~minimum~~ aggregate reserve for the group of ~~policies~~ contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT for those ~~policies~~ contracts.
 - c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.
 - d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with ~~Section 6.A.3.a~~ subsection 7.D.1 above:
 - a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C ~~greater of [the quantity A and the quantity B]~~ is greater than the stochastic reserve calculated on a stand-alone basis, ~~where:~~

~~A = the deterministic reserve, and~~

~~B = the NPR less any associated due and deferred premium asset.~~

~~bii. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C greater of [the quantity A and the quantity B] is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios, where:~~

~~A = the deterministic reserve, and~~

~~B = the NPR less any associated due and deferred premium asset.~~

~~c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C greater of [the quantity A and the quantity B] is greater than the stochastic reserve calculated on a stand-alone basis, but using a representative sample of contracts/policies in the stochastic reserve calculations, where:~~

~~A = the deterministic reserve, and~~

~~B = the NPR less any associated due and deferred premium asset.~~

~~d. Demonstrate that any risk characteristics that would otherwise cause the stochastic reserve calculated on a stand-alone basis to exceed greater of the deterministic reserve and the NPR, less any associated due and deferred premium asset the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the policyholder by contract provision.~~

E. Deterministic Certification Option

1. The company has the option to determine the stochastic reserve for a group of contracts using a single deterministic economic scenario, subject to the following conditions.

a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of policies. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.

b. The company certifies that the group of policies is not supported by a reinvestment strategy that contains future hedge purchases.

c. The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing the scenario reserve volatility across various economic scenarios.

d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

2. The stochastic reserve for the group of contracts under the Deterministic Certification Option is determined as follows:
- a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
 - b. The stochastic reserve equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a Future Hedging Strategy

Drafting Note: All revisions shown in this section are in comparison to Section 9 in VM-21.

A. Initial Considerations

1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits, or (b) clearly separates index credit hedging from other hedging. In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
- ~~21.~~ Subject to Section 9.C.2, †The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the stochastic reserve, determined in accordance with Section 3.D and Section 4.D.
- ~~32.~~ If the company is following a CDHS, in accordance with an investment policy adopted by the board of directors, or a committee of board members, †The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario based on the execution of the hedging strategy, and it is eligible to reduce the amount of the stochastic reserve using projections otherwise calculated. The investment policy must clearly articulate the company's hedging objectives, including the metrics that drive rebalancing/trading. This specification could include maximum tolerable values for investment losses, earnings, volatility, exposure, etc. in either absolute or relative terms over one or more investment horizons vis à vis the chance of occurrence. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months. , including the hedging strategy, used to implement the investment policy.
- ~~43.~~ For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
- ~~54.~~ This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio. Before either a new or revised hedging strategy can be used to reduce the amount of the stochastic reserve otherwise calculated, the hedging strategy should be in place (i.e., effectively implemented by the company) for at least three months. The company may meet the time requirement by having evaluated

~~the effective implementation of the hedging strategy for at least three months without actually having executed the trades indicated by the hedging strategy (e.g., mock testing or by having effectively implemented the strategy with similar annuity products for at least three months).~~

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the stochastic reserve otherwise calculated.
2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.
3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the stochastic reserve otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the stochastic reserve needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the stochastic reserve attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or mock tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta. ~~Another example is that financial indices underlying typical hedging instruments typically do not perform exactly like the separate account funds, and hence the use of hedging instruments has the potential for introducing basis risk~~

5. A safe harbor approach is permitted ~~for CDHS reflection~~ for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

C. Calculation of Stochastic Reserve (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the ~~CDHS modeling of hedges~~ (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to ~~execute the CDHS model the hedges~~ (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no ~~CDHS hedging strategy except those to hedge interest credits and hedge assets held by the company on the valuation date~~, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the stochastic reserve is given by:

$$\text{Stochastic reserve} = \text{CTE70 (best efforts)} + E \times \max[0, \text{CTE70 (adjusted)} - \text{CTE70 (best efforts)}]$$

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent 12 months, to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge ~~results strategy~~ and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E, the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.

- b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).
 - iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.
 - iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company’s choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
 - c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with no history, E should be at least 0.50.

However, E may be lower than 0.50 if some reliable experience is available and/or if the change in strategy is a refinement rather than a substantial change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or ~~CDHS~~-modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

~~E. Additional Considerations for CTE70 (best efforts)~~

~~If the company is following a CDHS, the fair value of the portfolio of contracts falling within the scope of these requirements shall be computed and compared to the CTE70 (best efforts) and CTE70 (adjusted). If the CTE70 (best efforts) is below both the fair value and CTE70 (adjusted), the company should be prepared to explain why that result is reasonable.~~

~~For the purposes of this analysis, the stochastic reserve and fair value calculations shall be done without requiring the scenario reserve for any given scenario to be equal to or in excess of the cash surrender value in aggregate for the group of contracts modeled in the projection.~~

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for purposes of reducing the stochastic reserve, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.
2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the ~~variable-fixed indexed~~ annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited

to, a hedging strategy where material hedging assets will be obtained when the ~~variable~~ fixed indexed annuity account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the ~~variable~~-fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserve, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.

3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserve otherwise calculated.
6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

Drafting Note: All revisions shown in this section are in comparison to Section 10 in VM-21.

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the results. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, ~~fund index~~ performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to

the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more behaviors.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- ~~•~~ Partial withdrawals.
- Benefit utilization.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus $\pm X\%$ across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
- ~~1.2.~~ Using data from prior periods.

D. Specific Considerations and Requirements

1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:
 - a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
 - b. Surrenders.
 - c. Partial withdrawals (systematic and elective).
 - d. ~~Fund Account~~ transfers (switching/exchanges).
 - e. Resets/ratchets of the guaranteed amounts (automatic and elective).
 - f. Future deposits.
 - g. Income start date
 - h. Commutation of benefit (from periodic payment to lump sum)
2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

For example:

- a. The impact of ~~fund—account~~ transfers (intra-contract ~~fundindex~~ “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic asset re-allocation/rebalancing, ~~dollar—cost averaging accounts, etc.~~) or if the contract provisions incentivize the contract holders to transfer between accounts.
- b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
- c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.

~~**Guidance Note:** For some non elective benefits (nursing home benefits for example), unless relevant company experience exists to the contrary, the use of incidence rates greater than zero after the surrender charge has ended, or the cash value was depleted might be inappropriate may not be prudent since it would reduce the modeled reserve.~~

3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.

4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
- a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.
 - f. Tax status.
 - g. Fund Account value.
 - g.h. Interest credited (current and guaranteed).
 - h.i. Investment option. Available indices.
 - i.j. Guaranteed benefit amounts.
 - j.k. Surrender charges, ~~transaction-transfer~~ fees or other contract charges.
 - k.l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.
6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.
8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100%

efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder.
2. The company should exercise care in using static assumptions when it would be more natural and reasonable to use a dynamic model or other scenario-dependent formulation for behavior. With due regard to considerations of materiality and practicality, the use of dynamic models is encouraged, but not mandatory. Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers) may require higher margins and/or signal a need for higher margins for certain other assumptions.
3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For ~~variable-fixed~~ annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. Declining and/or volatile ~~separate account asset~~index values, where applicable.
 - b. ~~Market index volatility,~~ Price gaps and/or liquidity constraints.
 - c. Rapidly changing interest rates or persistently low interest rates.
 - d. Volatile credit spreads.
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:
 - a. Remain logically and internally consistent across the scenarios tested.

- b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
 5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.
- G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10 above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy’s utilization or to reflect average utilization over a model segment or sub-segments.
 - c. Model policy loan interest in a manner consistent with policy provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)
 - d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.

- e. Model additional policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
- f. Model any investment expenses allocated to policy loans and include them either with policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect policy costs or values and not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to fixed annuities include but are not limited to the following: fixed credited rates, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

1. Except as noted below in Section 10.J.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company's past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the policy's or contract's experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.

6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company's option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting aggregate stochastic reserve.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting aggregate stochastic reserve should be reduced by the amount of the dividend liability.
7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

Drafting Note: All revisions shown in this section are in comparison to Section 11 in VM-21.

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining either the stochastic reserve or the reserve for any contracts determined using the Alternative Methodology. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. (Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between whether the payout annuities or deferred annuity contracts that contain VA GLBs, and where the no VA GLB segments would include both deferred annuity contracts with no guaranteed benefits and contracts with only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from

similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are “PRT contracts,” it would be appropriate to differentiate them for mortality assumption purposes, similar to how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a plus (minus) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a plus (minus) segment to a minus (plus) segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company’s own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company’s expected mortality curves.

3. No Data Requirements

i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

a. [2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

b. [1983 Table “a”] for structured settlements or other contracts with impaired mortality

c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

~~the appropriate percentage (F_x) from Table 1 of the 2012 IAM Basic Table with Projection Scale G2 for contracts with no VAGLBs and expected deaths no greater than the appropriate percentage (F_x) from Table 1 of the 2012 IAM Basic Mortality Table with Projection Scale G2 for contracts with VAGLBs. If mortality experience on the business segment is expected to be atypical (e.g., demographics of target markets are known to have higher [lower] mortality than typical), these “no data” mortality requirements may not be adequate.~~

Table 11.1

Attained Age (x)	F _x for VA with GLB	F _x for All Other
<=65	80.0%	100.0%
66	81.5%	102.0%
67	83.0%	104.0%
68	84.5%	106.0%
69	86.0%	108.0%
70	87.5%	110.0%
71	89.0%	112.0%
72	90.5%	114.0%
73	92.0%	116.0%
74	93.5%	118.0%
75	95.0%	120.0%
76	96.5%	119.0%

77	98.0%	118.0%
78	99.5%	117.0%
79	101.0%	116.0%
80	102.5%	115.0%
81	104.0%	114.0%
82	105.5%	113.0%
83	107.0%	112.0%
84	108.5%	111.0%
85	110.0%	110.0%
86	110.0%	110.0%
87	110.0%	110.0%
88	110.0%	110.0%
89	110.0%	110.0%
90	110.0%	110.0%
91	110.0%	110.0%
92	110.0%	110.0%
93	110.0%	110.0%
94	110.0%	110.0%
95	110.0%	110.0%
96	109.0%	109.0%
97	108.0%	108.0%
98	107.0%	107.0%
99	106.0%	106.0%
100	105.0%	105.0%
101	104.0%	104.0%
102	103.0%	103.0%
103	102.0%	102.0%
104	101.0%	101.0%
>=105	100.0%	100.0%

iii. For a business segment with non-U.S. insureds, an established industry or national mortality table may be used, with approval from the domiciliary commissioner.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves with the mortality assumption described in Section 11.B.3.a ~~mortality table consistent with a statutory valuation mortality table. For contracts with no VAGLBs, the table shall be consistent with the appropriate percentage (F_x) from Table 1 of the 2012 IAM Basic Table with Projection Scale G2; and for contracts with VAGLBs, the table shall be consistent with the appropriate percentage (F_x) from Table 1 of the 2012 IAM Basic Mortality Table with Projection Scale G2.~~ The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the ~~statutory valuation~~ mortality table used in the blending.

2. Adjustment of Statutory Valuation Mortality for Improvement

For purposes of the adjustment for credibility, the ~~statutory valuation~~ mortality table for a plus segment may be and the ~~statutory valuation~~ mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3~~Projection Scale G2~~ from the effective date of the respective ~~statutory valuation~~ mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves ~~(discussed in Section 11.B)~~.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.
- b. Not tend to bias the results in any material way.
- c. Be practical to implement.
- d. Give consideration to the need to balance responsiveness and stability.
- e. Take into account not only the level of aggregate claims but the shape of the mortality curve.
- f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.

4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting stochastic reserve. If such an adjustment would reduce the stochastic reserve, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Allocation of Aggregate Reserves to the Contract Level

Drafting Note: All revisions shown in this section are in comparison to Section 11 in VM-21.

Section 23.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis. ~~For contracts valued under the alternative methodology, the alternative methodology calculations provide a contract level calculation that may be a reasonable basis for allocation.~~
 - 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140

Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22
Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $L_i = (A_i) / \sum A_i * [\text{Aggregate Reserve} - \sum C_i]$	9.09	10.91	0.00	20
Contract-level reserve $C_i + L_i$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

B. An allocated portion of tThe excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:

1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the stochastic reserve defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows.
2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the stochastic reserve defined in 3.D.
4. As a hypothetical example, consider a company with the results of the following five contracts:

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}[(2), 0]$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}[(4) \text{ Total} - (1) \text{ Total}, 0]$	Allocated Excess Reserve (6) = $(3) \times [(5) \text{ Total}] / (3) \text{ Total}]$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value

**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

3. shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts. The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis. For contracts valued under the alternative methodology, the alternative methodology calculations provide a contract level calculation that may be a reasonable basis for allocation.

4. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk-adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Section 13: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

Drafting Note: All revisions shown in this section are in comparison to the current VM-22 requirements.

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, are covered in this section ~~by VM-22~~:
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Guidance Note: For Section ~~13.A.2.d+B-4~~, Section ~~13.A.2.e+B-5~~, Section ~~13.A.2.f+B-6~~ and Section ~~13.A.2.h+B-8~~ above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section

13.A.2.d1-B.4, Section 13.A.2.e1-B.5, Section 13.A.2.f1-B.6, Section 13.A.2.g1-B.7 or Section 13.A.2.h1-B.8, the company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts (AG-9-B)* (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities (AG-9-C)* (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.B.1.c2.A.3 above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.
4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 [Section 13](#) current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets

- a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.

- b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract

A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0
A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder

Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 13.C.1A) and its Premium Determination Date (Section 13.C.2-B) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.
- d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 13.C.4D);
 - b. S is the spread rate for that Valuation Rate Bucket (defined in Section 13.C.5E);
 - c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 13.C.6F);
- and
- d. E is the spread deduction defined as 0.25%.
- e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section 13.C.7G) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section 13.C.8H) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section 13.C.9F) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.

- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.
6. Default costs for each Valuation Rate Bucket are updated annually as described below:
- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.
 - b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 13.C.9~~4~~) effective for the calendar year in which the premium determination date falls.
7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9~~4~~) effective for the calendar year in which the business date immediately preceding the premium determination date falls.
8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 13.C.7.aG.1\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 13.C.7.aG.1]).
 - b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9f) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 13.C.3.e5.
9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
 - i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:

- a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
- b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for individual annuities for males (ANB).
- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d4.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c3.)
- e. The present value of each summed cash-flow group in Step d4 is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section 13.A.2.iB-9), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II. Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 13 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- ~~C.D.~~ Minimum reserve requirements for fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 12 of VM-22.
- E. The below principles may serve as key considerations for assessing whether VM-21 or VM-22 requirements apply:
1. Index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM-22 requirements:
 - a. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
 - b. Credits a rate of interest under the contract that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.
- Guidance Note:** Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM-22 requirements.
2. Index-linked or modified guaranteed annuity contracts that do not satisfy either of the two conditions listed above in Paragraph E.1.i and E.1.ii may be a key consideration for application of VM-21 requirements.

Subsection 6: Riders and Supplemental Benefits

Drafting Note: All revisions shown in this section are in comparison to Subsection 6 in Section II of the Valuation Manual.

Guidance Note: ~~Policies designs, or contracts with riders and supplemental benefits~~ which are created to simply disguise ~~benefits riders~~ subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, VM-20 Section 3.A.1 or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

- A. If a rider or supplemental benefit is attached to a health insurance product, ~~annuity product, deposit-type contract, or credit life or disability product~~, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.
- B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, Nursing Home Benefits or Disability Waiver of Premium Benefits, the supplemental benefit may be ~~included~~ valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.
- C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.
- D. Any guaranteed minimum benefits on life insurance policies or annuity contracts not subject to Paragraph C above including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
- ~~D.E.~~ If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be included valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
1. The rider or supplemental benefit does not have a separately identified premium or charge.
 2. ~~The~~ After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or policy contract features or performance.
 3. ~~The~~ After issuance, the base policy or policy contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.

~~E.F.~~ If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of ~~p~~Paragraph ~~DE~~ above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

~~F.G.~~ For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through ~~EF~~ above, the riders or supplemental benefits may be ~~included~~ valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.

~~G.H.~~ Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves using the following principles:

1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
2. When advantageous, policyholders will commence living benefit payouts if not started yet.



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July 16, 2021
Bruce Sartain, Chair
Valuation Manual (VM)-22 (A) Subgroup
Life Actuarial (A) Task Force
National Association of Insurance Commissioners (NAIC)

Dear Mr. Sartain,

The American Academy of Actuaries¹ Annuity Reserves and Capital Work Group (ARCWG) presented a fixed annuity principle-based reserving (PBR) framework proposal to the VM-22 Subgroup during its October 21, 2020 meeting. This document provides ARCWG's initial draft of NAIC Valuation Manual Section II and VM-22 requirements associated with the ARCWG proposal. We ask for the VM-22 Subgroup's consideration of the language herein as a foundation for further drafting efforts, in your efforts to advance toward an NAIC fixed annuity PBR framework.

Please let us know if you have any follow-up inquiries in response to this document. Again, we appreciate the opportunity to propose the fixed annuity framework and all of the efforts made by the VM-22 Subgroup to focus on this topic.

Sincerely,
Ben Slutsker
Chairperson, Annuity Reserves and Capital Work Group
American Academy of Actuaries

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities

Drafting Overview: This document is the ARCWG-proposed draft Valuation Manual wording for VM-22 PBR for non-variable annuities. The edits reflected in this draft are made in association with the recommendations in the Annuity Reserves Work Group-proposed VM-22 presentation, exposed by the VM-22 Subgroup in October 2020. Each section shows editorial mark-ups compared to existing VM-20 or VM-21 wording, which is included as a draft note at the beginning of each section (with the only exceptions being Sections 1 and 2 that do not contain mark-ups to existing Valuation Manual wording).

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Section 1: Background

A. Purpose

These requirements establish the minimum reserve valuation standard for non-variable annuity contracts as defined in Section 2.A and issued on or after 1/1/2024. For all contracts encompassed by the Scope, these requirements constitute the Commissioners Annuity Reserve Valuation Method (CARVM) and, for certain contracts, the Commissioners Reserve Valuation Method (CRVM).

Guidance Note: CRVM requirements apply to some group pension contracts.

B. Principles

The projection methodology used to calculate the stochastic reserve is based on the following set of principles. These principles should be followed when interpreting and applying the methodology in these requirements and analyzing the resulting reserves.

Guidance Note: The principles should be considered in their entirety, and it is required that companies meet these principles with respect to those contracts that fall within the scope of these requirements and are in force as of the valuation date to which these requirements are applied.

Principle 1: The objective of the approach used to determine the stochastic reserve is to quantify the amount of statutory reserves needed by the company to be able to meet contractual obligations in light of the risks to which the company is exposed with an element of conservatism consistent with statutory reporting objectives.

Principle 2: The calculation of the stochastic reserve is based on the results derived from an analysis of asset and liability cash flows produced by the application of a stochastic cash-flow model to equity return and interest rate scenarios. For each scenario, the greatest present value of accumulated deficiency is calculated. The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario. The methodology uses a projected total cash flow analysis by including all projected income, benefit, and expense items related to the business in the model and sets the stochastic reserve at a degree of confidence using the CTE measure applied to the set of scenario specific greatest present values of accumulated deficiencies that is deemed to be reasonably conservative over the span of economic cycles.

Principle 3: The implementation of a model involves decisions about the experience assumptions and the modeling techniques to be used in measuring the risks to which the company is exposed. Generally, assumptions are to be based on the conservative end of the confidence interval. The choice of a conservative estimate for each assumption may result in a distorted measure of the total risk. Conceptually, the choice of assumptions and the modeling decisions should be made so that the final result approximates what would be obtained for the

stochastic reserve at the required CTE level if it were possible to calculate results over the joint distribution of all future outcomes. In applying this concept to the actual calculation of the stochastic reserve, the company should be guided by evolving practice and expanding knowledge base in the measurement and management of risk.

Guidance Note: The intent of Principle 3 is to describe the conceptual framework for setting assumptions. Section 10 provides the requirements and guidance for setting contract holder behavior assumptions and includes alternatives to this framework if the company is unable to fully apply this principle.

Principle 4: While a stochastic cash-flow model attempts to include all real-world risks relevant to the objective of the stochastic cash-flow model and relationships among the risks, it will still contain limitations because it is only a model. The calculation of the stochastic reserve is based on the results derived from the application of the stochastic cash-flow model to scenarios, while the actual statutory reserve needs of the company arise from the risks to which the company is (or will be) exposed in reality. Any disconnect between the model and reality should be reflected in setting prudent estimate assumptions to the extent not addressed by other means.

Principle 5: Neither a cash-flow scenario model nor a method based on factors calibrated to the results of a cash-flow scenario model can completely quantify a company’s exposure to risk. A model attempts to represent reality but will always remain an approximation thereto and, hence, uncertainty in future experience is an important consideration when determining the stochastic reserve. Therefore, the use of assumptions, methods, models, risk management strategies (e.g., hedging), derivative instruments, structured investments or any other risk transfer arrangements (such as reinsurance) that serve solely to reduce the calculated stochastic reserve without also reducing risk on scenarios similar to those used in the actual cash-flow modeling are inconsistent with these principles. The use of assumptions and risk management strategies should be appropriate to the business and not merely constructed to exploit “foreknowledge” of the components of the required methodology.

C. Risks Reflected

1. The risks reflected in the calculation of reserves under these requirements arise from actual or potential events or activities that are both:
 - a. Directly related to the contracts falling under the scope of these requirements or their supporting assets; and
 - b. Capable of materially affecting the reserve.
2. Categories and examples of risks reflected in the reserve calculations include, but are not necessarily limited to:
 - a. Asset risks
 - i. Credit risks (e.g., default or rating downgrades).

- ii. Commercial mortgage loan roll-over rates (roll-over of bullet loans).
 - iii. Uncertainty in the timing or duration of asset cash flows (e.g., shortening (prepayment risk) and lengthening (extension risk)).
 - iv. Performance of equities, real estate, and Schedule BA assets.
 - v. Call risk on callable assets.
 - vi. Separate account fund performance.
 - vii. Risk associated with hedge instrument (includes basis, gap, price, parameter estimation risks, and variation in assumptions).
 - viii. Currency risk.
- b. Liability risks
- i. Reinsurer default, impairment, or rating downgrade known to have occurred before or on the valuation date.
 - ii. Mortality/longevity, persistency/lapse, partial withdrawal, and premium payment risks.
 - iii. Utilization risk associated with guaranteed living benefits.
 - iv. Anticipated mortality trends based on observed patterns of mortality improvement or deterioration, where permitted.
 - v. Annuitization risks.
 - vi. Additional premium dump-ins or deposits (high interest rate guarantees in low interest rate environments).
 - vii. Applicable expense risks, including fluctuation maintenance expenses directly attributable to the business, future commission expenses, and expense inflation/growth.
- c. Combination risks
- i. Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above.
 - ii. Disintermediation risk (including such risk related to payment of surrender or partial withdrawal benefits).
 - iii. Risks associated with revenue-sharing income.
3. The risks not necessarily reflected in the calculation of reserves under these requirements are:

- a. Those not associated with the policies or contracts being valued, or their supporting assets.
 - b. Determined to not be capable of materially affecting the reserve.
4. Categories and examples of risks not reflected in the reserve calculations include, but are not necessarily limited to:
- a. Asset risks
 - i. Liquidity risks associated with sudden and significant levels of withdrawals and surrenders.
 - b. Liability risks
 - i. Reinsurer default, impairment or rating downgrade occurring after the valuation date.
 - ii. Catastrophic events (e.g., epidemics or terrorist events).
 - iii. Major breakthroughs in life extension technology that have not yet fundamentally altered recently observed mortality experience.
 - iv. Significant future reserve increases as an unfavorable scenario is realized.
 - c. General business risks
 - i. Deterioration of reputation.
 - ii. Future changes in anticipated experience (reparameterization in the case of stochastic processes), which would be triggered if and when adverse modeled outcomes were to actually occur.
 - iii. Poor management performance.
 - iv. The expense risks associated with fluctuating amounts of new business.
 - v. Risks associated with future economic viability of the company.
 - vi. Moral hazards.
 - vii. Fraud and theft.

D. Specific Definitions for VM-22

Buffer Annuity

Interchangeable term for Registered Index-Linked Annuity (RILA). See definition for Registered Index-Linked Annuity below.

Deferred Income Annuity (DIA)

An annuity which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin one year or later after (or from) the issue date if the contract holder survives to a predetermined future age.

Fixed Indexed Annuity (FIA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, typically with guaranteed principal.

Flexible Premium Deferred Annuity (FPDA)

An annuity with an account value established with a premium amount but allows for additional deposits to be paid into the annuity over time, resulting in an increase to the account value. The contract also has a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase.

Funding Agreement

A contract issued to an institutional investor (domestic and international non-qualified fixed income investors) that provides fixed or floating interest rate guarantees.

Guaranteed Investment Contract (GIC)

Insurance contract typically issued to a retirement plan (defined contribution) under which the insurer accepts a deposit (or series of deposits) from the purchaser and guarantees to pay a specified interest rate on the funds deposited during a specified period of time.

Index Credit Hedge Margin

A margin capturing the risk of inefficiencies in the company's hedging program supporting index credits. This includes basis risk, persistency risk, and the risk associated with modeling decisions and simplifications. It also includes any uncertainty of costs associated with managing the hedging program and changes due to investment and management decisions.

Index Credit

Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to policy values that is linked to an index or indices. Amounts credited to the policy resulting from a floor on an index account are included.

Index Crediting Strategy

The strategy defined in a contract to determine index credits for a contract. This refers to underlying index, index parameters, date, timing, and other elements of the crediting method.

Index Parameter

Cap, floor, participation rate, spreads, or other features describing how the contract utilizes the index.

Longevity Reinsurance

An agreement, typically a reinsurance arrangement covering one or more group or individual annuity contracts, under which an insurance company assumes the longevity risk associated with

periodic payments made to specified annuitants under one or more immediate or deferred payout annuity contracts. A common example is participants in one or more underlying retirement plans.

Typically, the reinsurer pays a portion of the actual benefits due to the underlying annuitants (or, in some cases, a pre-agreed amount per annuitant), while the ceding insurance company retains the assets supporting the reinsured annuity payments and pays periodic, ongoing premiums to the reinsurer over the expected lifetime of benefits paid to the specified annuitants. Such agreements may contain net settlement provisions such that only one party makes ongoing cash payments in a particular period. Under these agreements, longevity risk may be transferred on either a permanent basis or for a prespecified period of time, and these agreements may or may not permit early termination.

Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition. In particular, contracts under which payments are made based on the aggregate mortality experience of a population of lives which are not covered by an underlying group or individual annuity contract (e.g., mortality index-based longevity swaps) are not included in this definition.

Market Value Adjustment (MVA) Annuity

An annuity with an account value where withdrawals and full surrenders are subject to adjustments based on interest rates or index returns at the time of withdrawal/surrender. There could be ceilings and floors on the amount of the market-value adjustment.

Modified Guaranteed Annuity (MGA)

A type of market-value adjusted annuity contract where the underlying assets are held in an insurance company separate account and the value of which are guaranteed if held for specified periods of time. The contract contains nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods.

Multiple Year Guaranteed Annuity (MYGA)

A type of fixed annuity that provides a pre-determined and contractually guaranteed interest rate for specified periods of time, after which there is typically an annual reset or renewal of a multiple year guarantee period.

Pension Risk Transfer (PRT) Annuity

An annuity, typically a group contract or reinsurance agreement, issued by an insurance company providing periodic payments to annuitants receiving immediate or deferred benefits from one or more retirement plans. Typically, the insurance company holds the assets supporting the benefits, which may be held in the general or separate account, and retains not only longevity risk but also asset risks (e.g., credit risk and reinvestment risk).

Registered Index-Linked Annuity (RILA)

An annuity with an account value where the contract holder has the option for a portion or all of the account value to grow at a rate linked to an external index, similar to a Fixed Indexed Annuity, but with downside risk exposure that may not guarantee full principal repayment. These contracts may include a cap on upside returns, and may also include a floor on downside returns which may be below zero percent.

Single Premium Immediate Annuity (SPIA)

An annuity purchased with a single premium amount which guarantees a periodic payment for the life of the annuitant or a term certain and payments begin within one year after (or from) the issue date.

Single Premium Deferred Annuity (SPDA)

An annuity with an account value established with a single premium amount that grows with a guaranteed interest rate during the accumulation phase and has guaranteed mortality and interest rates applicable at the time of conversion to the payout phase. May also include cases where the premium is accepted for a limited amount of time early in the contract life, such as only in the first duration.

Stable Value Contract

A contract that provides limited investment guarantees, typically preserving principal while crediting steady, positive returns and protecting against losses or declines in yield. Underlying asset portfolios typically consist of fixed income securities, which may sit in the insurer's general account, a separate account, or in a third-party trust. These contracts often support defined contribution or defined benefit retirement plan liabilities.

Structured Settlement Contract (SSC)

A contract that provides periodic benefits and is purchased with a single premium amount stemming from various types of claims pertaining to court settlements or out-of-court settlements from tort actions arising from accidents, medical malpractice, and other causes. Adverse mortality is typically expected for these contracts.

Synthetic GIC

Contract that simulates the performance of a traditional GIC through a wrapper, swap, or other financial instruments, with the main difference being that the assets are owned by the policyholder or plan trust.

Term Certain Payout Annuity

A contract issued, which offers guaranteed periodic payments for a specified period of time, not contingent upon mortality or morbidity of the annuitant.

Two-Tiered Annuity

A deferred annuity with two tiers of account values. One, with a higher accumulation interest rate, is only available for annuitization or death. The other typically contains a lower accumulation interest rate, and is only available upon surrender.

Section 2: Scope and Effective Date

A. Scope

Subject to the requirements of this VM-22 are annuity contracts, certificates and contract features, whether group or individual, including both life contingent and term-certain-only, directly written or assumed through reinsurance issued on or after 1/1/2024, with the exception of contracts or benefits listed below.

Products out of scope include:

- Contracts or benefits that are subject to VM-21 (such as variable annuities, RILAs, buffer annuities, and structured annuities)
- GICs
- Synthetic GICs
- Stable Value Contracts
- Funding Agreements

Products in scope of VM-22 include fixed annuities which consist of, but are not limited to, the following the list:

- **Account Value Based Annuities**
 - Deferred Annuities (SPDA & FPDA)
 - Multi-Year Guarantee Annuities (MYGA)
 - Fixed Indexed Annuities (FIA)
 - Market-Value Adjustments (MVA)
 - Two-tiered Annuities
 - Guarantees/Benefits/Riders on Fixed Annuity Contracts
- **Payout Annuities**
 - Single Premium Immediate Annuities (SPIA)
 - Deferred Income Annuities (DIA)
 - Term Certain Payout Annuity
 - Pension Risk Transfer Annuities (PRT)
 - Structured Settlement Contracts (SSC)
 - Longevity Reinsurance

The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.

B. Effective Date & Transition

Effective Date

These requirements apply for valuation dates on or after January 1, 2024.

Transition

A company may elect to establish minimum reserves pursuant to applicable requirements in VM-A and VM-C for business otherwise subject to VM-22 PBR requirements and issued during the

first three years following the effective date of VM-22 PBR. If a company during the three years elects to apply VM-22 PBR to a block of such business, then a company must continue to apply the requirements of VM-22 PBR for future issues of this business. Irrespective of the transition date, a company shall apply VM-22 PBR requirements to applicable blocks of business on a prospective basis starting at least three years after the effective date.

Section 3: Reserve Methodology

A. Aggregate Reserve

The aggregate reserve for contracts falling within the scope of these requirements shall equal the stochastic reserve (following the requirements of Section 4) less any applicable PIMR for all contracts not valued under applicable requirements in VM-A and VM-C, plus the reserve for any contracts valued under applicable requirements in VM-A and VM-C.

Guidance Note: Contracts valued under applicable requirements in VM-A and VM-C are ones that pass the exclusion test and elect to not model PBR stochastic reserves, per the requirements in Section 3.E.

B. Impact of Reinsurance Ceded

All components in the aggregate reserve shall be determined post-reinsurance ceded, that is net of any reinsurance cash flows arising from treaties that meet the statutory requirements that allow the treaty to be accounted for as reinsurance. A pre-reinsurance ceded reserve also needs to be determined by ignoring all reinsurance cash flows (costs and benefits) in the reserve calculation.

C. To Be Determined

D. The Stochastic Reserve

1. The stochastic reserve shall be determined based on asset and liability projections for the contracts falling within the scope of these requirements, excluding those contracts valued using the methodology pursuant to applicable requirements in VM-A and VM-C, over a broad range of stochastically generated projection scenarios described in Section 8 and using prudent estimate assumptions as required in Section 3.F herein.
2. The stochastic reserve amount for any group of contracts shall be determined as CTE70 of the scenario reserves following the requirements of Section 4, with the exception of groups of contracts for which a company elects the Deterministic Certification Option in Section 7.E, which shall be determined as the scenario reserve following the requirements of Section 4.
3. The reserve may be determined in aggregate across various groups of contracts as a single model segment when determining the stochastic reserve if the business and risks are not managed separately or are part of the same integrated risk management program. Aggregation is permitted if a resulting group of contracts (or model segment) follows the listed principles:
 - a. Aggregate in a manner that is consistent with the company's risk management strategy and reflects the likelihood of any change in risk offsets that could arise from shifts between product types, and
 - b. Using prudent actuarial judgement, consider the following elements when aggregating groups of contracts: whether groups of contracts are part of the same portfolio (or different portfolios that interact), same integrated risk management system, administered/managed together
4. Do not aggregate groups of contracts for which the company elects to use the Deterministic Certification Option in Section 7.E with any groups of contracts that do not use such option.

5. To the extent that these limits on aggregation result in more than one model segment, the stochastic reserve shall equal the sum of the stochastic reserve amounts computed for each model segment and scenario reserve amounts computed for each model segment for which the company elects to use the Deterministic Certification Option in Section 7.E.

E. Exclusion Test

1. To the extent that certain groups of contracts pass one of the defined stochastic exclusion tests in Section 7.B, these groups of contracts may be valued using the methodology pursuant to applicable requirements in VM-A and VM-C, with the statutory maximum valuation rate for immediate annuities specified in Section 13.
 - a. For dividend-paying contracts, a dividend liability shall be established upon following requirements in VM-A and VM-C, as described above, for the base contract.

Guidance Note: The intention of contracts that pass the stochastic exclusion test is to provide the option to value contracts under VM-A and VM-C. This may apply to pre-PBR CARVM requirements in accordance with Actuarial Guideline XXXIII (AG33) methodology with type A, B, C rates for SPIAs issued before 2018; AG33 methodology with pre-PBR VM-22 rates for SPIAs issued on/after 2018; Actuarial Guideline XXXV (AG35) pre-PBR methodology for Fixed Indexed Annuities; and AG33 methodology (with interest rate updates for modernization initiatives on new contracts) for non-SPIAs.

2. The approach for grouping contracts when performing the exclusion tests should follow the same principles that underlie the aggregation approach for model segments discussed for Stochastic Reserves in Section D above.

F. Allocation of the Aggregate Reserve to Contracts

The aggregate reserve shall be allocated to the contracts falling within the scope of these requirements using the method outlined in Section 12.

G. Prudent Estimate Assumptions:

1. With respect to the Stochastic Reserve in Section 3.C, the company shall establish the prudent estimate assumption for each risk factor in compliance with the requirements in Section 12 of Model #820 and must periodically review and update the assumptions as appropriate in accordance with these requirements.
2. The qualified actuary, to whom responsibility for this group of contracts is assigned, shall annually review relevant emerging experience for the purpose of assessing the appropriateness of the anticipated experience assumption. If the results of statistical testing or other testing indicate that previously anticipated experience for a given factor is inadequate, then the qualified actuary shall set a new, adequate, anticipated experience assumption for the factor.
3. To determine the prudent estimate assumptions, the stochastic reserve shall also follow the requirements in Sections 4 and 9 for asset assumptions, Section 10 for policyholder behavior assumptions, and Section 11 for mortality assumptions.

Section 4: Determination of Stochastic Reserve

A. Projection of Accumulated Deficiencies

1. General Description of Projection

The projection of accumulated deficiencies shall be made ignoring federal income tax in both cash flows and discount rates, and it shall reflect the dynamics of the expected cash flows for the entire group of contracts, reflecting all product features, including any guarantees provided under the contracts using prudent estimate liability assumptions defined in Sections 10 and 11 and asset assumptions defined in Section 4.D. The company shall project cash flows including the following:

- a. Revenues received by the company including gross premiums received from the policyholder (including any due premiums as of the projected start date).
- b. All material benefits projected to be paid to policyholders—including, but not limited to, death claims, surrender benefits and withdrawal benefits—reflecting the impact of all guarantees and adjusted to take into account amounts projected to be charged to account values on general account business. Any guarantees, in addition to market value adjustments assessed on projected withdrawals or surrenders, shall be taken into account.

Guidance Note: Amounts charged to account values on general account business are not revenue; examples include rider charges and expense charges.

- c. Non-Guaranteed Elements (NGE) cash flows as described in Section 10.J.
- d. Insurance company expenses (including overhead and investment expense), commissions, contractual fees and charges, and revenue-sharing income received by the company (net of applicable expenses).
- e. Net cash flows associated with any reinsurance.
- f. Cash flows from hedging instruments as described in Section 4.A.4.
- g. Cash receipts or disbursements associated with invested assets (other than policy loans) as described in Section 4.D.4, including investment income, realized capital gains and losses, principal repayments, asset default costs, investment expenses, asset prepayments, and asset sales.
- h. If modeled explicitly, cash flows related to policy loans as described in Section 10.I.2, including interest income, new loan payments and principal repayments.

Guidance Note: Future net policy loan cash flows include: policy loan interest paid in cash plus repayments of policy loan principal, including repayments occurring at death or surrender (note that the future benefits in Section 4.A.1.b are before consideration of policy

loans), less additional policy loan principal (but excluding policy loan interest that is added to the policy loan principal balance).

2. Grouping of Index Crediting Strategies

Index crediting strategies may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy. In assigning each index crediting strategy to a grouping for projection purposes, the fundamental characteristics of the index crediting strategy shall be reflected, and the parameters shall have the appropriate relationship to the stochastically generated projection scenarios described in Section 8. The grouping shall reflect characteristics of the efficient frontier (i.e., returns generally cannot be increased without assuming additional risk).

Index accounts sharing similar index crediting strategies may also be grouped for modeling to an appropriately crafted proxy strategy normally expressed as a linear combination of recognized market indices, sub-indices or funds, in order to develop the investment return paths and associated interest crediting. Each index crediting strategy's specific risk characteristics, associated index parameters, and relationship to the stochastically generated scenarios in Section 8 should be considered before grouping or assigning to a proxy strategy. Grouping and/or development of a proxy strategy may not be done in a manner that intentionally understates the resulting reserve.

3. Model Cells

Projections may be performed for each contract in force on the date of valuation or by assigning contracts into representative cells of model plans using all characteristics and criteria having a material impact on the size of the reserve. Assigning contracts to model cells may not be done in a manner that intentionally understates the resulting reserve.

4. Modeling of Hedges

a. For a company that does not have a future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:

- i. The company shall not consider the cash flows from any future hedge purchases or any rebalancing of existing hedge assets in its modeling.
- ii. Existing hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the starting assets. The hedge assets may then be considered in one of two ways:
 - a) Include the asset cash flows from any contractual payments and maturity values in the projection model; or
 - b) No hedge positions—in which case the hedge positions held on the valuation date are replaced with cash and/or other general account assets in an amount equal to the aggregate market value of these hedge positions.

Guidance Note: If the hedge positions held on the valuation date are replaced with cash, then as with any other cash, such amounts may then be invested following the company's investment strategy.

A company may switch from method a) to method b) at any time, but it may only change from b) to a) with the approval of the domiciliary commissioner.

- b. For a company that has a future hedging program tied directly to the contracts falling under the scope of VM-22 stochastic reserve requirements:
 - i. For a hedging program with hedge payoffs that offset interest credits associated with indexed interest strategies (indexed interest credits):
 - a) In modeling cash flows, the company shall include the cash flows from future hedge purchases or any rebalancing of existing hedge assets that are intended solely to offset interest credits to policyholders
 - b) Existing hedging instruments that are currently held by the company for this purpose in support of the contracts falling under the scope of these requirements shall be included in the starting assets. Existing hedging instruments that are currently held by the company for any other purpose should be modeled consistently with the requirements of Section 4.A.4.a.ii.
 - c) An Index Credit Hedge Margin for these instruments shall be reflected by reducing index interest credit hedge payoffs by a margin multiple that shall be justified by sufficient and credible company experience and be no less than [X%] multiplicatively of the interest credited. In the absence of sufficient and credible company experience, a margin of [Y%] shall be assumed. There is no cap on the index credit hedge margin if company experience indicates actual error is greater than [Y%]. It is permissible to substitute stress-testing for sufficient and credible experience if such stress-testing comprehensively considers a robust range of future market conditions.
 - ii. For a company that hedges any contractual obligation or risks other than indexed interest credits, the detailed requirements for the modeling of hedges are defined in Section 9. The following requirements do not supersede the detailed requirements.
 - a) The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the projections used in the determination of the stochastic reserve.
 - b) The projections shall take into account the appropriate costs and benefits of hedge positions expected to be held in the future.

Because models do not always accurately portray the results of hedge programs, the company shall, through back-testing and other means, assess the accuracy of the hedge modeling. The company shall determine a stochastic reserve as the weighted average of two CTE values; first, a CTE70 (“best efforts”) representing the company’s projection of all of the hedge cash flows, including future hedge purchases, and a second CTE70 (“adjusted”) which shall use only hedge assets held by the company on the valuation date and only future hedge purchases associated with indexed interest credited. These are discussed in greater detail in Section 9.

- c) Consistent with Section 4.A.4.b.i., the index credit hedge margin for instruments associated with indexed interest credited shall be reflected by reducing hedge payoffs by a margin multiple as defined in Section 4.A.4.b.i.c).
- d) The use of products not falling under the scope of these requirements as a hedge shall not be recognized in the determination of accumulated deficiencies.

Guidance Note: Section 4.A.4.b.i is intended to address common situations for products with index crediting strategies where the company only hedges index credits or clearly separates index credit hedging from other hedging. In this case the hedge positions are considered similarly to other fixed income assets supporting the contracts, and a margin is reflected rather than modeling using a CTE70 adjusted run with no future hedge purchases. If a company has a more comprehensive hedge strategy combining index credits, guaranteed benefit, and other risks (e.g., full fair value or economic hedging), an appropriate and documented bifurcation method should be used in the application of sections 4.A.4.b.i and 4.A.4.b.ii above for the hedge modeling and justification. Such bifurcation methods may quantify the specific risk exposure attributable to index credit liabilities versus other liabilities such as guaranteed living benefits, and apply such for the basis for allocation.

Guidance Note: The requirements of Section 4.A.4 govern the determination of reserves for annuity contracts and do not supersede any statutes, laws or regulations of any state or jurisdiction related to the use of derivative instruments for hedging purposes and should not be used in determining whether a company is permitted to use such instruments in any state or jurisdiction.

5. Revenue Sharing

If applicable, projections of accumulated deficiencies may include income from projected future revenue sharing, net of applicable projected expenses (net revenue-sharing income) if each of the requirements set forth in VM 21 Section 4.A.5 are met.

6. Length of Projections

Projections of accumulated deficiencies shall be run for as many future years as needed so that no materially greater reserve value would result from longer projection periods.

7. Interest Maintenance Reserve (IMR)

The IMR shall be handled consistently with the treatment in the company's cash flow testing, and the amounts should be adjusted to a pre-tax basis.

B. Determination of Scenario Reserve

1. For a given scenario, the scenario reserve shall be determined using one of two methods described below:

- a) The starting asset amount plus the greatest present value, as of the projection start date, of the projected accumulated deficiencies; or

Guidance Note: The greatest present value of accumulated deficiencies can be negative.

- b) The direct iteration method, where the scenario reserve is determined by solving for the amount of starting assets which, when projected along with all contract cash flows, result in the defeasement of all projected future benefits and expenses at the end of the projection horizon with no positive accumulated deficiencies at the end of any projection year during the projection period.

The scenario reserve for any given scenario shall not be less than the cash surrender value in aggregate on the valuation date for the group of contracts modeled in the projection.

2. Discount Rates

In determining the scenario reserve, unless using the direct iteration method pursuant to Section 4.B.1.b, the accumulated deficiencies shall be discounted at the NAER on additional assets, as defined in Section 4.B.3.

3. Determination of NAER on Additional Invested Asset Portfolio

- a. The additional invested asset portfolio for a scenario is a portfolio of general account assets as of the valuation date, outside of the starting asset portfolio, that is required in that projection scenario so that the projection would not have a positive accumulated deficiency at the end of any projection year. This portfolio may include only (i) General Account assets available to the company on the valuation date that do not constitute part of the starting asset portfolio; and (ii) cash assets.

Guidance Note:

Additional invested assets should be selected in a manner such that if the starting asset portfolio were revised to include the additional invested assets, the projection would not be expected to experience any positive accumulated deficiencies at the end of any projection year.

It is assumed that the accumulated deficiencies for this scenario projection are known.

- b. To determine the NAER on additional invested assets for a given scenario:

- i. Project the additional invested asset portfolio as of the valuation date to the end of the projection period,
 - a) Investing any cash in the portfolio and reinvesting all investment proceeds using the company’s investment policy.
 - b) Excluding any liability cash flows.
 - c) Incorporating the appropriate returns, defaults and investment expenses for the given scenario.
- ii. If the value of the projected additional invested asset portfolio does not equal or exceed the accumulated deficiencies at the end of each projection year for the scenario, increase the size of the initial additional invested asset portfolio as of the valuation date, and repeat the preceding step.
- iii. Determine a vector of annual earned rates that replicates the growth in the additional invested asset portfolio from the valuation date to the end of the projection period for the scenario. This vector will be the NAER for the given scenario.
- iv. If the depletion of assets within the projection results in an unreasonably high negative NAER upon borrowing, the NAER may be set to the assumed cost of borrowing associated with each projected time period, in accordance with Section 4.D.3.c, as a safe harbor.

Guidance Note: There are multiple ways to select the additional invested asset portfolio at the valuation date. Similarly, there are multiple ways to determine the earned rate vector. The company shall be consistent in its choice of methods, from one valuation to the next.

C. Projection Scenarios

1. Number of Scenarios

The number of scenarios for which the scenario reserve shall be computed shall be the responsibility of the company, and it shall be considered to be sufficient if any resulting understatement in the stochastic reserve, as compared with that resulting from running additional scenarios, is not material.

2. Economic Scenario Generation

Treasury Department interest rate curves, as well as investment return paths for index funds, equities, and fixed income assets shall be determined on a stochastic basis using the methodology described in Section 8. If the company uses a proprietary generator to develop scenarios, the company shall demonstrate that the resulting scenarios meet the requirements described in Section 8.

D. Projection of Assets

1. Starting Asset Amount

- a. For the projections of accumulated deficiencies, the value of assets at the start of the projection shall be set equal to the approximate value of statutory reserves at the start of the projection plus the allocated amount of PIMR attributable to the assets selected. Assets shall be valued consistently with their annual statement values. The amount of such asset values shall equal the sum of the following items, all as of the start of the projection:
 - i. Any hedge instruments held in support of the contracts being valued; and
 - ii. An amount of assets held in the general account equal to the approximate value of statutory reserves as of the start of the projections less the amount in (i).
- b. If the amount of initial general account assets is negative, the model should reflect a projected interest expense. General account assets chosen for use as described above shall be selected on a consistent basis from one reserve valuation hereunder to the next.

2. Valuation of Projected Assets

For purposes of determining the projected accumulated deficiencies, the value of projected assets shall be determined in a manner consistent with their value at the start of the projection. For assets assumed to be purchased during a projection, the value shall be determined in a manner consistent with the value of assets at the start of the projection that have similar investment characteristics. However, for derivative instruments that are used in hedging and are not assumed to be sold during a particular projection interval, the company may account for them at an amortized cost in an appropriate manner elected by the company.

Guidance Note: Accounting for hedge assets should recognize any methodology prescribed by a company's state of domicile.

3. General Account Assets

- a. General account assets shall be projected, net of projected defaults, using assumed investment returns consistent with their book value and expected to be realized in future periods as of the date of valuation. Initial assets that mature during the projection and positive cash flows projected for future periods shall be invested in a manner that is representative of and consistent with the company's investment policy, subject to the following requirements:
 - i. The final maturities and cash flow structures of assets purchased in the model, such as the patterns of gross investment income and principal repayments or a fixed or floating rate interest basis, shall be determined by the company as part of the model representation;

- ii. The combination of price and structure for fixed income investments and derivative instruments associated with fixed income investments shall appropriately reflect the projected Treasury Department curve along the relevant scenario and the requirements for gross asset spread assumptions stated below;
 - iii. For purchases of public non-callable corporate bonds, follow the requirements defined in VM-20 Sections 7.E, 7.F and 9.F. The prescribed spreads reflect current market conditions as of the model start date and grade to long-term conditions based on historical data at the start of projection year four;
 - iv. For transactions of derivative instruments associated with fixed income investments, reflect the prescribed assumptions in VM-20 Section 9.F for interest rate swap spreads;
 - v. For purchases of other fixed income investments, if included in the model investment strategy, set assumed gross asset spreads over U.S. Treasuries in a manner that is consistent with, and results in reasonable relationships to, the prescribed spreads for public non-callable corporate bonds and interest rate swaps.
- b. Notwithstanding the above requirements, the model investment strategy and any non-prescribed asset spreads shall be adjusted as necessary so that the aggregate reserve is not less than that which would be obtained by substituting an alternative investment strategy in which all fixed income reinvestment assets are public non-callable corporate bonds with gross asset spreads, asset default costs, and investment expenses by projection year that are consistent with a credit quality blend of:
- i. 5% Treasury
 - ii. 15% PBR credit rating 3 (Aa2/AA)
 - iii. 40% PBR credit rating 6 (A2/A)
 - iv. 40% PBR credit rating 9 (Baa/BBB)
- c. Any disinvestment shall be modeled in a manner that is consistent with the company's investment policy and that reflects the company's cost of borrowing where applicable, provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period, taking into account duration, ratings, and other attributes of the borrowing mechanism. Gross asset spreads used in computing market values of assets sold in the model shall be consistent with, but not necessarily the same as, the gross asset spreads in Section 4.D.4.a.ii and Section 4.D.4.a.iv, recognizing that initial assets that mature during the projection may have different characteristics than modeled reinvestment assets.

Guidance Note: This limitation is being referred to Life Actuarial (A) Task Force for review. The simple language above “provided that the assumed cost of borrowing is not lower than the rate at which positive cash flows are reinvested in the same time period” is not intended to impose a literal requirement. It is intended to reflect a general concept to prevent excessively optimistic borrowing assumptions. It is recognized that borrowing parameters and rules can be complicated, such that modeling limitations may not allow for literal compliance, in every time step, as long as the reserve is not materially affected. However, if the company is unable to fully apply this restriction, prudence dictates that a company shall not allow borrowing assumptions to materially reduce the reserve.

4. Cash Flows from Invested Assets
 - a. Cash flows from general account fixed income assets, including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Model gross investment income and principal repayments in accordance with the contractual provisions of each asset and in a manner consistent with each scenario.
 - ii. Reflect asset default costs as prescribed in VM-20 Section 9.F and anticipated investment expenses through deductions to the gross investment income.
 - iii. Model the proceeds arising from modeled asset sales and determine the portion representing any realized capital gains and losses.
 - iv. Reflect any uncertainty in the timing and amounts of asset cash flows related to the paths of interest rates, equity returns or other economic values directly in the projection of asset cash flows. Asset defaults are not subject to this requirement, since asset default assumptions must be determined by the prescribed method in VM-20 Sections 7.E, 7.F and 9.F.
 - b. Cash flows from general account index funds and equity assets—i.e., non-fixed income assets having substantial volatility of returns, such as common stocks and real estate— including starting and reinvestment assets, shall be reflected in the projection as follows:
 - i. Determine the grouping for asset categories and the allocation of specific assets to each category in a manner that is consistent with that used for index crediting strategies, as discussed in Section 4.A.2.
 - ii. Project the gross investment return including realized and unrealized capital gains in a manner that is consistent with the stochastically generated scenarios.
 - iii. Model the timing of an asset sale in a manner that is consistent with the investment policy of the company for that type of asset. Reflect expenses through a deduction to the gross investment return using prudent estimate assumptions.

- c. Cash flows for each projection interval for policy loan assets shall follow the requirements in Section 10.I.

E. Projection of Annuitization Benefits

1. Assumed Annuitization Purchase Rates

- a. For payouts specified at issue (such as single premium immediate annuities, deferred income annuities, and certain structured settlements), such payout rates shall reflect the payout rate specified in the contract.
- b. For purposes of projecting future elective annuitization benefits and withdrawal amounts from GMWBs, the projected annuitization purchase rates shall be determined assuming that market interest rates available at the time of election are the interest rates used to project general account assets, as determined in Section 4.D.4. In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.

2. Projected Election of GMIBs, GMWBs and Other Annuitization Options

For contracts projected to elect future annuitization options (including annuitizations stemming from the election of a GMIB) or for projections of GMWB benefits once the account value has been depleted, the projections may assume the contract will stay in force, the projected periodic payments are paid, and the associated maintenance expenses are incurred.

F. Frequency of Projection and Time Horizon

- 1. Use of an annual cash-flow frequency (“timestep”) is generally acceptable for benefits/features that are not sensitive to projection frequency. The lack of sensitivity to projection frequency should be validated by testing wherein the company should determine that the use of a more frequent—i.e., shorter—time step does not materially increase reserves. A more frequent time increment should always be used when the product features are sensitive to projection period frequency.
- 2. Care must be taken in simulating fee income and expenses when using an annual time step. It is also important that the frequency of the investment return model be linked appropriately to the projection horizon in the liability model. In particular, the horizon should be sufficiently long so as to capture the vast majority of costs (on a present value basis) from the scenarios.

Guidance Note: As a general guide, the forecast horizon should not be less than 20 years.

G. Compliance with ASOPs

When determining a stochastic reserve, the analysis shall conform to the ASOPs as promulgated from time to time by the ASB.

Under these requirements, an actuary will make various determinations, verifications and certifications. The company shall provide the actuary with the necessary information sufficient to

permit the actuary to fulfill the responsibilities set forth in these requirements and responsibilities arising from each applicable ASOP.

Section 5: Reinsurance Ceded and Assumed

A. Treatment of Reinsurance Ceded in the Aggregate Reserve

1. Aggregate Reserve Pre- and Post-Reinsurance Ceded

As noted in Section 3.B, the aggregate reserve is determined both pre-reinsurance ceded and post-reinsurance ceded. Therefore, it is necessary to determine the components needed to determine the aggregate reserve—i.e., the stochastic reserve and/or the reserve amount valued using requirements in VM-A and VM-C, as applicable—on both bases. Sections 5.A.2 and 5.A.3 discuss adjustments to inputs necessary to determine these components on both a post-reinsurance ceded and a pre-reinsurance ceded basis. Note that due allowance for reasonable approximations may be used where appropriate.

2. Stochastic Reserve

- a. In order to determine the aggregate reserve post-reinsurance ceded, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined reflecting the effects of reinsurance treaties that meet the statutory requirements that would allow the treaty to be accounted for as reinsurance within statutory accounting. This involves including, where appropriate, all projected reinsurance premiums or other costs and all reinsurance recoveries, where the reinsurance cash flows reflect all the provisions in the reinsurance agreement, using prudent estimate assumptions.
 - i. All significant terms and provisions within reinsurance treaties shall be reflected. In addition, it shall be assumed that each party is knowledgeable about the treaty provisions and will exercise them to their advantage.

Guidance Note: Renegotiation of the treaty upon the expiration of an experience refund provision or at any other time shall not be assumed if such would be beneficial to the company and not beneficial to the counterparty. This is applicable to both the ceding party and assuming party within a reinsurance arrangement.

- ii. If the company has knowledge that a counterparty is financially impaired, the company shall establish a margin for the risk of default by the counterparty. In the absence of knowledge that the counterparty is financially impaired, the company is not required to establish a margin for the risk of default by the counterparty.
 - iii. A company shall include the cash flows from a reinsurance agreement or amendment in calculating the aggregate reserve if such qualifies for credit in compliance with Appendix A-791 of the Accounting Practices and Procedures Manual. If a reinsurance agreement or amendment does not qualify for credit for reinsurance but treating the reinsurance agreement or amendment as if it did so qualify would result in a reduction to the company's surplus, then the company shall increase the minimum reserve by the absolute value of such reductions in surplus.
- b. In order to determine the stochastic reserve on a pre-reinsurance ceded basis, accumulated deficiencies, scenario reserves, and the resulting stochastic reserve shall be determined ignoring the effects of reinsurance ceded within the projections. Different approaches may be used to determine the starting assets on the ceded portion of the contracts, dependent upon the characteristics of a given treaty:
 - i. For a standard coinsurance treaty, where the assets supporting the ceded liabilities were transferred to the assuming reinsurer, one acceptable approach involves a projection

based on using starting assets on the ceded portion of the policies that are similar to those supporting the retained portion of the ceded policies or supporting similar types of policies. Scaling up each asset supporting the retained portion of the contract is also an acceptable method.

Guidance Note: For standard pro rata insurance treaties (does not include experience refunds), where allocated expenses are similar to the renewal expense allowance, reflecting the quota share applied to the present value of future reinsurance cash flows pertaining to the reinsured block of business may be considered as a possible approach to determine the ceded reserves.

- ii. Alternatively, a treaty may contain an identifiable portfolio of assets associated with the ceded liabilities. This could be the case for several forms of reinsurance: funds withheld coinsurance; modified coinsurance; coinsurance with a trust. To the extent these assets would be available to the cedant, an acceptable approach could involve modeling this portfolio of assets. To the extent that these assets were insufficient to defease the ceded liabilities, the modeling would partially default to the approach discussed for a standard coinsurance treaty. To the extent these assets exceeded what might be needed to defease the ceded liabilities (perhaps an over collateralization requirement in a trust), the inclusion of such assets shall be limited.

Guidance Note: Section 3.5.2 in ASOP No. 52, *Principle-Based Reserves for Life Products under the NAIC Valuation Manual*, provides possible methods for constructing a hypothetical pre-reinsurance asset portfolio, if necessary, for purposes of the pre-reinsurance reserve calculation.

- c. An assuming company shall use assumptions to project cash flows to and from ceding companies that reflect the assuming company's experience for the business segment to which the reinsured policies belong and reflect the terms of the reinsurance agreement.

3. Reserve Determined Upon Passing the Exclusion Test

If a company passes the stochastic exclusion test and elects to use a methodology pursuant to applicable Sections VM-A and VM-C, as allowed in Section 3.E, it is important to note that the methodology produces reserves on a pre-reinsurance ceded basis. Therefore, the reserve must be adjusted for any reinsurance ceded accordingly. In addition, reserves valued under applicable Sections in VM-A and VM-C, unadjusted for reinsurance, shall be applied to the contracts falling under the scope of these requirements to determine the aggregate reserve prior to reinsurance.

It should be noted that the pre-reinsurance and post-reinsurance reserves may result in different outcomes for the exclusion test. In particular, it is possible that the pre-reinsurance reserves would pass the relevant exclusion test (and allow the use of VM-A and VM-C) while the post-reinsurance reserves might not.

4. To Be Determined

Section 6: To Be Determined

Section 7: Exclusion Testing

A. Stochastic Exclusion Test Requirement Overview

1. The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation if the stochastic exclusion test (SET) is satisfied for that group of contracts. The company has the option to calculate or not calculate the SET.
 - a. If the company does not elect to calculate the SET for one or more groups of contracts, or the company calculates the SET and fails the test for such groups of contracts, the reserve methodology described in Section 4 shall be used for calculating the aggregate reserve for those groups of contracts.
 - b. If the company elects to calculate the SET for one or more groups of contracts, and passes the test for such groups of contracts, then the company shall choose whether or not to use the reserve methodology described in Section 4 for those groups of contracts. If the reserve methodology described in Section 4 is not used for one or more groups of contracts, then the company shall use the reserve methodology pursuant to applicable requirements in VM-A and VM-C to calculate the aggregate reserve for those groups of contracts.
 - c. A company may not exclude a group of contracts from the stochastic reserve requirements if there are one or more future hedging programs associated with the contracts, with the exception of hedging programs solely supporting index credits as described in Section 9.A.1.

B. Types of Stochastic Exclusion Tests

Groups of contracts pass the SET if one of the following is met:

1. Stochastic Exclusion Ratio Test (SERT)—Annually the company demonstrates that the groups of contracts pass the SERT defined in Section 7.C.
2. Stochastic Exclusion Demonstration Test—In the first year and at least once every three calendar years thereafter, the company provides a demonstration in the PBR Actuarial Report as specified in Section 7.D.
3. SET Certification Method—For groups of contracts that do not have guaranteed living benefits, future hedging programs, or pension risk transfer business in the first year and at least every third calendar year thereafter, the company provides a certification by a qualified actuary that the group of contracts is not subject to material aggregate risk levels across interest rate risk, longevity risk, or asset return volatility risk (i.e., the risk on non-fixed-income investments having substantial volatility of returns, such as common stocks and real estate investments). The company shall provide the certification and documentation supporting the certification to the commissioner upon request.

Guidance Note: The qualified actuary should develop documentation to support the actuarial certification that presents his or her analysis clearly and in detail sufficient for another actuary to understand the analysis and reasons for the actuary’s conclusion that the group of contracts is not subject to material interest rate risk, longevity risk, or asset return volatility risk. Examples of methods a qualified actuary could use to support the actuarial certification include, but are not limited to:

- a) A demonstration that using requirements under VM-A and VM-C for the group of contracts calculated are at least as great as the assets required to support the group of contracts using the company's cash-flow testing model under each of the 16 scenarios identified in this section or alternatively each of the New York seven scenarios.
- b) A demonstration that the group of contracts passed the SERT within 36 months prior to the valuation date and the company has not had a material change in its interest rate risk.
- c) A qualitative risk assessment of the group of contracts that concludes that the group of contracts does not have material interest rate risk or asset return volatility. Such assessment would include an analysis of product guarantees, the company's non-guaranteed elements (NGEs) policy, assets backing the group of contracts and the company's investment strategy.

C. Stochastic Exclusion Ratio Test

1. In order to exclude a group of contracts from the stochastic reserve requirements under the stochastic exclusion ratio test (SERT), a company shall demonstrate that the ratio of $(b-a)/a$ is less than $[x]\%$ where:
 - a. a = the adjusted scenario reserve described in Paragraph C.2.a.i below using economic scenario 9, the baseline economic scenario, as described in Appendix 1.E of VM-20.
 - b. b = the largest adjusted scenario reserve described in Paragraph C.2.b below under any of the other 15 economic scenarios described in Appendix 1.E of VM-20 under both $[95]\%$ and $[105]\%$ of anticipated experience mortality excluding margins.

Guidance Note: Note that the numerator should be the largest adjusted scenario reserve for scenarios other than the baseline economic scenario, minus the adjusted scenario reserve for the baseline economic scenario. This is not necessarily the same as the biggest difference from the adjusted scenario reserve for the baseline economic scenario, or the absolute value of the biggest difference from the adjusted scenario reserve for the baseline economic scenario, both of which could lead to an incorrect test result.

2. In calculating the ratio in subsection (1) above:
 - a. The company shall calculate an adjusted scenario reserve for the group of contracts for the 16 scenarios that is equal to either (i) or (ii) below:
 - i. The scenario reserve defined in Section 4, but with the following differences:
 - a) Using anticipated experience assumptions with no margins, with the exception of mortality factors described in Paragraph C.1.b of this section.
 - b) Using the interest rates and equity return assumptions specific to each scenario.
 - c) Using NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows.

- d) Shall reflect future mortality improvement in line with anticipated experience assumptions.
 - e) Shall not reflect correlation between longevity and economic risks.
- ii. The gross premium reserve developed from the cash flows from the company's asset adequacy analysis models, using the experience assumptions of the company's cash-flow analysis, but with the following differences:
- a) Using the interest rates and equity return assumptions specific to each scenario.
 - b) Using the mortality scalars described in Paragraph C.1.b of this section.
 - c) Using the methodology to determine NAER and discount rates defined in Section 4 specific to each scenario to discount the cash flows, but using the company's cash-flow testing assumptions for default costs and reinvestment earnings.
- b. The company shall use the most current 16 economic scenarios published by the NAIC. The methodology for creating these scenarios can be found in Appendix 1 of VM-20.
- c. The company shall use assumptions within each scenario that are dynamically adjusted as appropriate for consistency with each tested scenario.
- d. The company may not group together contract types with significantly different risk profiles for purposes of calculating this ratio.
- e. If the company has reinsurance arrangements that are pro rata coinsurance and do not materially impact the interest rate risk, longevity risk, or asset return volatility in the contract, then the company may elect to not conduct the exclusion test under a pre-reinsurance-ceded basis upon determining the pre-reinsurance reserve-ceded aggregate reserve.
3. If the ratio calculated in this section is less than [x]% pre-non-proportional reinsurance, but is greater than [x]% post-non-proportional reinsurance, the group of contracts will still pass the SERT if the company can demonstrate that the sensitivity of the adjusted scenario reserve to economic scenarios is comparable pre- and post-non-proportional reinsurance.
- a. An example of an acceptable demonstration:
 - i. For convenience in notation • $SERT = \frac{(b-a)}{a}$ defined in Section 7.C.1 above
 - a) The pre-non-proportional reinsurance results are “gross of non-proportional,” with a subscript “gn,” so denoted $SERT_{gn}$
 - b) The post-non-proportional results are “net of non-proportional,” with subscript “nn,” so denoted $SERT_{nn}$

- ii. If a block of business being tested is subject to one or more non-proportional reinsurance cessions as well as other forms of reinsurance, such as pro rata coinsurance, take “gross of non-proportional” to mean net of all prorata reinsurance but ignoring the non-proportional contract(s), and “net of non-proportional” to mean net of *all* reinsurance contracts. That is, treat non-proportional reinsurance as the last reinsurance in, and compute certain values below with and without that last component.
- iii. So, if $SERT_{gn} \leq [x]$ but $SERT_{nn} > [x]$, then compute the largest percent increase in reserve (LPIR) = $(b-a)/a$, both “gross of non-proportional” and “net of non-proportional.”

$$LPIR_{gn} = (b_{gy} - a_{gy})/a_{gn}$$

$$LPIR_{nn} = (b_{ny} - a_{ny})/a_{nn}$$

Note that the scenario underlying b_{gn} could be different from the scenario underlying b_{nn} .

If $SERT_{gn} \times LPIR_{nn}/LPIR_{gn} < [x]$, then the block of contracts passes the SERT.

- b. Another more qualitative approach is to calculate the adjusted scenario reserves for the 16 scenarios both gross and net of reinsurance to demonstrate that there is a similar pattern of sensitivity by scenario.
4. The SERT may not be used for a group of contracts if, using the current year’s data, (i) the stochastic exclusion demonstration test defined in Section 7.D had already been attempted using the method in this section and did not pass; or (ii) the qualified actuary had actively undertaken to perform the certification method in this section and concluded that such certification could not legitimately be made.

D. Stochastic Exclusion Demonstration Test

- 1. In order to exclude a group of contracts from the stochastic reserve requirements using the methodology in this section, the company must provide a demonstration in the PBR Actuarial Report in the first year and at least once every three calendar years thereafter that complies with the following:
 - a. The demonstration shall provide a reasonable assurance that if the stochastic reserve was calculated on a stand-alone basis for the group of contracts subject to the stochastic reserve exclusion, the resulting stochastic reserve for those groups of contracts would not be higher than the statutory reserve determined pursuant to the applicable requirements in VM-A and VM-C. The demonstration shall take into account whether changing conditions over the current and two subsequent calendar years would be likely to change the conclusion to exclude the group of contracts from the stochastic reserve requirements.
 - b. If, as of the end of any calendar year, the company determines the aggregate reserve for the group of contracts no longer adequately provides for all material risks, the exclusion shall be discontinued, and the company fails the SERT for those contracts.

- c. The demonstration may be based on analysis from a date that precedes the valuation date for the initial year to which it applies if the demonstration includes an explanation of why the use of such a date will not produce a material change in the outcome, as compared to results based on an analysis as of the valuation date.
 - d. The demonstration shall provide an effective evaluation of the residual risk exposure remaining after risk mitigation techniques, such as derivative programs and reinsurance.
2. The company may use one of the following or another method acceptable to the insurance commissioner to demonstrate compliance with subsection 7.D.1 above:
- a. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve calculated on a stand-alone basis.
 - b. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the scenario reserve that results from each of a sufficient number of adverse deterministic scenarios.
 - c. Demonstrate that the statutory reserve calculated in accordance with VM-A and VM-C is greater than the stochastic reserve calculated on a stand-alone basis, but using a representative sample of contracts in the stochastic reserve calculations.
 - d. Demonstrate that any risk characteristics that would otherwise cause the stochastic reserve calculated on a stand-alone basis to exceed the statutory reserve calculated in accordance with VM-A and VM-C, are not present or have been substantially eliminated through actions such as hedging, investment strategy, reinsurance or passing the risk on to the policyholder by contract provision.

E. Deterministic Certification Option

- 1. The company has the option to determine the stochastic reserve for a group of contracts using a single deterministic economic scenario, subject to the following conditions.
 - a. The company certifies that economic conditions do not materially influence anticipated contract holder behavior for the group of policies. Examples of contract holder options that are materially influenced by economic conditions include surrender benefits, recurring premium payments, and guaranteed living benefits.
 - b. The company certifies that the group of policies is not supported by a reinvestment strategy that contains future hedge purchases.
 - c. The company must perform and disclose results from the stochastic exclusion ratio test following the requirements in Section 7.C, thereby disclosing the scenario reserve volatility across various economic scenarios.

- d. The company must disclose a description of contracts and associated features in the certification.

Drafting Note: Consider revisiting Paragraph E.1.c to possibly either require i) falling below a preset threshold for the exclusion ratio test under a single longevity/mortality scenario; or ii) to pass the exclusion test if longevity is not included as part of the ratio test.

2. The stochastic reserve for the group of contracts under the Deterministic Certification Option is determined as follows:
 - a. Cash flows are projected in compliance with the applicable requirements in Section 4, Section 5, Section 10, and Section 11 of VM-22 over a single economic scenario (scenario 12 found in Appendix 1 of VM-20).
 - b. The stochastic reserve equals the scenario reserve following the requirements for Section 4.

Guidance Note: The Deterministic Certification Option is intended to provide a non-stochastic option for Single Premium Immediate Annuities (SPIAs) and similar payout annuity products that contain limited or no optionality in the asset and liability cash flow projections.

Section 8: To Be Determined (Scenario Generation for VM-21)

Section 9: Modeling Hedges under a Future Hedging Strategy

A. Initial Considerations

1. This section applies to modeling of hedges other than situations where the company (a) only hedges index credits, or (b) clearly separates index credit hedging from other hedging. In those situations, the modeling of hedges supporting index credits can be simplified including applying an index credit hedge margin, following the requirements in Section 4.A.4.b.i.
2. The appropriate costs and benefits of hedging instruments that are currently held by the company in support of the contracts falling under the scope of these requirements shall be included in the calculation of the stochastic reserve, determined in accordance with Section 3.D and Section 4.D.
3. The company shall take into account the costs and benefits of hedge positions expected to be held by the company in the future along each scenario. Company management is responsible for developing, documenting, executing and evaluating the investment strategy for future hedge purchases. Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months.
4. For this purpose, the investment assets refer to all the assets, including derivatives supporting covered products and guarantees. This also is referred to as the investment portfolio. The investment strategy is the set of all asset holdings at all points in time in all scenarios. The hedging portfolio, which also is referred to as the hedging assets, is a subset of the investment assets. The hedging strategy is the hedging asset holdings at all points in time in all scenarios. There is no attempt to distinguish what is the hedging portfolio and what is the investment portfolio in this section. Nor is the distinction between investment strategy and hedging strategy formally made here. Where necessary to give effect to the intent of this section, the requirements applicable to the hedging portfolio or the hedging strategy are to apply to the overall investment portfolio and investment strategy.
5. This particularly applies to restrictions on the reasonableness or acceptability of the models that make up the stochastic cash-flow model used to perform the projections, since these restrictions are inherently restrictions on the joint modeling of the hedging and non-hedging portfolio. To give effect to these requirements, they must apply to the overall investment strategy and investment portfolio.

B. Modeling Approaches

1. The analysis of the impact of the hedging strategy on cash flows is typically performed using either one of two types of methods as described below. Although a hedging strategy normally would be expected to reduce risk provisions, the nature of the hedging strategy and the costs to implement the strategy may result in an increase in the amount of the stochastic reserve otherwise calculated.
2. The fundamental characteristic of the first type of method, referred to as the “explicit method,” is that hedging positions and their resulting cash flows are included in the stochastic cash-flow model used to determine the scenario reserve, as discussed in Section 3.D, for each scenario.

3. The fundamental characteristic of the second type of method, referred to as the “implicit method,” is that the effectiveness of the current hedging strategy on future cash flows is evaluated, in part or in whole, outside of the stochastic cash-flow model. There are multiple ways that this type of modeling can be implemented. In this case, the reduction to the stochastic reserve otherwise calculated should be commensurate with the degree of effectiveness of the hedging strategy in reducing accumulated deficiencies otherwise calculated.
4. Regardless of the methodology used by the company, the ultimate effect of the current hedging strategy (including currently held hedge positions) on the stochastic reserve needs to recognize all risks, associated costs, imperfections in the hedges and hedging mismatch tolerances associated with the hedging strategy. The risks include, but are not limited to: basis, gap, price, parameter estimation and variation in assumptions (mortality, persistency, withdrawal, annuitization, etc.). Costs include, but are not limited to: transaction, margin (opportunity costs associated with margin requirements) and administration. In addition, the reduction to the stochastic reserve attributable to the hedging strategy may need to be limited due to the uncertainty associated with the company’s ability to implement the hedging strategy in a timely and effective manner. The level of operational uncertainty varies indirectly with the amount of time that the new or revised strategy has been in effect or mock tested.

Guidance Note: No hedging strategy is perfect. A given hedging strategy may eliminate or reduce some but not all risks, transform some risks into others, introduce new risks, or have other imperfections. For example, a delta-only hedging strategy does not adequately hedge the risks measured by the “Greeks” other than delta.

5. A safe harbor approach is permitted for those companies whose modeled hedge assets comprise only linear instruments not sensitive to implied volatility. For companies with option-based hedge strategies, electing this approach would require representing the option-based portion of the strategy as a delta-rho two-Greek hedge program. The normally modeled option portfolio would be replaced with a set of linear instruments that have the same first-order Greeks as the original option portfolio.

C. Calculation of Stochastic Reserve (Reported)

1. The company shall calculate CTE70 (best efforts)—the results obtained when the CTE70 is based on incorporating the modeling of hedges (including both currently held and future hedge positions) into the stochastic cash-flow model on a best efforts basis, including all of the factors and assumptions needed to model the hedges (e.g., stochastic implied volatility). The determination of CTE70 (best efforts) may utilize either explicit or implicit modeling techniques.
2. The company shall calculate a CTE70 (adjusted) by recalculating the CTE70 assuming the company has no hedging strategy except those to hedge interest credits and hedge assets held by the company on the valuation date, therefore following the requirements of Section 4.A.4.a and 4.A.4.b.i.
3. Because most models will include at least some approximations or idealistic assumptions, CTE70 (best efforts) may overstate the impact of the hedging strategy. To compensate for potential overstatement of the impact of the hedging strategy, the value for the stochastic reserve is given by:

Stochastic reserve = CTE70 (best efforts) + E × max[0, CTE70 (adjusted) – CTE70 (best efforts)]

4. The company shall specify a value for E (the “error factor”) in the range from 5% to 100% to reflect the company’s view of the potential error resulting from the level of sophistication of the stochastic cash-flow model and its ability to properly reflect the parameters of the hedging strategy (i.e., the Greeks being covered by the strategy), as well as the associated costs, risks and benefits. The greater the ability of the stochastic model to capture all risks and uncertainties, the lower the value of E . The value of E may be as low as 5% only if the model used to determine the CTE70 (best efforts) effectively reflects all of the parameters used in the hedging strategy. If certain economic risks are not hedged, yet the model does not generate scenarios that sufficiently capture those risks, E must be in the higher end of the range, reflecting the greater likelihood of error. Likewise, simplistic hedge cash-flow models shall assume a higher likelihood of error.
5. The company shall conduct a formal back-test, based on an analysis of at least the most recent 12 months, to assess how well the model is able to replicate the hedging strategy in a way that supports the determination of the value used for E .
6. Such a back-test shall involve one of the following analyses:
 - a. For companies that model hedge cash flows directly (“explicit method”), replace the stochastic scenarios used in calculating the CTE70 (best efforts) with a single scenario that represents the market path that actually manifested over the selected back-testing period and compare the projected hedge asset gains and losses against the actual hedge asset gains and losses – both realized and unrealized – observed over the same time period. For this calculation, the model assumptions may be replaced with parameters that reflect actual experience during the back-testing period. In order to isolate the comparison between the modeled hedge results and actual hedge results for this calculation, the projected liabilities should accurately reflect the actual liabilities throughout the back-testing period; therefore, adjustments that facilitate this accuracy (e.g. reflecting actual experience instead of model assumptions, including new business, etc.) are permissible.

To support the choice of a low value of E , the company should ascertain that the projected hedge asset gains and losses are within close range of 100% (e.g., 80–125%) of the actual hedge asset gains and losses. The company may also support the choice of a low value of E by achieving a high R-squared (e.g., 0.80 or higher) when using a regression analysis technique.
 - b. For companies that model hedge cash flows implicitly by quantifying the cost and benefit of hedging using the fair value of the hedged item (an “implicit method” or “cost of reinsurance method”), calculate the delta, rho and vega coverage ratios in each month over the selected back-testing period in the following manner:
 - i. Determine the hedge asset gains and losses—both realized and unrealized—incurred over the month attributable to equity, interest rate, and implied volatility movements.
 - ii. Determine the change in the fair value of the hedged item over the month attributable to equity, interest rate, and implied volatility movements. The hedged item should be defined in a manner that reflects the proportion of risks hedged (e.g., if a company elects to hedge 50% of a contract’s market risks, it should quantify the fair value of the hedged item as 50% of the fair value of the contract).
 - iii. Calculate the delta coverage ratio as the ratio between (i) and (ii) attributable to equity movements.

- iv. Calculate the rho coverage ratio as the ratio between (i) and (ii) attributable to interest rate movements.
 - v. Calculate the vega coverage ratio as the ratio between (i) and (ii) attributable to implied volatility movements.
 - vi. To support the company's choice of a low value of E, the company should be able to demonstrate that the delta and rho coverage ratios are both within close range of 100 % (e.g., 80–125%) consistently across the back-testing period.
 - vii. In addition, the company should be able to demonstrate that the vega coverage ratio is within close range of 100 % in order to use the prevailing implied volatility levels as of the valuation date in quantifying the fair value of the hedged item for the purpose of calculating CTE70 (best efforts). Otherwise, the company shall quantify the fair value of the hedged item for the purpose of calculating CTE70 (best efforts) in a manner consistent with the realized volatility of the scenarios captured in the CTE (best efforts).
- c. Companies that do not model hedge cash flows explicitly, but that also do not use the implicit method as outlined in Section 9.C.6.b above, shall conduct the formal back-test in a manner that allows the company to clearly illustrate the appropriateness of the selected method for reflecting the cost and benefit of hedging, as well as the value used for E.
7. A company that does not have 12 months of experience to date shall set E to a value that reflects the amount of experience available, and the degree and nature of any change to the hedge program. For a material change in strategy, with no history, E should be at least 0.50. However, E may be lower than 0.50 if some reliable experience is available and/or if the change in strategy is a refinement rather than a substantial change in strategy.

Guidance Note: The following examples are provided as guidance for determining the E factor when there has been a change to the hedge program:

- The error factor should be temporarily large (e.g., $\geq 50\%$) for substantial changes in hedge methodology (e.g., moving from a fair-value based strategy to a stop-loss strategy) where the company has not been able to provide a meaningful simulation of hedge performance based on the new strategy.
- A temporary moderate increase (e.g., 15–30%) in error factor should be used for substantial modifications to hedge programs or modeling where meaningful simulation has not been created (e.g., adding second-order hedging, such as gamma or rate convexity).
- No increase in the error factor may be used for incremental modifications to the hedge strategy (e.g., adding death benefits to a program that previously covered only living benefits, or moving from swaps to Treasury Department futures).

D. Specific Considerations and Requirements

1. As part of the process of choosing a methodology and assumptions for estimating the future effectiveness of the current hedging strategy (including currently held hedge positions) for

purposes of reducing the stochastic reserve, the company should review actual historical hedging effectiveness. The company shall evaluate the appropriateness of the assumptions on future trading, transaction costs, other elements of the model, the strategy, the mix of business and other items that are likely to result in materially adverse results. This includes an analysis of model assumptions that, when combined with the reliance on the hedging strategy, are likely to result in adverse results relative to those modeled. The parameters and assumptions shall be adjusted (based on testing contingent on the strategy used and other assumptions) to levels that fully reflect the risk based on historical ranges and foreseeable future ranges of the assumptions and parameters. If this is not possible by parameter adjustment, the model shall be modified to reflect them at either anticipated experience or adverse estimates of the parameters.

2. A discontinuous hedging strategy is a hedging strategy where the relationships between the sensitivities to equity markets and interest rates (commonly referred to as the Greeks) associated with the guaranteed contract holder options embedded in the fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets are subject to material discontinuities. This includes, but is not limited to, a hedging strategy where material hedging assets will be obtained when the fixed indexed annuity account balances reach a predetermined level in relationship to the guarantees. Any hedging strategy, including a delta hedging strategy, can be a discontinuous hedging strategy if implementation of the strategy permits material discontinuities between the sensitivities to equity markets and interest rates associated with the guaranteed contract holder options embedded in the fixed indexed annuities and other in-scope products and these same sensitivities associated with the hedging assets. There may be scenarios that are particularly costly to discontinuous hedging strategies, especially where those result in large discontinuous changes in sensitivities (Greeks) associated with the hedging assets. Where discontinuous hedging strategies contribute materially to a reduction in the stochastic reserve, the company must evaluate the interaction of future trigger definitions and the discontinuous hedging strategy, in addition to the items mentioned in the previous paragraph. This includes an analysis of model assumptions that, when combined with the reliance on the discontinuous hedging strategy, may result in adverse results relative to those modeled.
3. A strategy that has a strong dependence on acquiring hedging assets at specific times that depend on specific values of an index or other market indicators may not be implemented as precisely as planned.
4. The combination of elements of the stochastic cash-flow model—including the initial actual market asset prices, prices for trading at future dates, transaction costs and other assumptions—should be analyzed by the company as to whether the stochastic cash-flow model permits hedging strategies that make money in some scenarios without losing a reasonable amount in some other scenarios. This includes, but is not limited to:
 - a. Hedging strategies with no initial investment that never lose money in any scenario and in some scenarios make money.
 - b. Hedging strategies that, with a given amount of initial money, never make less than accumulation at the one-period risk-free rates in any scenario but make more than this in one or more scenarios.
5. If the stochastic cash-flow model allows for such situations, the company should be satisfied that the results do not materially rely directly or indirectly on the use of such strategies. If the results do materially rely directly or indirectly on the use of such strategies, the strategies may not be used to reduce the stochastic reserve otherwise calculated.

6. In addition to the above, the method used to determine prices of financial instruments for trading in scenarios should be compared to actual initial market prices. In addition to comparisons to initial market prices, there should be testing of the pricing models that are used to determine subsequent prices when scenarios involve trading financial instruments. This testing should consider historical relationships. For example, if a method is used where recent volatility in the scenario is one of the determinants of prices for trading in that scenario, then that model should approximate actual historic prices in similar circumstances in history.

Section 10: Guidance and Requirements for Setting Contract Holder Behavior Prudent Estimate Assumptions

A. General

Contract holder behavior assumptions encompass actions such as lapses, withdrawals, transfers, recurring deposits, benefit utilization, option election, etc. Contract holder behavior is difficult to predict accurately, and variance in behavior assumptions can significantly affect the results. In the absence of relevant and fully credible empirical data, the company should set behavior assumptions as guided by Principle 3 in Section 1.B.

In setting behavior assumptions, the company should examine, but not be limited by, the following considerations:

1. Behavior can vary by product, market, distribution channel, index performance, interest credited (current and guaranteed rates), time/product duration, etc.
2. Options embedded in the product may affect behavior.
3. Utilization of options may be elective or non-elective in nature. Living benefits often are elective, and death benefit options are generally non-elective.
4. Elective contract holder options may be more driven by economic conditions than non-elective options.
5. As the value of a product option increases, there is an increased likelihood that contract holders will behave in a manner that maximizes their financial interest (e.g., lower lapses, higher benefit utilization, etc.).
6. Behavior formulas may have both rational and irrational components (irrational behavior is defined as situations where some contract holders may not always act in their best financial interest). The rational component should be dynamic, but the concept of rationality need not be interpreted in strict financial terms and might change over time in response to observed trends in contract holder behavior based on increased or decreased financial efficiency in exercising their contractual options.
7. Options that are ancillary to the primary product features may not be significant drivers of behavior. Whether an option is ancillary to the primary product features depends on many things, such as:
 - a. For what purpose was the product purchased?
 - b. Is the option elective or non-elective?
 - c. Is the value of the option well-known?
8. External influences may affect behavior.

B. Aggregate vs. Individual Margins

1. Prudent estimate assumptions are developed by applying a margin for uncertainty to the anticipated experience assumption. The issue of whether the level of the margin applied to the anticipated experience assumption is determined in aggregate or independently for each and every behavior assumption is discussed in Principle 3 in Section 1.B.

2. Although this principle discusses the concept of determining the level of margins in aggregate, it notes that the application of this concept shall be guided by evolving practice and expanding knowledge. From a practical standpoint, it may not always be possible to completely apply this concept to determine the level of margins in aggregate for all behavior assumptions.
3. Therefore, the company shall determine prudent estimate assumptions independently for each behavior (e.g., mortality, lapses and benefit utilization), using the requirements and guidance in this section and throughout these requirements, unless the company can demonstrate that an appropriate method was used to determine the level of margin in aggregate for two or more behaviors.

C. Sensitivity Testing

The impact of behavior can vary by product, time period, etc. For any assumption that is not prescribed or stochastically modeled, the qualified actuary to whom responsibility for this group of contracts is assigned shall use sensitivity testing to ensure that the assumption is set at the conservative end of the plausible range. The company shall sensitivity test:

- Surrenders.
- Partial withdrawals.
- Benefit utilization.
- Other behavior assumptions if relevant to the risks in the product.

Sensitivity testing of assumptions is required and shall be more complex than, for example, base lapse assumption plus or minus X% across all contracts. A more appropriate sensitivity test in this example might be to devise parameters in a dynamic lapse formula to reflect more out-of-the-money contracts lapsing and/or more holders of in-the-money contracts persisting and eventually using the guarantee. The company should apply more caution in setting assumptions for behaviors where testing suggests that stochastic modeling results are sensitive to small changes in such assumptions. For such sensitive behaviors, the company shall use higher margins when the underlying experience is less than fully relevant and credible.

The company shall examine the results of sensitivity testing to understand the materiality of prudent estimate assumptions on the modeled reserve. The company shall update the sensitivity tests periodically as appropriate, considering the materiality of the results of the tests. The company may update the tests less frequently when the tests show less sensitivity of the modeled reserve to changes in the assumptions being tested or the experience is not changing rapidly. Providing there is no material impact on the results of the sensitivity testing, the company may perform sensitivity testing:

1. Using samples of the contracts in force rather than performing the entire valuation for each alternative assumption set.
2. Using data from prior periods.

D. Specific Considerations and Requirements

1. Within materiality considerations, the company should consider all relevant forms of contract holder behavior and persistency, including, but not limited to, the following:

- a. Mortality (additional guidance and requirements regarding mortality is contained in Section 11).
- b. Surrenders.
- c. Partial withdrawals (systematic and elective).
- d. Account transfers (switching/exchanges).
- e. Resets/ratchets of the guaranteed amounts (automatic and elective).
- f. Future deposits.
- g. Income start date
- h. Commutation of benefit (from periodic payment to lump sum)

2. It may be acceptable to ignore certain items that might otherwise be explicitly modeled in an ideal world, particularly if the inclusion of such items reduces the calculated provisions.

For example:

- a. The impact of account transfers (intra-contract index “switching”) might be ignored, unless required under the terms of the contract (e.g., automatic asset re-allocation/rebalancing,) or if the contract provisions incentivize the contract holders to transfer between accounts.
 - b. Future deposits might be excluded from the model, unless required by the terms of the contracts under consideration and then only in such cases where future premiums can reasonably be anticipated (e.g., with respect to timing and amount).
 - c. For some non-elective benefits (nursing home benefits for example), a zero incidence rate after the surrender charge has ended, or the cash value has depleted, may be acceptable since use of a non-zero rate could reduce the modeled reserve.
3. However, the company should exercise caution in assuming that current behavior will be indefinitely maintained. For example, it might be appropriate to test the impact of a shifting asset mix and/or consider future deposits to the extent they can reasonably be anticipated and increase the calculated amounts.
 4. Normally, the underlying model assumptions would differ according to the attributes of the contract being valued. This would typically mean that contract holder behavior and persistency may be expected to vary according to such characteristics as (this is not an exhaustive list):
 - a. Gender.
 - b. Attained age.
 - c. Issue age.
 - d. Contract duration.
 - e. Time to maturity.

- f. Tax status.
 - g. Account value.
 - h. Interest credited (current and guaranteed).
 - i. Available indices.
 - j. Guaranteed benefit amounts.
 - k. Surrender charges, transfer fees or other contract charges.
 - l. Distribution channel.
5. Unless there is clear evidence to the contrary, behavior assumptions should be no less conservative than past experience. Margins for contract holder behavior assumptions shall assume, without relevant and credible experience or clear evidence to the contrary, that contract holders' efficiency will increase over time.
 6. In determining contract holder behavior assumptions, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience), whether or not the segment is directly written by the company. If data from a similar business segment are used, the assumption shall be adjusted to reflect differences between the two segments. Margins shall reflect the data uncertainty associated with using data from a similar but not identical business segment.
 7. Where relevant and fully credible empirical data do not exist for a given contract holder behavior assumption, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is shifted towards the conservative end of the plausible range of expected experience that serves to increase the stochastic reserve. If there are no relevant data, the company shall set the contract holder behavior assumption to reflect the increased uncertainty such that the contract holder behavior assumption is at the conservative end of the range. Such adjustments shall be consistent with the definition of prudent estimate, with the principles described in Section 1.B, and with the guidance and requirements in this section.
 8. Ideally, contract holder behavior would be modeled dynamically according to the simulated economic environment and/or other conditions. It is important to note, however, that contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally. These extreme assumptions may be used for modeling efficiency if the result is more conservative.

E. Dynamic Assumptions

1. Consistent with the concept of prudent estimate assumptions described earlier, the liability model should incorporate margins for uncertainty for all risk factors that are not dynamic (i.e., the non-scenario tested assumptions) and are assumed not to vary according to the financial interest of the contract holder.
2. The company should exercise care in using static assumptions when it would be more natural and reasonable to use a dynamic model or other scenario-dependent formulation for behavior. With due regard to considerations of materiality and practicality, the use of

dynamic models is encouraged, but not mandatory. Risk factors that are not scenario tested but could reasonably be expected to vary according to a stochastic process, or future states of the world (especially in response to economic drivers) may require higher margins and/or signal a need for higher margins for certain other assumptions.

3. Risk factors that are modeled dynamically should encompass the plausible range of behavior consistent with the economic scenarios and other variables in the model, including the non-scenario tested assumptions. The company shall test the sensitivity of results to understand the materiality of making alternate assumptions and follow the guidance discussed above on setting assumptions for sensitive behaviors.

F. Consistency with the CTE Level

1. All behaviors (i.e., dynamic, formulaic and non-scenario tested) should be consistent with the scenarios used in the CTE calculations (generally, the top 30% of the loss distribution). To maintain such consistency, it is not necessary to iterate (i.e., successive runs of the model) in order to determine exactly which scenario results are included in the CTE measure. Rather, in light of the products being valued, the company should be mindful of the general characteristics of those scenarios likely to represent the tail of the loss distribution and consequently use prudent estimate assumptions for behavior that are reasonable and appropriate in such scenarios. For fixed annuities, these “valuation” scenarios would typically display one or more of the following attributes:
 - a. Declining and/or volatile index values, where applicable.
 - b. Price gaps and/or liquidity constraints.
 - c. Rapidly changing interest rates or persistently low interest rates.
 - d. Volatile credit spreads.
2. The behavior assumptions should be logical and consistent both individually and in aggregate, especially in the scenarios that govern the results. In other words, the company should not set behavior assumptions in isolation, but give due consideration to other elements of the model. The interdependence of assumptions (particularly those governing customer behaviors) makes this task difficult and by definition requires professional judgment, but it is important that the model risk factors and assumptions:
 - a. Remain logically and internally consistent across the scenarios tested.
 - b. Represent plausible outcomes.
 - c. Lead to appropriate, but not excessive, asset requirements.
4. The company should remember that the continuum of “plausibility” should not be confined or constrained to the outcomes and events exhibited by historic experience.
5. Companies should attempt to track experience for all assumptions that materially affect their risk profiles by collecting and maintaining the data required to conduct credible and meaningful studies of contract holder behavior.

G. Additional Considerations and Requirements for Assumptions Applicable to Guaranteed Living Benefits

Experience for contracts without guaranteed living benefits may be of limited use in setting a lapse assumption for contracts with in-the-money or at-the-money guaranteed living benefits. Such experience may only be used if it is appropriate (e.g., lapse experience on contracts without a living benefit may have relevance to the early durations of contracts with living benefits) and relevant to the business.

H. Policy Loans

If policy loans are applicable for the block of business, the company shall determine cash flows for each projection interval for policy loan assets by modeling existing loan balances either explicitly or by substituting assets that are a proxy for policy loans (e.g., bonds, cash, etc.) subject to the following:

1. If the company substitutes assets that are a proxy for policy loans, the company must demonstrate that such substitution:
 - a. Produces reserves that are no less than those that would be produced by modeling existing loan balances explicitly.
 - b. Complies with the contract holder behavior requirements stated in Section 10 above in this section.
2. If the company models policy loans explicitly, the company shall:
 - a. Treat policy loan activity as an aspect of contract holder behavior and subject to the requirements above in this section.
 - b. Assign loan balances either to exactly match each policy's utilization or to reflect average utilization over a model segment or sub-segments.
 - c. Model policy loan interest in a manner consistent with policy provisions and with the scenario. Include interest paid in cash as a positive policy loan cash flow in that projection interval, but do not include interest added to the loan balance as a policy loan cash flow. (The increased balance will require increased repayment cash flows in future projection intervals.)
 - d. Model policy loan principal repayments, including those that occur automatically upon death or surrender. Include policy loan principal repayments as a positive policy loan cash flow, per Section 4.A.1.h.
 - e. Model additional policy loan principal. Include additional policy loan principal as a negative policy loan cash flow, per Section 4.A.1.h (but do not include interest added to the loan balance as a negative policy loan cash flow).
 - f. Model any investment expenses allocated to policy loans and include them either with policy loan cash flows or insurance expense cash flows.

I. Non-Guaranteed Elements

Consistent with the definition in VM-01, Non-Guaranteed Elements (NGEs) are elements within a contract that affect policy costs or values and not guaranteed or not determined at issue. NGEs consist of elements affecting contract holder costs or values that are both established and subject to change at the discretion of the insurer.

Examples of NGEs specific to fixed annuities include but are not limited to the following: fixed credited rates, index parameters (caps, spreads, participation rates, etc.), rider fees, rider benefit features being subject to change (rollup rates, rollup period, etc.), account value charges, and dividends under participating policies or contracts.

1. Except as noted below in Section 10.J.5, the company shall include NGE in the models to project future cash flows beyond the time the company has authorized their payment or crediting.
2. The projected NGE shall reflect factors that include, but are not limited to, the following (not all of these factors will necessarily be present in all situations):
 - a. The nature of contractual guarantees.
 - b. The company's past NGE practices and established NGE policies.
 - c. The timing of any change in NGE relative to the date of recognition of a change in experience.
 - d. The benefits and risks to the company of continuing to authorize NGE.
3. Projected NGE shall be established based on projected experience consistent with how actual NGE are determined.
4. Projected levels of NGE in the cash-flow model must be consistent with the experience assumptions used in each scenario. Contract holder behavior assumptions in the model must be consistent with the NGE assumed in the model.
5. The company may exclude any portion of an NGE that:
 - a. Is not based on some aspect of the policy's or contract's experience.
 - b. Is authorized by the board of directors and documented in the board minutes, where the documentation includes the amount of the NGE that arises from other sources.

However, if the board has guaranteed a portion of the NGE into the future, the company must model that amount. In other words, the company cannot exclude from its model any NGE that the board has guaranteed for future years, even if it could have otherwise excluded them, based on this subsection.
6. The liability for contract holder dividends declared but not yet paid that has been established according to statutory accounting principles as of the valuation date is reported separately from the statutory reserve. The contract holder dividends that give rise to this dividend liability as of the valuation date may or may not be included in the cash-flow model at the company's option.
 - a. If the contract holder dividends that give rise to the dividend liability are not included in the cash-flow model, then no adjustment is needed to the resulting aggregate stochastic reserve.
 - b. If the contract holder dividends that give rise to the dividend liability are included in the cash-flow model, then the resulting aggregate stochastic reserve should be reduced by the amount of the dividend liability.
7. All projected cash flows associated with NGEs shall reflect margins for adverse deviations and estimation error in prudent estimate assumptions.

Section 11: Guidance and Requirements for Setting Prudent Estimate Mortality Assumptions

A. Overview

1. Intent

The guidance and requirements in this section apply to setting prudent estimate mortality assumptions when determining the stochastic reserve. The intent is for prudent estimate mortality assumptions to be based on facts, circumstances and appropriate actuarial practice, with only a limited role for unsupported actuarial judgment. (Where more than one approach to appropriate actuarial practice exists, the company should select the practice that the company deems most appropriate under the circumstances.)

2. Description

Prudent estimate mortality assumptions shall be determined by first developing expected mortality curves based on either available experience or published tables. Where necessary, margins shall be applied to the experience to reflect data uncertainty. The expected mortality curves shall then be adjusted based on the credibility of the experience used to determine the expected mortality curve. Section 11.B addresses guidance and requirements for determining expected mortality curves, and Section 11.C addresses guidance and requirements for adjusting the expected mortality curves to determine prudent estimate mortality.

Finally, the credibility-adjusted tables shall be adjusted for mortality improvement (where such adjustment is permitted or required) using the guidance and requirements in Section 11.D.

3. Business Segments

For purposes of setting prudent estimate mortality assumptions, the products falling under the scope of these requirements shall be grouped into business segments with different mortality assumptions. The grouping, at a minimum, should differentiate between payout annuities or deferred annuity contracts that contain GLBs, and deferred annuity contracts with no guaranteed benefits or only GMDBs. Where appropriate, the grouping should also differentiate between segments which are known or expected to contain contract holders with sociodemographic, geographic, or health factors reasonably expected to impact the mortality assumptions for the segment (e.g., annuitants drawn from different countries, geographic areas, industry groups, or impaired lives on individually underwritten contracts such as structured settlements). The grouping should also generally follow the pricing, marketing, management and/or reinsurance programs of the company.

Guidance Note: This paragraph contemplates situations where it may be appropriate to differentiate mortality assumptions by segment or even by contract due to varying sociodemographic, geographic, or health factors. Particularly, though not exclusively, in the context of group payout annuity contracts, companies may have credible, contract-specific mortality experience data or relevant pooled data from annuitants drawn from similar industries or geographies that may be used to sub-divide inforce blocks into business segments for purposes of setting prudent estimate mortality assumptions.

For example, a company may sell group PRT contracts both to union plans in the U.S. and to private single-employer plans in another country. While both are “PRT contracts,” it would be appropriate to differentiate them for mortality assumption purposes, similar to

how payout annuities vs. deferred annuities are distinguished.

Guidance Note: Distinct mortality or liability assumptions among different contracts within a group of contracts does not in itself preclude the group of contracts from being aggregated for the purposes of the broader stochastic reserve calculation.

4. Margin for Data Uncertainty

The expected mortality curves that are determined in Section 11.B may need to include a margin for data uncertainty. The margin could be in the form of an increase or a decrease in mortality, depending on the business segment under consideration. The margin shall be applied in a direction (i.e., increase or decrease in mortality) that results in a higher reserve. A sensitivity test may be needed to determine the appropriate direction of the provision for uncertainty to mortality. The test could be a prior year mortality sensitivity analysis of the business segment or an examination of current representative cells of the segment.

For purposes of this section, if mortality must be increased (decreased) to provide for uncertainty, the business segment is referred to as a plus (minus) segment.

It may be necessary, because of a change in the mortality risk profile of the segment, to reclassify a business segment from a plus (minus) segment to a minus (plus) segment to the extent compliance with this section requires such a reclassification. For example, a segment could require reclassification depending on whether it is gross or net of reinsurance.

B. Determination of Expected Mortality Curves

1. Experience Data

In determining expected mortality curves, the company shall use actual experience data directly applicable to the business segment (i.e., direct data) if it is available. In the absence of direct data, the company should then look to use data from a segment that is similar to the business segment (i.e., other than direct experience). See Section 11.B.2. for additional considerations. Finally, if there is no data, the company shall use the applicable table, as required in Section 11.B.3.

2. Data Other Than Direct Experience

Adjustments shall be applied to the data to reflect differences between the business segments, and margins shall be applied to the adjusted expected mortality curves to reflect the data uncertainty associated with using data from a similar but not identical business segment.

To the extent the mortality of a business segment is reinsured, any mortality charges that are consistent with the company's own pricing and applicable to a substantial portion of the mortality risk also may be a reasonable starting point for the determination of the company's expected mortality curves.

3. No Data Requirements

- i. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no less than:

- a. [2021 SOA Deferred Annuity Mortality Table] with [Projection Scale G2] for individual deferred annuities that do not contain guaranteed living benefits

$$q_x^{20XX+n} = q_x^{20XX}(1 - G2_x)^n$$

- ii. When little or no experience or information is available on a business segment, the company shall use expected mortality curves that would produce expected deaths no greater than:

- a. [The appropriate percentage (F_x) from Table 11.1 applied to the 2012 IAM Basic Mortality Table] with [Projection Scale G2] for individual payout annuity contracts and deferred annuity contracts with guaranteed living benefits

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n * F_x$$

- b. [1983 Table “a”] for structured settlements or other contracts with impaired mortality
- c. [1994 GAR Table] with [Projection Scale AA] for group annuities

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

Table 11.1

Attained Age (x)	F _x	
<=65	80.0%	
66	81.5%	
67	83.0%	
68	84.5%	
69	86.0%	
70	87.5%	
71	89.0%	
72	90.5%	
73	92.0%	
74	93.5%	
75	95.0%	
76	96.5%	
77	98.0%	
78	99.5%	
79	101.0%	
80	102.5%	
81	104.0%	
82	105.5%	
83	107.0%	
84	108.5%	
85	110.0%	

86	110.0%	
87	110.0%	
88	110.0%	
89	110.0%	
90	110.0%	
91	110.0%	
92	110.0%	
93	110.0%	
94	110.0%	
95	110.0%	
96	109.0%	
97	108.0%	
98	107.0%	
99	106.0%	
100	105.0%	
101	104.0%	
102	103.0%	
103	102.0%	
104	101.0%	
>=105	100.0%	

iii. For a business segment with non-U.S. insureds, an established industry or national mortality table may be used, with approval from the domiciliary commissioner.

4. Additional Considerations Involving Data

The following considerations shall apply to mortality data specific to the business segment for which assumptions are being determined (i.e., direct data discussed in Section 11.B.1 or other than direct data discussed in Section 11.B.2).

a. Underreporting of Deaths

Mortality data shall be examined for possible underreporting of deaths. Adjustments shall be made to the data if there is any evidence of underreporting. Alternatively, exposure by lives or amounts on contracts for which death benefits were in the money may be used to determine expected mortality curves. Underreporting on such exposures should be minimal; however, this reduced subset of data will have less credibility.

b. Experience by Contract Duration

Experience of a plus segment shall be examined to determine if mortality by contract duration increases materially due to selection at issue. In the absence of information, the company shall assume that expected mortality will increase by contract duration for an appropriate select period. As an alternative, if the company determines that mortality is affected by selection, the company could apply margins to the expected mortality in such a way that the actual mortality modeled does not depend on contract duration.

c. Modification and Relevance of Data

Even for a large company, the quantity of life exposures and deaths are such that a significant amount of smoothing may be required to determine expected mortality curves from mortality experience. Expected mortality curves, when applied to the recent historic exposures (e.g., three to seven years), should not result in an estimate of aggregate number of deaths less (greater) than the actual number deaths during the exposure period for plus (minus) segments.

In determining expected mortality curves (and the credibility of the underlying data), older data may no longer be relevant. The “age” of the experience data used to determine expected mortality curves should be documented.

d. Other Considerations

In determining expected mortality curves, consideration should be given to factors that include, but are not limited to, trends in mortality experience, trends in exposure, volatility in year-to-year A/E mortality ratios, mortality by lives relative to mortality by amounts, changes in the mix of business and product features that could lead to mortality selection.

C. Adjustment for Credibility to Determine Prudent Estimate Mortality

1. Adjustment for Credibility

The expected mortality curves determined in Section 11.B shall be adjusted based on the credibility of the experience used to determine the curves in order to arrive at prudent estimate mortality. The adjustment for credibility shall result in blending the expected mortality curves with the mortality assumption described in Section 11.B.3. The approach used to adjust the curves shall suitably account for credibility.

Guidance Note: For example, when credibility is zero, an appropriate approach should result in a mortality assumption consistent with 100% of the mortality table used in the blending.

2. Adjustment of Statutory Valuation Mortality for Improvement

For purposes of the adjustment for credibility, the mortality table for a plus segment may be and the mortality table for a minus segment must be adjusted for mortality improvement. Such adjustment shall reflect the mortality improvement scale described in Section 11.B.3 from the effective date of the respective mortality table to the experience weighted average date underlying the data used to develop the expected mortality curves.

3. Credibility Procedure

The credibility procedure used shall:

- a. Produce results that are reasonable.
- b. Not tend to bias the results in any material way.
- c. Be practical to implement.
- d. Give consideration to the need to balance responsiveness and stability.
- e. Take into account not only the level of aggregate claims but the shape of the mortality curve.

f. Contain criteria for full credibility and partial credibility that have a sound statistical basis and be appropriately applied.

4. Further Adjustment of the Credibility-Adjusted Table for Mortality Improvement

The credibility-adjusted table used for plus segments may be and the credibility adjusted table used for minus segments must be adjusted for mortality improvement using the applicable mortality improvement scale described in Section 11.B.3 from the experience weighted average date underlying the company experience used in the credibility process to the valuation date.

Any adjustment for mortality improvement beyond the valuation date is discussed in Section 11.D.

D. Future Mortality Improvement

The mortality assumption resulting from the requirements of Section 11.C shall be adjusted for mortality improvements beyond the valuation date if such an adjustment would serve to increase the resulting stochastic reserve. If such an adjustment would reduce the stochastic reserve, such assumptions are permitted, but not required. In either case, the assumption must be based on current relevant data with a margin for uncertainty (increasing assumed rates of improvement if that results in a higher reserve or reducing them otherwise).

Section 12: Allocation of Aggregate Reserves to the Contract Level

Section 3.F states that the aggregate reserve shall be allocated to the contracts falling within the scope of these requirements. That allocation should be done for both the pre- and post-reinsurance ceded reserves. Contracts that have passed the stochastic exclusion test as defined in Section 7.B will not be included in the allocation of the aggregate reserve. For the purpose of this section, if a contract does not have a cash surrender value, then the cash surrender value is assumed to be zero.

Contracts for which the Deterministic Certification Option is elected in Section 7.E are intended to use the methodology described in this section to allocate aggregate reserves in excess of the cash surrender value to individual contracts.

The contract-level reserve for each contract shall be the sum of the following:

- A. The contract’s cash surrender value.

Drafting Note: The American Academy of Actuaries Annuity Reserves and Capital Work Group is including two potential options for allocating the excess portion of the aggregate reserve over cash surrender value: (1) Use the same approach as VM-21 (2) Allocate based on an actuarial present value calculation.

The Work Group did not reach a consensus between these two approaches, so wording for both is included in the text below. The Work Group recommends field testing both approaches and considering the results in determining future decisions.

Option 1: VM-21 Approach

- B. An allocated portion of the excess of the aggregate reserve over the aggregate cash surrender value shall be allocated to each contract based on a measure of the risk of that product relative to its cash surrender value in the context of the company’s in force contracts (assuming zero cash value for contracts that do not contain such). The measure of risk should consider the impact of risk mitigation programs, including hedge programs and reinsurance, that would affect the risk of the product. The specific method of assessing that risk and how it contributes to the company’s aggregate reserve shall be defined by the company. The method should provide for an equitable allocation based on risk analysis.

- 1. As an example, consider a company with the results of the following three contracts:

Table 12.1: Sample Allocation of Aggregate Reserve

Contract (i)	1	2	3	Total
Cash Surrender Value, C	28	40	52	120
Risk adjusted measure, R	38	52	50	
Aggregate Reserve				140
Allocation Basis for the excess of the Aggregate Reserve over the Cash Surrender Value $A_i = \text{Max}(R_i - C_i, 0)$	10	12	0	22

Allocation of the excess of the Aggregate Reserve over the Cash Surrender Value $Li = (Ai)/\Sigma Ai * [Aggregate Reserve - \Sigma Ci]$	9.09	10.91	0.00	20
Contract-level reserve $Ci + Li$	37.09	50.91	52.00	140.00

2. In this example, the Aggregate Reserve exceeds the aggregate Cash Surrender Value by 20. The 20 is allocated proportionally across the three contracts based on the allocation basis of the larger of (i) zero; and (ii) a risk adjusted measure based on reserve principles. Therefore, contracts 1 and 2 receive 45% (9/22) and 55% (11/22), respectively, of the excess Aggregate Reserve. As Contract 3 presents no risk in excess of its cash surrender value, it does not receive an allocation of the excess Aggregate Reserve.

Option 2: Actuarial Present Value Approach

- B. The excess of the aggregate reserve over the aggregate cash surrender value is allocated to policies based on a calculation of the actuarial present value of projected liability cash flows in excess of the cash surrender value:
 1. Discount the liability cash flows at the NAER, pursuant to requirements in Section 4, for the scenario that produces the scenario reserve closest to, but not less than the stochastic reserve defined in Section 3.D.
 - a. Groups of contracts that elect the Deterministic Certification Option defined in Section 7.E shall use the NAER in the single scenario used to calculate the reserve to discount liability cash flows.
 2. If the actuarial present value is less than the cash surrender value, then the excess actuarial present value to be used for allocating the excess aggregate reserve over the cash value shall be floored at zero.
 - a. If all contracts have an excess actuarial present value that is floored at zero, then use the cash surrender value to allocate any excess aggregate reserve over the aggregate cash surrender value.
 3. For projecting future liability cash flows, assume the same liability assumptions that were used to calculate the stochastic reserve defined in 3.D.
 4. As a hypothetical example, consider a company with the results of the following five contracts:

Table 12.1: Hypothetical Sample Allocation of Aggregate Reserve

Contract	Example Product Type	CSV* (1)	Scenario APV (2)	Excess (Floored) of the scenario APV over CSV* (3) = $\text{Max}[(2), 0]$	Aggregate Reserve CTE 70 (4)	Excess of Aggregate Reserve over Aggregate CSV* (5) = $\text{Max}[(4 \text{ Total}) - (1 \text{ Total}), 0]$	Allocated Excess Reserve (6) = $(3) \times [(5 \text{ Total}) / (3 \text{ Total})]$	Total Contract Level Reserve (7) = (1) + (6)
Contract 1:	Indexed Annuity with no GLWB**	95.0	90.0	0.0			0.0	95.0
Contract 2:	Indexed Annuity with low benefit GLWB**	92.0	95.0	3.0			3.6	95.6
Contract 3:	Indexed Annuity with medium benefit GLWB**	90.0	100.0	10.0			12.0	102.0
Contract 4:	Indexed Annuity with high benefit GLWB**	88.0	105.0	17.0			20.4	108.4
Contract 5:	Fixed Life Contingent Payout Annuity	0.0	70.0	70.0			84.0	84.0
Total		365.0		100.0	485.0	120.0	120.0	485.0

*Cash Surrender Value

**Guaranteed Lifetime Withdrawal Benefit

Guidance Note: The actuarial present value (APV) in the section above is separate from the Guarantee Actuarial Present Value (GAPV) referred to in the additional standard projection amount calculation in VM-21. The GAPV is only applicable to guaranteed minimum benefits and uses prescribed liability assumptions. In contrast, the APV in this section applies to the entire contract, irrespective of whether guaranteed benefits are attached, and uses company prudent estimate liability assumptions.

Section 13: Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves

A. Purpose and Scope

1. These requirements define for single premium immediate annuity contracts and other similar contracts, certificates and contract features the statutory maximum valuation interest rate that complies with Model #820. These are the maximum interest rate assumption requirements to be used in the CARVM and for certain contracts, the CRVM. These requirements do not preclude the use of a lower valuation interest rate assumption by the company if such assumption produces statutory reserves at least as great as those calculated using the maximum rate defined herein.
2. The following categories of contracts, certificates and contract features, whether group or individual, including both life contingent and term certain only contracts, directly written or assumed through reinsurance, with the exception of benefits arising from variable annuities, are covered in this section:
 - a. Immediate annuity contracts issued after Dec. 31, 2017;
 - b. Deferred income annuity contracts issued after Dec. 31, 2017;
 - c. Structured settlements in payout or deferred status issued after Dec. 31, 2017;
 - d. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued after Dec. 31, 2017;
 - e. Fixed payout annuities resulting from the exercise of settlement options or annuitizations of host contracts issued during 2017, for fixed payouts commencing after Dec. 31, 2018, or, at the option of the company, for fixed payouts commencing after Dec. 31, 2017;
 - f. Supplementary contracts, excluding contracts with no scheduled payments (such as retained asset accounts and settlements at interest), issued after Dec. 31, 2017;
 - g. Fixed income payment streams, attributable to contingent deferred annuities (CDAs) issued after Dec. 31, 2017, once the underlying contract funds are exhausted;
 - h. Fixed income payment streams attributable to guaranteed living benefits associated with deferred annuity contracts issued after Dec. 31, 2017, once the contract funds are exhausted; and
 - i. Certificates with premium determination dates after Dec. 31, 2017, emanating from non-variable group annuity contracts specified in Model #820, Section 5.C.2, purchased for the purpose of providing certificate holders benefits upon their retirement.

Guidance Note: For Section 13.A.2.d, Section 13.A.2.e, Section 13.A.2.f and Section 13.A.2.h above, there is no restriction on the type of contract that may give rise to the benefit.

3. Exemptions:
 - a. With the permission of the domiciliary commissioner, for the categories of annuity contracts, certificates and/or contract features in scope as outlined in Section 13.A.2.d, Section 13.A.2.e, Section 13.A.2.f, Section 13.A.2.g or Section 13.A.2.h, the company may use the same maximum valuation interest rate used to value the payment stream in accordance with the guidance applicable to the host contract. In order to obtain such

permission, the company must demonstrate that its investment policy and practices are consistent with this approach.

4. The maximum valuation interest rates for the contracts, certificates and contract features within the scope of Section 13 of VM-22 supersede those described in Appendix VM-A and Appendix VM-C, but they do not otherwise change how those appendices are to be interpreted. In particular, *Actuarial Guideline IX-B—Clarification of Methods Under Standard Valuation Law for Individual Single Premium Immediate Annuities, Any Deferred Payments Associated Therewith, Some Deferred Annuities and Structured Settlements Contracts* (AG-9-B) (see VM-C) provides guidance on valuation interest rates and is, therefore, superseded by these requirements for contracts, certificates and contract features in scope. Likewise, any valuation interest rate references in *Actuarial Guideline IX-C—Use of Substandard Annuity Mortality Tables in Valuing Impaired Lives Under Individual Single Premium Immediate Annuities* (AG-9-C) (see VM-C) are also superseded by these requirements.

B. Definitions

1. The term “reference period” means the length of time used in assigning the Valuation Rate Bucket for the purpose of determining the statutory maximum valuation interest rate and is determined as follows:
 - a. For contracts, certificates or contract features with life contingencies and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the earlier of: i) the date of the last non-life-contingent payment under the contract, certificate or contract feature; and ii) the date of the first life-contingent payment under the contract, certificate or contract feature, or
 - b. For contracts, certificates or contract features with no life-contingent payments and substantially similar payments, the reference period is the length of time, rounded to the nearest year, from the premium determination date to the date of the last non-life-contingent payment under the contract, certificate or contract feature, or
 - c. For contracts, certificates or contract features where the payments are not substantially similar, the actuary should apply prudent judgment and select the Valuation Rate Bucket with Macaulay duration that is a best fit to the Macaulay duration of the payments in question.

Guidance Note: Contracts with installment refunds or similar features should consider the length of the installment period calculated from the premium determination date as the non-life contingent period for the purpose of determining the reference period.

Guidance Note: The determination in Section 13.B.1.c above shall be made based on the materiality of the payments that are not substantially similar relative to the life-contingent payments.

2. The term “jumbo contract” means a contract with an initial consideration equal to or greater than \$250 million. Considerations for contracts issued by an insurer to the same contract holder within 90 days shall be combined for purposes of determining whether the contracts meet this threshold.

Guidance Note: If multiple contracts meet this criterion in aggregate, then each contract is a jumbo contract.

3. The term “non-jumbo contract” means a contract that does not meet the definition of a jumbo contract.

4. The term “premium determination date” means the date as of which the valuation interest rate for the contract, certificate or contract feature being valued is determined.
5. The term “initial age” means the age of the annuitant as of his or her age last birthday relative to the premium determination date. For joint life contracts, certificates or contract features, the “initial age” means the initial age of the younger annuitant. If a contract, certificate or contract feature for an annuitant is being valued on a standard mortality table as an impaired annuitant, “initial age” means the rated age. If a contract, certificate or contract feature is being valued on a substandard mortality basis, “initial age” means an equivalent rated age.
6. The term “Table X spreads” means the prescribed VM-22 Section 13 current market benchmark spreads for the quarter prior to the premium determination date, as published on the Industry tab of the NAIC website. The process used to determine Table X spreads is the same as that specified in VM-20 Appendix 2.D for Table F, except that JP Morgan and Bank of America bond spreads are averaged over the quarter rather than the last business day of the month.
7. The term “expected default cost” means a vector of annual default costs by weighted average life. This is calculated as a weighted average of the VM-20 Table A prescribed annual default costs published on the Industry tab of the NAIC website in effect for the quarter prior to the premium determination date, using the prescribed portfolio credit quality distribution as weights.
8. The term “expected spread” means a vector of spreads by weighted average life. This is calculated as a weighted average of the Table X spreads, using the prescribed portfolio credit quality distribution as weights.
9. The term “prescribed portfolio credit quality distribution” means the following credit rating distribution:
 - a. 5% Treasuries
 - b. 15% Aa bonds (5% Aa1, 5% Aa2, 5% Aa3)
 - c. 40% A bonds (13.33% A1, 13.33% A2, 13.33% A3)*
 - d. 40% Baa bonds (13.33% Baa1, 13.33% Baa2, 13.33% Baa3)*

*40%/3 is used unrounded in the calculations.

C. Determination of the Statutory Maximum Valuation Interest Rate

1. Valuation Rate Buckets

- a. For the purpose of determining the statutory maximum valuation interest rate, the contract, certificate or contract feature being valued must be assigned to one of four Valuation Rate Buckets labeled A through D.
- b. If the contract, certificate or contract feature has no life contingencies, the Valuation Rate Bucket is assigned based on the length of the reference period (RP), as follows:

Table 3-1: Assignment to Valuation Rate Bucket by Reference Period Only

RP ≤ 5 Years	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
A	B	C	D

- c. If the contract, certificate or contract feature has life contingencies, the Valuation Rate Bucket is assigned based on the length of the RP and the initial age of the annuitant, as follows:

Table 3-2: Assignment to Valuation Rate Bucket by Reference Period and Initial Age

Initial Age	RP ≤ 5Y	5Y < RP ≤ 10Y	10Y < RP ≤ 15Y	RP > 15Y
90+	A	B	C	D
80–89	B	B	C	D
70–79	C	C	C	D
< 70	D	D	D	D

2. Premium Determination Dates

- a. The following table specifies the decision rules for setting the premium determination date for each of the contracts, certificates and contract features listed in Section 1:

Table 3-3: Premium Determination Dates

Section	Item Description	Premium determination date
A.2.a	Immediate annuity	Date consideration is determined and committed to by contract holder
A.2.b	Deferred income annuity	Date consideration is determined and committed to by contract holder
A.2.c	Structured settlements	Date consideration is determined and committed to by contract holder
A.2.d and A.2.e	Fixed payout annuities resulting from settlement options or annuitizations from host contracts	Date consideration for benefit is determined and committed to by contract holder
A.2.f	Supplementary contracts	Date of issue of supplementary contract
A.2.g	Fixed income payment streams from CDAs, AV becomes 0	Date on which AV becomes 0
A.2.h	Fixed income payment streams from guaranteed living benefits, AV becomes 0	Date on which AV becomes 0

A.2.i	Group annuity and related certificates	Date consideration is determined and committed to by contract holder
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Guidance Note: For the purposes of the items in the table above, the phrase “date consideration is determined and committed to by the contract holder” should be interpreted by the company in a manner that is consistent with its standard practices. For some products, that interpretation may be the issue date or the date the premium is paid.

b. Immaterial Change in Consideration

If the premium determination date is based on the consideration, and if the consideration changes by an immaterial amount (defined as a change in present value of less than 10% and less than \$1 million) subsequent to the original premium determination date, such as due to a data correction, then the original premium determination date shall be retained. In the case of a group annuity contract where a single premium is intended to cover multiple certificates, certificates added to the contract after the premium determination date that do not trigger the company’s right to reprice the contract shall be treated as if they were included in the contract as of the premium determination date.

3. Statutory Maximum Valuation Interest Rate

- a. For a given contract, certificate or contract feature, the statutory maximum valuation interest rate is determined based on its assigned Valuation Rate Bucket (Section 13.C.1) and its Premium Determination Date (Section 13.C.2) and whether the contract associated with it is a jumbo contract or a non-jumbo contract.
- b. Statutory maximum valuation interest rates for jumbo contracts are determined and published daily by the NAIC on the Industry tab of the NAIC website. For a given premium determination date, the statutory maximum valuation interest rate is the daily statutory maximum valuation interest rate published for that premium determination date.
- c. Statutory maximum valuation interest rates for non-jumbo contracts are determined and published quarterly by the NAIC on the Industry tab of the NAIC website by the third business day of the quarter. For a given premium determination date, the statutory maximum valuation interest rate is the quarterly statutory maximum valuation interest rate published for the quarter in which the premium determination date falls.

d. Quarterly Valuation Rate:

For each Valuation Rate Bucket, the quarterly valuation rate is defined as follows:

$$I_q = R + S - D - E$$

Where:

- a. R is the reference rate for that Valuation Rate Bucket (defined in Section 13.C.4);
- b. S is the spread rate for that Valuation Rate Bucket (defined in Section 13.C.5);
- c. D is the default cost rate for that Valuation Rate Bucket (defined in Section 13.C.6);

and

d. E is the spread deduction defined as 0.25%.

e. Daily Valuation Rate:

For each Valuation Rate Bucket, the daily valuation rate is defined as follows:

$$I_d = I_q + C_{d-1} - C_q$$

Where:

- a. I_q is the quarterly valuation rate for the calendar quarter preceding the business day immediately preceding the premium determination date;
- b. C_{d-1} is the daily corporate rate (defined in Section 13.C.7) for the business day immediately preceding the premium determination date; and
- c. C_q is the average daily corporate rate (defined in Section 13.C.8) corresponding to the same period used to develop I_q .

For jumbo contracts, the daily statutory maximum valuation interest rate is the daily valuation rate (I_d) rounded to the nearest one-hundredth of one percent (1/100 of 1%).

4. Reference Rate

Reference rates are updated quarterly as described below:

- a. The “quarterly Treasury rate” is the average of the daily Treasury rates for a given maturity over the calendar quarter prior to the premium determination date. The quarterly Treasury rate is downloaded from <https://fred.stlouisfed.org>, and is rounded to two decimal places.
- b. Download the quarterly Treasury rates for two-year, five-year, 10-year and 30-year U.S. Treasuries.
- c. The reference rate for each Valuation Rate Bucket is calculated as the weighted average of the quarterly Treasury rates using Table 1 weights (defined in Section 13.C.9) effective for the calendar year in which the premium determination date falls.

5. Spread

The spreads for each Valuation Rate Bucket are updated quarterly as described below:

- a. Use the Table X spreads from the NAIC website for WALs two, five, 10 and 30 years only to calculate the expected spread.
- b. Calculate the spread for each Valuation Rate Bucket, which is a weighted average of the expected spreads for WALs two, five, 10 and 30 using Table 2 weights (defined in Section 3.I) effective for the calendar year in which the premium determination date falls.

6. Default costs for each Valuation Rate Bucket are updated annually as described below:

- a. Use the VM-20 prescribed annual default cost table (Table A) in effect for the quarter prior to the premium determination date for WAL two, WAL five and WAL 10 years only to calculate the expected default cost. Table A is updated and published annually on

the Industry tab of the NAIC website during the second calendar quarter and is used for premium determination dates starting in the third calendar quarter.

- b. Calculate the default cost for each Valuation Rate Bucket, which is a weighted average of the expected default costs for WAL two, WAL five and WAL 10, using Table 3 weights (defined in Section 13.C.9) effective for the calendar year in which the premium determination date falls.

7. Daily Corporate Rate

Daily corporate rates for each valuation rate bucket are updated daily as described below:

- a. Each day, download the Bank of America Merrill Lynch U.S. corporate effective yields as of the previous business day’s close for each index series shown in the sample below from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from the table below\]](https://research.stlouisfed.org/fred2/series/[replace with series name from the table below]).

Table 3-4: Index Series Names

Maturity	Series Name
1Y – 3Y	BAMLC1A0C13YEY
3Y – 5Y	BAMLC2A0C35YEY
5Y – 7Y	BAMLC3A0C57YEY
7Y – 10Y	BAMLC4A0C710YEY
10Y – 15Y	BAMLC7A0C1015YEY
15Y+	BAMLC8A0C15PYEY

- b. Calculate the daily corporate rate for each valuation rate bucket, which is a weighted average of the Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9) effective for the calendar year in which the business date immediately preceding the premium determination date falls.

8. Average Daily Corporate Rate

Average daily corporate rates are updated quarterly as described below:

- a. Download the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields for each index series shown in Section 3.G.1 from the St. Louis Federal Reserve website: <https://research.stlouisfed.org/fred2/categories/32348>. To access a specific series, search the St. Louis Federal Reserve website for the series name by inputting the name into the search box in the upper right corner, or input the following web address: [https://research.stlouisfed.org/fred2/series/\[replace with series name from Section 13.C.7.a\]](https://research.stlouisfed.org/fred2/series/[replace with series name from Section 13.C.7.a]).

- b. Calculate the average daily corporate rate for each valuation rate bucket, which is a weighted average of the quarterly average Bank of America Merrill Lynch U.S. corporate effective yields, using Table 4 weights (defined in Section 13.C.9) for the same calendar year as the weight tables (i.e. Tables 1, 2, and 3) used in calculating I_q in Section 13.C.3.e.

9. Weight Tables 1 through 4

The system for calculating the statutory maximum valuation interest rates relies on a set of four tables of weights that are based on duration and asset/liability cash-flow matching analysis for representative annuities within each valuation rate bucket. A given set of weight tables is applicable to the calculations for every day of the calendar year.

In the fourth quarter of each calendar year, the weights used within each valuation rate bucket for determining the applicable valuation interest rates for the following calendar year will be updated using the process described below. In each of the four tables of weights, the weights in a given row (valuation rate bucket) must add to exactly 100%.

Weight Table 1

The process for determining Table 1 weights is described below:

- a. Each valuation rate bucket has a set of representative annuity forms. These annuity forms are as follows:
 - i. Bucket A:
 - a) Single Life Annuity age 91 with 0 and five-year certain periods.
 - b) Five-year certain only.
 - ii. Bucket B:
 - a) Single Life Annuity age 80 and 85 with 0, five-year and 10-year certain periods.
 - b) 10-year certain only.
 - iii. Bucket C:
 - a) Single Life Annuity age 70 with 0 and 15-year certain periods.
 - b) Single Life Annuity age 75 with 0, 10-year and 15-year certain periods.
 - c) 15-year certain only.
 - iv. Bucket D:
 - a) Single Life Annuity age 55, 60 and 65 with 0 and 15-year certain periods.
 - b) 25-year certain only.
- b. Annual cash flows are projected assuming annuity payments are made at the end of each year. These cash flows are averaged for each valuation rate bucket across the annuity forms for that bucket using the statutory valuation mortality table in effect for the following calendar year for individual annuities for males (ANB).

- c. The average daily rates in the third quarter for the two-year, five-year, 10-year and 30-year U.S. Treasuries are downloaded from <https://fred.stlouisfed.org> as input to calculate the present values in Step d.
- d. The average cash flows are summed into four time period groups: years 1–3, years 4–7, years 8–15 and years 16–30. (**Note:** The present value of cash flows beyond year 30 are discounted to the end of year 30 and included in the years 16–30 group. This present value is based on the lower of 3% and the 30-year Treasury rate input in Step c.)
- e. The present value of each summed cash-flow group in Step d is then calculated by using the Step 3 U.S. Treasury rates for the midpoint of that group (and using the linearly interpolated U.S. Treasury rate when necessary).
- f. The duration-weighted present value of the cash flows is determined by multiplying the present value of the cash-flow groups by the midpoint of the time period for each applicable group.
- g. Weightings for each cash-flow time period group within a valuation rate bucket are calculated by dividing the duration weighted present value of the cash flow by the sum of the duration weighted present value of cash flow for each valuation rate bucket.

Weight Tables 2 through 4

Weight Tables 2 through 4 are determined using the following process:

- i. Table 2 is identical to Table 1.
 - ii. Table 3 is based on the same set of underlying weights as Table 1, but the 10-year and 30-year columns are combined since VM-20 default rates are only published for maturities of up to 10 years.
 - iii. Table 4 is derived from Table 1 as follows:
 - a) Column 1 of Table 4 is identical to column 1 of Table 1.
 - b) Column 2 of Table 4 is 50% of column 2 of Table 1.
 - c) Column 3 of Table 4 is identical to column 2 of Table 4.
 - d) Column 4 of Table 4 is 50% of column 3 of Table 1.
 - e) Column 5 of Table 4 is identical to column 4 of Table 4.
 - f) Column 6 of Table 4 is identical to column 4 of Table 1.
10. Group Annuity Contracts

For a group annuity purchased under a retirement or deferred compensation plan (Section 13.A.2.i), the following apply:

- a. The statutory maximum valuation interest rate shall be determined separately for each certificate, considering its premium determination date, the certificate holder's initial age, the reference period corresponding to its form of payout and whether the contract is a jumbo contract or a non-jumbo contract.

Guidance Note: Under some group annuity contracts, certificates may be purchased on different dates.

- b. In the case of a certificate whose form of payout has not been elected by the beneficiary at its premium determination date, the statutory maximum valuation interest rate shall be based on the reference period corresponding to the normal form of payout as defined in the contract or as is evidenced by the underlying pension plan documents or census file. If the normal form of payout cannot be determined, the maximum valuation interest rate shall be based on the reference period corresponding to the annuity form available to the certificate holder that produces the most conservative rate.

Guidance Note: The statutory maximum valuation interest rate will not change when the form of payout is elected.

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Valuation Manual Section II. Reserve Requirements

Subsection 2: Annuity Products

- A. This subsection establishes reserve requirements for all contracts classified as annuity contracts as defined in SSAP No. 50 in the AP&P Manual.
- B. Minimum reserve requirements for variable annuity (VA) contracts and similar business, specified in VM-21, Requirements for Principle-Based Reserves for Variable Annuities, shall be those provided by VM-21. The minimum reserve requirements of VM-21 are considered PBR requirements for purposes of the *Valuation Manual*.
- C. Minimum reserve requirements for fixed annuity contracts issued prior to 1/1/2024 are those requirements as found in VM-A and VM-C as applicable, with the exception of the minimum requirements for the valuation interest rate for single premium immediate annuity contracts, and other similar contracts, issued after Dec. 31, 2017, including those fixed payout annuities emanating from host contracts issued on or after Jan. 1, 2017, and on or before Dec. 31, 2017. The maximum valuation interest rate requirements for those contracts and fixed payout annuities are defined in Section 13 of VM-22, Statutory Maximum Valuation Interest Rates for Income Annuity Formulaic Reserves.
- D. Minimum reserve requirements for fixed annuity contracts issued on 1/1/2024 and later are those requirements as found in Sections 1 through 12 of VM-22.
- E. The below principles may serve as key considerations for assessing whether VM-21 or VM-22 requirements apply:
 - 1. Index-linked or modified guaranteed annuity contracts or riders that satisfy both of the following conditions may be a key consideration for application of VM-22 requirements:
 - a. Guarantees the principal amount of purchase payments, net of any partial withdrawals, and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges.
 - b. Credits a rate of interest under the contract that is at least equal to the minimum rate required to be credited by the standard nonforfeiture law in the jurisdiction in which the contract is issued.

Guidance Note: Paragraph E.1.b is intended to apply prior to the application of any market value adjustments for modified guaranteed annuities where the underlying assets are held in a separate account. If meeting Paragraph E.1.b prior to the application of any market value adjustments and Paragraph E.1.a above, it may be appropriate to value such contracts under VM-22 requirements.

- 2. Index-linked or modified guaranteed annuity contracts that do not satisfy either of the two conditions listed above in Paragraph E.1.i and E.1.ii may be a key consideration for application of VM-21 requirements.

Subsection 6: Riders and Supplemental Benefits

Guidance Note: Policies or contracts with riders and supplemental benefits which are created to simply disguise benefits subject to the Valuation Manual section describing the reserve methodology for the base product to which they are attached, or exploit a perceived loophole, must be reserved in a manner similar to more typical designs with similar riders.

- A. If a rider or supplemental benefit is attached to a health insurance product, deposit-type contract, or credit life or disability product, it may be valued with the base contract unless it is required to be separated by regulation or other requirements.
- B. For supplemental benefits on life insurance policies or annuity contracts, including Guaranteed Insurability, Accidental Death or Disability Benefits, Convertibility, Nursing Home Benefits or Disability Waiver of Premium Benefits, the supplemental benefit may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A, and/or VM-C, as applicable.
- C. ULSG and other secondary guarantee riders on a life insurance policy shall be valued with the base policy and follow the reserve requirements for ULSG policies under VM-20, VM-A and/or VM-C, as applicable.
- D. Any guaranteed minimum benefits on life insurance policies or annuity contracts not subject to Paragraph C above including, but not limited to, Guaranteed Minimum Accumulation Benefits, Guaranteed Minimum Death Benefits, Guaranteed Minimum Income Benefits, Guaranteed Minimum Withdrawal Benefits, Guaranteed Lifetime Income Benefits, Guaranteed Lifetime Withdrawal Benefits, Guaranteed Payout Annuity Floors, Waiver of Surrender Charges, Return of Premium, Systematic Withdrawal Benefits under Required Minimum Distributions, and all similar guaranteed benefits shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
- E. If a rider or supplemental benefit to a life insurance policy or annuity contract that is not addressed in Paragraphs B, C, or D above possesses any of the following attributes, the rider or supplemental benefit shall be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, and VM-A and/or VM-C, as applicable.
 - 1. The rider or supplemental benefit does not have a separately identified premium or charge.
 - 2. After issuance, the rider or supplemental benefit premium, charge, value or benefits are determined by referencing the base policy or contract features or performance.
 - 3. After issuance, the base policy or contract value or benefits are determined by referencing the rider or supplemental benefit features or performance. The deduction of rider or benefit premium or charge from the contract value is not sufficient for a determination by reference.
- F. If a term life insurance rider on the named insured[s] on the base life insurance policy does not meet the conditions of Paragraph E above, and either (1) guarantees level or near level premiums until a specified duration followed by a material premium increase; or (2) for a rider for which level or near level premiums are expected for a period followed by a material premium increase, the rider is separated from the base policy and follows the reserve requirements for term policies under VM20, VM-A and/or VM-C, as applicable.

- G. For all other riders or supplemental benefits on life insurance policies or annuity contracts not addressed in Paragraphs B through F above, the riders or supplemental benefits may be valued with the base policy or contract and follow the reserve requirements for the base policy or contract under VM-20, VM-21, VM-22, VM-A and/or VM-C, as applicable. For a given rider, the election to include riders or supplemental benefits with the base policy or contract shall be determined at the policy form level, not on a policy-by-policy basis, and shall be treated consistently from year-to-year, unless otherwise approved by the domiciliary commissioner.
- H. Any supplemental benefits and riders offered on life insurance policies or annuity contracts that would have a material impact on the reserve if elected later in the contract life, such as joint income benefits, nursing home benefits, or withdrawal provisions on annuity contracts, shall be considered when determining reserves using the following principles:
1. Policyholders with living benefits and annuitization in the same contract will generally use the more valuable of the two benefits.
 2. When advantageous, policyholders will commence living benefit payouts if not started yet.



Brian Bayerle
Senior Actuary

November 19, 2021

Mr. Bruce Sartain
Chair, NAIC Valuation Manual (VM)-22 (A) Subgroup (Subgroup)

Re: ACLI Comments on ARCWG VM-22 Framework Draft Proposal

Dear Mr. Sartain:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide comments on the American Academy of Actuaries (the Academy) Annuity Reserves and Capital Work Group) VM-22 Framework Exposure.

ACLI appreciates all the hard work of the Subgroup and ARCWG in development of this draft. We believe the framework is an excellent first step towards principles-based requirements for fixed annuities. We look forward to working with the Subgroup and ARCWG in further development of the framework, and on notable areas that were not addressed in this first exposure.

ACLI supports the continued development of principles-based reserving. We believe that this development is the natural progression of measurement of underlying risks in company portfolios. PBR enables better measurement of complex guarantees and other risks and reflects the underlying experience of the block, while maintaining appropriate flexibility consistent with the complexity of the risks being measured,

Our comments are broken into two sections: priority areas for requested comment and comments on individual sections of the VM-22. You will also find our comments in the accompanying Word document.

VM-22 Exposure Comments and Priorities Comments:

- **Standard Projection Amount (SPA):** If any reserve method includes a SPA, the ACLI supports making the SPA a nonbinding disclosure item across the applicable VM chapters. We appreciate the use of the SPA to help identify outlier assumptions; however, we note that having one-size-fits-all prescribed assumptions is extremely challenging due to the variety of designs in the market. Further, a binding floor introduces non-economic considerations to the reserve that do not align with management of the portfolio. Consistent with our feedback regarding the variable annuity framework, we are concerned

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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about the possibility of this approach producing false positives and false negatives regarding outliers.

- **Reserving Categories:** We believe aggregation should be consistent with management of liabilities and assets throughout the lifecycle of the portfolio and VM-22 should allow for companies to designate aggregation of blocks consistent with their operational and investment management. Multiple categories and other aggregation limits could create disconnects with the actual management and asset portfolio of the company. Further, a greater level of aggregation encourages well-diversified portfolios and sound-risk management.

Were multiple reserve categories to be defined, we would support a principles-based categorization to accommodate innovation in the market. Further, we suggest an “at issue” approach to better align with management of the block and to avoid any disconnects in the level of the reserve were a block to switch between categories. Additionally, certain additional disclosures may not be applicable under this approach, such as those related to investment strategy when the company is not modeling it; we would suggest limiting the disclosures and reporting to items actually used in the calculation. For Option 1, we suggest deleting item #6 to be consistent with VM-21 or at least need to exclude payment streams from VAs which are scoped into VM-21.

- **Model Segments (Section 3.E):** Consistent with our comments on reserving categories, we believe the model segments should appropriately align with the internal management framework of companies to appropriately reflect inherent offsets in risks, which is in the spirit of a principle-based framework. We do not believe restrictive requirements around segments serves to solve any known problems, as two disjoint scenarios cannot occur at the same time within a company’s portfolio. We suggest consistency of this text with the existing VM-20 Section 7.A.1.b.
- **Allocation (Section 12):** We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.
- **VM-21 vs. VM-22 Distinction (VM Section II edits):** Consistent with the exposed framework, we support the continued inclusion of RILA and RILA-like products within VM-21. We are appreciative of the key considerations outlined in Valuation Manual Section II. Reserve Requirements Subsection 2.E and support further clarification of the intent of this text for greater clarity on the applicable guidance.
- **Exclusion Test:** ACLI is supportive of the exclusion test, however, we believe there are areas that could be clarified. We think there could be greater clarity regarding how exactly the exclusion test should be executed. For the Deterministic Certification Option, we request the text to be clarified regarding what business can use this option due to potential confusion in the current text; it would be clearer if the Guidance Note after 7.E.2 were moved to the beginning of Section 7.E to clarify what type of business falls into this category.

We do not believe in the necessity of including longevity risk within the scope of the exclusion test since we are not attempting to model longevity/mortality stochastically. We recommend striking longevity risk related components of this section throughout, including in 7.B and 7.C.1, and deleting the Drafting Note after 7.E.1.d.

Please find additional comments below in Section 7.

Specific feedback on sections:

- Section 1
 - A (Purpose): The proposal suggests VM-22 is not operative until 1/1/2024, which contradicts Section 13 and existing requirements. We would suggest rewording this to clarify that Section 13 is effective after 12/31/2017. Further, we would suggest consistency in labeling of dates (either all text or all numeric).
 - A (Relationship to RBC Requirements): The VM-21 guidance note was not included in VM-22; however, we believe it would be appropriate to retain and reword to say, “products that calculate a stochastic reserve”, since the relationship to RBC would likely be maintained.
 - B (Principles): We would support consistent application of principles across all chapters as currently VM-20 does not have a like-set of principles. We believe this could involve a broader discussion of the assorted product requirements in the VM. As a shorter-term fix, we would recommend generalizing the principles where appropriate and moving these to "Section I. Introduction" or "VM-01" and equally applying to VM-20.
 - B (Principle 2): We support this principle but note that later sections appear to contradict this principle. For example, the statement “The analysis reflects prudent estimate assumptions for deterministic variables and is performed in aggregate (subject to limitations related to contractual provisions) to allow the natural offset of risks within a given scenario.” contradicts with the introduction of additional reserve categories and other limitations (such as model segment restrictions).
 - B (Principle 3): We suggest deleting the sentence "Generally, assumptions are..." since it does not provide guidance. We also suggest tightening the remainder of the text for clarity.
 - B (Principle 5): We recommend deleting the third sentence (starting with “Therefore, the use of assumptions...”) because this lacks historical context and is covered by the final sentence.
 - C (Risks Reflected): Consistent with our comments on 1.B, we would support consistent application of risks reflected across all chapters, rather than embedding the language in each chapter. Were this to be retained in VM-22, we would suggest maintaining consistency with VM-21 to avoid any confusion.
 - C.2.c.i: We recommend removing the bullet “Risks modeled in the company’s risk assessment processes that are related to the contracts, as described above” as this is unclear and probably extraneous.
 - C.3: We recommend removing this section. With the specific RBC language removed, the section loses meaning: "a" is unnecessary and "b" is redundant with

other sections of the VM which allow for materiality considerations (language in VM-20 is likely better for this purpose and should be used consistently).

- C.4.b.iv: We recommend removing the bullet “Significant future reserve increases as an unfavorable scenario is realized” as this is extraneous.
- C.4.c (General business risks): List could be expanded to include operational risk and litigation risk.
- D (Specific definitions for VM-22): It seems the definitions included in this section are largely only used for the purpose of establishing the Scope in Section 2. Since this is intended to be a principles-based methodology, recommend a strong definition of “Fixed Annuity” instead of specific products underneath this business. The first paragraph in A. Scope seems to provide this with specific references which are out of scope. If changing the scope section, we would suggest deleting the various product definitions if not used elsewhere; if these definitions are potentially applied beyond VM-22, we would suggest moving any necessary definitions to VM-01.
- D (Deferred Income Annuity (DIA) definition/Single Premium Immediate Annuity (SPIA) definition): Suggest aligning the cut off to 13 months for alignment consistent with Actuarial Guideline IX, rather than the 1 year that currently is in the VM-22 draft.
- D (Fixed Indexed Annuity (FIA) definition): Is “typically” intended to be a requirement in the definition? That is, to qualify as FIA does there need to be guaranteed principle?
- D (Index Parameter definition): We would suggest adding performance trigger to the list, along with other potential crediting methods; alternatively, the definition could specify that the crediting methods listed are examples only.
- D (Longevity Reinsurance definition): The definition states that “Agreements which are not treated as reinsurance under Statement of Statutory Accounting Principles (SSAP) No. 61R are not included in this definition”. Why is this the case and does this imply that longevity swaps are not within the scope of VM-22? Recommend adding to the out-of-scope list in “2.A. Scope” if that is the case. Clarification would also be helpful on what guidance should be used for these agreements if out of scope for VM-22. Further, we would suggest removing “typically” from the definition.
- D (Modified Guaranteed Annuity): We recommend editing the definition as follows “A type of market-value adjusted annuity contract where the underlying assets are most commonly held in an insurance company separate account...”
- D (Pension Risk Transfer (PRT) Annuity definition): Is “typically” intended to be a requirement in the definition? That is, to qualify as PRT must the insurance company have the asset risk? Consistent with the comment on Longevity Reinsurance, it would be helpful to clarify where a longevity swap contract falls within these definitions. Notably, index-based longevity swaps should be out of scope as they do not meet definition of “annuity contract” in SSAP 50. It should also be made explicit that PRT contracts can include lump sum benefits, death benefits and cash balance benefits as well.
- D (Registered Index-Linked Annuity (RILA)): It is unclear to us why RILA is defined in VM-22 when it is being used to exclude the product from VM-22 requirements.

- D (Structured Settlement Contracts (SSC)): Suggest striking sentence “Adverse mortality is typically expected for these contracts.” from definition. Additionally, it is possible that there may be non-substandard settlements.
- Section 2
 - Consistent with our comment in Section 1, the language around effective date should be clear this only applies to new PBR methodology, and rates in Section 13 have a different effective date.
 - We would support reworking this section to rely on principles, rather than definitions to determine what is in and out of scope. As product innovation continues, a simple list may not appropriately accommodate the applicability of this chapter. However, if such a list is included, then we believe it should align with the full list presented in Section 13.
 - We suggest moving or deleting the sentence “The company may elect to exclude one or more groups of contracts from the stochastic reserve calculation in certain situations, pursuant to the exclusion test requirements defined in Section 3.E of VM-22.” from this section as it does not seem fitting here.
- Section 3
 - B: Guidance is needed on how a pre-reinsurance reserve is to be determined.
 - D: The term "Deterministic Certification Option" may be confusing, as there is no "deterministic" reserve, unlike VM-20. We recommend consideration of an alternative term. In addition, we recommend changing the phrasing to "with the exception of groups of contracts for which a company elects the [Deterministic Certification Option], following the requirements of Section 7.E."
 - E.1: Seems to imply that only SPIAs would pass due to the linkage to Section 13. But the reference to interest rates should be broader, if even necessary. Suggest editing as:
 - "these groups of contracts may be valued using the methodology and statutory maximum valuation rate pursuant to applicable requirements in VM-A, and VM-C, and with the statutory maximum valuation rate for immediate annuities specified in Section 13."
 - E.2: This section seems to indicate that the grouping of contracts in exclusion testing should be the same as the grouping of contracts for aggregation. This might cause fewer product types to be qualifying for exclusion if the test must be performed at a higher level of aggregation.
 - E (Guidance note beginning “The intention of contracts that pass the stochastic exclusion test...”): We believe this guidance note is unnecessary as the intent of the section is clear, and the wording is possibly confusing.
 - F (Allocation) Either in this item or in Section 12 allocation to contracts not covered by PBR methodology in VM-22 needs to be addressed e.g., carve out because reserves calculated on seriatim formulaic basis.
 - G (Prudent Estimate Assumptions): This sub-section seems more appropriate in Section 4 (or pulled out completely and consolidated within "I. Introduction" or "VM-01" and applied to all PBR methods).

- G.2: Suggest replacing “If the results of statistical testing or other testing” with “If the results of the review” to simplify language and avoid possible confusion.
- Section 4
 - A.1.b (Guidance Note): The purpose of this guidance note is not clear as these charges would be reflected in the cash flows.
 - A.2: Suggest editing the first sentence to note scope is FIAs and to avoid confusion regarding the term “investment guideline” as follows: “Index crediting strategies for fixed indexed annuities may be grouped for modeling using an approach that recognizes the investment guidelines and objectives of each index crediting strategy.”
 - Given that Section 9 covers hedging, we would suggest considering moving parts of Section 4.A.4 to that section.
 - A.4: Suggest rewording “Future hedging program” to “hedging program with future transactions” to avoid ambiguity.
 - A.4.b.ii.b): “Any other purpose” in the last sentence seems overly broad and should be narrowed.
 - A.4.b.ii.c): Margins are discussed in a different section, so recommend deleting.
 - A.4.b.i.c): We believe the company should determine the appropriate margin based on their demonstration of effectiveness. Any guardrails on these undetermined values should be minimal, including as low as 0, subject to the appropriate demonstration of effectiveness. Further, we believe that documentation of effective product management should be contemplated in addition to historical effectiveness.
 - A.5: Unclear why Revenue Sharing is considered for non-variable products, can probably delete.
 - B.1: Section does not specify what the reserve floor shall be (if any) for contracts without cash surrender value.
 - B.3.a We believe that assets held in the separate account with performance not impacting policyholder benefits should be modeled consistent with how the business is managed.
 - D.4.b: Request clarification around the meaning of “general account index funds.”
 - E.1.b. Suggest deleting “In contrast, for payouts specified at issue, the payout rates modeled should be consistent with those specified in the contract.” as it appears to be covered by E.1.a.
 - E.2: Suggest deleting “may” as there appears to be only option.
- Section 5: The wording and titling may need to be tightened due to clarify which items apply to assumed and ceded reinsurance in the text.
- Section 7
 - B.3: We recommend removing “pension risk transfer business” from products scoped out of SET certification method. It is unclear why this business would be treated differently from individually issued business for testing intended to capture interest rate risk.

- C.1: As written, the SERT assumes a single premium product given the change of the denominator to the scenario reserve. Alternative product designs (such as longevity swap) could result in unintended results. We recommend maintaining consistency with VM-20 and using a denominator of future benefits (annuity payments, DBs, etc., excluding premium considerations, expenses, etc.).
 - C.2.d: Clarification is needed around reference to “significantly different risk profiles.”
 - C.3: We request clarification or definition of the term “non-proportional reinsurance.”
 - C.3.a.iii: We believe subscript “gy” should be “gn.”
 - D.1.a: Does this statement imply a floor reserve of VM-A and VM-C? VM-20 does require the NPR as the floor of the reserve but as written, VM-22 does not require a floor reserve. Recommend removing 1.a. Same statement with the 2.a statement demonstration. This requirement does not apply to the other permitted tests, which seemed counterintuitive.
- Section 9
 - Section 4.A.4 (Modeling of Hedges) has some relationship with this section, we request clarification around the applicability of these two areas of hedge guidance.
 - A.1: We seek clarification of this text: if a company only hedges indices or separates index crediting from other hedges, does this apply, or does it only apply to any other hedging?
 - A.3: The sentence “Prior to reflection in projections, the strategy for future hedge purposes shall be the actual practice of the company for a period of time not less than [6] months.” seems to suggest you would do something other than the actual hedging strategy after [6] months. In this case, what are you assuming for modeling? We suggest clarification of this sentence.
 - D.2: Suggest replacing “indexed” with “fixed” since this would apply to all fixed annuities.
 - Section 10
 - A.7: We would suggest rewording this section to be considerations rather than posed as questions.
 - D.8: This section states that “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally.” This text seems to directly contradict Section II. Reserve Requirements 6.H.2 which states “When advantageous, policyholders will commence living benefit payouts if not started yet..” We suggest revising 6.H.2 to align with the text of 10.D.8.
 - C (Sensitivity Testing): Suggest updating bullet to “Other material behavior assumptions if relevant to the risks in the product.”
 - E.2: Suggest replacing “Risk factors that are not scenario tested but” with “Static assumptions that” to improve clarity in the wording.
 - F.1.d (Volatile credit spreads): Suggesting deleting as we are not aware of dynamic credit spreads typically being modeled.

- Section 11
 - Specific requirements will require further discussion, particularly what if any industry experience is identified for the SPA. Ideally, updated, and appropriate assumptions should be used for better alignment and to avoid any false positives flagged as an outlier by the SPA.
 - A.4: Terming the segments “mortality (longevity) segments” would be easier to understand than “plus (minus) segments.”
 - B.3.ii.c: For PRT an assumption based on a third-party data provider would be better than the industry table to get contract specific mortality assumptions. Is this permitted? The guidance note in A.3 seems to get at this, but it is not clear in B.3.ii.c whether this is allowed. This is an important distinction as PRT population can vary from those populations the tables are based upon.
 - B.3.iii The phrase “When little or no experience or information is available on a business segment” is not included, unlike in (i) and (ii) of the same sub-section. It appears to be the intent that this is the only situation in which this would apply, but it would be helpful to make this explicit.
 - C.1: Both plan and industry data should get weighted for business such as PRT. This text says to blend with prescribed tables, but that might not make sense unless additional experience data was unavailable.
 - C.2: Mortality improvement should be consistent with the underlying tables used, so we would suggest this being based on available experience subject to appropriate guardrails.
- Section 12: We believe discussion of allocation of aggregate reserves should be analyzed as part of the field study.
- Section II. Reserve Requirements
 - We believe a Fixed Annuity PBR Exemption should be incorporated into draft in a manner consistent with the Life PBR Exemption.
 - 6.H.2: This section states that “When advantageous, policyholders will commence living benefit payouts if not started yet.” This text seems to directly contradict VM-22 Section 6.H.2 which states “contract holder behavior should neither assume that all contract holders act with 100% efficiency in a financially rational manner nor assume that contract holders will always act irrationally”. We suggest revising 6.H.2 to align with the text of 10.D.8.

We appreciate the consideration of our comments and look forward to discussing at a future meeting.

Sincerely,



cc: Reggie Mazyck, NAIC

October 19, 2021

TO: Reggie Mazyck, NAIC
RE: ARCWG VM-22 Framework Exposure

Dear Mr. Mazyck:

I'm writing to comment on the lack of a true exemption from Annuity PBR as outlined in VM-22.

VM-22 contains a number of exclusion tests, but these differ in meaningful ways from the Life PBR small company exemption (SCE). The primary difference is in the level of complexity required to demonstrate compliance with any of the VM-22 exclusion tests.

The Life PBR SCE is simple by design. It can be completed on a single page using data from financial statements that are readily available. The criteria for this exemption were also simple by design and intentionally did not require any modeling to demonstrate compliance. This exemption was crucial to gaining support for Life PBR from smaller companies with smaller actuarial departments whose primary concerns about PBR came from expense and resource management rather than capital management. For many companies, such an exemption was a prerequisite for their support of PBR during the legislative process.

On the other hand, demonstration of compliance with any of the exclusion tests in VM-22 will likely require a modeling exercise using multiple interest rate scenarios along with supporting documentation that is not meaningfully less than the work and documentation required for those who do not pass an exclusion test. This is hardly the same kind of exemption as is included for Life PBR. Furthermore, it is my understanding that since VM-22 is an amendment to an already adopted valuation manual, it is not required to go through the legislative process and be adopted by state legislatures. If this is the case, I can't help but wonder if smaller companies would have been supportive of PBR in general had they been aware that their exemption from it could be placed in jeopardy by future edits to the valuation manual.

Given that formulaic reserves have protected the solvency of life insurers for decades in the US, a true exemption should remain available for well-capitalized companies with smaller levels of annuity production who wish to continue to avoid the complexities and expenses associated with model-based reserves.

Waylon Peoples
Vice President, Life Actuarial
Erie Family Life
Waylon.peoples@erieinsurance.com

July 18, 2022

The Indexed Universal Life (IUL) (A) Subgroup Exposure

The Indexed Universal Life (IUL) (A) Subgroup is exposing the options below for public comment.

Please provide comments by Tuesday, July 26 regarding these potential options to address the AG 49-A issues:

- (a) attempt a quick fix on the current concern (some companies illustrating uncapped volatility-controlled policies better than capped S&P 500 policies) with a brief revision to AG 49-A; it can be discussed with A committee whether there are plans to address any broader issues with life illustrations;
- (b) make no changes to AG 49-A (allow current practices);
- (c) attempt to revise AG 49A more extensively to address the current concern and any other identified potential concerns; or
- (d) apply a hard cap on various IUL illustration metrics.

There will also be a subsequent opportunity to provide written comments for a period after the August NAIC national meeting.

Please send comments to Reggie Mazyck (RMazyck@NAIC.ORG) by close of business July 26.



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July 26, 2022

Mr. Fred Andersen
Chair, IUL Illustration (A) Subgroup
National Association of Insurance Commissioners (NAIC)

Re: The Indexed Universal Life (IUL) Illustration (A) Subgroup Exposure (July 18, 2022)

Dear Mr. Andersen,

The American Academy of Actuaries¹ Life Illustrations Work Group (the “Work Group”) is pleased to provide comments to the IUL Illustration (A) Subgroup on the IUL Exposure from the July 18, 2022, meeting of the Subgroup.

As our Work Group discussed the options in the exposure, we realized we don’t have a clear understanding of the regulators’ views on certain matters. We have identified some questions that we encourage the regulators to answer early in the process to help frame the discussion:

1. What, if anything, is the problem that the IUL Subgroup is seeking to resolve?
Articulating the problem will help regulators and interested parties identify the appropriate option.
 - a. If the regulators are comfortable with current IUL illustration practices, then the option to do nothing may be appropriate.
 - b. If the problem is limited to volatility-controlled indices, then a “quick fix” may be appropriate.
 - c. If the problem is that Actuarial Guideline (AG) 49-A does not readily accommodate evolving product design, then a more principle-based approach to AG 49-A may be appropriate.
 - d. If the problem cannot be addressed within AG 49-A, then a broader effort may be appropriate.

2. Does the “quick fix” option necessitate discussion with the Life Insurance and Annuities (A) Committee as to whether there are plans to address any broader issues with life illustrations, or are there really two options embedded within option (a)?

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

3. What is meant by a “hard cap”? How would it be determined? How would it apply to the product features? Why would a hard cap be appropriate?
4. Which options support consumer understanding of the product features?
5. What information is needed to help the IUL Subgroup develop and evaluate any of the options?

Should the IUL Subgroup decide to apply a “quick fix” to AG 49-A, we suggest referring to the Work Group’s [letter dated February 3, 2022](#), for potential approaches.

The Work Group appreciates the efforts of the Life Actuarial (A) Task Force LATF and IUL Illustration Subgroup to review AG 49-A. If you have any questions or would like to dialogue on the above topics, please contact Amanda Barry-Moilanen, life policy analyst, at barrymoilanen@actuary.org.

Sincerely,

Alicia Carter, MAAA, FSA
Chairperson, Life Illustrations Work Group
American Academy of Actuaries



Allianz Life Insurance Company of North America

www.allianzlife.com

July 26, 2022

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup

Re: IUL SG Exposure Jul 18

Mr. Andersen,

Allianz appreciates the opportunity to provide comments on the exposure from the IUL Illustration Subgroup. Our comment letter from February provides relevant information to the discussion on Volatility Control Indexes (VCIs), the additional consumer benefits they can provide, and illustrations practices. As such, Allianz is resubmitting the original letter. Since February, the equity markets, bond markets, and therefore VCIs have generally performed poorly, but that does not materially change the content of the letter. These challenging market conditions highlight the protection inherent in IUL, while also demonstrating the additional value VCIs provide when combined with fixed bonuses.

Thank you for the opportunity to provide these comments.

Regards,

A handwritten signature in black ink, appearing to read "Austin Bichler".

Austin Bichler, FSA, MAAA
AVP Actuary & Illustration Actuary
Allianz Life Insurance Company of North America

February 4, 2022

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup

Re: IUL Exposure

Mr. Andersen,

Allianz appreciates the opportunity to provide comments on the matters discussed in the LATF IUL Exposure from December, 2021. Allianz offers a variety of allocations with various crediting methods and indexes to consumers. When the cost of hedging any given allocation changes, it is possible to have better historical performance than the S&P500 at a lower cost. In these cases, a company can decide what they would like to do with this excess hedge budget and what the consumer may find most valuable, whether it be higher caps/rates, fixed bonuses, lower charges, or other unique features. The decision on where to provide additional value occurs across all allocations, whether or not they are a Volatility Control Index (VCI). When there are situations where hedging costs are lower and the allocation provides historical outperformance compared to the S&P500, we think it is valuable to the consumer to reflect the additional affordable benefits that are offered within the current restrictions of AG 49-A. Because VCIs are specifically highlighted in the LATF letter and Allianz has offered VCIs for over 8 years, we wanted to provide our perspective on the consumer value of VCIs.

Allianz History

Allianz began offering allocations tied to VCIs on its Fixed Index Annuity (FIA) and IUL products in 2013 and 2014 respectively. The benefits of offering an index with a volatility control mechanism include diversification, stability in rate renewal, stability in and strong credit performance, and unique benefits only available with VCIs. Because of these benefits, allocations tied to VCIs offer and have delivered unique value to our policyholders and they are an important part of our index line-up.

VCIs are indexes that have some type of mechanism to control volatility. This mechanism can range from a defined formulaic approach, to active management, to something in between. The VCIs that Allianz offers on our IUL products use a defined formula that rebalances between an equity component and fixed income/cash components on a daily basis. The purpose of this daily rebalancing is to hit a specific volatility target, thus controlling the volatility of the index. Generally speaking, equities are more volatile than fixed income, so the indexes will allocate more heavily to equity in times of low volatility and more heavily to fixed income in times of high volatility.

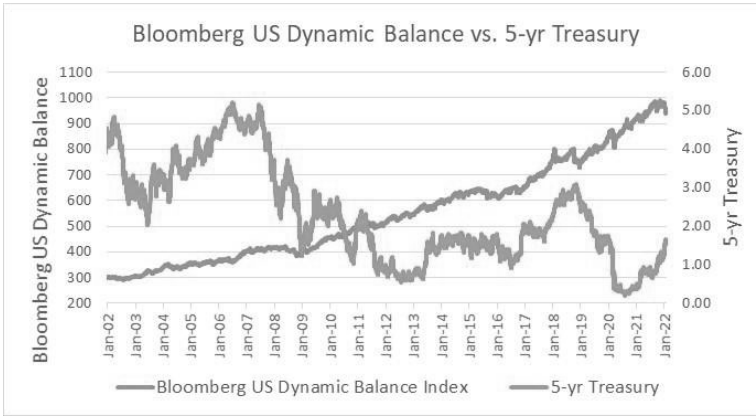
Benefits of Volatility Controlled Indexes

Diversification

The combination of equity and fixed income can provide a diversification benefit and the VCIs we offer have both equity and fixed income components, leading to more diversification than a standard equity only index. VCI performance can benefit when either equity or fixed income does well, or if one of the components does not perform well, the other component can offset that low performance and allow the policyholder to still get a credit. This allows the policyholder to experience positive results in many different market environments, not only when the equity market is strong.

Diversification through fixed income can bring risks, and a common question raised about VCIs is will their high allocation to fixed income lead to underperformance in rising interest rate environments and is their good historical performance due to decreasing interest rates over the last 20 years. It is true that fixed income allocations will likely underperform when interest rates rise, but because of the diversification VCIs offer, the overall impact on long term performance of the VCI will vary based on all components of the index, including the

equity component. The chart below compares the relationship of interest rates with the performance of the first VCI we offered, the Bloomberg US Dynamic Balance Index over the last 20 years.



Note: The Bloomberg US Dynamic Balance Index has been active since 2013, index performance before that is based on the underlying components of the index and the prescribed formula used to balance between the components.

While the general trend in rates has been down over the last 20 years, there have been several periods of sustained rate increases or rate spikes, like 2003-2006, 2009, 2017-2018, or 2021. The performance of the Bloomberg US Dynamic Balance Index during those periods is mixed, some really good, some moderate, and some flat. This is because market volatility and the performance of the equity component are material considerations of the VCI performance. In fact, over the last 10 years, interest rates have risen slightly and the performance of the index has been strong, mainly due to lower volatility and strong equity performance.

Because of the diversification offered by VCIs, the performance of the index is also able to weather equity market downturns, like the ones in 2002, 2008/2009, 2018, and 2020. The graph above shows that the VCI did not suffer large losses during those periods. This was due to the volatility control mechanism allocating away from equities when volatility spiked during the market downturns, further enhancing the benefits of diversification of the VCI.

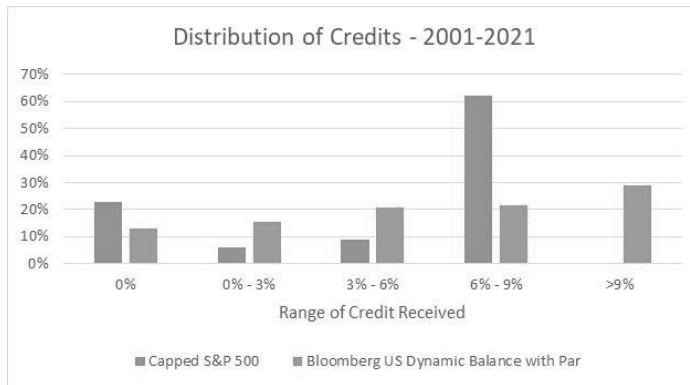
Stable Rate Renewal

Volatility is a key driver of hedging costs and market volatility can fluctuate greatly from year-to-year. For a capped S&P500 allocation, changes in market volatility will lead to changes in hedging costs and therefore changes in the offered cap. This can lead to large changes in caps on a year-to-year basis and large changes in the historical lookback used for setting maximum illustrated rates in AG49. By contrast, VCIs target a stable volatility, leading to more stable option costs and therefore more stable affordable participation rates. On a year-to-year basis, the policyholder is less likely to experience large changes in participation rates and large changes in the AG49 lookback. This provides the policyholder a more stable and predictable experience over the life of their contract and creates historical lookbacks that rely less on current market conditions and are more representative of what would have actually been experienced over the historical period.

Stable and Strong Credit Performance

The VCIs we offer target a low and controlled volatility, so the index will increase and decrease more slowly than a higher volatility index, like an equity index. More stable index values lead to more stable credits, which is a benefit for IUL policyholders where product fees are present and timing of high or low credits can impact long term policy performance. Stable credits also better align with IUL illustrations, which do not show the variability of index performance.

The higher stability in credits a VCI can achieve is illustrated below by comparing the distribution of historical performance over the last 20 years between the Bloomberg US Dynamic Balance Index allocation and our capped S&P500 allocation. The analysis uses currently offered caps and participation rates and it can be seen that the distribution of the Bloomberg US Dynamic Balance Index credits are more evenly distributed than the S&P500 credits, which are more barbell shaped and have more instances where the policyholder does not receive a credit.



Note: The Bloomberg US Dynamic Balance Index has been active since 2013, index performance before that is based on the underlying components of the index and the prescribed formula used to balance between the components.

What can also be seen in the analysis above is that Bloomberg US Dynamic Balance Index allocation offers more potential upside than the capped S&P500 allocation. This strong historical performance is seen in the differences in historical lookbacks between the VCI allocations we offer and the capped S&P500, with the VCI allocations outperforming the S&P500 allocation by 2-3% on average.

Allianz started offering allocations tied to the Bloomberg US Dynamic Balance Index on our IUL policies in 2014, so in addition to strong historical lookback performance, we have 7 full years of credits that have been realized by our policyholders. Over that time, our allocation to this VCI has averaged 1.25% higher credits per year than the S&P500 allocation and both of the allocations have performed above the AG49 maximum allowed illustrated credit.

Average Realized Credits 2015-2022		AG49 Maximum Illustration Limit	
Capped S&P500	Bloomberg US Dynamic Balance with Par Rate	Average Limit 2015-2022	Current Limit
6.77%	8.02%	6.18%	5.50%

Note: The analysis above assumes a 1/1/2015 contract issue date, with the version of our IUL product available at that time

Unique Benefits Available to VCIs

The composition of the VCIs we offer allow us to offer unique benefits to our policyholders. Hedging for the VCIs we offer currently cost less than options for S&P500. We are able to take the hedging savings and offer a variety of benefits for the policyholder to choose from, including higher participation rates, a multiplier bonus, or a fixed bonus, all with a unique lock feature on top of these other benefits.

Our lock feature allows a policyholder to “lock-in” their index performance at any point during their crediting period instead of waiting until their policy anniversary, giving the policyholder a level of control over their policy that they cannot get with any other index. We have seen tremendous interest in this benefit since we introduced it in 2019 and we are only able to offer it because of the stable option costs for VCIs.

Summary

Allianz has offered allocations tied to VCIs since 2013. Our policyholders that have allocated to these indexes have benefited from diversification, stability in renewal rates, stability in and strong credit performance, and features like Index Lock. These policyholders have realized credits that exceed our S&P500 allocations and have been the recipients of additional benefits because of the lower and more stable option costs associated with the VCIs. The VCIs we offer and the additional benefits tied to them make up an important part of our product offering and give our policyholders valuable choice in their allocations. In order to have a fully informed and educated consumer when selecting their allocation choice, we feel that the additional benefits and value VCIs provide should be reflected while still adhering to the current AG 49-A illustration restrictions.

Thank you for the opportunity to provide these comments.

Regards,



Austin Bichler, FSA, MAAA
AVP Actuary & Illustration Actuary
Allianz Life Insurance Company of North America



EQUITABLE

Dear Mr. Andersen,

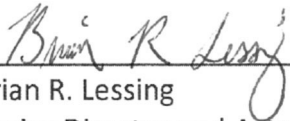
We very much appreciate the opportunity to submit the following comments in response to the Indexed Universal Life (IUL) (A) Subgroup Exposure dated July 18th, 2022.

- In February Equitable had provided comments in response to the December 9th, 2021 IUL Exposure, which consisted of (1) a reminder of Equitable's 2020 proposal and (2) an indication of how the 2020 proposal would relate to illustrations of uncapped volatility-controlled policies. We stated our belief that reconsideration of Equitable's 2020 proposal would be appropriate if regulators decided that substantive changes to AG 49-A were needed.

We similarly believe that reconsideration of Equitable's 2020 proposal would be appropriate if regulators decide to pursue option (c) of the latest Exposure, for the same reasons that were stated in our attached February submission. (In viewing the attached Word document, please note that there are two PDFs embedded into the third page containing a more detailed explanation of Equitable's 2020 proposal.)

- We also believe that option (a) of the latest Exposure should be bifurcated into two separate options,
 - an attempted quick fix to AG 49-A to address the current concern relating to illustrations of uncapped volatility-controlled policies, versus
 - a discussion with A Committee as to whether there are plans to address any broader issues with life illustrations.
- Finally, we feel that we would need to gain a better understanding of option (d) in order to provide any evaluation of it (for example, what illustration metrics would be subjected to a hard cap, how would such a hard cap be applied, and how would this affect the accuracy of depictions of how IUL policies work?).

Thanks again for the opportunity to share our thoughts with you and the other members of the IUL Illustration (A) Subgroup on these issues.



 Brian R. Lessing
 Senior Director and Actuary
 July 26, 2022



Response to IUL
Exposure 2-4-2022.d

Adopted by the Life Insurance and Annuities (A) Committee – Dec. 11, 2016
Adopted by the Life Actuarial (A) Task Force – Nov. 17, 2016

Actuarial Guideline XLIX-A – Draft [Equitable Integrated Proposal DRAFT MAY 27, 2020]

**THE APPLICATION OF THE LIFE ILLUSTRATIONS MODEL REGULATION
TO POLICIES WITH INDEX-BASED INTEREST SOLD AFTER [greater of 5
months after LATF adoption and 3 months after EX/Plenary Adoption*]**

Background

The *Life Insurance Illustrations Model Regulation* (#582) was adopted by the NAIC in 1995. Since that time there has been continued evolution in product design, including the introduction of benefits that are tied to an ~~external~~ index or indices. Although these policies are subject to Model #582, not all of their features are explicitly referenced in the model, resulting in a lack of uniform practice in its implementation. In the absence of uniform guidance, two illustrations that use the same index and crediting method often illustrated different credited rates. The lack of uniformity can be confusing to potential buyers and can cause uncertainty among illustration actuaries when certifying compliance with Model #582.

This guideline provides uniform guidance for policies with index-based interest. In particular, this guideline:

- (1) Provides guidance in determining the maximum crediting rate for the illustrated scale and the earned interest rate for the disciplined current scale.
- (2) Limits the policy loan leverage shown in an illustration.
- (3) Requires additional consumer information (side-by-side illustration and additional disclosures) that will aid in consumer understanding.

Text

1. Effective Date

This Actuarial Guideline shall be effective ~~as follows:~~ **for all new business and in force illustrations on policies sold on or after [greater of 5 months after LATF adoption and 3 months after EX/Plenary Adoption].**

- i. ~~Sections 4 and 5 shall be effective for all new business and in force life insurance illustrations on policies sold on or after September 1, 2015.~~
- ii. ~~Effective March 1, 2017, Section 4 and Section 5 shall be effective for all in force life insurance illustrations on policies within the scope of this actuarial guideline, regardless of the date the policy was sold.~~
- iii. ~~Sections 6 and 7 shall be effective for all new business and in force life insurance illustrations on policies sold on or after March 1, 2016.~~

2. Scope

This Actuarial Guideline shall apply to any life insurance illustration that meets both (i) and (ii), below:

- i. The policy is subject to Model #582.
- ii. ~~Interest credits are linked to an external index or indices.~~
- ii. **The policy offers Indexed Credits.**

3. Definitions

A. Alternate Scale: A scale of non-guaranteed elements currently being illustrated such that:

- i. ~~The credited rate for each Index Account does not exceed the lesser of the maximum credited rate for the illustrated scale less 100 basis points and the credited rate for the Fixed Account. If the insurer does not offer a Fixed Account with the illustrated policy, the credited rate for each Index Account shall not exceed the average of the maximum credited rate for the illustrated scale and the guaranteed credited rate for that account. However, the credited rate for each Index Account shall never be less than the guaranteed credited rate for that account.~~ **The total Indexed Credits illustrated as a percentage of the account value in each Indexed Account does not exceed the maximum total Annualized Percentage Rate of Indexed Credits for the illustrated scale for each Index Account determined in accordance with 4(B) and 4(C), but with the multiple of 120% specified in 4(B) replaced by a multiple of 100%.**
- ii. ~~If the illustration includes a loan, the illustrated rate credited to the loan balance does~~ **Policy Loan Interest Credited Rate shall not exceed the illustrated loan charge. Policy Loan Interest Rate. For example, if the illustrated Policy Loan Interest Rate is 4%, the Policy Loan Interest Credited Rate shall not exceed 4%.**
- iii. All other non-guaranteed elements are equal to the non-guaranteed elements for the illustrated scale.

B. Annual Net Investment Earnings Rate: **Gross portfolio annual earnings rate of the general account assets (excluding hedges for Indexed Credits), less provisions for investment expenses and default cost, allocated to support the policy. Charges of any kind cannot be used to increase the Annual Net Investment Earnings Rate.**

C. Annualized Percentage Rate of Indexed Credits: **The annualized total Indexed Credits divided by the account value used to determine index credits according to the policy features.**

~~B.D.~~ Benchmark Index Account: An Index Account with the following features:

- i. The interest calculation is based on the percent change in S&P 500[®] Index value only, over a one-year period using only the beginning and ending index values. (S&P 500[®] Index ticker: SPX)
- ii. An annual cap is used in the interest calculation.
- iii. The annual floor used in the interest calculation shall be 0%.
- iv. The participation rate used in the interest calculation shall be 100%.
- v. Interest is credited once per year.
- vi. Account charges do not exceed the account charges for any corresponding Index Accounts within the policy in any policy year. If Index Accounts with different levels of account charges are offered with the illustrated policy, more than one Benchmark Index Account may be used in determining the maximum illustrated crediting rates for the policy's Index Accounts, subject to the requirements of 5.D.. However, for each Index Account within the policy, only one Benchmark Index Account shall apply. Any rate calculated in 4 (B) shall not apply for an Index Account if the account charges for the applicable Benchmark Index Account exceed the account charges for that Index Account in any policy year. Account charges include all charges applicable to an Index Account, whether deducted from policy values or from premiums or other amounts transferred into such Index Account.
- vii. Additional amounts credited are not less than the additional amounts credited for any corresponding Index Accounts within the policy in any policy year. Any rate calculated in 4 (B) shall not apply for an Index Account if the additional amounts credited for the applicable Benchmark Index Account are less than the additional amounts credited for that Index Account in any policy year. Additional amounts

include all credits that increase policy values, including but not limited to experience refunds or bonuses, that are not linked to an index or indices.

viii. There are no limitations on the portion of account value allocated to the account.

~~C.E.~~ **Fixed Account:** An account where the credited rate is not tied to an external index or indices there are no Indexed Credits .

F. **Index Account:** An account where some or all of the amount credited are Indexed Credits.

G. **Indexed Credits:** Any interest credit, multiplier, factor, bonus, charge reduction, or other enhancement to policy values that is linked to an index or indices. Any additional amounts credited to the policy resulting from an annual floor on an Index Account are included.

H. **Hedge Budget:** For each Index Account, the total annualized amount assumed to be used to generate the Indexed Credits of the account, expressed as a percent of the account value in the Index Account. This total annualized amount should be consistent with the hedging program of the company.

I. **Loan Balance:** Any outstanding policy loan and loan interest, as defined in the policy.

J. **Policy Loan Interest Rate:** The current annual interest rate as defined in the policy that is charged on any Loan Balance. This does not include any other policy charges.

~~D.K.~~ **Policy Loan Interest Credited Rate:** The annual interest rate is tied to an external index or indices credited that applies to the portion of the account value backing the Loan Balance, as defined in the policy.

i. For the portion of the account value in the Fixed Account that is backing the Loan Balance, the Policy Loan Interest Credited Rate is the applicable annual interest crediting rate, as defined in the policy.

ii. For the portion of the account value in the Fixed Account that is backing the Loan Balance that is in an Index Account, the Policy Loan Interest Credited Rate is the total percentage rate of Indexed Credits for that account, as defined in the policy.

4. Illustrated Scale

The ~~credited rate~~total Annualized Percentage Rate of Indexed Credits for the illustrated scale for each Index Account shall be limited as follows:

- A. Calculate the geometric average annual credited rate for each applicable ~~the~~ Benchmark Index Account for the 25-year period starting on 12/31 of the calendar year that is 66 years prior to the current calendar year (e.g., 12/31/1949 for 2015 illustrations) and for each 25-year period starting on each subsequent trading day thereafter, ending with the 25-year period that ends on 12/31 of the prior calendar year. Calculate the value of the replicating option trades to provide the total Indexed Credits for the Benchmark Index Account over the preceding calendar year, based on the Black-Scholes formula using the following inputs calculated on each trading day:
- i. Average closing implied volatility for 12-month, at-the-money S&P 500 call options
 - ii. Average closing implied volatility for out-of-the-money 12-month S&P 500 call options with a normalized strike price equal to the currently declared cap
 - iii. Average dividend yield on the S&P 500
 - A.iv. Average 12-month LIBOR or another appropriate interest rate measure
 - i.v. If the insurer offers an applicable Benchmark Index Account with the illustrated policy, the illustration actuary shall use the current annual cap for the applicable Benchmark Index Account in 4 (A).

- ii.vi. If the insurer does not offer an applicable Benchmark Index Account with the illustrated policy, the illustration actuary shall use actuarial judgment to determine a hypothetical, supportable current annual cap for a hypothetical, supportable Index Account that meets the definition of a Benchmark Index Account, and shall use that cap in 4 (A).
- B. For each applicable Benchmark Index Account, ~~the total Indexed Credits illustrated as a percentage of the account value in the Index Account shall not exceed 120% of the minimum of (i) and (ii):~~
- iii.i. ~~the value calculated in 4 (A) the arithmetic mean of the geometric average annual credited rates calculated in 4 (A) shall be the maximum credited rate(s) for the illustrated scale).~~
 - ii. **the greater of 5% and the Annual Net Investment Earnings Rate.**
- C. ~~For any other Index Accounts using other equity, bond, and/or commodity indexes, and/or using other crediting methods, the illustration actuary shall use actuarial judgment to determine the maximum credited rate for the illustrated scale. The determination shall~~ **Account that is not the Benchmark Index Account in 3 (D), the total Indexed Credits illustrated as a percentage of the account value in the Index Account shall not exceed the minimum of (i) and (ii):**
- i. **The maximum Indexed Credits for the Benchmark Index Account calculated in 4 (B).**
 - B.ii. **Total Indexed Credits that reflect the fundamental characteristics of the Index Account as related to the Black-Scholes valuation formula, including realized volatility, implied volatility, volatility targets (if applicable), embedded fees (if applicable), deduction of an interest rate component (if applicable), dividend participation (if applicable) and any other factors that may apply. The illustration actuary shall use actuarial judgement to determine this value using Black Scholes methodology in a manner consistent with 4(A) and 4(B) where appropriate. and the parameters shall have the appropriate relationship to the expected risk and return of the applicable Benchmark Index Account. In no event shall the credited rate for the illustrated scale exceed the applicable rate calculated in 4 (B).**
- D. At the beginning of each calendar year, the insurer shall be allowed up to three (3) months to update the credited rate for each Index Account in accordance with 4 (B) and 4 (C).
5. Disciplined Current Scale
The earned interest rate for the disciplined current scale shall be limited as follows:
- A. If an insurer engages in a hedging program for ~~index-based interest~~ **Indexed Credits**, the assumed earned interest rate underlying the disciplined current scale for the policy, inclusive of all general account assets, both hedge and non-hedge assets, that support the policy, net of default costs and investment expenses (including the amount spent to generate the Indexed Credits of the policy) shall not exceed ~~145:~~
- i. **the Annual Net Investment Earnings Rate, plus**
 - ii. **45% of the Hedge Budget minus any annual floor. ~~net investment earnings rate (gross portfolio earnings less provisions for investment expenses and default costs) of the general account assets (excluding~~**
- These amounts should be adjusted for timing differences to ensure that fixed interest is not earned on the hedge cost. The assumed return on hedges ~~for index-based credits) allocated to support~~ shall only be used in the disciplined current scale testing to support the illustrated Index Credits in the policy.**

Guidance Note: The above approach does not stipulate any required methodology as long as it produces a consistent limit on the assumed earned interest rate underlying the disciplined current scale.

- ~~A.B.~~ If an insurer does not engage in a hedging program for ~~index-based interest~~ **Indexed Credits**, the assumed earned interest rate underlying the disciplined current scale shall not exceed the ~~annual net investment earnings rate of the general account assets allocated to support the policy~~ **Annual Net Investment Earnings Rate**.
- ~~B.C.~~ These experience limitations shall be included when testing for self-support and lapse-support under Model #582, accounting for all **illustrated** benefits including any **illustrated** bonuses that **impact the policy's account value**.
- ~~C.D.~~ If more than one Benchmark Index Account is used for an illustrated policy, each set of Index Accounts that correspond to each Benchmark Index Account must independently pass the self-support and lapse-support tests under Model #582, subject to the limitations in 5 (A), (B), and (C). All experience assumptions that do not directly relate to the Index Accounts as to expenses, mortality, investment earnings rate of the general account assets, lapses, and election of any Fixed Account shall equal the assumptions used in the testing for the entire policy.

6. Policy Loans

If the illustration includes a loan, the ~~illustrated rate credited to the loan balance~~ **Policy Loan Interest Credited Rate** shall not exceed the ~~illustrated loan charge~~ **Policy Loan Interest Rate** by more than 100 basis points. For example, if the **illustrated Policy Loan Interest Rate** is 4%, the **Policy Loan Interest Credited Rate** shall not exceed 5%.

7. Additional Standards

The basic illustration shall also include the following:

- A. A ledger using the Alternate Scale shall be shown alongside the ledger using the illustrated scale with equal prominence.
- ~~B. A table showing the minimum and maximum of the geometric average annual credited rates calculated in 4 (A).~~
- ~~C.B.~~ For each Index Account illustrated, a table showing actual historical index changes and corresponding ~~hypothetical interest rates~~ **Indexed Credits** using current index parameters for the most recent 20-year period.

Fred,

Thank you for the opportunity comment on the four potential options for handling the identified issue with Indexed Universal Life illustrations.

We believe that the current state of Indexed UL illustrations warrants a quick and comprehensive response from the Subgroup. As the letter from the Coalition of Concerned Insurance Professionals pointed out in February (attached), Indexed UL illustrations using non-BIA strategies with fixed interest bonuses can generate illustrated income in excess of 60% higher than BIA strategies. This is, in our view, entirely inconsistent with the intent of regulators in crafting AG 49-A.

The gamesmanship currently occurring in illustrations is similar in effect and pervasiveness to the buy-up caps and multipliers that proliferated after AG 49 and resulted in AG 49-A. However, it is important to note that this time the methodology is fundamentally different. Rather than increasing the option budget in order to augment illustrated performance (which is what buy-up caps and multipliers did), life insurers are now using essentially the opposite strategy by:

1. Using indices with lookback-based illustrated option profits far in excess of the BIA;
2. Reducing the actual option budget so that the lookback rate for the non-BIA account matches the BIA;
3. Deploying the savings in a fixed interest bonus that is added to the illustrated rate and loan arbitrage.

The net effect is non-BIA account options that illustrate significantly better than the BIA but, in the real world, will very likely perform worse. Often, life insurers set these strategies as the *default* allocation in their illustration software in order to maximize their competitive positioning. This is not what was intended by AG 49-A – nor is it beneficial for consumers or even defensible under the arguments put forth previously by industry.

As a result, Option B is simply not an option. Amongst life insurers, the issue at hand is crystal clear; everyone is well aware of exactly what is going on. The majority of top Indexed UL sellers are already using precisely this strategy in their products, and to great effect. In our view, this latest variant of Indexed UL illustration gamesmanship is more aggressive and puts clients in a worse position than the previous attempts. This must be addressed. To not do so would be inconsistent with previous Subgroup inquiries.

Options A, C and D imply tradeoffs that *don't actually exist*. A simple solution (Option A) need not be targeted only to the current issue. A proactive solution (Option C) need not require extensive modifications to the guideline. A “hard cap” (Option D) need not exist in isolation.

The best potential solutions would satisfy all three Options – simple and proactive, with “hard caps” to avoid edge cases and ambiguity. Fortunately, these solutions exist and have been presented previously to the Subgroup by several parties (including various life insurers) over the past eight years.

Considering that the complex, reactive and ambiguous solutions promoted by industry have resulted only in more illustration warfare and repeated regulatory inquiries, it's time to dust off the alternative proposals and give them serious consideration.

Bobby Samuelson
Executive Editor
The Life Product Review

Sheryl J. Moore
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July 25, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup (IUL Subgroup)

Dear Fred,

Securian Financial respectfully submits these comments in response to the NAIC IUL Illustrations (A) Subcommittee request for comments on AG49-A.

To reiterate the main points of Securian's comment letter in February

- AG49-A was successful for products that charge for multipliers and/or buy-up accounts as they are illustrating substantially similar to those products without the additional charges.
- There is nothing inherently wrong with fixed account value bonuses, proprietary indices, or the combination of them.
- Securian Financial has deep concerns that the amount of leverage being illustrated on non-BIA Indexed accounts is not consistent with the intent of AG49/AG49-A or what LATF would expect of these type of illustrations.

Securian Financial believes that option (a) of the July request for comment is the most desirable of the choices presented. There are several straightforward ways to change AG49-A to make it clearer/enforce that the BIA guardrails apply to all illustrated indexes. We would like the language below to be added to AG49-A as a starting point for the conversation on how the subgroup could approach option (a) in the July requests for comments.

Recommended Changes

We would like to recommend changes to AG49-A 4C by adding condition (iii) to limit the maximum amount of leverage illustrated to that of the BIA:

C. For any other Index Account that is not the Benchmark Index Account in 3 (D), the Annual Rate of Indexed Credits illustrated as a percentage of the account value in the Index Account prior to the deduction of any charges used to fund a Supplemental Hedge Budget shall not exceed the minimum of (i), (ii) and (iii):

i. The Annual Rate of Indexed Credits for the Benchmark Index Account calculated in 4 (B) plus the Supplemental Hedge Budget for the Index Account.

ii. The Annual Rate of Indexed Credits reflecting the fundamental characteristics of the Index Account and the appropriate relationship to the expected risk and return of the Benchmark Index Account. The illustration actuary shall use actuarial judgment to determine this value using lookback methodology consistent with 4 (A) and 4 (B) (i) where appropriate.

- iii. The lesser of (a) and (b) multiplied by the Annual Rate of Index Credits for the Benchmark Index Account, calculated in 4B, divided by (b); plus, the supplemental hedge budget:
- a) The Hedge Budget of the Indexed Account
 - b) Hedge Budget of the Benchmark Indexed Account.

The spreadsheet attached uses the same parameters as was used in 2020 but with two more examples to show how the proposed change would impact several index designs and the added rows for the new 4(c)iii and the resulting options profit being illustrated. Focus your attention on Column E and note that without 4(c)(iii), the illustrated leverage (option profit) as seen on Row 29 would be 155%.

Respectfully,

Seth Detert, Securian Financial

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January 27, 2021

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup (IUL Subgroup)

Dear Fred,

Securian Financial respectfully presents these comments in response to the NAIC IUL Illustrations (A) Subcommittee request for comments on the findings from the Q3 Post AG49-A IUL survey.

Securian believes the Post AG49-A IUL survey demonstrates that AG49-A accomplished one of the main goals set forth by the Subcommittee:

- That products with charged for multipliers and/or buy-up accounts illustrate substantially similar to those products without the additional charges.

However, with new developments in the industry AG49-A appears to have fallen short of the second stated goal:

- That within an illustration there is consistent treatment of policy features such as multipliers, index bonuses, participating loan crediting, and non-benchmark indices across the industry.

Specifically, after AG49-A, as noted by the request for comment letter, we are seeing an increase in the utilization of volatility-controlled indices in conjunction with fixed bonuses. Carriers are utilizing this combination to drive meaningfully higher illustrated results.

In direct contrast to the intent of AG49-A, carriers are illustrating much more aggressively with these volatility-controlled indices relative to their own S&P 500 BIA accounts.

Securian does not believe there is anything inherently wrong with fixed account value based bonuses. Fixed account value bonuses are not specific to IUL and they have been part of the individual life products for decades. In addition, fixed bonuses were discussed rather extensively during the drafting of AG-49A and from those discussions LATF determined it was appropriate to illustrate them, in hopes of furthering consumer understanding on the differences between products.

Volatility-controlled indices have also been in the insurance industry for years. They have been prevalent in Fixed Index Annuities for a decade (or more) and there have been a small amount of them available for on IUL contracts for the last 5 to 10 years. We are seeing an increase in the availability and utilization of volatility-controlled index in the industry and Securian supports that direction. Volatility-controlled indexes provide options for our clients that can reasonably provide more stable index returns over a long period of time.

However, Securian does think that the current practice of how volatility-controlled indexes are being illustrated in the industry does not meet the intention of AG49 or AG49-A and should be addressed in

the very near future. Specifically, the 145% limit should be applied to all accounts, not just the BIA account. Let me explain further.

Within AG-49 the determination of the maximum illustrated rate for the BIA account is limited to 145% of the Annual Net Investment Earnings Rate used to support the index. We think this guardrail should also be applied to **non-BIA** accounts. What we are seeing in the industry can be illustrated by a simple example:

- Let's consider a carrier that has a 4% Annual Net Investment Earnings Rate and they spend that amount on the BIA account. This translates to a maximum illustrated rate of $4\% * 1.45\% = 5.8\%$.
- The carrier also has a volatility-controlled index that costs 3% to hedge which allows the carrier to offer a 1% fixed bonus on that indexed account to get a total 4% cost.
- The volatility-controlled index's 30 year look back rate is at or above the maximum BIA rate of 5.8% in this example. Most carriers are then illustrating the volatility-controlled index at 5.8%.
- By illustrating the volatility-controlled index at 5.8% they are illustrating a hedge payoff of $(5.8\%/3\%) = 1.93\%$ which is excess of the 1.45% guardrail of the BIA.
- The increased illustrated hedging payoff in excess of the 145% BIA guardrail is what Securian believes is the main driver higher illustrated values for volatility-controlled indices.
- If volatility-controlled indices were limited in illustrating a maximum of 1.45% hedge payoff you would get a max illustrated rate in this example of $3\% * 1.45\% = 4.35\%$.
- Using the example above with an adjustment to AG49-A to limit the hedge payoff to 145% of the volatility-controlled index you would get a total crediting rate of 4.35% plus the 1% fixed bonuses for a total crediting rate of 5.35% versus what is being currently being illustrated in the industry of 5.8% plus a 1% fixed bonus for a total crediting rate of 6.8%.

Securian believes there are several ways to change AG49-A to make it clearer/enforce that the 145% guardrail applies to all illustrated indexes. If desired by LATF we are ready to work with our industry peers to put forth draft language to address what we see is the crux of the concern presented by LATF from the findings of the post AG49-A survey.

Respectfully,

Seth Detert, Securian Financial

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Annual Net Investment Earnings Rate	4.50%
Cap	10%
Index Bonus (Multiplier)	0%
Hedge Budget	4.50%
Supplemental Hedge Budget	0.00%
Historical Credited Rate for Benchmark Index Account (A)	6.20%
Comment: Bid Lookback for Base Case	n/a
Supplemental Hedge Budget Adjustment	n/a
Total Net Investment Earnings Rate	6.20%
Method consistent with A(4)(ii) if applicable	n/a
Noting the Adjusted Average Option Profit of the Index Account to that of the BIA	n/a
Maximum Indexed Credit	6.20%
Base BIA: $\min(A(4)(ii), A(4)(ii) \cdot I]$	6.20%
Maximum Unindexed Indexed Credits less Supplemental Hedge Budget	6.20%-4.00%

Example 1/10A*	Managed Vol	Managed Vol	Multiplier	Cap Buy-Up	Cap Buy-Up w/Multiplier	Lower cap
HB = MIB	HB=UIER	HB=NIBR	Example 2	Example 3	Example 4	Example 5
4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
10%	Unreaped	Unreaped	10%	18%	18%	9%
0%	0%	0%	50%	0%	50%	0%
4.50%	4.00%	5.00%	6.75%	5.72%	8.58%	4.20%
0.00%	0.00%	0.50%	2.25%	1.22%	4.08%	0.00%
6.20%	n/a	n/a	n/a	n/a	n/a	n/a
n/a	6.20%	6.70%	8.45%	7.42%	10.28%	6.20%
n/a	6.50%	8.00%	9.30%	9.09%	13.63%	5.71%
n/a	5.51%	6.70%	8.45%	7.42%	10.28%	5.79%
6.20%	5.51%	6.70%	8.45%	7.42%	10.28%	5.71%
6.20%-4.00%	5.51%-0.00%	6.70%-0.50%	8.45%-2.25%	7.42%-1.22%	10.28%-4.08%	5.71%-0.00%

Included bonus	Smaller included Bonus	1k floor	1k floor & included Bonus
Example 6	Example 7	Example 8	Example 9
4.50%	4.50%	4.50%	4.50%
8%	8%	9% / 7k Floor	7% / 1k Floor
25%	20%	0%	30%
4.83%	4.64%	4.81%	4.78%
0.33%	0.14%	0.11%	0.28%
n/a	n/a	n/a	n/a
6.33%	6.34%	6.31%	6.48%
6.48%	6.22%	6.00%	6.39%
6.53%	6.34%	6.31%	6.48%
6.48%	6.22%	6.00%	6.39%
6.15%	6.08%	5.89%	6.11%
6.48%-0.33%	6.22%-0.14%	6.00%-0.11%	6.39%-0.28%

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July 26, 2022

Mr. Mike Boerner
Chair, NAIC Life Actuarial Task Force (LATF)

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup (IUL Subgroup)

via email to RMazyck@naic.org

Re.: IUL Exposure

Dear Messrs. Boerner and Andersen:

The Transamerica Companies (“Transamerica”) appreciate the opportunity to provide comments on the exposed options for the work of the IUL Subgroup and potentially other NAIC committees. Transamerica is a leading provider of IUL and had the top-selling individual IUL product across all channels in 2021, according to Wink, Inc.¹

From our standpoint, AG49-A has successfully remediated concerns with illustrations of multipliers and certain other IUL product design features. More recently, we understand that questions have emerged around illustrations for products with uncapped volatility-controlled indices and fixed bonuses. Although we regard these features as having somewhat less impact on illustrations than multipliers, we can support an update to AG49-A to address these features. It should be noted that Transamerica does not currently sell a product with an uncapped volatility-controlled index and a fixed bonus.

Of the four options in the exposure, Transamerica supports option (a), the “quick fix” approach. For example, consideration could be given to requiring each index account to separately pass both the self-support and lapse support tests as prescribed under Model #582. We can also support A Committee consideration of a longer-term, multi-year effort to overhaul illustrations for all fixed life insurance products, presumably involving the re-opening of the model. We believe such an effort should address illustrations holistically across products rather than taking a piecemeal approach.

We appreciate the work of LATF and the IUL Subgroup in addressing concerns related to IUL illustrations.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew DeMarco".

Andrew DeMarco
Head of Life Solutions
Transamerica

¹ [Wink, Inc. Releases Fourth Quarter, 2021 Life Sales Results - Wink \(winkintel.com\):
www.winkintel.com/2022/03/wink-4q21/](https://www.winkintel.com/2022/03/wink-4q21/)

July 26, 2022

Mr. Fred Andersen
Chair, NAIC Indexed Universal Life (IUL) Illustration (A) Subgroup

Western & Southern Financial Group, Inc. (“Western & Southern”) appreciates the opportunity to comment on the Indexed Universal Life (IUL) (A) Subgroup (“IUL Subgroup”) exposure of options to address AG 49-A.

Western & Southern does not have concerns with IUL products incorporating volatility-controlled indexes, nor does it have concerns with IUL products including fixed interest rate bonuses. However, Western & Southern believes the current approach of pairing a volatility-controlled index with a fixed interest rate bonus and having that combination illustrate better than capped S&P 500 benchmark indexed account (BIA) policies falls outside the intent of AG49-A.

Thus, Western & Southern supports option A to “attempt a quick fix on the current concern (some companies illustrating uncapped volatility-controlled policies better than capped S&P 500 policies) with a brief revision to AG 49-A.” Western & Southern notes that the American Academy of Actuaries Life Illustrations Work Group presented two viable options to address the issue within its February 3, 2022 comment letter. Western & Southern supports additional consideration of those two options and the expeditious implementation of whichever one (or a newly identified alternative) that the IUL Subgroup deems to be most effective in addressing the current issue. If the IUL Subgroup decides to take additional time to analyze options C or D, Western & Southern encourages it also to move forward with option A concurrently to ensure a level playing field and the protection of consumers.

Western & Southern appreciates the IUL Subgroup’s continued review of AG49-A; thank you for the opportunity to comment.

Respectfully,



Ryan Richey, FSA, MAAA
Vice President, Product Actuarial

Draft: 7/28/22

Indexed Universal Life (IUL) Illustration (A) Subgroup
Virtual Meeting
July 18, 2022

The Indexed Universal Life (IUL) Illustration (A) Subgroup met July 18, 2022. The following Subgroup members participated: Fred Andersen, Chair (MN); Ted Chang (CA); Manny Hidalgo (CT); Mike Yanacheak (IA); Vincent Tsang (IL); Derek Wallman (NE); Bill Carmello (NY); Peter Weber (OH); Maribel Castillo, Darlene Plyler, and Heike Ulrich (TX); Shelley Wiseman (UT); and Craig Chupp (VA).

1. Exposed Options for Revising AG 49-A

Mr. Andersen said the Subgroup last met on Feb. 24. He suggested that three meetings will be necessary to decide how to address the issues that have arisen since the 2020 adoption of *AG XLIX-A— The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold on or After December 14, 2020* (AG 49-A). He said there will be a two-step approach to addressing the issues. The first step will be to publicly expose a set of options on which all parties will be asked to comment before the close of business July 26. He said those comments will be considered during the Life Actuarial (A) Task Force meeting at the Summer National Meeting. He said the second step will be to continue discussion during a Subgroup meeting after the Summer National Meeting. He said review of the compliance of indexed universal life (IUL) illustrations with AG 49-A requirements showed that the guideline has been effective in addressing multipliers and buy-up accounts, the product features that were the prior concern. He said the new issue of concern is that companies are illustrating the combination of uncapped volatility-controlled funds and a fixed bonus more favorably than illustrations based on a traditional capped Standard and Poor's 500 index (S&P 500).

Mr. Andersen said the options for the Subgroup to consider implementing to address the concern are:

- Attempt a quick fix on the current concern (some companies illustrating uncapped volatility-controlled policies better than capped S&P 500 policies) with a brief revision to AG 49-A. It can be discussed with the Life Insurance and Annuities (A) Committee whether there are plans to address any broader issues with life illustrations.
- Make no changes to AG 49-A (and allow current practices).
- Attempt to revise AG 49-A more extensively to address the current concern and any other identified potential concerns.
- Apply a hard cap on various IUL illustration metrics.

Birny Birnbaum (Center for Economic Justice—CEJ) said that the last two options have been tried previously with no success. He said companies have been able to easily game AG 49-A. He asked why Mr. Andersen expects a different outcome if one of those options is chosen. Mr. Andersen said he included those options because he wanted to give a full slate of workable options. He said there are pros and cons to each of the four options, including those mentioned by Mr. Birnbaum, that will likely be considered.

There was no objection from Subgroup members to exposing the options for addressing the AG 49-A concerns (Attachment Thirty-Nine-A) for an eight-day public comment period ending July 26.

Having no further business, the Indexed Universal Life (IUL) Illustration (A) Subgroup adjourned.

[https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES \(A\) COMMITTEE/Life Actuarial \(A\) TF/IUL SG/07 18/July 18 Minutes.docx](https://NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/LIFE INS and ANNUITIES (A) COMMITTEE/Life Actuarial (A) TF/IUL SG/07 18/July 18 Minutes.docx)

July 18, 2022

The Indexed Universal Life (IUL) (A) Subgroup Exposure

The Indexed Universal Life (IUL) (A) Subgroup is exposing the options below for public comment.

Please provide comments by Tuesday, July 26 regarding these potential options to address the AG 49-A issues:

- (a) attempt a quick fix on the current concern (some companies illustrating uncapped volatility-controlled policies better than capped S&P 500 policies) with a brief revision to AG 49-A; it can be discussed with A committee whether there are plans to address any broader issues with life illustrations;
- (b) make no changes to AG 49-A (allow current practices);
- (c) attempt to revise AG 49A more extensively to address the current concern and any other identified potential concerns; or
- (d) apply a hard cap on various IUL illustration metrics.

There will also be a subsequent opportunity to provide written comments for a period after the August NAIC national meeting.

Please send comments to Reggie Mazyck (RMazyck@NAIC.ORG) by close of business July 26.

Actuarial Guideline AAT Templates - Instructions

Overview

These templates are intended to serve as a standardized format for submitting sensitivity testing, attribution, and disclosure requests for Actuarial Guideline AAT, consistent with Section 6 described within the Actuarial Guideline. The objective of such templates is to provide results associated with the actuarial guideline in an easy-to-digest manner, with the intention of educating regulators on the yield or spread (as applicable) assumptions reflected for each asset class for asset adequacy testing purposes. Companies are encouraged to read the below instructions and use their best efforts and judgement in completing the exercise. In addition, companies may provide commentary to further explain certain data items or for regulators to consider as it relates to improving the exercise for future reporting years. Companies must submit the templates by April 1 following the applicable valuation date for the asset adequacy testing submission.

Asset Summary Tab

Scope: Applies to all general account and non-unitized separate account assets supporting liabilities in Exhibits 5, 6, 7, and 8 of the Annual Statement reflected in asset adequacy analysis for the company. Refer to Section 2 of the Actuarial Guideline for more details.

Granularity: Provide one template for all portfolios and applicable business in aggregate; shall also submit separate templates for each line of business or portfolio to the extent separate templates are submitted for the other tabs.

Amount field: Provide the amount consistent with the valuation basis held for statutory accounting (i.e., book value for corporate bonds, market value for equities, etc.). The amounts should tie to the statement amount of assets used in asset adequacy analysis (not necessarily the actual statutory balance sheet).

P.H.N.Y. Amount field: Provide the amount of assets within each category that meets the definition of "Projected High Net Yield Assets" in Section 3F of the Actuarial Guideline.

Affiliate Amount field: Provide the amount of assets within each category that is originated by affiliated legal entities or other entities within same insurance group.

Reinvestment Allocation field: Provide the reinvestment strategy assumption for new asset purchases in asset adequacy analysis.

- If reinvestment strategy assumptions vary by different lines of business or portfolios, then the company may provide separate templates for each. However, an aggregate template is still also required, in which the aggregate reinvestment allocation assumption shall be determined by weighting the assumptions across different segments based on the "Amount" column.
- If reinvestment strategy assumptions vary by scenario, then use the assumption for the level scenario and describe in commentary how the assumption may differ for different asset adequacy analysis scenarios.

- If reinvestment strategy assumptions vary by duration, then the company should only show the long-term reinvestment strategy assumption used in asset adequacy analysis. If there is no clear long-term reallocation assumption, then the company can use a simplification to provide one value and describe in the commentary section.

Asset Spreads - Initial Assets and Asset Spreads - Reinvestments Tabs

Scope: Applies to all general account and non-unitized separate account assets supporting liabilities in Exhibits 5, 6, 7, and 8 of the Annual Statement reflected in asset adequacy analysis for the company, with the exception of treasuries and agencies.

Granularity: Company may either submit a template for each segment (i.e., portfolios and lines of business) or submit one aggregate template for the full company asset adequacy analysis (in which case, please describe the approach for how data was aggregated across different portfolios and lines of business in the commentary section).

Gross Yield field: Provide the gross yield consistent with the valuation basis held for statutory accounting in asset adequacy analysis (i.e., book value for corporate bonds, market value for equities, etc.).

Default Assumption field: Provide the default assumption used in asset adequacy analysis, inclusive of any margins or provisions for adverse deviation reflected.

Investment Expense Assumption field: Provide the investment expense assumption used in asset adequacy analysis, inclusive of any margins or provisions for adverse deviation reflected.

Other field: Provide the any additional components necessary to arrive at the net spread, whether positive or negative, and describe these components in the "other" field provided in the template.

Max Gross Yield field: Provide the greatest gross yield reflected for any given asset modeled in asset adequacy analysis. If the company holds an immaterial amount of that asset, then the company has the option to provide a gross yield such that no more than 0.5% of the assets held in the portfolio exceed this gross yield. For reinvestments, the company is to provide this for the level scenario and either provide a long-term projected yield or use judgement with commentary provided.

Max Net Yield field: Provide the greatest net yield reflected for any given asset modeled in asset adequacy analysis. If the company holds an immaterial amount of that asset, then the company has the option to provide a net yield such that no more than 0.5% of the assets held in the portfolio exceed this net yield. For reinvestments, the company is to provide this for the level scenario and either provide a long-term projected yield or use judgement with commentary provided.

Affiliate vs. Non-Affiliate field: Provide entries in the template separately for affiliate vs. non-affiliate. Affiliate refers to assets originated by affiliated legal entities or other entities within same insurance group. Non-affiliated refers to all other assets not categorized as affiliate.

Yield assumptions that vary by duration: If yield assumptions vary by duration in the level scenario, then the actuary should only include long-term assumptions in the "Asset Spreads - Reinvestments" tab. If there is not one clear long-term assumption, then the judgement shall be used with accompanying commentary in the template.

Sensitivity Test Tab

Scope: Applies to all general account and non-unitized separate account assets supporting liabilities in Exhibits 5, 6, 7, and 8 of the Annual Statement reflected in asset adequacy analysis for the company, with the exception of assets listed in Section 3fiii of the Actuarial Guideline (and the two left column fields are not to be completed for Equity-Like Instruments).

Granularity: Company may either submit a template for each segment (i.e., portfolios and lines business) or submit one aggregate template used for the full company asset adequacy analysis (in which case, please describe the approach for how data was aggregated across different portfolios and lines of business in the commentary section).

Percentage of Assets with Reduced Spread field: Calculate the percent of assets that required adjustments to the investment yield to comply with the in Section 5A of the Actuarial Guideline. This percentage shall be calculated based on the asset amount. Since the sensitivity test only applies to reinvestments, the company may choose to calculate this percentage at the tenth projected year in the level scenario in asset adequacy analysis, or can use an alternative approach if described in the commentary section.

Spread Reduction field: Provide the aggregate amount of spread or investment rate that was reduced to fit the requirements of the sensitivity test in Section 5A of the Actuarial Guideline. To provide this number in aggregate across assets within each asset type, weight by the asset amount. Since the sensitivity test only applies to reinvestments, the company may choose to calculate this reduction amount at the tenth projected year in the level scenario for asset adequacy analysis, or can use an alternative approach if described in the commentary section.

Cash Flow Testing sidebar: Provide the results of asset adequacy analysis using the present value of market value of surplus metric in the level scenario for completing the sensitivity test in Section 5A of the Actuarial Guideline. Use a step-by-step impact test where change for Section 5a(i) is completed first, then Section 5a(ii) is completed next, and then the total impact is the sum of the two results. If the company uses any simplifications or an alternative process to determine the impact, please provide commentary.

"Other Derivative Instruments" row: Unlike the "Derivative Instruments linked to Equity-Like Instruments", the "Other Derivative Instruments" row requests entries for the fields labeled "Percentage of Assets with Reduced Spread" and "Spread Reduction". This is because while "Derivative Instruments linked to Equity-Like Instruments" may be considered Equity-Like Instruments, this may not be the case for derivatives linked to underlying assets other than equities or similar instruments. Therefore, the intention is that such assets would be subject to the Investment Grade Net Spread Benchmark and those two fields would be applicable.

Attribution - Initial Assets and Attribution - Reinvestments Tabs

Scope: Applies to all general account and non-unitized separate account assets supporting liabilities in Exhibits 5, 6, 7, and 8 of the Annual Statement reflected in asset adequacy analysis for the company, with the exception of assets listed in Section 3Fiii of the Actuarial Guideline and Equity-Like Instruments.

Granularity: Company may either submit a template for each segment (i.e., portfolios and lines business) or submit one aggregate template used for the full company asset adequacy analysis (in which case, please describe the approach for how data was aggregated across different portfolios and lines of business in the commentary section).

Net Market Spread field: Provide the Net Market Spread, as defined in Section 3 of the Actuarial Guideline, for each asset type.

IG Net Spread Benchmark field: Provide the Investment Grade Net Spread Benchmark, as defined in Section 3 of the Actuarial Guideline, for each asset type.

Guideline Excess Spread field: Provide the Guideline Excess Spread, as defined in Section 3 of the Actuarial Guideline, for each asset type.

Credit Risk field: Provide the component of the Guideline Excess Spread that is attributable to credit risk, as described in Section 5B of the Actuarial Guideline.

Illiquidity Risk field: Provide the component of the Guideline Excess Spread that is attributable to illiquidity risk, as described in Section 5B of the Actuarial Guideline.

Other Risk Component fields: Fill out the additional headers and add more risk component fields that comprise the Guideline Excess Spread as needed.

"Other Derivative Instruments" row: Unlike the "Derivative Instruments linked to Equity-Like Instruments", the "Other Derivative Instruments" row requests entries for the attribution fields. This is because while "Derivative Instruments linked to Equity-Like Instruments" may be considered Equity-Like Instruments, this may not necessarily be the case for derivatives linked to underlying assets other than equities or similar instruments. Therefore, the intention is that such assets would be subject to attribution analysis requirements.

Asset Summary for Asset Adequacy Testing

Asset Type	Amount ¹ (\$M)	%	P.H.N.Y. Amount (\$M)	%	Affiliate ² Amount (\$M)	%	Reinvestment Strategy (%)
Treasuries and Agencies	0.0	0%	0	0%	0	0%	0%
Public Corporate Bonds	0.0	0%	0	0%	0	0%	0%
Convertible Bonds	0.0	0%	0	0%	0	0%	0%
Floating Rate Notes	0.0	0%	0	0%	0	0%	0%
Municipal Bonds	0.0	0%	0	0%	0	0%	0%
Other Private Bonds	0.0	0%	0	0%	0	0%	0%
Preferred Stock	0.0	0%	0	0%	0	0%	0%
Agency Mortgage Backed Securities	0.0	0%	0	0%	0	0%	0%
Non-Agency Commercial Mortgage Backed Securities	0.0	0%	0	0%	0	0%	0%
Non-Agency Residential Mortgage Backed Securities	0.0	0%	0	0%	0	0%	0%
Collateralized Loan Obligations	0.0	0%	0	0%	0	0%	0%
Other Asset Backed Securities	0.0	0%	0	0%	0	0%	0%
Equities or Equity-Like Instruments	0.0	0%	0	0%	0	0%	0%
Real Estate	0.0	0%	0	0%	0	0%	0%
Mortgage Loans	0.0	0%	0	0%	0	0%	0%
Schedule BA Assets	0.0	0%	0	0%	0	0%	0%
Derivative Instruments linked to Equity-Like Instruments	0.0	0%	0	0%	0	0%	0%
Other Derivative Instruments	0.0	0%	0	0%	0	0%	0%
Other - Not Covered Above ³	0.0	0%	0	0%	0	0%	0%
Total	0.0	0%	0	0%	0	0%	0%

(1) Amount provided should be consistent with the valuation basis held for statutory accounting (i.e., book value for corporate bonds, market value for equities, etc.);
 (2) "Affiliate Amount" means the amount of assets within each category that is originated by affiliated legal entities or other entities within same insurance group

(3) Description of assets within "Other - Not Covered Above" Category	Additional Commentary

Section 4a: Net Yield Component Summary for Asset Adequacy Testing - Initial Assets

Asset Type	Gross Yield ¹	Default Assumption	Investment Expenses	Other ³	Net Yield	Max Gross Yield	Max Net Yield	Check
Nonaffiliated²								
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Public Corporate Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Private Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Commercial Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Residential Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Real Estate	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Derivative Instruments linked to Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Derivative Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other - Not Covered Above ³	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Affiliated²								
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Public Corporate Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Commercial Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Private Placements	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Baked Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Real Estate	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Derivative Instruments supporting Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Derivative Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other - Not Covered Above ³	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE

(1) Yields provided should be consistent with the valuation basis held for statutory accounting (i.e., book value for corporate bonds, market value for equities, etc.)

(2) Affiliate refers to assets originated by affiliated legal entities or other entities within same insurance group

(3) Description of net Yield component within "Other" Category

Additional Commentary

Section 4a: Net Yield Component Summary for Asset Adequacy Testing - Reinvestments

Asset Type	Gross Yield ¹	Default Assumption	Investment Expenses	Other ³	Net Yield	Max Gross Yield	Max Net Yield	Check
Nonaffiliated²								
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Public Corporate Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Private Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Commercial Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Residential Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Real Estate	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Derivative Instruments linked to Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Derivative Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other - Not Covered Above ³	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Affiliated²								
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Public Corporate Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Commercial Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Private Placements	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Baked Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Real Estate	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Derivative Instruments supporting Equity-Like Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Derivative Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other - Not Covered Above ³	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE

(1) Yields provided should be consistent with the valuation basis held for statutory accounting (i.e., book value for corporate bonds, market value for equities, etc.)

(2) Affiliate refers to assets originated by affiliated legal entities or other entities within same insurance group

(3) Description of net Yield component within "Other" Category

Additional Commentary

Section 5a: Sensitivity Test assuming Investment Grade Net Spread Benchmark

Asset Type	Percentage of Assets with Reduced Spread ¹	Spread Reduction ²
Treasuries and Agencies	N/A	N/A
Public Corporate Bonds	N/A	N/A
Convertible Bonds	0.0%	0.0%
Floating Rate Notes	0.0%	0.0%
Municipal Bonds	0.0%	0.0%
Other Private Bonds	0.0%	0.0%
Preferred Stock	0.0%	0.0%
Agency Mortgage Backed Securities	0.0%	0.0%
Non-Agency Commercial Mortgage Backed Securities	0.0%	0.0%
Non-Agency Residential Mortgage Backed Securities	0.0%	0.0%
Collateralized Loan Obligations	0.0%	0.0%
Other Asset Backed Securities	0.0%	0.0%
Equities or Equity-Like Instruments	N/A	N/A
Real Estate	N/A	N/A
Mortgage Loans	0.0%	0.0%
Schedule BA Assets	N/A	N/A
Derivative Instruments linked to Equity-Like Instruments	N/A	N/A
Other Derivative Instruments	0.0%	0.0%
Other - Not Covered Above ³	0.0%	0.0%
Total	0.0%	0.0%

Cash Flow Testing Present Value of Market Value of Surplus under Level Scenario ³		
Investment Grade Net Spread Benchmark:	Baseline	0
Section 5a(a) Test	Sensitivity Test Change (%)	0%
Equity Sensitivity: Section 5a(b) Test	New Baseline Sensitivity Test Change (%)	0%
Total Impact	Baseline Sensitivity Test Change (%)	0%

(1) "Percentage of Assets with Reduced Spread" is the percentage of asset amount for which the net spread must be reduced to comply with the cap at the Investment Grade Net Spread Benchmark
 (2) "Net Spread Reduction" means the aggregate net spread reduction in each asset category as a result of capping individual assets at the Investment Grade Net Spread Benchmark
 (3) Intended to measure the impact of asset adequacy testing under the level scenario for the New York 7 (i.e., NY1), may use gross premium reserve if consistent with asset adequacy testing approach

Additional Commentary

Section 5b: Attribution for Asset Adequacy Testing Guideline Excess Spreads - Initial Assets

Asset Type	Net Market Spread	IG Net Spread Benchmark ⁽¹⁾	Guideline Excess Spread	Excess Spread Components Related to Each Risk					Check		
				Credit Risk	Illiquidity Risk	[Other Risk Component #1]	[Other Risk Component #2]	[Other Risk Component #3]		[Other Risk Component #4]	[Other Risk Component #5]
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Public Corporate Bonds	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Private Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Commercial Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Residential Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Real Estate	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Derivative Instruments linked to Equity-Like Instruments	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Other - Not Covered Above	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE

(1) "IG Net Spread Benchmark" = Investment Grade Net Spread Benchmark

Additional Commentary

Section 5b: Attribution for Asset Adequacy Testing Guideline Excess Spreads - Reinvestments

Asset Type	Net Market Spread	IG Net Spread Benchmark ¹	Guideline Excess Spread	Excess Spread Components Related to Each Risk					Check		
				Credit Risk	Illiquidity Risk	[Other Risk Component #1]	[Other Risk Component #2]	[Other Risk Component #3]		[Other Risk Component #4]	[Other Risk Component #5]
Treasuries and Agencies	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Public Corporate Bonds	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Convertible Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Floating Rate Notes	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Municipal Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Private Bonds	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Preferred Stock	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Agency Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Commercial Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Non-Agency Residential Mortgage Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Collateralized Loan Obligations	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other Asset Backed Securities	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Equities or Equity-Like Instruments	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Real Estate	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Mortgage Loans	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Schedule BA Assets	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Derivative Instruments linked to Equity-Like Instruments	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	TRUE
Other Derivative Instruments	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE
Other - Not Covered Above	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	TRUE

(1) "IG Net Spread Benchmark" = Investment Grade Net Spread Benchmark

Additional Commentary

A Framework for Developing, Evaluating, and Implementing Economic Scenario Generators (ESGs)

Hal Pedersen, MAAA, ASA
Member, Economic Scenario Generator Work Group (ESGWG)

Jason Kehrberg, MAAA, FSA
Chairperson, Economic Scenario Generator Work Group (ESGWG)



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National Association of Insurance Commissioners (NAIC) Life Actuarial (A) Task Force (LATF)
August 8, 2022

Agenda

1. Goals of this session
2. Ideal process for ESG development and maintenance
3. Stylized facts (SF)
4. Acceptance criteria (AC)
5. Discussion and Q&A

Goals of this session

1. Explain a sound process for developing and maintaining an ESG.
2. Understand the role of stylized facts and acceptance criteria.
3. Ensure that the importance of calibration targets and calibration methods are clear.
4. Provide an understanding of how stylized facts and acceptance criteria are used to select and assess models and/or calibrations and generate scenarios that are suitable for purpose.

3



What is a Sound Process for Developing and Maintaining an ESG?

- Determine the general application
- Understand the financial variables that must be modeled and obtain data for these variables
- Compile a list of important features of the variables, often referred to as stylized facts, that serve to define the development and performance characteristics of the model
- Not all stylized facts can be accommodated by a model so a prioritization is needed
- Select candidate component models with necessary dynamical properties guided by vital stylized facts
- Develop acceptance criteria
- Determine an estimation/calibration process for the model
- Estimate/calibrate the ESG models
- Validate models against previously agreed upon acceptance criteria
- Test and understand dynamics of selected model and calibration when used for intended purpose (e.g., field test)
- Models need to be regularly estimated/calibrated and validated. This is part of an ongoing ESG maintenance process that may result in a need for model changes

4

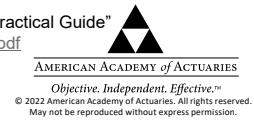
The above steps overlap with each other and involve a significant amount of expert judgement.



What is a Sound Process for Developing and Maintaining an ESG? – More Detail

- General application (Purpose)
 - Real world risk simulation, risk-neutral pricing application, combination real world and risk-neutral such as outer/inner loop applications
 - Time horizon for the analysis
 - Simulation detail required
 - NAIC application is real world risk simulation for U.S. Statutory Reserve & Capital Reporting for Long-Duration Life & Annuity Products
- Financial variables
 - Obtain publicly verifiable data for the economic variables to be modeled
 - What data window? Consider the relevance and credibility of the data, e.g., balancing need for insight against relevant changes like Treasury-Federal Reserve (Fed) Accord (1951) and inflation targeting (1993)
 - Examine qualitative and statistical aspects of data
- Develop stylized facts
 - Broadly generalized observations that characterize the most important relationships in the data
 - Establish and prioritize the properties that the ESG model must have to be useful for the application at hand
 - Basic techniques provide valuable insights; more sophisticated econometric tools are needed to understand other features of the data
 - The essential point is to identify the most important stylized facts that must be captured by the ESG models
 - More discussion of stylized facts can be found in the Society of Actuaries “Economic Scenario Generators: A Practical Guide”
<https://www.soa.org/globalassets/assets/files/research/projects/research-2016-economic-scenario-generators.pdf>

5



What is a Sound Process for Developing and Maintaining an ESG? – More Detail

Quoting from the Society of Actuaries “Economic Scenario Generators: A Practical Guide”

- *Stylized facts refer to generalized interpretations of empirical findings that provide a basis for consistent understanding of markets or economic drivers across a wide range of instruments, markets and time periods. Analysis of historical data is commonly used as the basis for determining stylized facts and setting calibration targets; however, stylized facts can also be based on expert judgement. Stylized facts are important in guiding the design of an ESG in that they help establish and prioritize the properties that the ESG model must have to be useful for a given application. The historical record of economic and financial markets is an indispensable guide to the dynamics that govern ESG model simulations. Detailed knowledge of these dynamics is essential for setting ESG model calibration targets and understanding strengths and weaknesses of various ESG model frameworks.*
- *It is natural to summarize financial market variables in terms of their averages, standard deviations and correlations such as in a mean-variance framework. These summary statistics tell a good bit of the story, but they do not inform the subtle but important aspects of how markets are experienced through time. **More advanced applications such as those used for pricing and risk management typically require additional specifications that may include information related to distributional shapes (fat tails), pathwise behavior (how variables move over time) and the ways characteristics of modeled variables change under different economic environments*.***

*[emphasis added]

6



What is a Sound Process for Developing and Maintaining an ESG? – More Detail

- Identify models with necessary dynamics
 - Requires an understanding of the stochastic properties of candidate model classes
 - Estimation and validation process will ultimately determine if the selected model classes are acceptable
 - Obtaining a successful model is an iterative estimation/calibration and validation process—hard scientific R&D
- Estimate/calibrate the models
 - Might simply select a data window (1953-2020 for example) and apply an econometric estimation process such as maximum likelihood.
 - In this approach the data window will speak to all aspects of the model (means, mean reversion, volatility, etc.). This process may have to be supplemented with expert judgment in order to obtain practical results. Past history determines future dynamics in this approach.
 - One can also base the estimation process on an optimization to calibration targets. The calibration targets might be based on expert judgment, forecasting, or statistical formula.
 - Key issue is the method by which the targets are set. Different methods can lead to significant differences in calibrations based on the same data set.
 - There are many ways to set calibration targets and one must ensure that the calibration is consistent with the purpose of the model.
 - The process for setting calibration targets and performing the calibrations must be transparent, reproducible, and well-documented because it is such a fundamental input to the model. It is what brings the model alive!

7



What is a Sound Process for Developing and Maintaining an ESG? – More Detail

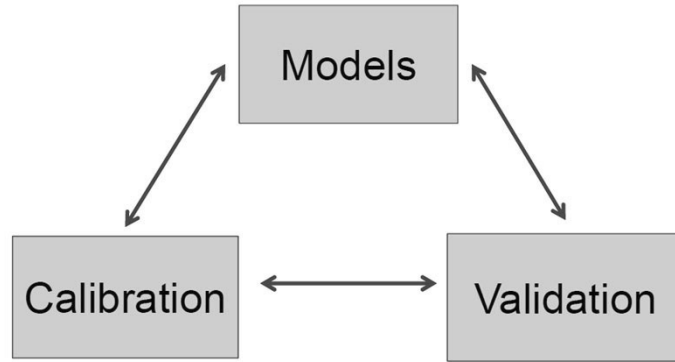
- Validate/acceptance criteria
 - Can apply statistical checks such as Percentiles Exponentially Weighted (PEWs) or matching simulation statistics against calibration targets.
 - In practice, a mixture of checks might get applied such as initial yield curve fit, average level of rates across simulation, steady state means and volatilities of rates and returns, relative risk-return position of various asset classes, overall check that the simulation produces extreme but plausible scenarios.
 - Back-testing is important. Did the models generate scenarios that encompassed future outcomes when the established maintenance process was applied?
 - The Academy's ESGWG believes that the **pathwise characteristics of the scenarios** are very important for the NAIC application. Two important examples are:
 - Distributions of gross wealth factors across the entire simulation horizon
 - Low-for-long scenarios
- Maintenance process
 - Market conditions may drive a model out of the acceptable category.
 - At some point there may not be a calibration that can accommodate the acceptance criteria (or implications of market data).
 - Sensitivity of parameters to changes in market data is not known until a model is developed and understood.

8



Three components of the ESG process (that determine ESG performance)

- An interactive and dynamic process.
- Once a suite of models has been chosen, they are brought alive by the calibration.
- The limitations of the model become apparent over time as the model is calibrated and validated in changing economic environments.
- At some point it might happen that an ESG model component can no longer be calibrated to produce scenarios that meet current validation/acceptance criterion.
- In such a case one would need to revisit model design.
- Since models must work together in an ESG ensemble, changing model components is a major issue.



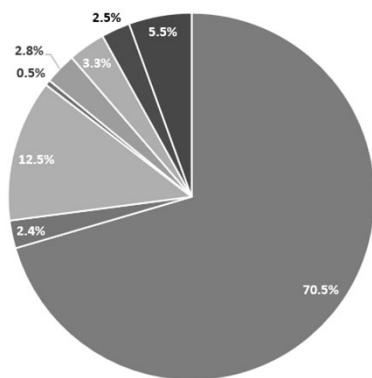
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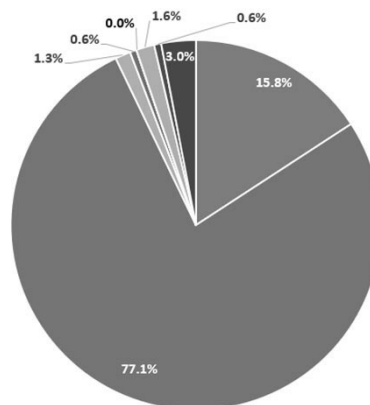
Life Insurer Invested Assets at Year-End 2020

10

General Account (\$4.8T)



Separate Account (\$3.1T)



Source: ACLI's
2021 Life Insurers
Fact Book (Table
2.1)

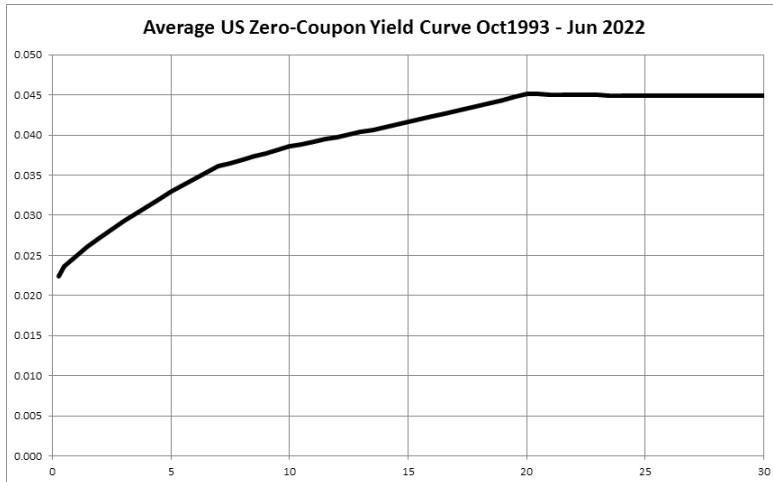
About 1/3 of
balance sheet
is corporate
bonds. A vital
asset class!

10

- Bonds
- Stocks
- Real estate
- Policy loans
- Derivatives
- Other
- Mortgages
- Cash & short-term



Stylized Facts



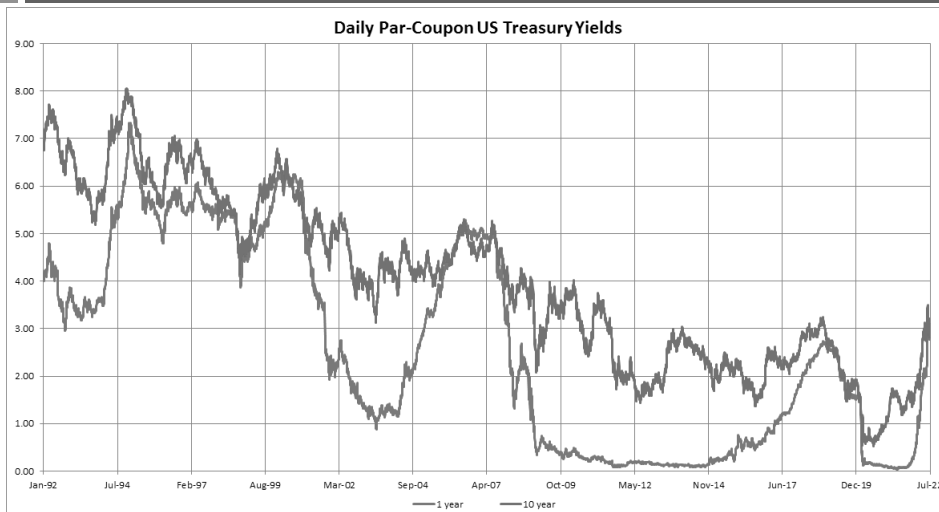
- Data is for the period the Fed has engaged in inflation targeting.
- Average US yield curve is upward sloping.
- Curve flattens at long end.
- Suggests that one should get higher returns from longer dated bonds.

11

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.



Stylized Facts

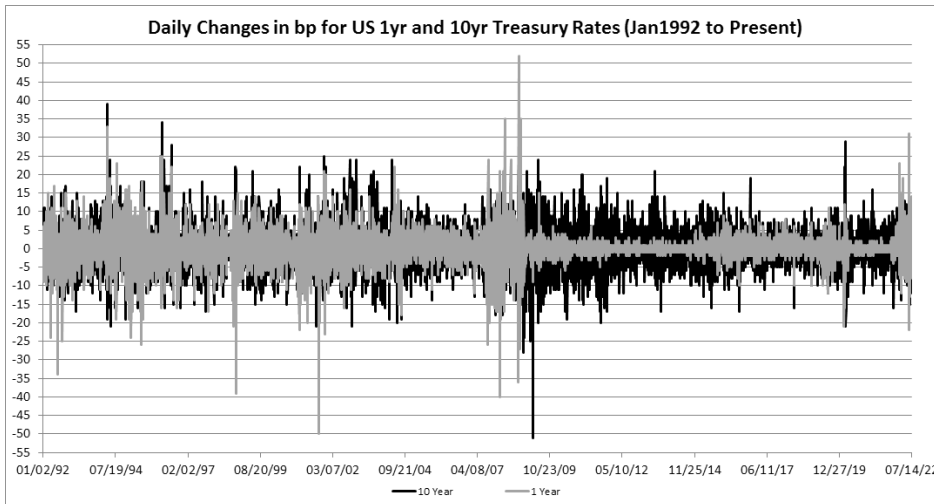


12

Source: Federal Reserve H.15 data set.



Stylized Facts



13

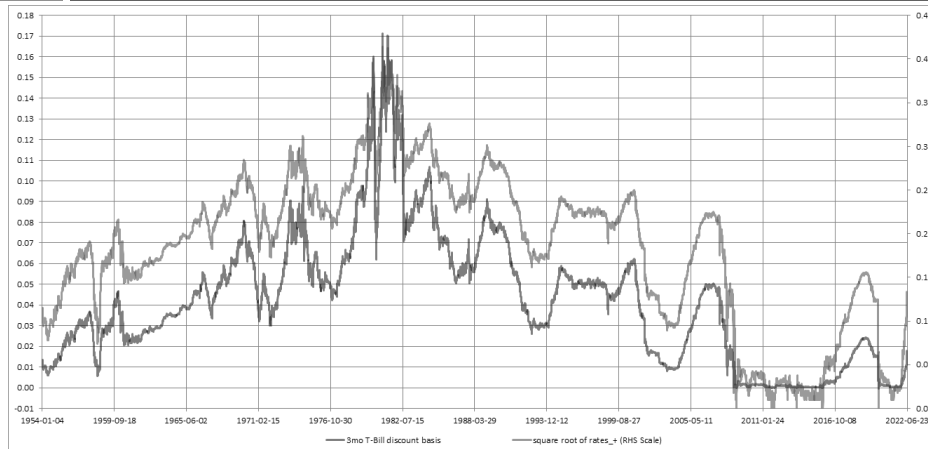
Source: Federal Reserve H.15 data set and Hal Pedersen analysis.

- Volatility is stochastic.
- Long-term interest rate volatility can be greater than short-term interest rate volatility.
- We can use some additional econometric techniques to gain a more detailed understanding of the nature of volatility.
- I will now follow the ideas developed by Phil Dybvig in his paper "Exploration of Interest Rates."



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Stylized Facts



14

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.

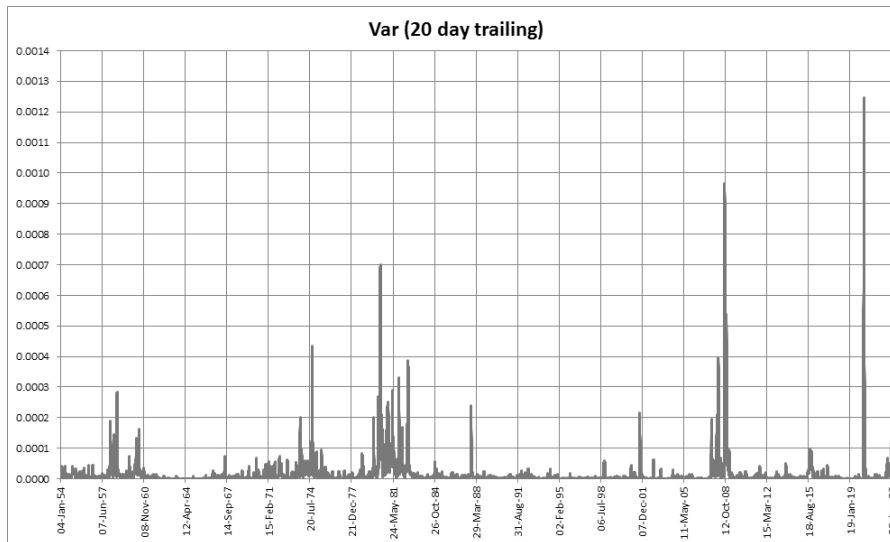
- If we use a daily series of U.S. short-term interest rates we can develop stylized facts on volatility.
- Volatility is highest in the '80s. A square root transformation of the series makes it more homoskedastic.
- This hints at a square-root diffusion Cox-Ingersoll-Ross (CIR) model class.
- However, if we look more carefully at the volatility behavior of the series we see that we are missing something important.



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Stylized Facts

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- The volatility in the square-root transformed series is still very irregular and it is unclear how one might model it.
- Econometricians say that this is a heteroskedastic series. We see this type of behavior across financial return series as well.
- However, if we take the logarithm of this series we see that there is a very manageable structure in the data!

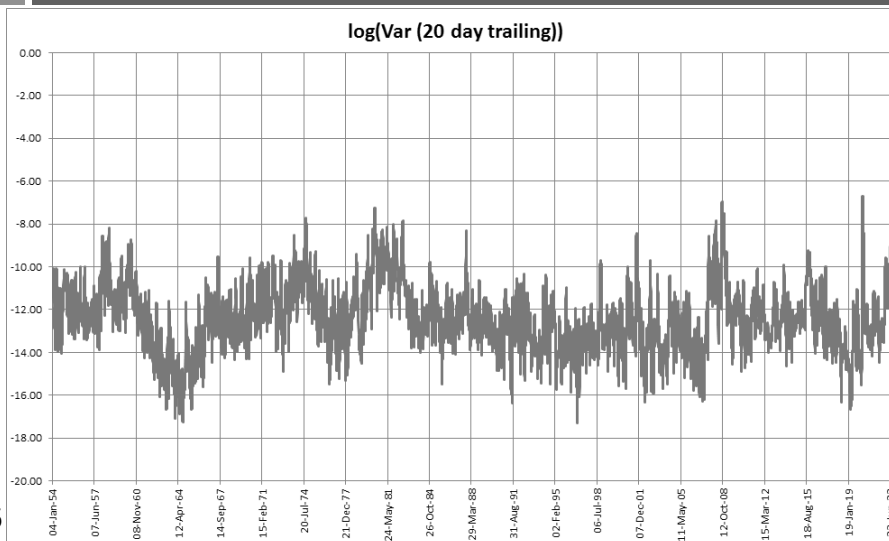
Source: Federal Reserve H.15 data set and Hal Pedersen analysis.



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Stylized Facts

16



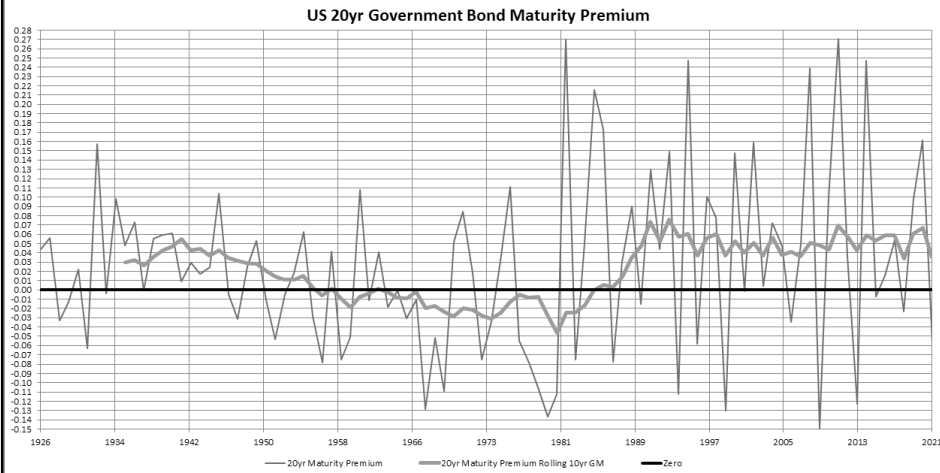
- The logarithm of the volatility is a homoskedastic mean reverting process.
- This we can model using mean reverting diffusion processes.
- We arrive at the useful stylized fact that the square root of the interest rate has stochastic volatility that looks like a homoskedastic mean-reverting diffusion.
- This suggests that square-root diffusion models with stochastic volatility would be a good candidate model class.

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.



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Stylized Facts

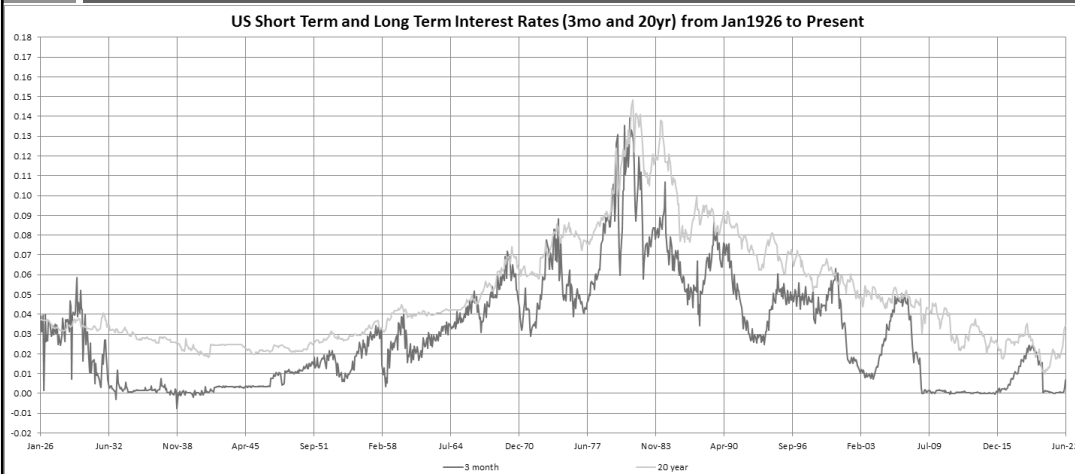


- Longer term bonds tend to return more than shorter term bonds.
- There is a cyclical aspect to bond maturity premia (bull and bear bond markets).
- Generally, financial economists expect bond maturity premia increase with tenor.
- This is an ex-post analysis, different from other term premia estimates.

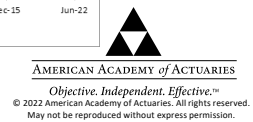
17 Source: Global Financial Data (GFD) and Hal Pedersen analysis.



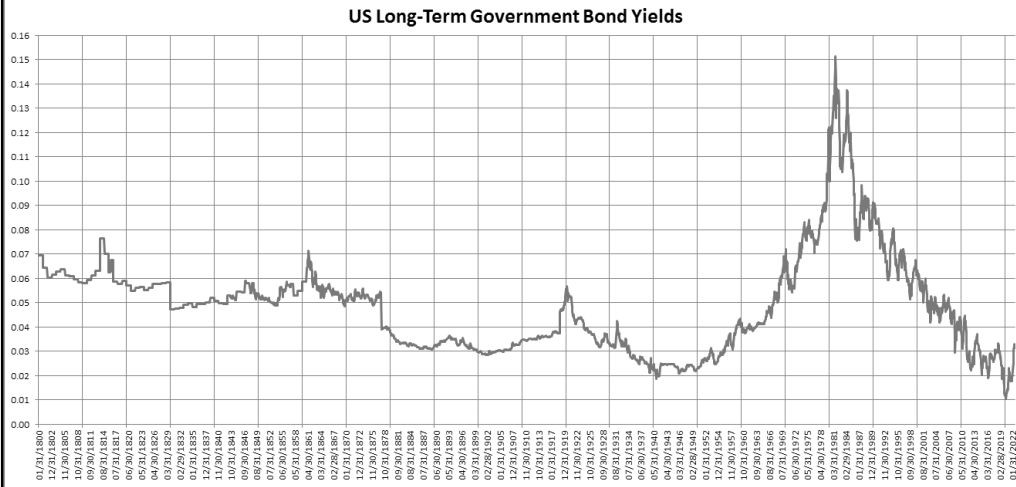
Stylized Facts



18 Source: Global Financial Data (GFD)



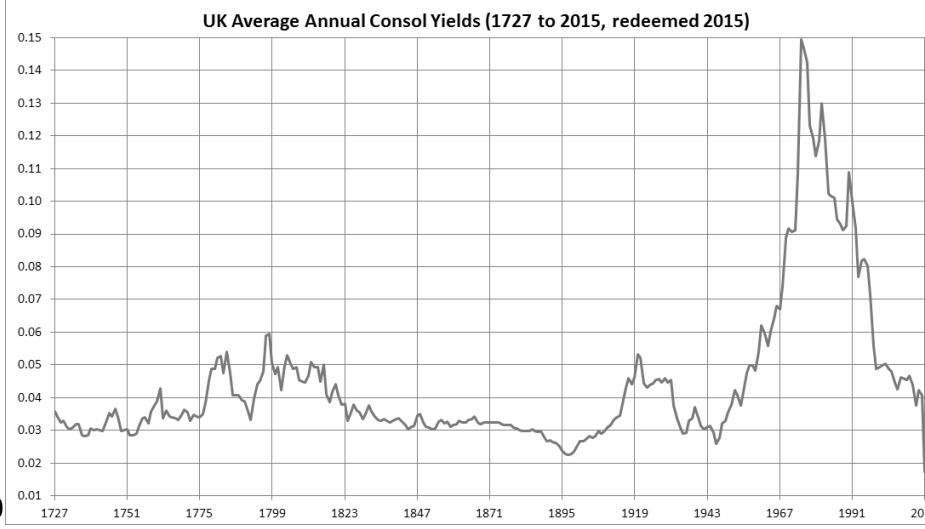
Stylized Facts



19 Source: Global Financial Data (GFD)

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Stylized Facts

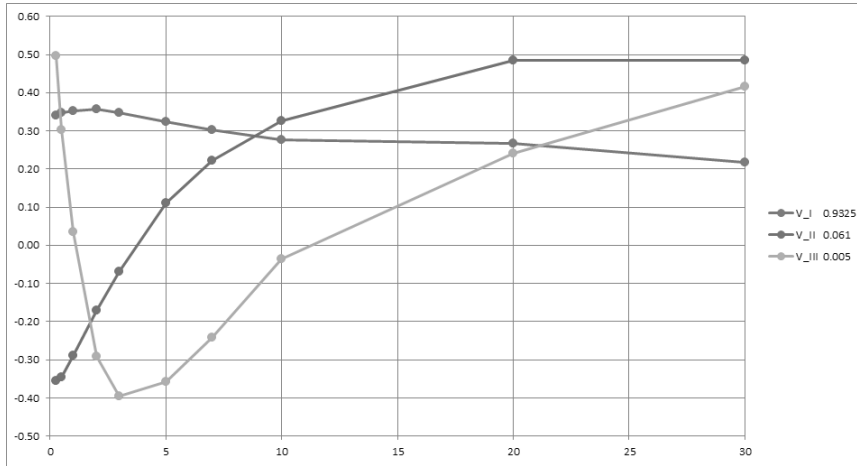


20 Source: UK Government Debt Management Office

- Extended periods of low long-term interest rates are a recurring feature of international bond markets.
- Low-for-long behavior can persist for decades.
- Recent experience post-financial crisis has been a short interval of low-for-long by historical standards.
- We see similar behavior in other developed economies.

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Stylized Facts



- Level, Slope and Curvature provide a robust description of yield curve movements over most data.
- Three “factors” are sufficient to model term structure movements.
- However, the dynamics of the weights for level, slope and curvature are subtle.



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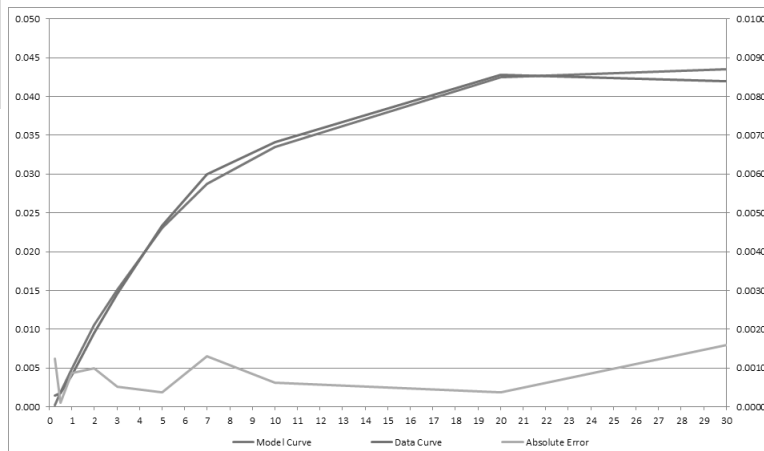
21

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.

Stylized Facts

$$R = \bar{R} + \tilde{V}\tilde{Z} = \bar{R} + V(:, 1)Z_1 + V(:, 2)Z_2 + V(:, 3)Z_3$$

Date	9/30/2009
Prin Comp I	-0.0409088
Prin Comp II	0.0186706
Prin Comp III	-0.0034415

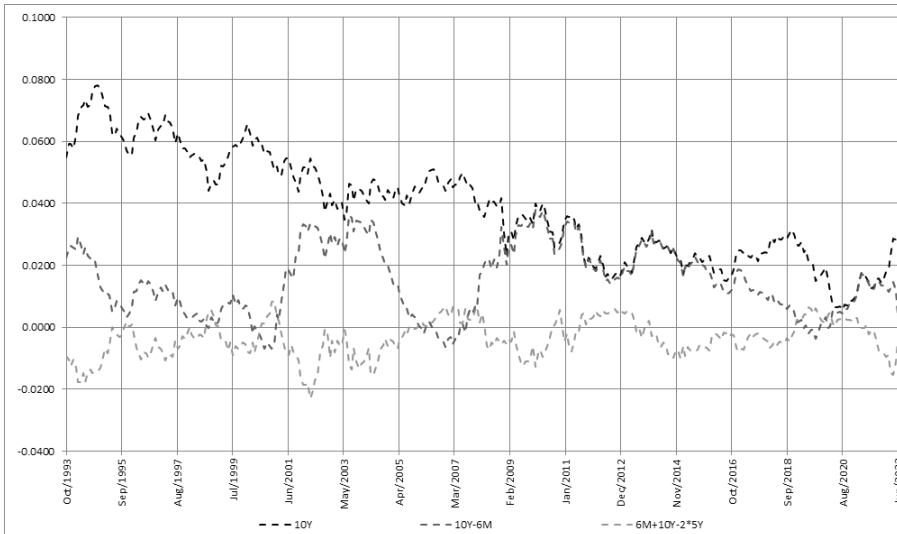


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22

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.

Stylized Facts



23

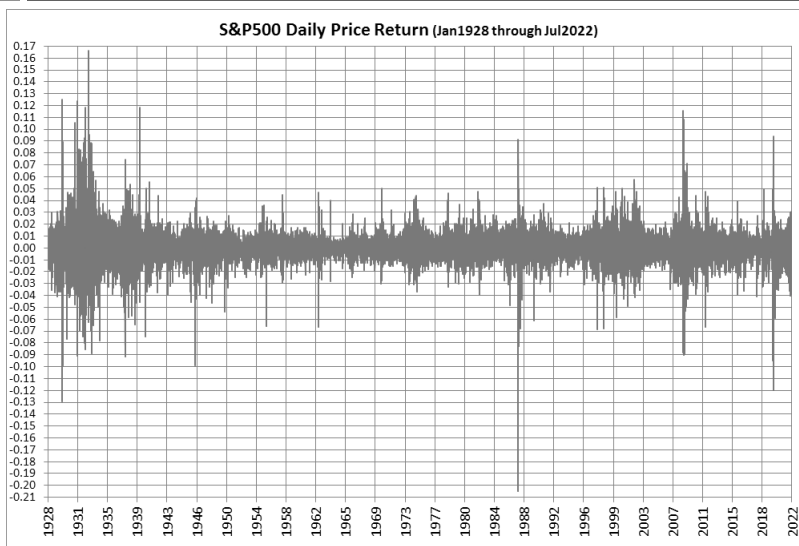
- The three processes driving the model have a change point during the financial crisis.
- Note the strong correlation between the level and slope beginning with 2009.

Source: Federal Reserve H.15 data set and Hal Pedersen analysis.



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Stylized Facts



24

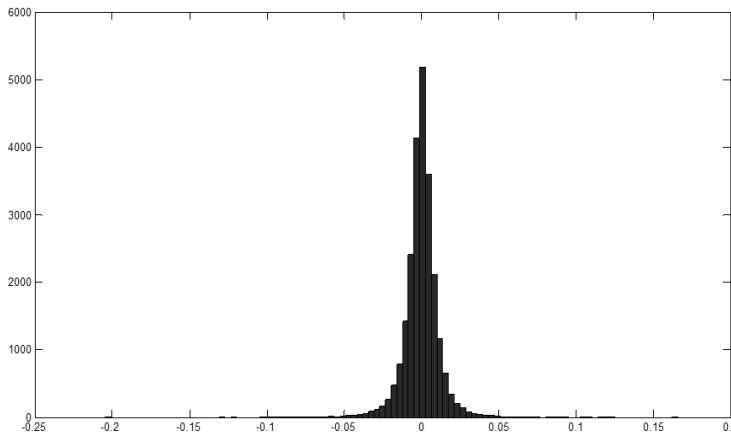
- Equity returns have stochastic volatility and jump behavior.

Source: Federal Reserve (FRED)



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Stylized Facts



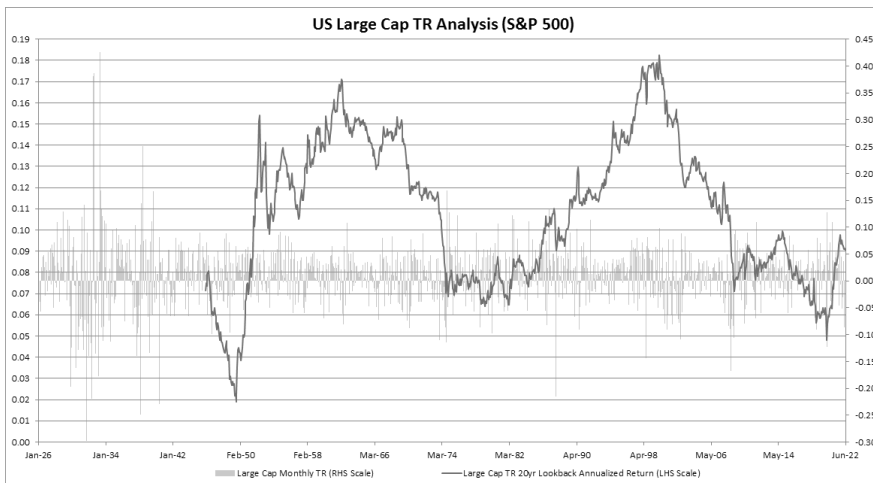
S&P 500 Daily Returns have significant kurtosis and are not well approximated by normal distributions.

Source: Federal Reserve (FRED) and Hal Pedersen analysis.

25



Stylized Facts



- S&P 500 has not experienced a loss over any 20-year period using the last 95 years of data.
- If we model stochastic volatility and jump aspects of the data faithfully we will see some large simulated losses over a 20-year period.
- How do we reconcile what the data says about model characteristics with our historical experience?

26

Source: Federal Reserve (FRED) and Hal Pedersen analysis.



Stylized Facts

- How can stylized facts be used to eliminate model classes from consideration?
 - ▣ If a class of models cannot capture what is determined to be a vital stylized fact then that model class should not be developed.
 - ▣ This requires a detailed knowledge of the dynamics and stochastic properties of various model classes.
 - ▣ Sometimes one can make simple determinations based on general properties. For example, if stochastic volatility is needed then models that cannot produce that feature would be removed from consideration.
 - ▣ If it is required that a model produce scenarios representative of recent low-for-long experience, short rates at zero and longer rates moving; then many classical models are not a good choice. If one can accept periods of relatively low long-term rates regardless of what is going on at the short end of the yield curve, then a specialized parameterization may allow some classical models to capture part of the stylized fact.
 - ▣ There is an aspect of expert judgment because many stylized facts are qualitative rather than hard statistical criteria.

27



Acceptance Criteria

Quoting from the Society of Actuaries “Economic Scenario Generators: A Practical Guide”

pp. 11-12: VALIDATION

Validation ensures that the estimation of an ESG’s parameters results in simulated behavior that is a good representation of the variable or market under consideration. Effective validation of an ESG requires comparing simulated output data with some predefined benchmark of acceptance criteria.

For a typical insurance or pension undertaking, the list of financial and economic variables that may be of interest is typically quite large. For this reason, the validation system and validation environment require careful design at inception, in order to organize the various data elements in an ordered fashion.

An automated validation system is preferable to manual validation. Validation should be repeatable and consistent through time. Before any data are analyzed or validation performed, it is helpful to form the acceptance criteria upon which the model output will be judged. This type of approach to validation, whereby the particular desirable features of an ESG are based on analysis of a firm’s risk exposures, is preferable to what might be called a “problem discovery” approach. In a problem discovery approach, a user first runs the ESG, creating a large output data set, and then tries to discover problems with the output.

The paper can be found at <https://www.soa.org/globalassets/assets/files/research/projects/research-2016-economic-scenario-generators.pdf>

28



Acceptance Criteria

Quoting from the Society of Actuaries “Economic Scenario Generators: A Practical Guide” p. 89: ACCEPTANCE CRITERIA

Before any data are analyzed or validation performed, it is helpful to form the acceptance criteria upon which the model output will be judged. These acceptance criteria should be based on what the end user expects the model to do. An idealized process for forming acceptance criteria might be as follows:

1. Select a person or persons to formulate acceptance criteria. Ideally, this would be a group made up of the direct users of the system, the end user of the scenarios or derived data, participants in the market to be validated and risk model experts, as well as individuals who are independent of the system usage to provide oversight.
2. Decide which economic variables are to be validated and determine the materiality of these variables.
3. Formulate concrete acceptance criteria, which should be based on a combination of analysis of market data, expert judgment and an understanding of the sensitivities to and materiality of particular risk factors of a firm. Acceptance criteria should not be arbitrary but instead justifiable and based on data analysis and informed judgment.
4. Define when a model is accepted and when rejected. This is usually best dealt with by scoring the ESG output against particular acceptance criteria and holistically considering the extent to which it matches all the acceptance criteria. For all but the most simplistic uses of an ESG, it is likely that some areas will perform better than other areas; therefore, it is better to answer the question “How well does the ESG as a whole perform?” than to reject a model because a single acceptance criterion is not adequately met.

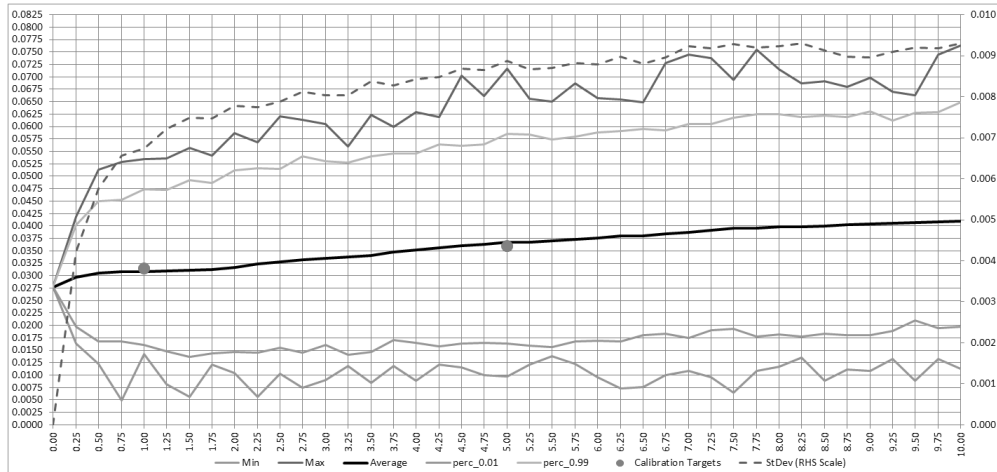
Therefore, it is recommended that the validation process start with acceptance criteria and then move on to the validation stage. Chapter 6 discussed the model specification process and the development of stylized facts that form the basis of the acceptance criteria.

With the acceptance criteria in place, the next stage is to actually validate the ESG and determine its appropriateness to the application for which it is intended. Usually, validation entails comparing the output of the ESG with market data, and finally with the acceptance criteria, which may be based on market data or a combination of market data and expert judgment. In this process, there are several considerations to take into account.

29



Basic Statistical Chart

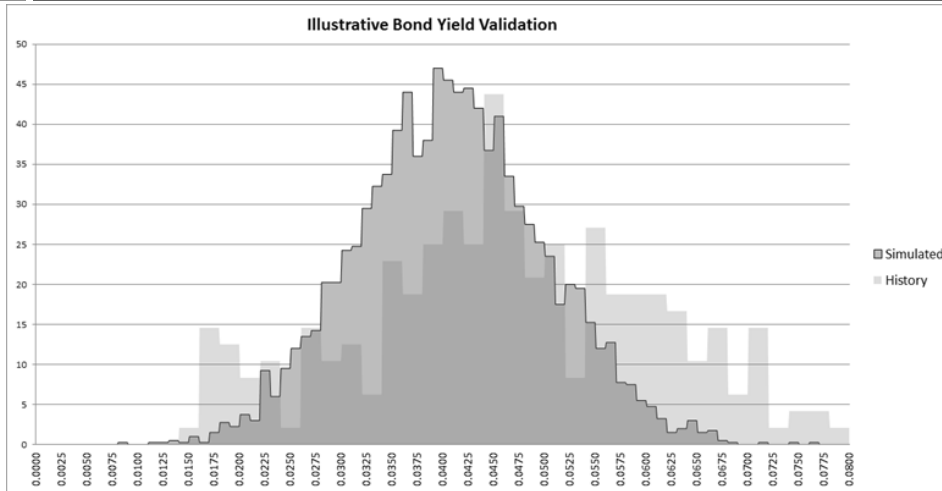


30

Source: Hal Pedersen illustrative analysis.



Simulation versus History



31

Source: Hal Pedersen illustrative analysis.



Questions?



Thank You

- Contact: Amanda Barry-Moilanen,
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A Framework for Developing, Evaluating, and Implementing Economic Scenario Generators (ESGs) – ESG Model Governance

Tony Dardis, MAAA, FSA, CERA, FIA, CFA
Vice Chairperson, Economic Scenario Generator Work Group (ESGWG)



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National Association of Insurance Commissioners (NAIC) Life Actuarial (A) Task Force (LATF)
August 8, 2022

ESG Model Governance – Agenda

2

1. Background Considerations
2. The Importance of Model Governance
3. Core Components of an ESG Model Governance Program
4. Other Considerations

2



Background Considerations

3

- ESG model governance is concerned with the processes for ongoing scenario generation and delivery
- Any members of the American Academy of Actuaries (“the Academy”) who are involved in the production of the scenarios should consider what actuarial standards of practice (ASOPs) may apply
 - *ASOP No. 56, Modeling*, is particularly relevant. Even for those who are not members of the Academy, this ASOP provides many elements of best practice as far as model governance is concerned and should be viewed as an important reference for the National Association of Insurance Commissioners (NAIC) and Conning.
- The *Model Governance Practice Note* developed by the Model Governance Practice Note Work Group of the Academy is also a very useful reference

3



ASOP No. 56, *Modeling*, provides guidance to practicing actuaries with respect to using, reviewing, or evaluating models

4

- Section 3.1.2 states actuaries “evaluating the model ... should confirm that, in the actuary’s professional judgment, the model reasonably meets the intended purpose.”
- Section 3.1.3 states that “[w]hen using the model, the actuary should make reasonable efforts to confirm that the model structure, data, assumptions, governance and controls, and model testing and output validation are consistent with the intended purpose.”
- Sections 3.2 and 3.4 also have important requirements in connection with model understanding.

As a general point, the ESGWG would like to reiterate the view previously communicated by Academy Life Practice Council work groups that the use of scenario sets generated by proprietary ESGs be permitted as an alternative option to scenario sets prescribed by the NAIC, subject to proper documentation on how the scenario sets were developed and why they are appropriate for statutory reserves and capital.

4



The Importance of Model Governance

5

- ASOP No. 56, *Modeling*, Section 3.5.2, Appropriate Governance and Controls, states:
 - “The actuary should use or, if appropriate, rely on others to use appropriate governance and controls to minimize model risk” to maintain the integrity of the model, and to avoid the introduction or use of unintentional or untested changes.
- Robust model governance processes will be critical to the ongoing delivery of scenarios for a number of reasons:
 - Mitigates the risk of output errors
 - Reduces the risk of selecting an incorrect (not fit-for-purpose) model & ensures it continues to be fit for purpose
 - Allows for the smoother, more efficient, production of scenarios
 - Increases transparency, which aids clarity and builds common understanding
 - Allows issues to get resolved effectively due to built-in preparedness & escalation procedures for when things go wrong
 - Gives the industry confidence and builds reputation for outside observers

5



Core Components of an ESG Model Governance Program

6

- **Roles & Responsibilities**—Define and document responsibilities for *all* stakeholders involved in the ongoing production of scenarios
- **Model Selection and Review Processes**—Establish processes for selecting fit-for-purpose models and for reviewing and validating the model and its outputs
- **Sign-off Protocols**—Establish where sign-offs need to take place
- **Change Control Procedures**—Establish processes for authorizing, reviewing, and testing changes to the model and calibration parameters
- **Access Controls**—For any aspects of the scenario generation process that are outside of Conning’s control, define processes for limiting access to models or processes through access authorization and periodic access review
- **Documentation**—This flows throughout the entire governance process. Documentation of all of the agreed upon processes and procedures should be produced, plus:
 - Appropriate documentation covering each published scenario set
 - Documentation of ongoing model updates and assumption changes

6



The Importance of Documentation: The NAIC’s View

7

- Deliverable I of NAIC RFP #2053
 - “Full documentation on the ESG specifications, calibration, and tools.”
- NAIC May 2020 Q&A
 - Q: Is the level of detail in the documentation expected to be comparable to the existing Academy Interest Rate Generator (AIRG) documentation, more, or less detailed? Does the NAIC intend on making the documentation public (like existing documentation on AIRG), or private (for NAIC eyes only)?
 - A: The documentation is expected to be robust and available to ESG end users. The quality of the documentation provided will be judged as one of the vendor selection criteria. Note that Section III.L of the RFP requires information on how end-users of the ESG will be able to generate scenarios on the fly through a mechanism such as software licensing, an application programming interface (API), and/or available full documentation of the technical workings of the ESG.
- *Note, additional information on the AIRG is available at the following webpage:*
 - <https://www.soa.org/4a20d1/globalassets/assets/files/static-pages/research/2021-academy-interest-rate-generator-faq.pdf>

7



The Importance of Documentation: Comprehensive model documentation is highlighted in ASOP No. 56 and the Practice Note

8

- ASOP No. 56, *Modeling*, and the *Model Governance Practice Note* discuss several important aspects of model documentation:
 - The intended purpose of the model
 - The conceptual framework of the model, including key methodologies, assumptions, and parameters
 - Model risks and potential limitations, including any approximations and shortcuts used
 - Data inputs, outputs, formats, and reports
 - Processes used to update assumptions, parameters, and other model data
 - Process maps identifying key controls and data handoff points
 - Applicable vendor or third-party documentation and the rationale for the selection of options where options exist

8



Details: Some immediate questions that need to be addressed

9

- What will final model documentation look like?
- What reports, statistics, charts, etc. will accompany each scenario set?
- How is “validation” defined and how will scenario sets be validated? What will the sign-off protocols be? What parties will be involved and what will their roles be? How will duties be segregated?
- What happens if a scenario set “fails” the NAIC’s validation, or does something unexpected?
- What aspects of the model will be updated or changed each month, each year? How will changes to the model be performed (formula/algorithm/judgment), controlled, documented, reviewed, and signed off on? For example, what will the process and frequency be for updating long-term mean reversion points?
- How will changes to initial conditions, and their impact on scenario sets, be monitored?
- What is the regular timeline and process for recalibration timeline? What would trigger an “off-cycle” recalibration and how is that monitored, e.g., can a recalibration be triggered by significant changes to initial conditions or Federal Reserve policy that may change forward-looking expectations?
- What comprises user support (“help desk”)?

9



Other Considerations

10

- **Field testing**
 - As a best practice, on-going field testing should be built into the governance process for where there have been significant changes to ESG models, assumptions, and calibrations before final launch. This can be viewed as a form of impact analysis.
- **Industry alerts on updates to the ESG**
 - How can updates on the ongoing developments of the statutorily prescribed scenarios be more widely disseminated across the industry?
 - E.g., Besides valuation, risk and pricing, practitioners need to be aware of developments
 - Add ESG section to NAIC’s PBR landing page
- **Retention of documents on the NAIC website**
 - There should be a careful record of dates and versions for official exposure documents. Previously some documents have been removed and replaced with no version control record.
 - E.g., Have documentation in a single document, with controlled updates and versioning

10



Questions



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Questions?

12

- Contact: Amanda Barry-Moilanen,
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Life Actuarial (A) Task Force: NAIC Economic Scenario Generator (ESG) Field Test Update

Scott O'Neal, FSA, MAAA

August 8th, 2022

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS



Agenda



1. Background
2. Field Test Summary
3. Field Test Participation
4. Field Test Results Summaries
5. Plan for Collecting, Reviewing, and Sharing Field Test Results
6. Variable Annuity and Index-Linked Variable Annuity Model Office
7. Current Timeline and Risk of Extension

Appendices:

- Appendix 1: Field Test Participation by Product
- Appendix 1: Data to be Collected

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Background

- Principle-based statutory reserve and capital frameworks have incorporated the use of economic scenario generators (ESGs) to determine assumptions such as discount rates, policyholder separate account fund investment returns, and assumptions related to model asset sales and reinvestment across a variety of potential future economic environments. The ESGs that are currently prescribed in the NAIC's life and annuity statutory reserve and capital frameworks were developed by the American Academy of Actuaries (AAA).
- In 2017 the AAA notified the Life Actuarial (A) Task Force (LATF) that it did not have the resources to maintain the prescribed ESGs, except in their current form until a suitable replacement could be found.
- In June of 2019, the Financial Stability (E) Task Force noted a potential deficiency in the prescribed ESGs related to a limited reflection of extended periods of low and even negative interest rates and requested the Valuation Analysis (E) working Group assess the macro prudential risk to insurance organizations in the United States with a focus on variable annuity writers.
- After extensive work with regulators and ESG subject matter experts from the life insurance industry, the NAIC issued the RFP for a new economic scenario generator in March of 2020. Conning was selected as the ESG vendor in September 2020.
- Over the past two years since Conning was selected as the ESG vendor, regulators from LATF and the Life Risk-based Capital Working Group (LRBC WG) have spent significant time with Conning Staff, NAIC Staff, and subject-matter experts from the AAA and the industry defining the desired properties of the ESG and developing an ESG Field Test. The field test is currently underway with results due from participants on August 31, 2022.

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Field Test Summary - ESG Models

Model	ESG Candidate	Description
Treasury	Conning Calibration and Generalized Fractional Floor ("Non-shadow")	<ul style="list-style-type: none"> • Conning developed Treasury model according to regulator's acceptance criteria • Generalized fractional floor reduces severity and frequency of negative interest rates
	Alternative Calibration and Shadow Floor ("Shadow")	<ul style="list-style-type: none"> • Calibration developed by AAA ESGW that meets regulator acceptance criteria and places additional emphasis on "term premium" • Shadow floor preserves reduces severity and frequency of negative interest rates while preserving "arbitrage-free" nature of Treasury scenarios
Equity	GEMS® Baseline Equity Calibration	<ul style="list-style-type: none"> • Calibrations that preserves base functionality of the GEMS® equity model while partially mitigating the impact of the equity-Treasury linkage
	Original GEMS® Conning Equity Calibration	<ul style="list-style-type: none"> • Calibration that assumes that the equity risk premium over Treasuries has a constant mean in every projection period. In low starting interest rate environments, this calibration produces lower gross wealth factors than the AIRG equity model.
	ACLI GEMS® Equity Model Calibration	<ul style="list-style-type: none"> • Calibration developed by the ACLI that assumes a constant mean equity return that is independent of starting Treasury rates. The constant mean equity return is set to produce a reasonable relationship with long-term equity returns and steady state interest rates.
Corporate	GEMS® corporate model	<ul style="list-style-type: none"> • Corporate model that captures complex dynamics that affect bond fund returns (e.g. dynamic spreads, defaults, and credit rating transitions) • Other simplified models may be included in future field tests

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Field Test Summary - Runs

Note: Bold = Required Run

Run #	Description	Purpose of Run
Baseline #1	Scenario set(s) the company used for 12/31/21 statutory reporting	Baseline used as comparative basis for 12/31/21 runs
Baseline #2	ESG the company used for 12/31/21 statutory reporting of reserves and RBC, but modified to produce scenario sets with a 12/31/19 yield curve modified using a 200 BP increase across all maturities	Baseline used as comparative basis for 12/31/19 + 200 BP runs
Test #1a	GEMS® Baseline Equity and Corporate model scenarios as of 12/31/21, and Conning Treasury model calibration with generalized fractional floor as of 12/31/21	Tests Conning Treasury model w/ GFF and Baseline Equity at YE 2021
Test #1b	Same as Test #1a, but with Alternative Treasury model calibration with shadow floor as of 12/31/21	Tests Alternative Treasury model with shadow floor and Baseline Equity at YE 2021
Test #2a	Same as Test #1a, but with Equity, Corporate, and Treasury models with a 12/31/19 starting yield curve modified using a 200 BP increase across all maturities. All other initial market conditions are unchanged. The Equity model parameters would be adjusted from #1a so that the year 30 median Large Cap Equity gross wealth factors remain consistent with #1a.	Stresses the starting Treasury rates using the same calibration as 1a to evaluate whether the model produces appropriate results in different economic environments
Test #2b	Same as Test #2a, but with the Alternative Treasury model calibration with shadow floor instead of the Conning Treasury model calibration with generalized fractional floor	Same as 2a, but designed to stress the 1b calibration

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Field Test Summary - Runs (cont.)

Note: Bold = Required Run

Run #	Description	Purpose of Run
Test #3	Conning Treasury model calibration with generalized fractional floor as of 12/31/21, GEMS Corporate model as of 12/31/21, and GEMS Baseline Equity model corresponding to a 12/31/19 yield curve with a 200 BP increase across all maturities	Attribution analysis that will illustrate how much of the difference between runs #1a and #2a is driven by the equity model vs the Treasury and Corporate models
Test #4	Same as Test #3, but using Alternative Treasury model calibration with shadow floor as of 12/31/21	Same as #3, but with respect to runs #1b and #2b.
Test #5a	Same as #1a, but with Conning's original Equity model calibration that had significantly lower Gross Wealth Factor's (GWFs) than the AIRG Equity Model.	Tests Conning Treasury model w/ GFF and original equity model as of year-end 2021.
Test #5b	Same as #5a but using a 12/31/19 starting yield curve modified using a 200 BP increase across all maturities. The parameters of Conning's original Equity model are used without any adjustment.	Stresses the starting Treasury rates to understand the full impact of equity-Treasury linkage in Conning's original equity model
Test #6	Same as #1a, but with the ACLI's GEMS® Equity Calibration	Tests the ACLI's GEMS® Equity Calibration that assumes a constant mean equity return independent of rates and increases alignment with AIRG equity model GWFs
Test #7	12/31/21 scenarios from the ESG prescribed in VM-20 with a Mean Reversion Parameter (MRP) set to 3.25%	Attribution analysis to understand the impact of moving from the current C3 Phase I MRP of 6.55% to a lower MRP that incorporates recent UST history.

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NAIC NATIONAL MEETING **SUMMER 2022**

Field Test Participation

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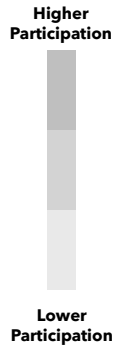
**Insurance
Groups**

42

Legal Entities

Note: Bold = Required Run

Reserve/Capital Framework	Baseline #2	Test #1a	Test #1b	Test #2a	Test #2b	Test #3:	Test #4:	Test #5a:	Test #5b:	Test #6:	Test #7:
VM-20	8	19	19	19	19	7	7	16	16	7	
VM-21/C3 Phase II	15	31	31	31	31	14	13	29	29	14	
C3 Phase I	17	31	31	29	29	8	8	19	18	8	20



The NAIC will receive close to 600 field test templates from participants

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

NAIC NATIONAL MEETING **SUMMER 2022**

Field Test Results Summaries

Field Test Objective	Planned Field Test Results Summaries
1. Reserve and Capital Impact	<ul style="list-style-type: none"> High-level comparisons of field test run results to baseline (reported) values Field test run results by each reserve and/or capital framework
2. Range of Results	<ul style="list-style-type: none"> Participant results by various statistics (mean, median, percentiles, etc.) Analyses of Outliers (reserve and/or capital frameworks with high impact, etc.)
3. Metrics	<ul style="list-style-type: none"> Illustrations of critical scenarios across field test participant results Result comparisons at different confidence levels (CTE 70, CTE 90, CTE 98, etc.)
4. Stability Over Time	<ul style="list-style-type: none"> Comparisons of corresponding field test runs at different valuation dates (e.g. field test 1a compared to filed test 2a)
5. Exclusion Testing and Reserve Components	<ul style="list-style-type: none"> VM-20 NPR, DR, and SERT scenario results - including illustrations showing where winning reserve methodology changed
6. Hedging Impact	<ul style="list-style-type: none"> Qualitative information from companies on their hedging strategies Analyses of VM-21 best-efforts and adjusted runs
7. Sensitivity Tests and Attribution	<ul style="list-style-type: none"> Comparisons of field test runs 3 and 4 to runs 1a/2a and 1b/2b, respectively Analysis of the C3 Phase I specific attribution analysis (Field Test #7)

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NAIC NATIONAL MEETING SUMMER 2022

Plan for Collecting, Reviewing, and Sharing Field Test Results

- The NAIC has entered into a legal agreement with the Texas Department of Insurance to directly request and collect field test results under the regulatory authority of the Texas Insurance Commissioner. This agreement will maintain confidentiality of the field test results pursuant to Texas confidentiality laws while also streamlining the collection of the data.
- Under the agreement, the NAIC will be able to confidentially share field test results with state regulators, NAIC Committees, Task Forces, and Working Groups - including the Valuation Analysis Working Group. The NAIC will also be able to share aggregated field test results at public meetings.
- The NAIC will review individual company results for reasonableness, compile and aggregate field test results, and present the consolidated results at public NAIC meetings.
- Domestic regulators of the ESG Field Test participants have been provided with information on their respective participating domiciled companies and also informed on options that are available for their involvement in the review of field test results.

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NAIC NATIONAL MEETING SUMMER 2022

Variable Annuity and Index-Linked Variable Annuity Model Office

- After a fiscal was approved during a joint meeting of NAIC Internal Administration (EX1) Subcommittee and the NAIC Executive (EX) Committee, NAIC signed a statement of work for the consulting firm Oliver Wyman to build and deliver an AXIS model office to support the ESG Field Test. The model office will contain an inforce Variable Annuity (VA) product and a new-business Index-Linked Variable Annuity (ILVA) product.
 - The inforce VA model office will contain guaranteed minimum death benefits and a variety of guaranteed living benefits with different levels of richness that are commonly seen on inforce products throughout the industry. Different levels of in-the-moneyness at valuation will be included.
 - The new-business ILVA model office will include a buffer crediting strategy (consistent with common industry practice) with different levels of buffer, varying from 5% to 10%.
- Once the model is delivered (expected late August), the NAIC will have the capability to run the model using the ESG Field Test scenarios sets. The results of the model office can then be used to confirm, understand, and extend the participant field test results, in a similar fashion to how a model office was used for the VM-20 non-guaranteed YRT Field Test.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

NAIC NATIONAL MEETING **SUMMER 2022**

Current Project Timeline

6/1 - 8/31	Companies participating in the NAIC’s ESG Field test will run their life insurance and annuity statutory reserve and capital models using field test scenario sets. The NAIC has conducted three meetings with participants in June and July. Results are due August 31 st .
8/1 - 11/30	The NAIC compiles and aggregates individual participant field test results starting in August as results are submitted and ending in September. The aggregated and anonymized results will be presented at public joint meetings of LATF and the LRBC WG starting in September and ending in November.
Late 2022 - Early 2023	If field test results show that modifications are needed for the ESG, then Conning will make changes as directed by regulators. A follow-up field test may be held in early 2023 to quantify the impact of these changes to the reserve and capital calculations.
2024	If regulators are satisfied with the performance of the ESG in a follow-up field test, necessary updates will be made to the Valuation Manual and Life RBC instructions. For implementation in 2024, amendments to the Valuation Manual would need to be approved by June 2023 and updates to the RBC instructions would need to be adopted by June 2024.

The timeline is likely to be extended due to the large amount of field test results to compile, aggregate, and present under the current timeline.



Appendices

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Appendix 1: Field Test Participation by Product

Product	Number of Participants by Legal Entity
Whole Life	4
Term Life	14
Indexed Life	8
Universal Life	6
Universal Life with Secondary Guarantees	13
Variable Life	0
Variable Universal Life	6
Variable Annuities with Guarantees	27
Variable Annuities without Guarantees	17
Fixed Annuities	25
Indexed Annuities	5
Life Contingent Payout (Immediate and Annuityizations)	28
Other Annuities	13

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Appendix 2: Data to be Collected

	VM-20	VM-21/C3 Phase II	C3 Phase I
Quantitative	<ul style="list-style-type: none"> Stochastic Reserve by scenario (with and without flooring) Accumulated deficiency by projection year High-level Deterministic Reserve, Net Premium Reserve, SERT scenario results, and any post-processing adjustments 	<ul style="list-style-type: none"> Best-efforts and adjusted reserves by scenario (with and without flooring, with explicit tax recognition for C3P2 where applicable) PV of Accumulated deficiency by projection year High-level TAR and RBC amounts (pre- and post-tax, any post-processing adjustments) 	<ul style="list-style-type: none"> C3 Phase I RBC Factor Various metrics Statutory surplus by projection year, C-3 factors, and discount rates by scenario
Qualitative	<ul style="list-style-type: none"> Fund mappings for variable products Survey questions (e.g. did dominant PBR reserve change, were there any changes to models or assumptions, was a proprietary ESG used for baseline results) 	<ul style="list-style-type: none"> Fund mappings for variable products Survey questions Hedging strategy descriptions, NAAR Calculation, In-the-moneyness, and other information by guarantee type 	<ul style="list-style-type: none"> Survey questions (e.g. did you use a 9/30 or 12/31 date for the baseline reporting, how many scenarios were used in the baseline run, explain the reflection of taxes in results)

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS



2023 GRET Recommendation

Tony Phipps, FSA, MAAA
Chair SOA Research Institute Committee on Life Insurance Expenses
August 8, 2022



Agenda

- Methodology
- Recommendation
- Comparison to Prior Years
- Information on Companies in Study



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Methodology

1. Calculate Actual to Expected Expenses
 - Gather data points from company Annual Statement submissions provided by NAIC
 - Seed factors used to calculate expected expenses.
2. Determine Distribution Channel
 - Survey sent by SOA Research Institute to companies to determine primary distribution channel.
 - This channel is used or the historical distribution channel for those companies that did not respond.
3. Remove outlier companies
4. Analyze data to derive unit expense factors by those Distribution Channels



Seed Values

Expenses allocated to acquisition and maintenance categories using the same seeds as has been previously used:

- Acquisition/Policy: \$200.00
- Acquisition/Face Amount: \$1.10
- Acquisition/Premium: 50%
- Maintenance/Policy: \$60.00



Recommendation for 2023 GRET Factors

Proposed 2023 GRET Factors Based on Average of 2020/2021 Data					
Description	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Company Count
Independent	\$180	\$1.00	45%	\$54	141
Career	203	1.10	51%	61	84
Direct Marketing	197	1.10	49%	59	21
Niche Marketing	147	0.80	37%	44	30
Other*	153	0.90	39%	46	106
					382

* Includes companies that did not respond to this or prior year surveys

Current 2022 GRET Factors Based on Average of 2019/2020 Data					
Description	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Company Count
Independent	\$183	\$1.00	46%	\$55	142
Career	212	1.20	53%	64	77
Direct Marketing	200	1.10	50%	60	23
Niche Marketing	151	0.90	37%	45	24
Other*	139	0.80	35%	42	109
					375

* Includes companies that did not respond to this or prior year surveys



Comparison to Prior Years

Acquisition per Policy					
Description	2023	Percentage Change	2022	Percentage Change	2021
Independent	\$180	-2%	\$183	10%	\$166
Career	203	-4%	212	-1%	214
Direct Marketing	197	-2%	200	3%	195
Niche Marketing	147	-3%	151	10%	137
Other*	153	10%	139	10%	126

* Includes companies that did not respond to this or prior year surveys

Acquisition per Unit					
Description	2023	Percentage Change	2022	Percentage Change	2021
Independent	\$1.00	0%	\$1.00	11%	\$0.90
Career	1.10	-8%	1.20	0%	1.20
Direct Marketing	1.10	0%	1.10	0%	1.10
Niche Marketing	0.80	-11%	0.90	13%	0.80
Other*	0.90	13%	0.80	14%	0.70

* Includes companies that did not respond to this or prior year surveys



Comparison to Prior Years

Acquisition per Premium					
Description	2023	Percentage Change	2022	Percentage Change	2021
Independent	45%	-2%	46%	10%	42%
Career	51%	-4%	53%	-2%	54%
Direct Marketing	49%	-2%	50%	2%	49%
Niche Marketing	37%	0%	37%	9%	34%
Other*	39%	11%	35%	9%	32%

* Includes companies that did not respond to this or prior year surveys

Maintenance per Policy					
Description	2023	Percentage Change	2022	Percentage Change	2021
Independent	\$54	-2%	\$55	10%	\$50
Career	61	-5%	64	0%	64
Direct Marketing	59	-2%	60	2%	59
Niche Marketing	44	-2%	45	10%	41
Other*	46	10%	42	11%	38

* Includes companies that did not respond to this or prior year surveys



Survey Results

- Percent of survey respondents that that responded that GRET factors are used for individual life sales illustration purposes:

Percentage of Companies that use GRET Factors	
Survey Year	Percentage
2022	35%
2021	31%
2020	29%
2019	26%
2018	28%
2017	30%
2016	26%

- We believe variation is a result of the mix of respondents and the limited number of responses



Information on Companies in Study

- NAIC Data extracts included:
 - 2021: 766 companies
 - 2020: 771 companies
- Total ordinary policies issued saw a modest increase of 3.1% (312k) in 2021 after having been relatively flat for the previous two years.
- Face amount issued increased by 6.9% over the prior year, which was an increase compared to the 2.6% from last year, but more in line with the 6.1% from the year before that.
- The final companies used in the GRET calculation was 382, an increase of 7 from the previous year.





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S

TO: Reggie Mazyck, ASA, MAAA, Life Actuary, LATF Support
FROM: Pete Miller, ASA, MAAA, Experience Study Actuary, Society of Actuaries (SOA) Research Institute
Tony Phipps, Chair, SOA Research Institute Committee on Life Insurance Company Expenses
DATE: July 23, 2022
RE: 2023 Generally Recognized Expense Table (GRET) – SOA Research Institute Analysis

Dear Mr. Mazyck:

As in previous years, the Society of Actuaries Research Institute expresses its thanks to NAIC staff for their assistance and responsiveness in providing Annual Statement expense and unit data for the 2023 GRET analysis for use with individual life insurance sales illustrations. The analysis is based on expense and expense related information reported on companies' 2020 and 2021 Annual Statements. This project has been completed to assist the Life Actuarial Task Force (LATF) in its consideration of potential revisions to the GRET that could become effective for calendar year 2023. This memo describes the analysis and resultant findings.

NAIC staff provided Annual Statement data for life insurance companies for calendar years 2020 and 2021. This included data from 771 companies in 2020 and 766 companies in 2021. This decrease resumes the trend of small decreases from year to year. Of the total companies, 382 were in both years and passed the outlier exclusion tests and were included as a base for the GRET factors (375 companies passed similar tests last year).

APPROACH USED

The methodology for calculating the recommended GRET factors based on this data is similar to that followed the last several years. The methodology was last altered in 2015. The changes made at that time can be found in the recommendation letter sent to LATF on July 30, 2015¹.

To calculate updated GRET factors, the average of the factors from the two most recent years (2020 and 2021 for those companies with data available for both years) of Annual Statement data was used. For each company an actual-to-expected ratio was calculated. Companies with ratios that fell outside predetermined parameters were excluded. This process was completed three times to stabilize the average rates. The boundaries of the exclusions have been modified from time to time; however, there were no adjustments made this year. Unit expense seed factors (the seeds for all distribution channel categories are the same), as shown in Appendix B, were used to compute total expected expenses. Thus, these seed factors were used to implicitly allocate expenses between acquisition and maintenance expenses, as well as among the three acquisition expense factors (on a direct of ceded reinsurance basis).

Companies were categorized by their reported distribution channel (four categories were used as described in Appendix A included below). There remain a significant number of companies for which no distribution channel was provided, as no responses to the annual surveys have been received from those companies. The characteristics of these companies vary significantly, including companies not currently writing new business or whose major line of business is not individual life insurance. Any advice or assistance from LATF in future years to increase the response rate to the surveys of companies that submit Annual Statements in order to reduce the number of companies in the "Other" category would be most welcomed. The intention is to

¹ <https://www.soa.org/Files/Research/Projects/research-2016-gret-recommendation.pdf>



continue surveying the companies in future years to enable enhancement of this multiple distribution channel information.

Companies were excluded from the analysis if in either 2020 or 2021 (1) their actual to expected ratios were considered outliers, often due to low business volume, (2) the average first year and single premium per policy were more than \$40,000, (3) they are known reinsurance companies or (4) their data were not included in the data supplied by the NAIC. To derive the overall GRET factors, the unweighted average of the remaining companies’ actual-to-expected ratios for each respective category was calculated. The resulting factors were rounded, as shown in Table 1.

THE RECOMMENDATION

The above methodology results in the proposed 2023 GRET values shown in Table 1. To facilitate comparisons, the current 2022 GRET factors are shown in Table 2. Further characteristics of the type of companies represented in each category are included in the last two columns in Table 1, including the average premium per policy issued and the average face amount (\$000s) per policy issued.

To facilitate comparisons, the current 2022 GRET factors are shown in Table 2. Further characteristics of the type of companies represented in each category are included in the last two columns in Table 1, including the average premium per policy issued and the average face amount (\$000s) per policy issued.

TABLE 1
 PROPOSED 2023 GRET FACTORS, BASED ON AVERAGE OF 2019/2020 DATA

DESCRIPTION	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Companies Included	Average Premium Per Policy Issued During Year	Average Face Amt (000) Per Policy Issued During Year
Independent	\$180	\$1.00	45%	\$54	141	3,073	204
Career	203	1.10	51%	61	84	2,296	197
Direct Marketing	197	1.10	49%	59	21	899	57
Niche Marketing	147	0.80	37%	44	30	507	14
Other*	153	0.90	39%	46	106	853	72
* Includes companies that did not respond to this or prior year surveys					382		

TABLE 2
 CURRENT 2022 GRET FACTORS, BASED ON AVERAGE OF 2017/2019 DATA

Description	Acquisition per Policy	Acquisition per Unit	Acquisition per Premium	Maintenance per Policy	Companies Included	Average Premium Per Policy Issued During Year	Average Face Amt (000) Per Policy Issued During Year
Independent	\$183	\$1.00	46%	\$55	142	3,252	194
Career	212	1.20	53%	64	77	2,327	197
Direct Marketing	200	1.10	50%	60	23	875	72
Niche Marketing	151	0.90	37%	45	24	517	13
Other*	139	0.80	35%	42	109	786	70
* Includes companies that did not respond to this or prior year surveys					375		



In previous recommendations, an effort was made to reduce volatility in the GRET factors from year-to-year by limiting the change in GRET factors between years to about ten percent of the prior value. The changes from the 2022 GRET were reviewed to ensure that a significant change was not made in this year's GRET recommendation.

All GRET factors for the other distribution channel category experienced a change greater than ten percent so the factors for these lines were capped at this ten percent level (or slightly above 10% due to rounding of the factor) from the corresponding 2022 GRET values. The volatility occurred due to incorrect NAIC data for 2018 for some companies, which caused their actual to expected ratios to be considered outliers and they were not included in the calculation. This resulted in lower final 2022 GRET factors and subsequently the same for the 2023 recommendation. Over the next one to three years, the ten percent cap will allow this difference to be graded in so calculated GRET will be used for the final recommended GRET factors.

USAGE OF THE GRET

This year's survey, responded to by companies' Annual Statement correspondent, included a question regarding whether the 2022 GRET table was used in its illustrations by the company. Last year, 31% of the responders indicated their company used the GRET for sales illustration purposes, with similar percentage results by size of company; this contrasted with about 29% in 2020. This year, 35% of responding companies indicated that they used the GRET in 2022 for sales illustration purposes. The range was from 33% for Career and Niche Marketing to 43% for Independent. No companies in Career or Other used GRET. Based on the information received over the last several years, the variation in GRET usage appears to be in large part due to the relatively small sample size and different responders to the surveys.

We hope LATF finds this information helpful and sufficient for consideration of a potential update to the GRET. If you require further analysis or have questions, please contact Pete Miller at 847-706-3566.

Kindest personal regards,

A handwritten signature in black ink that reads "Pete J. Miller".

Pete Miller, ASA, MAAA
Experience Study Actuary
Society of Actuaries Research Institute

A handwritten signature in black ink that reads "Tony Phipps".

Tony Phipps, FSA, MAAA
Chair, SOA Research Institute Committee on
Life Insurance Company Expenses



APPENDIX A -- DISTRIBUTION CHANNELS

The following is a description of distribution channels used in the development of recommended 2022 GRET values:

1. Independent – Business written by a company that markets its insurance policies through an independent insurance agent or insurance broker not primarily affiliated with any one insurance company. These agencies or agents are not employed by the company and operate without an exclusive distribution contract with the company. These include most PPGA arrangements.
2. Career – Business written by a company that markets insurance and investment products through a sales force primarily affiliated with one insurance company. These companies recruit, finance, train, and often house financial professionals who are typically referred to as career agents or multi-line exclusive agents.
3. Direct Marketing – Business written by a company that markets its own insurance policies direct to the consumer through methods such as direct mail, print media, broadcast media, telemarketing, retail centers and kiosks, internet, or other media. No direct field compensation is involved.
4. Niche Marketers – Business written by home service, pre-need, or final expense insurance companies as well as niche-market companies selling small face amount life products through a variety of distribution channels.
5. Other – Companies surveyed were only provided with the four options described above. Nonetheless since there were many companies for which we did not receive a response (or whose response in past years' surveys confirmed an "other" categorization (see below), values for the "other" category are given in the tables in this memo. It was also included to indicate how many life insurance companies with no response (to this survey and prior surveys) and to indicate whether their exclusion has introduced a bias into the resulting values.



APPENDIX B – UNIT EXPENSE SEEDS

The expense seeds used in the 2014 and prior GRETs were differentiated between branch office and all other categories, due to the results of a relatively old study that had indicated that branch office acquisition cost expressed on a per Face Amount basis was about double that of other distribution channels. Due to the elimination of the branch office category in the 2015 GRET, non-differentiated unit expense seeds have been used in the current and immediately prior studies.

The unit expense seeds used in the 2022 GRET and the 2021 GRET recommendations were based on the average of the 2006 through 2010 Annual SOA expense studies. These studies differentiated unit expenses by type of individual life insurance policy (term and permanent coverages). As neither the GRET nor the Annual Statement data provided differentiates between these two types of coverage, the unit expense seed was derived by judgment based this information. The following shows the averages derived from the Annual SOA studies and the seeds used in this study. Beginning with the 2020 Annual Statement submission this information will become more readily available.

2006-2010 (AVERAGE) CLICE STUDIES:

	Acquisition/ Policy	Acquisition/ Face Amount (000)	Acquisition/ Premium	Maintenance/ Policy
Term				
Weighted Average	\$149	\$0.62	38%	\$58
Unweighted Average	\$237	\$0.80	57%	\$76
Median	\$196	\$0.59	38%	\$64
Permanent				
Weighted Average	\$167	\$1.43	42%	\$56
Unweighted Average	\$303	\$1.57	49%	\$70
Median	\$158	\$1.30	41%	\$67

CURRENT UNIT EXPENSE SEEDS:

	Acquisition/ Policy	Acquisition/ Face Amount (000)	Acquisition/ Premium	Maintenance/ Policy
All distribution channels	\$200	\$1.10	50%	\$60



SOCIETY OF ACTUARIES RESEARCH UPDATE TO LATF

August 8, 2022

R. DALE HALL, FSA, MAAA, CERA, CFA
Managing Director of Research

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Mortality Improvement Survey Report

- 35 companies/groups participating
- Goals:
 - Reactions to the COVID-19 Pandemic
 - Examine mortality improvement practices as of year-end 2021 with respect to life insurance and annuity pricing and financial projections



Mortality Improvement Survey Report

- Key Takeaways
 - Mortality improvement factors used in 2021 are generally lower than 2018 for both life and annuity products when comparing across comparable companies
 - Updates to mortality improvement factors are more likely in near term than in later years
 - Companies that adjust durational mortality improvement factors tend to differentiate based on attained age, sex, duration and calendar year; less differentiation for smoking status and risk class



Mortality Improvement Survey Report

Overview of Select Summary Statistics

Mortality Improvement Survey Question	Pricing Life	Pricing Annuities	Financial Projections Life	Financial Projections Annuities
Average Minimum Annual Improvement Rate	0.08	0.10	0.11	0.09
Average Maximum Annual Improvement Rate	1.48	1.41	1.54	1.41



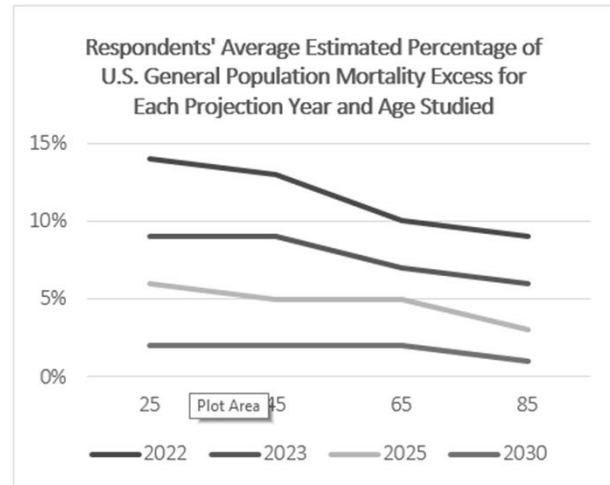
COVID-19 and the Short-Term Impact on Future U.S. Mortality

- Expert Opinion Survey of key actuaries and related medical / demographic professionals
- Opinions of excess population and insured mortality in 2022, 2023, 2025 and 2030 using 2019 mortality as a baseline
- 59 responses to survey



COVID-19 and the Short-Term Impact on Future U.S. Mortality

- Key results
- Excess mortality expected to continue for U.S. population in near term, but declining over time



COVID-19 and the Short-Term Impact on Future U.S. Mortality

- Key results
- Excess population mortality expected to be higher than for the insured, annuitant and pension plan populations
- Non-COVID-19 causes of death to contribute more to excess mortality than COVID-19 for younger ages. For older ages, COVID-19 expected to drive excess mortality
- Mortality from cardiovascular disorders, cancer and drug overdose mortality expected to deteriorate due of COVID era impact / long COVID in coming years





Additional Life Research

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Experience Studies

Project Name	Objective	Link/Expected Completion Date
Individual Life Cause of Death Study	Prepare a cause of death study for individual life insurance.	https://www.soa.org/resources/research-reports/2022/cause-of-death/
COVID-19 Individual Life Mortality Study - Experience Study Report - 2021 Q2	Complete a mortality study assessing the impact of COVID-19 on Individual Life Insurance.	https://www.soa.org/resources/experience-studies/2022/us-ind-life-covid-q2/
COVID-19 Reported Claims Analysis - 4Q 2021	Complete a research study reviewing Covid-19 reported deaths by quarter.	https://www.soa.org/resources/experience-studies/2022/us-ind-life-covid-q4/
Individual Life Waiver of Premium Study	Review mortality and lapse experience where waiver of premium provisions apply.	https://www.soa.org/resources/experience-studies/2022/llwop-study/
COVID-19 Individual Life Mortality Study - Experience Study Report - 3Q 2021	Complete a mortality study assessing the impact of COVID-19 on Individual Life Insurance.	https://www.soa.org/resources/experience-studies/2022/us-ind-life-covid-mort-q3/
COVID-19 Reported Claims Analysis - 1Q 2022	Draft a research study reviewing Covid-19 reported deaths by quarter.	7/27/2022
Old Age Mortality Study	Complete a study of old age mortality on Individual Life Insurance	7/29/2022
Economic Scenario Generator - 2022 Update	Update the AAA Economic Scenario Generator Annually.	7/30/2022
2000-2020 U.S. Historical Population Mortality Rates	Publish unsmoothed SSA-Style historical mortality rates for 2000-2020.	7/31/2022
2009-2015 Individual Life Experience Committee Lapse and Mortality Study	Study mortality and lapse experience in the database of 2009-2015 individual life experience data and release a report with the findings.	8/5/2022
GRET for 2023	Develop the Generally Recognized Expense Table (GRET) for 2023.	8/9/2022
Covid-19 Cause of Death Study - 3Q 2021 Update	Prepare a cause of death study for individual life insurance.	8/10/2022
Group Life COVID-19 Mortality Survey Update - Report	Complete an update on a mortality study assessing the impact of COVID-19 on Group Life Insurance.	8/15/2022
2014-19 Individual Payout Annuity Experience Study - Report	Examine the mortality experience from 2014-19 under individual payout annuity contracts.	10/31/2022
2011-2015 Deferred Annuity Mortality Study	Examine the mortality experience from 2011-2015 in deferred annuity contracts and release a report with the findings and a database with the experience data.	11/30/2022



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Practice Research & Data Driven In-house Research

Project Name	Objective	Link/Expected Completion Date
2022 MIM-2021 update	Update MIM-2021 based on user feedback.	https://www.soa.org/resources/research-reports/2021/mortality-improvement-model/
Expert Opinion on Impact of COVID-19 on Future Mortality	Survey panel of experts on short and mid term thoughts on future population and insured mortality.	7/29/2022
Maternal Mortality	Study maternal mortality in U.S. and compare to other countries.	7/30/2022
2021 Emerging Risks Survey-Applicability Report	Provide analysis of the applicability of the 2021 Emerging Risk Survey.	8/10/2022
2021 Emerging Risks Survey-Report	Tracks the trends and thoughts of risk managers on emerging risks across time.	8/10/2022
Mortality and Mental Illness	Examine the impact on mortality of mental illness during the COVID-19 pandemic.	8/15/2022
2022 Mortality Improvement Company Survey	Survey life insurers and annuity companies to see how mortality improvement assumptions have changed in light of COVID.	8/20/2022
Mortality Improvement Trends Analysis	Identify how mortality improvement varies by driver.	8/31/2022
ALM Practices	Conduct a survey of current ALM practices focused on various life insurance company products with attention paid to issues such as general account vs. separate account product distinctions.	9/30/2022
International Comparison of Regulatory Requirements Study Note; 2021.08	Capital Adequacy Regulatory Requirements in Life Insurance across 4 key models in the US, Canada, EU and Bermuda.	9/30/2022
Unhealthy Longevity	Examine differences in mortality/longevity between impaired vs healthy lives.	9/30/2022



Future Mortality Improvement Scale Development (VM-20) 2022 HMI and FMI Recommendations



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Mortality Improvements Life Work Group (MILWG),
SOA Mortality and Longevity Oversight Advisory Council (MLOAC)

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Life Actuarial Task Force (LATF) Meeting—August 8-9, 2022

Agenda

- ❑ Items addressed in the 2022 scale recommendation
- ❑ Mortality/Mortality Improvement (MI) Industry Group—
Principles for COVID-19 Impact on Valuation Mortality/Longevity
Assumptions
- ❑ Recommendation for 2022 Historical Mortality Improvement
(HMI) and Future Mortality Improvement (FMI) scales
- ❑ Next steps

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Items addressed in 2022 scale recommendation

Develop HMI and FMI scales for use in 2022 valuation year.

The 2022 recommendations include:

- ▣ Reflecting COVID-19 impacts for HMI and FMI
- ▣ FMI margin

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Mortality/MI Industry Group - COVID-19 Impact

- ▣ Group representing members of the American Academy of Actuaries (“Academy”), the Society of Actuaries, and members of the National Association of Insurance Commissioners (NAIC), Life Actuarial (A) Task Force (LATF).
- ▣ Convened in January 2022.
- ▣ Focused on developing a set of consistent principles to be considered in reflecting the impact of COVID-19 in mortality and longevity valuation work.

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Industry Group Principles

Valuation mortality assumption should represent:

“the expected ongoing mortality level” over the full period of the reserve projection.

Therefore, the basic valuation mortality and MI assumption

- Should not reflect the full initial shock of the pandemic on mortality as an ongoing event
- Should reflect expected ongoing impacts

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HMI Recommendation: Apply Standard Methodology with Full COVID Impact for 2020

Change from 7/7/22 LATF Call Discussion

- Interim approach
- Standard longer term approach for COVID-19 impact will be considered in 2023 subgroup work along with additional data

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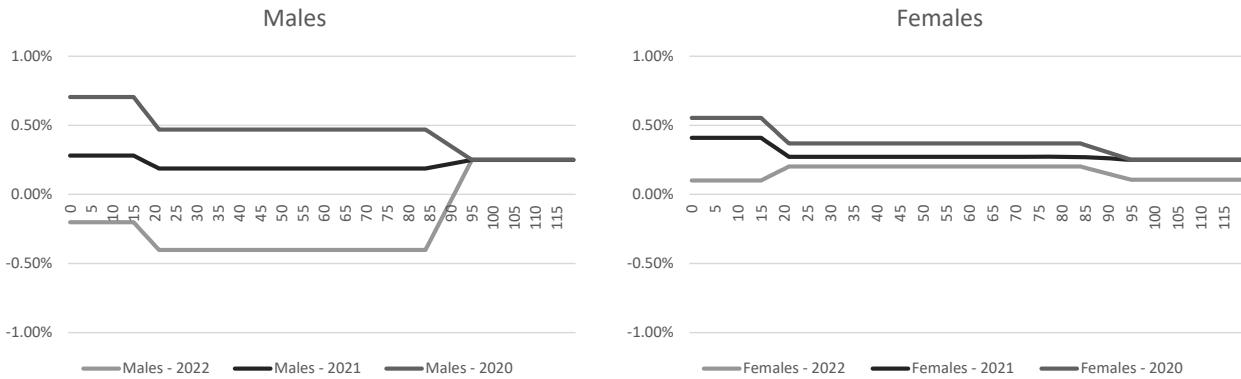


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HMI 2022 Recommended Scale

Change from 7/7/22 LATF Call Discussion



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FMI Recommendation:

Apply approved methodology with additional temporary COVID-19 margin

- Basic FMI
 - Grade from 2022 HMI to long-term (LT) MI level based on Social Security Administration (SSA) Alt 2 Intermediate Projection (2022 Trustees Report)
- General Margin
 - Reduce improvement by 25% or
 - Increase deterioration by 25%
- Short term additional COVID-19 Margin
 - 25% grading down to zero over 5 years

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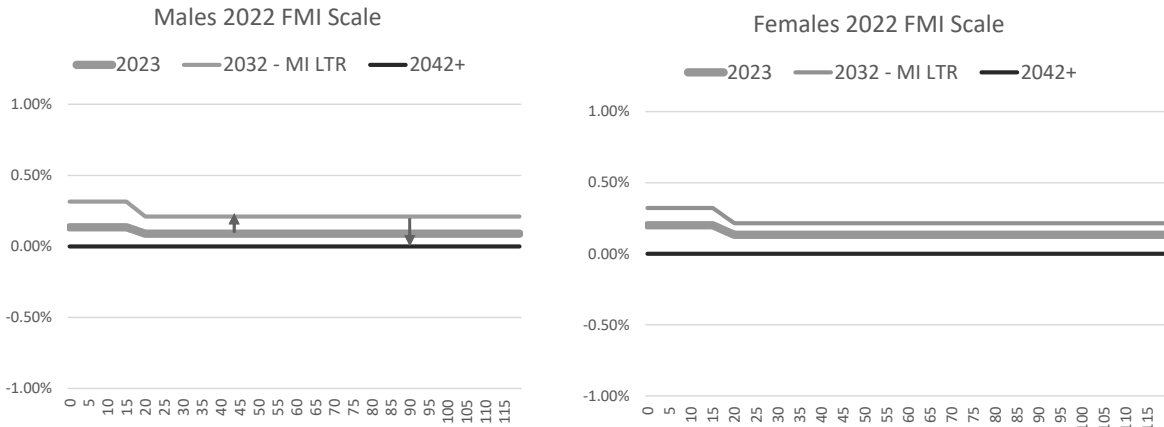


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FMI 2022 Recommended Scale (with margins)



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Additional Considerations

- Insured population mortality materially lower than general population mortality
 - ▣ Insured population is generally in higher socioeconomic categories
 - ▣ Lower mortality and higher mortality improvement seen in higher socioeconomic categories (implicit margin in our recommendations)
- MI improvement scale annual updates should not create reserve volatility
- Individual companies should also consider their own business and make appropriate additional adjustments

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Reserve Impact - NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the yearly renewable term (YRT) representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model
- Combined model office

Component	Values
Issue ages	Decennial issue ages 30 – 70
Gender	Male Female
Risk classes	Preferred non-tobacco Standard non-tobacco Standard tobacco
Face bands	Low (\$250,000) High (\$1,000,000)

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Reserve Impact Results

Change from 7/7/22 LATF Call Discussion

	\$\$ Deterministic Reserve	% change in starting reserve
Baseline: HMI: 2021 HMI recommendation FMI: no FMI	1,895,591	
Illustrative Only: HMI: apply standard methodology - include full COVID shock impact FMI: no FMI	2,029,821	+ 7.1%
2022 HMI and FMI Recommendation: HMI: apply standard methodology - include full COVID shock impact FMI: grade to LTR with margin for general uncertainty <u>plus</u> margin for uncertainty in COVID impact	1,882,679	- 0.68%

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2023 Plan

- ❑ Revisit HMI historical component calculation method in light of recent and expected experience
- ❑ Review applicability of MI scale methodology for 2008 VBT Limited Underwriting (LU) table
- ❑ Insured vs. general population MI recommendation
- ❑ Revisit smoothing and margin structure

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Questions?

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Appendix

Mortality/Mortality Improvement Principles



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These principles are consistent with international views on mortality projection and COVID-19 impacts...

- Social Security Administration 2022 Trustees Report **MS5**
 - “Projected death rates for years after 2023 are unchanged from the levels that would have been projected in the absence of the pandemic, under the assumption that increased deaths from the residual effects of living through the pandemic (both physiological and psychological) will be roughly offset by decreased deaths that instead happened sooner (during the pandemic).”
- Continuous Mortality Investigation (CMI) Mortality Projections Committee
 - “If we gave full weight to 2020 data ... the reduction in life expectancy would have been in excess of what most users of the model would consider reasonable.”
 - CMI_2021 incorporates mortality data to 31 December 2021
 - 2020 and 2021 data is given 0% weight in the Core version – Consistent with approach for CMI_2020 supported by consultation – Data for 2020 and 2021 is unlikely to be indicative of future trends – Using 100% weight for 2020 and 2021 data would lead to excessive falls in life expectancy
- Mortality projections for Social Security Programs in Canada (Actuarial Studies No. 22 and 23)

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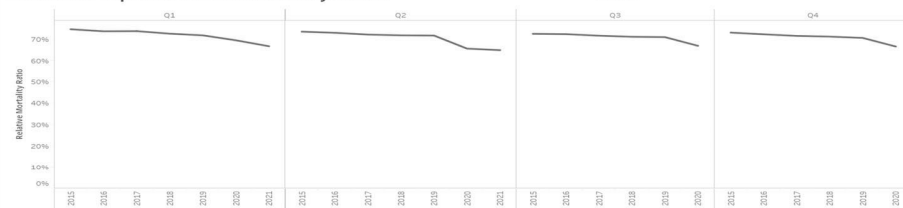
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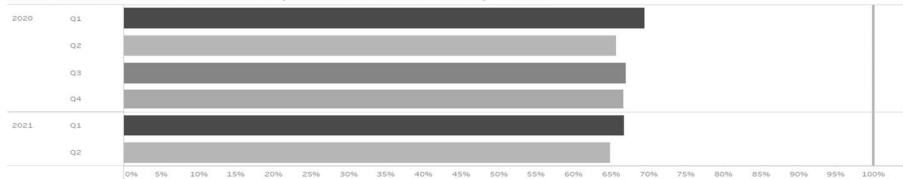
Mortality Rates: Ratio of Insured Mortality to General Population

Actual and Expected Relative Mortality Ratios



Implicit margin **MS6**
exists in using
general
population as
basis for the
MI scale
development.

2020 & 2021 Ratio of Actual to Expected Relative Mortality Ratios



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Source: COVID-19 Mortality Study: Analytics – 2020 Q1- 2021 Q2 –
SOA, LIMRA, RGA, TAI
Actual = Insured, Expected = General Population



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Slide 17

MS5 Suggest adding link - <https://www.ssa.gov/OACT/TR/2022/tr2022.pdf>
Matthew Sonduck, 8/5/2022

Slide 18

MS6 Adjusted text box on the right to fix strange formatting seperating "development" and
":"
Matthew Sonduck, 8/5/2022

Approach for Smoothing (HMI and FMI)

- By age
- Use same approach for 2022 as past years
 - ▣ Ages 0-15 = 1.5 x adult average improvement/deterioration
 - ▣ Ages 16-20 = Grade to adult average
 - ▣ Ages 21-84 = Assumed adult average
 - ▣ Ages 85-94 = Grade to ultimate level of at 95
 - ▣ Ages 95+ = 0.1%

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Appendix

NAIC Model Office: Background Information

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FMI - Reserve Impact Estimates

NAIC Model Office

- Universal Life with Secondary Guarantees (ULSG) focus—long-duration product, larger potential for reserve reduction
 - ▣ Model office and assumptions same as used in the YRT representative model analysis
 - ▣ Lifetime shadow account secondary guarantee
 - ▣ No reinsurance in the model
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Component	Values
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Gender	Male Female
Risk classes	Preferred non-tobacco Standard non-tobacco Standard tobacco
Face bands	Low (\$250,000) High (\$1,000,000)

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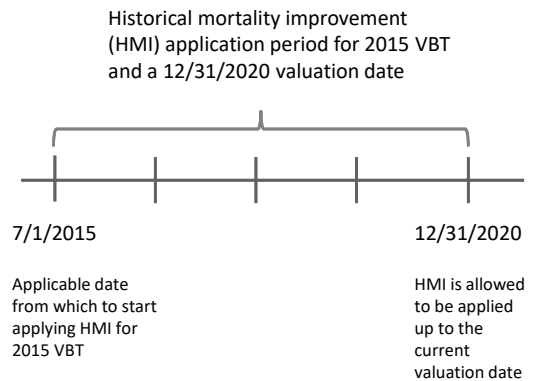


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Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

- The 2021 and prior versions of VM-20 prohibited including FMI in the calculation of deterministic and stochastic reserves, while allowing the mortality assumption to be improved up to the valuation date using a historical mortality improvement (HMI) assumption developed by the MILWG.
- An **“exact” approach** to including FMI in the calculation of deterministic and stochastic reserves would utilize the MILWG’s HMI assumption to bring the mortality table up to the valuation date and then apply the separate FMI assumptions beyond the valuation date.



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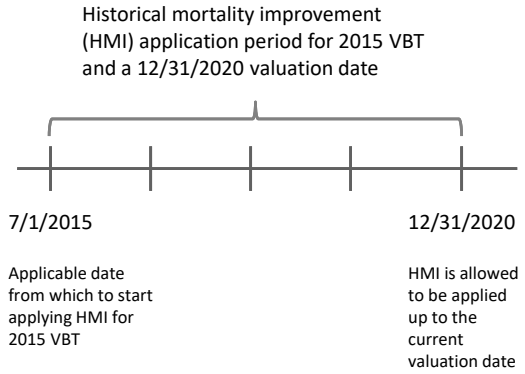
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Reserve Impact Estimates

Future Mortality Improvement Assumption Model Implementation

A modeling simplification was employed that utilized the new MILWG FMI assumption as both HMI and FMI in the deterministic reserve projection.

This simplification allows for the impact of including FMI in current and future deterministic reserve calculations to be quantified.





Industry Experience Studies Partnership
August 8, 2022



A Powerful Industry Partnership

In 2021, LIMRA and the SOA Research Institute entered into a partnership to support the industry with a **comprehensive program of industry experience studies**.

This program will provide timely, consistent, and comprehensive releases of industry experience data — providing you with the necessary tools for addressing **product development, pricing, and regulatory strategies**.



Together, We have Unmatched Breadth & Depth of Experience

Expertise

We are both associations dedicated to this industry, with a long history of conducting large data-intensive efforts

Trust

Strong reputation for unbiased research, analysis, and industry relationships

Value

Together we provide unparalleled value while delivering cost-effective insights



Benefits to Participants



Credible, robust, benchmarking, and strong industry representation:
70% market participation is typical



Comprehensive and timely: updates of industry data on a regularly published schedule



Detailed and deeper analytics: to support product development, inforce management, reserving, and growth strategies



Robust Reporting Options

Standard Data Package

- Executive Summary Dashboard highlighting key findings and top-line analysis
- Detailed report presenting results and analysis of key findings
- Access to an aggregated industry level dataset for further analysis by companies
- Individualized presentation by SOA and LIMRA of your own company results and a discussion of the relationship to industry

Premium Data Package

- Standard Data Package plus...
- Customized tools for participating companies' own analysis
- Including predictive modeling and Artificial Intelligence methods



* Non participants are defined as companies or organizations that do not provide data for the study analysis.
+ per study

Robust Reporting Options

Standard Data Package

\$10-\$15K for participants+
\$30-\$60K for non participants*+

- Executive Summary Dashboard highlighting key findings and top-line analysis
- Detailed report presenting results and analysis of key findings
- Access to an aggregated industry level dataset for further analysis by companies
- Individualized presentation by SOA and LIMRA of your own company results and a discussion of the relationship to industry

Premium Data Package

\$20-\$35K for participants+
\$45-\$85K for non participants*+

- Standard Data Package plus...
- Customized tools for participating companies' own analysis
- Including predictive modeling and Artificial Intelligence methods



* Non participants are defined as companies or organizations that do not provide data for the study analysis.
+ per study

Wide Breadth of Studies

Product Line	2022	2023	2024 (preliminary)	2025 (preliminary)
Retail Annuity	FIA Contract Behavior VA Contract Behavior Income Annuity (Payout) Study	FIA Contract Behavior VA Contract Behavior Fixed Rate Annuity (lapse/surrender)	FIA Contract Behavior VA Contract Behavior Fixed Rate Annuity Mortality	FIA Contract Behavior VA Contract Behavior Income Annuity (Payout) Study Structured Settlement Annuity Study
Retail Life Insurance	UL and VUL Flexible Premium - Premium Persistence	UL and VUL Flexible Premium - Premium Persistence Term Conversion Study	UL and VUL Flexible Premium – Premium Persistence Individual Life (lapse/surrender) Individual Life Post Level Term	UL and VUL Flexible Premium – Premium Persistence Individual Life (lapse/surrender)
Disability Insurance		Disability Income Claims, Mortality, Lapse LTC Claims, Mortality, Lapse	Critical Illness and LTC on Life	LTC Claims, Mortality, Lapse
Pension	Private Pension Mortality Public Pension Mortality			
Workplace		Group Annuity Mortality Group Life Mortality Study Group Long-term Disability		



Studies to Be Completed in 2022



Payout Annuities

- Data call sent in Sept 2021
- Study to be completed November 2022



Fixed Indexed Annuities

- Data call sent in February 2022
- Study to be completed December 2022



Life Practice Council Update

Ben Slutsker, MAAA, FSA
Vice President, Life Practice Council



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Life Actuarial Task Force (LATF) Meeting—August 7, 2022

Webinars and Events

- Recent
 - ASOP No. 2 Webinar related to Nonguaranteed Elements (April 5)
 - Life Policy Update Webinar (May 4)
 - ASOP No. 11 Webinar on Reinsurance (May 12)
- Upcoming
 - ASOP No. 22 Webinar related to Asset Adequacy Testing—
The Revised ASOP No. 22: What You Need to Know (July 28)
 - American Academy of Actuaries Annual Meeting (Nov 2-3)
 - Webinar on VM-31 PBR Actuarial Report Reviews (Fall 2022)
 - Webinar on VM-22 Updates (Fall 2022)

2



Recent Activity

- Presented recommendations for C-2 mortality factors to the NAIC’s Life Risk-Based Capital (E) Working Group
 - The Working Group ultimately adopted an alternative version based on the Academy’s proposal
- Proposed an amendment proposal form to LATF on transitioning from LIBOR to SOFR (APF 2022-04)
 - Also submitted subsequent follow-up letters to provide support and input on the transition, leading up to the adoption of the amendment

3



Recent Activity (continued)

- Published a “COVID-19 in Life Insurance Mortality Improvement” Discussion Brief
- In collaboration with the Society of Actuaries Research Institute provided future mortality improvement scale development
- Developed a document that summarizes sources of information on Life Insurance COVID-19 mortality

4



Recent Activity (continued)

- Submitted comments to LATF on high yielding asset actuarial guideline for asset adequacy analysis
- Shared a comment letter with the Index-Linked Variable Annuity (A) Subgroup on the nonforfeiture interim value actuarial guideline exposure
- Developed a C-3 Phase I template for the upcoming economic scenario generator field test
- Gave a presentation to the NAIC VM-22 Subgroup on an overview of longevity reinsurance transactions

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Ongoing Activities

- Developing fixed annuity principle-based approach joint field study for non-variable annuities in coordination with the NAIC and ACLI
- Providing input on economic scenario generator transition and field study
- Updating the practice note on life insurance illustrations and starting a practice note on non-guaranteed elements
- Continuing to provide comments and ideas on active LATF issues

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Thank You

- Questions?
- For more information, please contact the Academy's policy analyst Life, Amanda Barry-Moilanen, at barrymoilanen@actuary.org.

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Economic Scenario Generator (ESG) Stylized Facts for Equities

Jason Kehrberg, MAAA, FSA
Chairperson, Economic Scenario Generator Work Group (ESGWG)

Link Richardson, MAAA, FSA, CERA
Chairperson, Field Test Subgroup of ESGWG (FTSG)

Henry Yim, MAAA, FSA, CFA
Member, Economic Scenario Generator Work Group (ESGWG)



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National Association of Insurance Commissioners (NAIC) Life Actuarial (A) Task Force (LATF)
August 9, 2022

Agenda

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1. Background, framework, and purpose
2. Overview of equity stylized facts
3. Detail on each equity stylized fact
4. Questions and next steps

2



1. Background, framework, and purpose



Our goal today is to present equity stylized facts and hear feedback so the ESGWG can begin work to develop equity acceptance criteria

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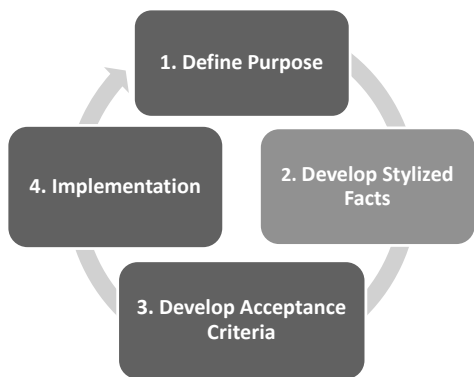
- The charge for the Academy’s Economic Scenario Generator Work Group (ESGWG) is to help ensure a smooth transition from the currently prescribed ESG (i.e., the Academy Interest Rate Generator or AIRG) to the NAIC’s new ESG developed by Conning.
- LATF has requested the ESGWG assist with developing and proposing formal acceptance criteria for use in validating scenarios produced by the NAIC’s new ESG.
- As discussed in our presentation on “A Framework for Developing, Evaluating, and Implementing an ESG”:
 - A comprehensive set of *qualitative* stylized facts is a key prerequisite for model selection and the development of acceptance criteria.
 - A comprehensive set of *quantitative* acceptance criteria is key to making objective, timely, and actionable decisions on scenario sets produced by an ESG and helps ensure the ESG is performing in line with agreed upon stylized facts.

4



Framework for developing, implementing, and evaluating ESGs and the scenario sets they produce

5



- **1. Define Purpose:** The intended purpose of the ESG informs the stylized facts and their relative importance.
- **2. Develop Stylized Facts:** Equity stylized facts describe properties of equity returns observed in capital markets that should be reflected in sets of economic scenarios given the defined purpose. **The establishment of stylized facts is critical for selecting an ESG model and a key prerequisite for the development of acceptance criteria.**
- **3. Develop Acceptance Criteria:** A set of quantitative metrics or target values at different time horizons or in different economic conditions used to ensure the scenarios it produces are consistent with agreed upon stylized facts.
- **4. Implementation:** ESG models are selected based on their ability to reflect agreed upon stylized facts, then calibrated in accordance with acceptance criteria. **This is an iterative process.** Also, it is important to periodically review and recalibrate the ESG as market conditions change over time.

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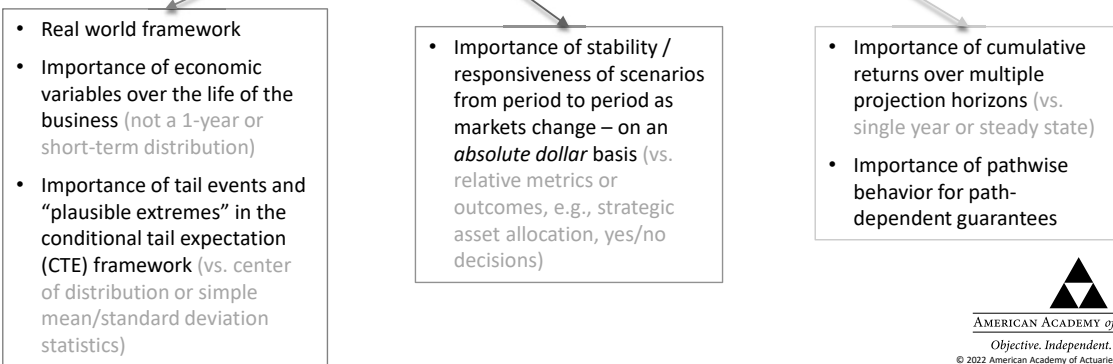
“Suitability for Purpose” considerations help inform Stylized Facts

“ESGs are a critical component of a wide range of applications used by insurers in managing the economic risks of their operations. For a given application, it is critical that the ESG be suitable and properly maintained relative to the application’s purposes.”

“The objective and purpose of the analysis to be undertaken with an ESG should dictate the techniques and modeling formulas used.”

- CAS Research Paper (<https://www.casact.org/sites/default/files/2021-02/economic-scenario-generation-conning1020.pdf>)

US Statutory Reserve & Capital Reporting for Long-Duration Life & Annuity Products



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2. Overview of equity stylized facts



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Equity Stylized Facts are a key part of the framework for developing, implementing, and evaluating ESGs

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- Equity stylized facts describe properties of equity returns observed in capital markets that should be reflected in sets of economic scenarios.
- There are several important considerations for equity stylized facts:
 - ▣ Long-term pathwise behaviors within single scenarios
 - ▣ Single-period distributions across all scenarios
 - ▣ How a set of scenarios transitions from initial market conditions to steady state equilibrium
 - ▣ Changes in the distribution from one valuation date to the next as initial market conditions change
 - ▣ The nature of the relationships between different economic variables simulated by the ESG

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It is important to consider the relative importance of stylized facts

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- ESG models differ in their ability to reflect stylized facts and no ESG model will be able to perfectly reflect all of them
- Stylized facts can be prioritized by looking to the ESG’s intended purpose
 - ▣ Stylized facts related to the **pathwise behavior of equity markets over long time horizons** should be prioritized given that long-duration life and annuity products tend to be sensitive to *cumulative* equity returns over the life of the product.
 - ▣ Stylized facts related to how scenario sets should **change as initial conditions change** should be prioritized to avoid artificial volatility one valuation date to the next is a key consideration for statutory reserves and capital.

9



Equity Stylized Facts

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1. Equity indices (indeed, all asset classes) tend to exhibit **consistent risk/reward relationships** over long time horizons.
2. Cumulative equity returns tend to exceed the compounded risk-free rate (positive **equity risk premium**) over long time horizons, but over short time horizons the equity risk premium fluctuates due to several factors and can be negative.
3. Equities **fluctuate between bull and bear markets** (bubbles tend to burst) – Markets can experience significant losses but eventually tend to **move back into positive territory** (negative cumulative equity returns become less likely over longer time horizons).
4. Cumulative equity returns **over long time horizons are not materially impacted by initial market conditions.**

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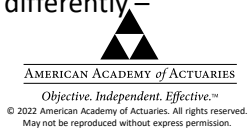


Equity Stylized Facts (cont'd)

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- 5. The **volatility of equity returns varies over time but quickly reverts to normative levels**. This allows for both extreme gains and extreme losses over short time periods (i.e., the distribution has fat tails, or **positive kurtosis**). Furthermore, the **volatility of equity returns is higher in bear markets**. This increases the probability of extreme losses relative to extreme gains (i.e., the distribution has a longer left tail, or **negative skewness**).
- 6. Equity markets contain **pathwise dynamics** over long time horizons that aren't present in the distribution of single-period returns. Future equity scenarios should have reasonable distributions of cumulative equity returns over long time horizons (e.g., 10, 20, 30 years), especially since these distributions are key to the performance of long-duration life and annuity products.
- 7. Future equity scenarios should include events that are **plausibly more extreme than history**.
- 8. Equity returns have both a **price and dividend component**, and they behave differently – Dividend returns tend to be more stable than price returns.

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3. Additional detail on each equity stylized fact



1. Equity indices (indeed, all asset classes) tend to exhibit **consistent risk/reward relationships** over longtime horizons.

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- The principle of consistent risk/reward relationships between equity indices is already a common theme in the valuation manual, often expressed in terms of the market price of risk (Sharpe ratio) or mean-variance efficiency.
- Excerpts from the 2022 valuation manual:
 - ▣ “It would generally be inappropriate to assume that a market or fund consistently outperforms (lower risk, higher expected return relative to the efficient frontier) over the long term.”
 - ▣ “One approach to establish consistent scenarios would set the model parameters to maintain a *near*-constant market price of risk. A closely related method would assume some form of mean-variance efficiency to establish consistent model parameters.”
 - ▣ “The Market Price of Risk implied in the projected fund returns when compared against the Market Price of Risk for all funds generated by the prescribed scenario generator should produce reasonable relationships.”
 - ▣ “Guidance Note: While the model need not strictly adhere to “mean-variance efficiency,” prudence dictates some form of consistent risk/return relationship between the proxy investment funds.”
 - ▣ “Recognizing the uncertainty in the data, a “corridor” could be established for the frontier. Model parameters would then be adjusted to move the proxy market (fund) inside the corridor.”

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1. Equity indices (indeed, all asset classes) tend to exhibit **consistent risk/reward relationships** over long time horizons. *(continued)*

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- The NAIC’s ESG Drafting Group has already provided some direction consistent with this stylized fact in their 3/31/21 update to the Life Actuarial (A) Task Force and the Life RBC (E) Working Group which contained the following recommendation for the field test:
 - ▣ “Apply a Sharpe-ratio approach with a 5% corridor [relative to the S&P 500 index] to set the expected returns for the [other equity indices, e.g., the] diversified international equity, aggressive international equity, and US aggressive equity indices.”
- The S&P 500 index is generally used as the reference point for other indices due to its longstanding predominance in the U.S. market; it has the a much larger historical data set than the other equity indices.

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2. Cumulative equity returns tend to exceed the compounded risk-free rate (positive **equity risk premium**) over long time horizons, but over short time horizons the equity risk premium fluctuates due to several factors and can be negative.

15

- The Equity Risk Premium (ERP) is the *expected* return on stocks less the compounded (expected) risk-free rate. It is the compensation investors require to holding risky stocks over risk-free bonds.
- The ERP fluctuates (oscillates) over short time periods.
 - ▣ The fluctuation isn't completely random, but more of an oscillation due to several factors such as cyclical effects and systematic trends.
 - ▣ It fluctuates as the business cycle changes. It tends to contract in bull markets when stock prices rise and risk aversion falls, and tends to expand in bear markets when stock prices fall and risk aversion rises.
 - ▣ It fluctuates as bond yields change. It shrinks when the return on risk-free bonds increases and grows when the yield on risk-free bonds decreases.
 - This inverse relationship (i.e., ERP contracting when rates increase and expanding when rates fall) is consistent with economic theory such as the dividend discount model, where a company's valuation (based on the present value of future dividends) falls as rates rise.
 - It is also consistent with the Fed's use of monetary policy (i.e., short term rate management) as a key tool to achieve their dual mandate of maximum employment and price stability.
 - Such relationships have also been observed in historical data.

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2. Cumulative equity returns tend to exceed the compounded risk-free rate (positive **equity risk premium**) over long time horizons, but over short time horizons the equity risk premium fluctuates due to several factors and can be negative. *(continued)*

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“Five myths about equity risk premiums

3. The equity risk premium does not change much over time: Equity risk premiums reflect both economic fundamentals and investor risk aversion and they do change over time, sometimes over very short intervals, as evidenced by what happened in the last quarter of 2008. Shocks to the system – a collapse of a large company or sovereign entity or a terrorist attack – can cause premiums to shoot up overnight. A failure to recognize this reality will lead to analyses that lag reality.”

- Equity Risk Premiums (ERP): Determinants, Estimation, and Implications – The 2021 Edition, Aswath Damodaran Stern School of Business (p. 130)

Excerpts from Academic Research

“What are the determinants of equity risk premiums?”

- *investors’ risk aversion and consumption preferences*
- *overall economic risk*
- *inflation and interest rates*
- *quality and availability of earnings information*
- *liquidity and fund flows into/out of equities*
- *potential for catastrophic risk / rare events*
- *government policies*
- *monetary policy*
- *irrational behavior”*

- Equity Risk Premiums (ERP): Determinants, Estimation, and Implications – The 2021 Edition, Aswath Damodaran (pp. 10-21)

“[The] DDM-based approach has been the only one with any real traction since the turn of the millennium....”

“[It] focuses on the expected rather than the realized ERP. This literature asserts that, like most DDM estimates, the ERP is time varying and countercyclical: The ERP is high when the market is low, and vice versa.”

- The Equity Risk Premium: A Contextual Literature Review, CFA Institute (p. 9)

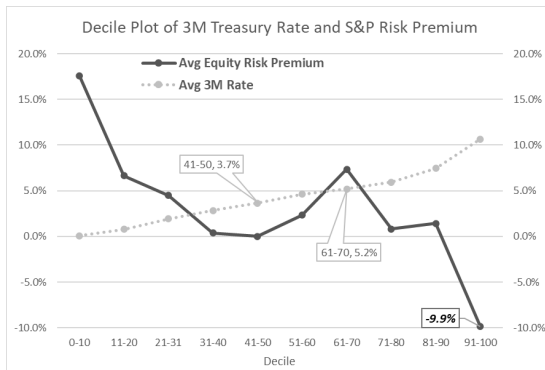
16



2. Cumulative equity returns tend to exceed the compounded risk-free rate (positive **equity risk premium**) over long time horizons, but over short time horizons the equity risk premium fluctuates due to several factors and can be negative. *(continued)*

17

- Historical data suggests an inverse (countercyclical) relationship, i.e., one that is better described by a constant mean return than a constant mean ERP.



The methodology used by the ESGWG to create this chart was to calculate monthly ERP as the monthly return on S&P 500 less their monthly average 3-month Treasury rate. The monthly ERPs were then ranked ordered by the 3-month Treasury rate and bucketed into 10 equally sized groups. The average monthly ERP for each bucket is calculated and then translated to an annual ERP.

17

- The chart to the left illustrates the range observed for the S&P 500's ERP over the 3-month Treasury rate from April 1953 to December 2020.
- The graph shows positive ERPs in the three lowest buckets and near-zero or negative ERPs in the three highest buckets.
- Note that the 3M Treasury Rate is indirectly impacted by Fed monetary policy, for example:
 - The Fed increases/decreases short-term rates to slow/stimulate economic activity in the near term and maintain long-term stability.
 - The '70s & '80s featured high rates with low ERP and equity returns while the last decade had low rates with high ERP and equity returns.
 - The Fed is currently raising Fed Fund rates to fight inflation which has had a bearish impact on equity markets as companies deal with higher borrowing costs.



2. Cumulative equity returns tend to exceed the compounded risk-free rate (positive **equity risk premium**) over long time horizons, but over short time horizons the equity risk premium fluctuates due to several factors and can be negative. *(continued)*

18

- This stylized fact is prioritized because the nature of the ERP relationship within the ESG directly affects the shape of the scenario distribution (particularly in the tails) and how scenario distributions respond changes in initial market conditions.
 - The method an ESG uses to reflect the ERP has significant implications for the behavior of equity return paths in the tail scenarios that drive U.S. statutory reserve and capital requirements.
 - The method an ESG uses to reflect the ERP also has significant implications for how scenario sets produced by the ESG change under different initial conditions, which could introduce artificial volatility into U.S. statutory reserve and capital requirements from one valuation date to the next.

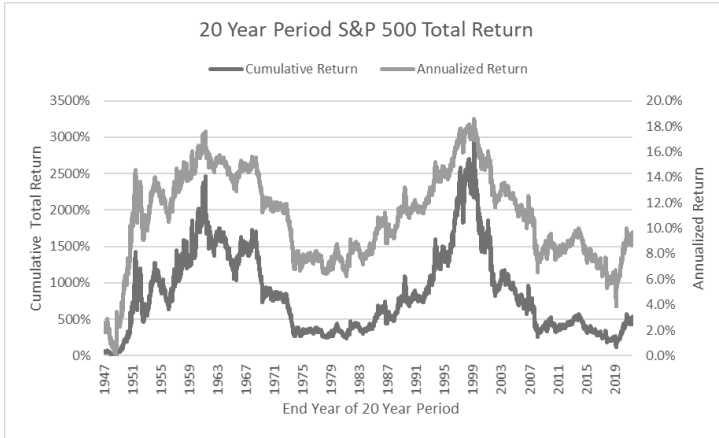
Direction on this stylized fact is key for the subsequent development of equity acceptance criteria by the ESGWG.

18



3. Equities **fluctuate between bull and bear markets** (bubbles tend to burst) – Markets can experience significant losses but eventually tend to **move back into positive territory** (negative cumulative equity returns become less likely over longer time horizons).

19



- Equity markets can and do crash, but looking at historical S&P 500 cumulative returns over 20 years suggests markets tend to move back into positive territory given enough time.
 - This chart only shows cumulative returns over a 20-year time horizon. Acceptance criteria should consider cumulative returns over multiple time horizons (e.g., 1, 5, 10, 20, 30 years).
- Future scenarios for the S&P 500 should include the possibility of negative cumulative returns over 20-year periods.
 - Even though this has not happened historically, there are relatively few non-overlapping periods to draw from.
 - Acceptance criteria will attempt to quantify the likelihood of this happening, which is informed by historical data and economic theory/models.

19



3. Equities **fluctuate between bull and bear markets** (bubbles tend to burst) – Markets can experience significant losses but eventually tend to **move back into positive territory** (negative cumulative equity returns become less likely over longer time horizons). *(continued)*

20

- The NAIC’s ESG Drafting Group has already provided direction consistent with this stylized fact
 - Per their 12/17/20 update to the Life Actuarial (A) Task Force and the Life RBC (E) Working Group:

Goal relating to the equity scenarios:

5. Equity scenarios need to reflect the possibility of a very long recovery after a period of losses

Rationale and Background: During certain periods of time after periods of recession or depression, there have been extended periods of equity market recovery. This is important to reflect in the scenarios due to the long-term nature of some insurance liabilities.

- Per their 3/31/22 update to the Life Actuarial (A) Task Force and the Life RBC (E) Working Group:

“After a recession or depression, there have been some extended periods of equity market recovery. This is important to reflect in the scenarios due to the long-term nature of some insurance liabilities.”

20



4. Cumulative equity returns *over long time horizons* are not materially impacted by initial market conditions.

21

- Over short time horizons (within a business cycle), equity returns may be impacted by initial market conditions (observables) such as recent interest rates and equity returns, current market sentiment, current point in the business cycle, and news on current dividend and cash flow yields.
- But over long time horizons (10, 20, 30+ years), changes in initial market conditions should not materially impact future expectations (cumulative equity returns).
 - ▣ Markets bouncing around during the quarter (trading fluctuations) shouldn't materially change future expectations.
 - ▣ Instead, cumulative equity returns over long time horizons are driven by fundamental factors such as future GDP and earnings growth
 - ▣ For example, equity market sell-offs often occur during periods of investor fear and uncertainty. This increases short-term market volatility but is not expected to have a significant impact on long-term GDP and earnings growth.
- If there isn't sufficiently compelling evidence to the contrary there should be not be any material procyclical or countercyclical equity return response to changes in initial market conditions.
 - ▣ Note, we are referring to changes in initial market conditions that are *not* indicative of a change in long-term trends or policies

21



4. Cumulative equity returns *over long time horizons* are not materially impacted by initial market conditions. (continued)

22

Business cycle considerations

- The Fed uses monetary policy to maintain long-term stability, so more often than not, long-term equity expectations should not change as initial market conditions change.
 - ▣ Fed actions to manage the business cycle are not likely to materially change cumulative equity return distributions beyond the current cycle.
 - ▣ For example, if the Fed raises short term rates to 3.5% to slow a heated economy, there is little reason to suddenly expect cumulative equity returns over the next 30-50 years to be significantly higher.
 - ▣ However, if the Fed changes its mandate or long-term targets (e.g., 3% instead of 2% inflation) then long-term equity expectations should change.
- The National Bureau of Economic Research (NBER) maintains data on the length of the U.S. business cycles. For the years 1945 through 2020:
 - ▣ Contractions have averaged approximately 1 year
 - ▣ Expansions have averaged approximately 5 years
 - ▣ Taken together, the full business cycle has averaged approximately 6 years
 - ▣ Source: <https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions>

22



4. Cumulative equity returns *over long time horizons* are not materially impacted by initial market conditions. (continued)

23

Do other regulatory or accounting frameworks have anything to say on this topic?

- US GAAP (countercyclical view): existing insurance accounting models (e.g., FAS 97 UL deferred acquisition costs, SOP 03-1 reserves for GMDs and life secondary guarantees)
 - ▣ A common practice is to assume that if recent equity returns (e.g., over the last 4-year period) were low, then future equity returns (e.g., over the next 4-year period) will be high (and vice versa); i.e., that the combined equity return over both periods will be consistent with long-term averages.
- Canada: excerpts from OSFI's 2012 policy paper, Evidence for Mean Reversion in Equity Prices
 - ▣ "The claim that equity returns revert to the mean over the long term is not completely unfounded, and cannot be dismissed out of hand. However, there is at least as much evidence to refute this claim as there is to support it, and there is certainly no consensus answer within the economics profession. OSFI must therefore rely on its own judgement as to whether to accept mean reversion assumptions in modeling segregated funds."
 - ▣ "Given the large reduction in segregated fund guarantee reserve and capital requirements that would result from assuming mean reversion in equity returns, it would not be prudent for OSFI to approve equity return models that are based on the assumption of mean reversion without strong evidence that mean reversion actually occurs in the market and is likely to continue in the future. The current state of research does not provide such evidence to a sufficiently high degree of certainty."

23



5. The **volatility of equity returns varies over time but quickly reverts to normative levels**. This allows for both extreme gains and extreme losses from one period to the next (i.e., the distribution has fat tails, or **positive kurtosis**). Furthermore, the **volatility of equity returns is higher in bear markets**. This increases the probability of extreme losses relative to extreme gains (i.e., the distribution has a longer left tail, or **negative skewness**).

24

- Equity return volatility should be stochastic, time varying, with strong mean reversion.
 - Equity return volatility, especially over short time periods, is driven by market sentiment and the flow of new information to the market, and where the economy is in the business cycle (economic outlook), both of which are quite unpredictable.
 - As these things change, the level of equity return volatility fluctuates and clusters (exhibits regimes of high and low volatility) over time but tends to revert to normative levels rather quickly.
- Historically, the level of equity return volatility has tended to be higher in bear markets and lower in bull markets.
 - ▣ Recently, fears of recession and prolonged inflation have caused equity return volatility to increase.

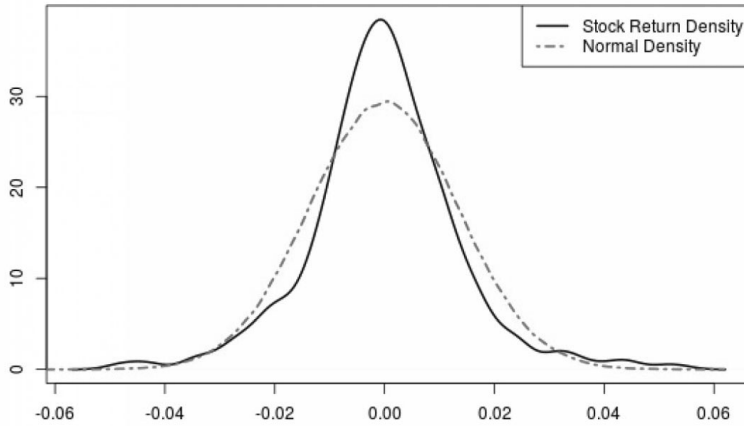
24



5. The **volatility of equity returns varies over time but quickly reverts to normative levels**. This allows for both extreme gains and extreme losses from one period to the next (i.e., the distribution has fat tails, or **positive kurtosis**). Furthermore, the **volatility of equity returns is higher in bear markets**. This increases the probability of extreme losses relative to extreme gains (i.e., the distribution has a longer left tail, or **negative skewness**). (continued)

25

- Distributions of historical equity returns (see below for an illustrative example) generally exhibit positive kurtosis and negative skewness, consistent with the volatility characteristics presented on the last slide.



25



5. The **volatility of equity returns varies over time but quickly reverts to normative levels**. This allows for both extreme gains and extreme losses from one period to the next (i.e., the distribution has fat tails, or **positive kurtosis**). Furthermore, the **volatility of equity returns is higher in bear markets**. This increases the probability of extreme losses relative to extreme gains (i.e., the distribution has a longer left tail, or **negative skewness**). (continued)

26

- Conning’s “NAIC Scenario Set Technical Documentation – Equity and Dividend Model” contains the following chart associated observations:

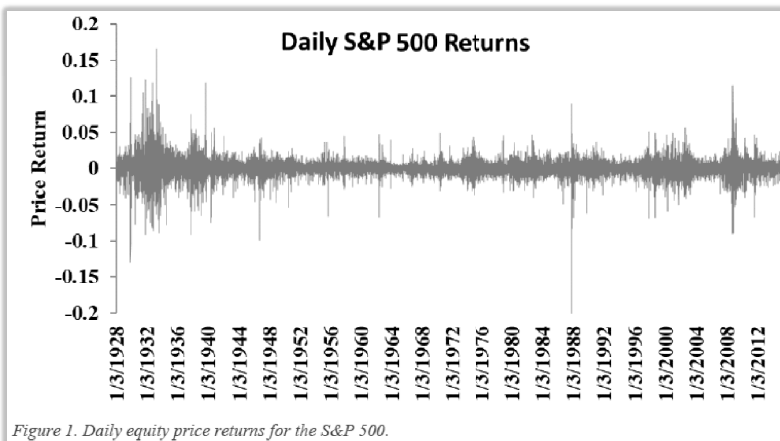


Figure 1. Daily equity price returns for the S&P 500.

Source: NAIC Scenario Set Technical Documentation (Conning)

26

- A degree of randomness or stochasticity in the price returns.
- Periods of high and low volatility which have a tendency to cluster.
- Extreme events, with the price return suddenly spiking to high positive or negative values.
- A higher frequency and a larger magnitude of extreme events during periods of high volatility.
- A higher frequency of extreme negative returns as compared to extreme positive returns.



5. The **volatility of equity returns varies over time but quickly reverts to normative levels**. This allows for both extreme gains and extreme losses from one period to the next (i.e., the distribution has fat tails, or **positive kurtosis**). Furthermore, the **volatility of equity returns is higher in bear markets**. This increases the probability of extreme losses relative to extreme gains (i.e., the distribution has a longer left tail, or **negative skewness**). (continued)

27

- The NAIC’s ESG Drafting Group has already provided direction consistent with this stylized fact
 - Per their 12/17/20 update to the Life Actuarial (A) Task Force and the Life RBC (E) Working Group:

Goal relating to the equity scenarios:

3. The equity model should have stochastic volatility and the initial volatility should be updated frequently

Rationale for this Goal: Most equity models have stochastic volatility because this allows for fatter tails in the scenario distribution. Without it, there would be little ability to produce big drops, such as the 2008 financial crisis or Black Monday.

- The NAIC’s 3/31/22 update also provided data points on normative levels of volatility:

Historical Period	Mean	Standard Deviation
1900-2003	11.8%	21.1%
3/1957-2003	11.9%	16.5%
1900 -2021	11.8%	20.4%
3/1957-2021	12%	16.2%



27

6. Equity markets contain **pathwise dynamics** over long time horizons that aren’t present in the distribution of single-period returns. Future equity scenarios should have reasonable distributions of cumulative equity returns over long time horizons (e.g., 10, 20, 30 years), especially since these distributions are key to the performance of long-duration life and annuity products.

28

- “A path represents one possible future evolution of the economy and therefore represents one possible complete future “economic experience.” The importance of pathwise model behavior is that it is the simulated path that represents the way an insurance company will experience the evolution of the economy. If the overall distribution of returns for an asset class is correct but the pathwise behavior does not correspond to the nature of the fluctuations that we see in the historical record, then the model has an issue.”
 - Source: “A User’s Guide to Economic Scenario generation in Property/Casualty Insurance” (p.12), sponsored by the Casualty Actuarial Society and Conning (2020)
- This stylized fact is critical for understanding and modeling long-term insurance liabilities
 - Long-term insurance liabilities have account values that accumulate over time, investment returns over time with cashflows, and guarantee amounts—all of which are path-dependent. At each individual point in time, it’s not the cross-sectional distribution at that point in time that matters, but the specific path taken leading up to that point in time.
- The importance of pathwise behavior in interest rates to insurance products is evident by looking at the types of scenarios present in the ubiquitous “New York 7” scenarios
 - E.g., level, pop up, pop down, up/down, down/up, delayed pop up, delayed pop down

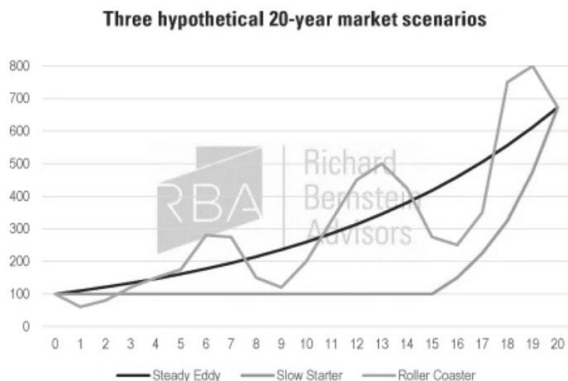


28

6. Equity markets contain **pathwise dynamics** over long time horizons that aren't present in the distribution of single-period returns. Future equity scenarios should have reasonable distributions of cumulative equity returns over long time horizons (e.g., 10, 20, 30 years), especially since these distributions are key to the performance of long-duration life and annuity products. *(continued)*

29

- An example—clearly, guaranteed amounts and resulting cash flows will differ under the three scenarios



Initial \$100 investments with different contribution rates

Market Scenarios	No additional contributions	With contributions	With contributions that keep pace with inflation
Steady Eddy	\$673	\$6,400	\$7,628
Roller Coaster	\$673	\$7,488	\$8,852
Slow Starter	\$673	\$11,640	\$14,872

Source: Richard Bernstein Advisors LLC, Bloomberg, S&P <https://www.rb advisors.com/insights/the-good-side-to-a-bad-market/>

Note: Each scenario results in 10% compounded annual returns

Note: "With contributions" assumes constant \$100 annual contributions.

"With contributions" that keep pace with inflation assumes the \$100 initial contribution grows 2.5% per year.

29



7. Future equity scenarios should include events that are **plausibly more extreme than the historical record.**

30

- "A good ESG produces some extreme but plausible outcomes, which encapsulate historical behavior but do not stray too far from market norms."
 - Source: "A User's Guide to Economic Scenario generation in Property/Casualty Insurance" (p.12), sponsored by the Casualty Actuarial Society and Conning (2020)
- It's important to distinguish between *plausible* events versus implausible but *theoretically possible* events.
 - The tails of scenario distributions should reflect plausibly severe stresses (including some more extreme than the historical record) that are appropriate for statutory reserves and capital.
 - While it's theoretically possible for an asteroid to hit the Earth someday, scenarios like that probably shouldn't be driving statutory reserve and capital levels.
 - Black swan events should occur with black swan probabilities.

30



7. Future equity scenarios should include events that are ***plausibly more extreme than the historical record.*** (continued)

31

- For example, since the historical record contains fewer non-overlapping 30-year equity returns than 1-month equity returns, there is a greater chance for future 30-year equity returns to be more extreme than the historical record than there is for 1-month equity returns.
- The plausibility range for such extreme events should be informed using judgment combined with economic theory/models.

31



8. Equity returns have both a **price and dividend component**, and they behave differently—dividend returns tend to be more stable than price returns.

32

- This stylized fact is last because although long duration life and annuity products are often very sensitive to *total* returns, they tend not to be that sensitive to how those total returns are *split* between price and dividend
 - For liability cashflows on life and annuity products, it's usually the total returns that matter. However, price returns do potentially come into play on the asset side, particularly when it comes to derivatives and hedging.
 - When considering probabilities of cumulative losses or distributions in general, it's important know if those probabilities or distributions are for total returns or price returns—cumulative losses are less likely when considering total returns.

32



8. Equity returns have both a **price and dividend component**, and they behave differently—dividend returns tend to be more stable than price returns. (continued)

33

- Conning’s “NAIC Scenario Set Technical Documentation – Equity and Dividend Model” contains the following language and chart, which are consistent with this stylized fact.

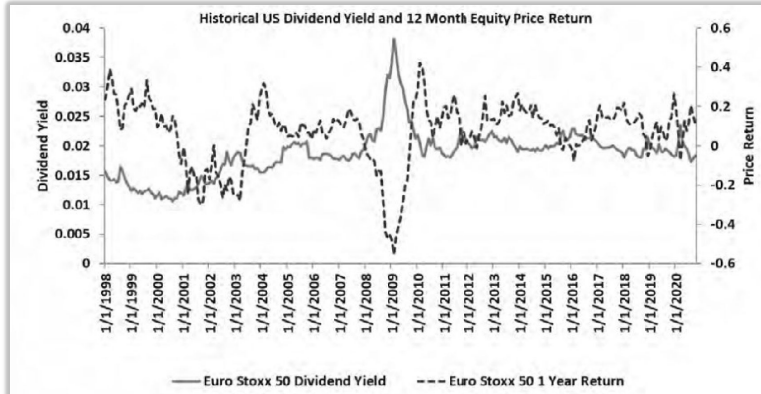


Figure 2 Historical relationship between large cap price returns in a rolling twelve month window and dividend yields.

“Another important dynamic to capture in equity markets are the income cash flows received from dividends. In particular it is observed across multiple equity markets that dividend yields are negatively correlated with price returns, and that when jumps are observed in equity prices the dividend yield tends to jump in the opposite direction. Figure 2 shows this behavior in the historical data. We observe that the rolling 12-month equity price returns and the 12-month dividend yield on United States Large Cap equity are negatively correlated and during the 2008 crisis moved rapidly apart.”

33



4. Next steps and questions



The Academy’s proposed schedule for developing acceptance criteria and other elements of a framework for working with ESGs

35

Session	Duration (hours)	Topic
1	1.5	Overview - A process for implementing and evaluating ESG scenario sets
2	2.0	Equity Model - Stylized facts
3	1.5	Corporate Credit Model - Stylized facts and acceptance criteria
4	1.5	Corporate Credit Model - ESGWG simplified corporate credit model
5	1.5	Equity Model - Acceptance criteria
6	1.5	Interest Rate Model - Stylized facts and acceptance criteria (1 of 2)
7	1.5	Interest Rate Model - Stylized facts and acceptance criteria (2 of 2)
8	1.0	Interest Rate Model - ACLI alternative interest rate model
9	1.0	Interest Rate Model - Other interest rate models

35



Questions?

36

- Contact: Amanda Barry-Moilanen,
Life Policy Analyst: barrymoilanen@actuary.org

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Appendix



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Reference Materials

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- A User's Guide to Economic Scenario Generation in Property / Casualty Insurance sponsored by Casualty Actuarial Society and Conning.
 - <https://www.casact.org/sites/default/files/2021-02/economic-scenario-generation-conning1020.pdf>
- The Equity Risk Premium: A Contextual Literature Review, CFA Institute (p. 9)
 - <https://www.cfainstitute.org/-/media/documents/book/rlit-review/2017/rflrv12n11.pdf>
- Equity Risk Premiums (ERP): Determinants, Estimation, and Implications – The 2021 Edition, Aswath Damodaran Stern School of Business
 - https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3825823
- Duff & Phelps Client Alert May 2019
 - <https://www.kroll.com/-/media/assets/pdfs/publications/valuation/us-equity-risk-premium-recommendation-increased.pdf>
- The Equity Risk Premium: A Review of Models: FRBNY Economic Policy Review / December 2015 Fernando Duarte and Carlo Rosa
 - https://www.newyorkfed.org/medialibrary/media/research/epr/2015/2015_epr_equity-risk-premium.pdf?la=en

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HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE

Health Insurance and Managed Care (B) Committee Aug. 11, 2022, Minutes 6-2
Health Innovations (B) Working Group Aug. 10, 2022, Minutes (Attachment One) 6-7

Draft: 8/22/22

Health Insurance and Managed Care (B) Committee
Portland, Oregon
August 11, 2022

The Health Insurance and Managed Care (B) Committee met in Portland, OR, Aug. 11, 2022. The following Committee members participated: Glen Mulready, Chair (OK); Troy Downing, Co-Vice Chair (MT); Russell Toal Co-Vice Chair, represented by Paige Duhamel (NM); Lori K. Wing-Heier (AK); Michael Conway (CO); Amy L. Beard represented by Alex Peck (IN); Anita G. Fox (MI); Grace Arnold (MN); Chris Nicolopoulos (NH); Andrew R. Stolfi and TK Keen (OR); Michael Humphreys (PA); Jon Pike (UT); Mike Kreidler and Molly Nollette (WA); and Allan L. McVey represented by Erin Porter (WV). Also participating were: Vicki Schmidt (KS); Larry D. Deiter (SD); and Cassie Brown (TX).

1. Adopted its Spring National Meeting Minutes

Director Wing-Heier made a motion, seconded by Director Fox, to adopt the Committee's April 7 minutes (see *NAIC Proceedings – Spring 2022, Health Insurance and Managed Care (B) Committee*). The motion passed unanimously.

2. Adopted its Subgroup, Working Group, and Task Force Reports

Commissioner Pike made a motion, seconded by Ms. Peck, to adopt the following reports: 1) the Consumer Information (B) Subgroup; 2) the Health Innovations (B) Working Group, including its Aug. 10 minutes (Attachment One); 3) the Health Actuarial (B) Task Force; 4) the Regulatory Framework (B) Task Force; and 5) the Senior Issues (B) Task Force. The motion passed unanimously.

3. Heard a Panel Discussion on Why States Should Create SBEs

J.P. Wieske (Horizon Government Affairs), Heather Korbolic (GetInsured), and Randy Pate (StatesWork) discussed options and opportunities for states to establish state-based exchanges (SBEs). Mr. Wieske outlined four reasons why states should set up their own SBE: 1) the cost of technology associated with operating an SBE has dropped, which means that a state most likely can operate an exchange at a cheaper rate than what a state is paying the federal government to operate an exchange in their state; 2) the ability to gather information and data directly to assist in understanding the state's own health insurance market rather than relying on what information and data a state may receive from the federal government; and 3) the ability to have control over what is going on in the state; and 4) flexibility for states to set their own rules.

Ms. Korbolic discussed the different SBE operation models. She said the move from HealthCare.gov to an SBE is risk-free now that end-to-end (call center, technology, and operations) solutions are readily available from private vendors with a proven track record. She explained that Healthcare.gov is built to support many states with an inflexible infrastructure that does not easily support policy flexibility. Ms. Korbolic reiterated some of the reasons Mr. Wieske discussed as reasons why states should establish an SBE, including: 1) cost savings, which can be repurposed for reinsurance; 2) independence from the federal government; 3) lower premium growth rates along with the ability to innovate with state policy; and 4) better churn management between Medicaid and commercial insurers. Ms. Korbolic said GetInsured has developed model legislation that states can tailor to fit their needs and use as the enacting legislation for an SBE.

Mr. Pate also explained the benefits of a state establishing its own SBE already discussed. He also suggested that having an SBE would give states greater flexibility to innovate using the federal Affordable Care Act (ACA) Section 1332 waiver process.

Director Wing-Heier asked the panel how a state would begin the process of exploring establishing an SBE. Mr. Pate said a state should first look at its needs, population, enrollment, and the user fees it is paying the federal government to operate the federally facilitated exchange (FFE). He also suggested that if the “math” does not seem to work for a smaller state to establish an SBE, the state may want to consider establishing a shared services exchange. A shared services exchange would allow a small state to share with another state the costs of operating certain higher costs operations, such as call centers, to lower operational costs.

Commissioner Mulready asked the panel members what they have seen as the biggest hurdles for a state establishing an SBE. Ms. Korbolic said the biggest hurdles GetInsured has seen include: 1) political will; 2) making a financial argument; and 3) managing risk, particularly related to technology. Mr. Wieske said that with respect to political will, the ability to control their own market and wanting more flexibility will be important factors for states considering establishing an SBE.

Ms. Nollette said she knows there are vendors providing the websites and the technical support for multiple SBEs. She asked if any states are actually sharing the same platform. Ms. Korbolic said there are eight different SBEs on the GetInsured platform, and those states share in the cost of any technical changes or policy changes multiple states want to make.

4. Heard a Presentation on Medicaid Redeterminations Following the End of the COVID-19 PHE

Miranda Motter (America’s Health Insurance Plans—AHIP) presented to the Committee on “The End of the Public Health Emergency: Medicaid Redeterminations.” She provided an overview of the COVID-19 authorities, federal and state emergency declarations, and the public health emergency (PHE). She also discussed and provided examples of key requirements and flexibilities tied to the PHE. She said that once the PHE ends, most requirements and flexibilities tied to the PHE will likely end automatically.

Ms. Motter said the end of the PHE was most recently extended to Oct. 13. She said the Biden Administration has said that it will provide the states 60-day notice before the PHE expires. She explained that to provide the promised 60-day notice, the Biden Administration would need to provide notice by Aug. 14 if the PHE is to end Oct. 13. If no notice is provided by that date, then the PHE is automatically extended for another 90 days ending Jan. 10, 2023. She said the Biden Administration would have to provide the states notice by Nov. 12 if the PHE is to end Jan. 10, 2023.

Ms. Motter provided an in-depth discussion of the Medicaid redetermination process, including the process pre-PHE, during the PHE, and post-PHE. She explained that the significant change in the process is that as a condition of receiving the enhanced federal medical assistance percentage (FMAP) under the federal Families First Coronavirus Responses Act, states are required to maintain enrollment of their Medicaid enrollees through the end of the PHE with no redeterminations. She said that when the PHE ends, states must resume the Medicaid redetermination processes.

Ms. Motter outlined the reasons why this is significant: 1) the volume of Medicaid redeterminations within the condensed time frame is unprecedented; 2) the states will have 12 months to initiate and 14 months to complete a full renewal of all individuals enrolled in Medicaid and the federal Children’s Health Insurance Program (CHIP); and 3) the states, counties, and beneficiaries have not done this over two years. She explained why the stakes are high for the states, counties, beneficiaries, providers, and other stakeholders with respect to Medicaid redeterminations.

Ms. Motter listed 10 fundamental actions for states to take to prepare for the unwinding of the PHE, including creating a comprehensive state unwinding operational plan and coordinating with partners, including state, tribal, and state and federal government partners.

5. Heard an Update from the CCIIO on its Recent Activities

Ellen Montz (federal Center for Consumer Information and Insurance Oversight—CCIIO) provided an update on activities of interest to the Committee. She focused her remarks on the end of the PHE and the CCIIO's work to bring about a successful and smooth transition from Medicaid or CHIP to the private health insurance marketplace. Dr. Montz said this unwinding presents both an opportunity and a challenge. She said the federal Centers for Medicare & Medicaid Services (CMS) is committed to providing a 60-day notice of the ending of the PHE. As Ms. Motter noted, if the PHE is to end Oct. 13, the CMS would have to provide notice by Aug. 14. If the CMS does not provide that notice, then the PHE is automatically extended an additional 90 days to January 2023.

Dr. Montz said it is vitally important that all stakeholders plan and prepare for when the PHE ends. She said the CCIIO is developing a comprehensive plan for mitigating coverage lost. She said that part of CCIIO's preparation includes improving consumer notices and streamlining application processes to eliminate extra paperwork. She said the CCIIO is also planning aggressive outreach and enrollment strategies for unwinding. The CCIIO also will harness the power of its partnerships with stakeholders, including SBEs, state Medicaid agencies, health carriers, navigators, and state insurance regulators. She said the CCIIO's partnership with health carriers that offer Medicaid managed care organizations (MCOs) and qualified health plans (QHPs) will be vital because they can conduct outreach to Medicaid and CHIP enrollees during the redetermination process both before and after an individual loses coverage to assist in the transition to marketplace coverage. She said the CCIIO is also encouraging these health carriers to coordinate across their business lines and with their state Medicaid agencies and state departments of insurance (DOIs) to facilitate a smooth and seamless transition for consumers.

Dr. Montz encouraged state insurance regulators to work with these health carriers to assist them in their efforts. She said another area state insurance regulators can help will be outreach. She said it will be vital that there is open communication and successful feedback loop between all stakeholders involved in the redetermination process and unwinding to ensure a smooth transition and great consumer experience.

6. Heard a Federal Legislative and Regulatory Update

Brian R. Webb (NAIC) provided an update on federal legislative and regulatory activities of interest to the Committee. He focused his remarks on the recent extension of two subsidies for three additional years under the federal American Rescue Plan Act (ARPA) of 2021 due to the passage of the federal Inflation Reduction Act of 2022. He said this could be a challenge for the states in finalizing rates for 2023 because the deadline to submit those rates to HealthCare.gov is Aug. 17.

Mr. Webb provided an update on the status and attention received from the U.S. Congress on the letters the NAIC has sent to the Congress and federal agencies on addressing issues such as the so-called "family glitch." He said that just prior to the time the NAIC sent its letter, the CMS issued a proposed rule to address the issue. He said the public comment period has ended, and the CMS is reviewing the comments. It is anticipated that a final rule will be issued soon and apply for plans issued in 2023. He said the NAIC also sent letters on issues related to health savings accounts (HSAs) and the copayment accumulator. He said that to date, NAIC staff have not received any response related to the issues raised in this letter.

Mr. Webb said another letter the NAIC sent concerns Medicare Advantage marketing requesting that the federal government make the states the primary regulator because the states can more effectively address and resolve the marketing abuses that the states have been following and have documented. He said there has been a lot of

interest from the Congress on this issue, and NAIC staff have been talking to key congressional staff about it as well. He said a similar issue getting a lot of attention is the improper marketing of health plans. He said NAIC staff have been talking to key congressional staff on ways that the federal government might be able to assist the states in addressing the issue, particularly when those engaging in these deceptive marketing practices are foreign entities and operating through the internet.

Mr. Webb said that another big issue NAIC staff are working with the CCIIO, and other federal agencies, is the implementation of the federal No Surprises Act (NSA). He said one of the main issues is enforcement and the role of, and how, the states can work with and coordinate with the CCIIO to enforce the rules.

Mr. Webb said another issue is the implementation of the federal network adequacy requirements beginning with the 2023 plan year. He said that for QHPs in FFEs, beginning with plan year 2023, the CMS will begin implementing time/distance standards for various types of providers and facilities, and beginning in plan year 2024, the CMS will begin implementing wait time standards. To comply with the time and distance standards, at least 90% of QHP enrollees must live within the maximum distance to at least one provider of each type. He said NAIC staff are working with the CCIIO as they move forward with implementation.

Mr. Webb also noted that health plan transparency requirements recently became effective July 1. He said the states are the primary regulators in enforcing these requirements. However, the CCIIO is conducting a thorough review of the information provided by the plans. He encouraged the states to reach out to the CCIIO if they receive complaints.

7. Received an Update on the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup's Work

Mr. Keen said the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup has been meeting to hear presentations from various stakeholder groups providing their perspective on the Subgroup's charge to develop a white paper examining pharmacy benefit manager (PBM) business practices. He said that to date, the Subgroup has heard presentations from about 17 stakeholder groups.

Mr. Keen said he anticipates the Subgroup holding at least one more meeting in late August during which it would hear from at least one additional stakeholder group on the Subgroup's upcoming work on the white paper. He said he anticipates the Subgroup beginning its work on the white paper in September. He said that on Aug. 15, the Subgroup plans meet in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals), paragraph 8 (consideration of strategic planning issues), and paragraph 9 (any other subject required to be kept confidential) of the NAIC Policy Statement on Open Meetings, to: 1) discuss its approach to the white paper; 2) discuss a draft white paper outline; and 3) seek volunteers from among the Subgroup members to begin drafting sections of the white paper. He said he hopes the Subgroup can complete its work on the white paper by the end of the year. However, to allow for robust discussion and comments from all stakeholders, the Subgroup's work on the white paper could extend into early 2023. He said he would continue to provide updates to the Committee and the Regulatory Framework (B) Task Force on the Subgroup's progress to complete the white paper.

8. Received an Update on the Special (EX) Committee on Race and Insurance Workstream Five's Work

Commissioner Arnold provided an update to the Committee on Workstream Five's work to date since her last update to the Committee at the Spring National Meeting. She said that since the Workstream's last update to the Committee at the Spring National Meeting, the Workstream announced the dates and times and focus of four meetings it plans to hold before the end of the year. She said the Workstream has held the first two meetings already. The first meeting was June 30. Its focus was on provider network composition.

Commissioner Arnold said that during its June 30 meeting, the Workstream heard from two NAIC consumer representatives who discussed cultural competency in provider networks. The Workstream also heard from the Colorado DOI on its work through the Colorado Option to improve racial health equity for consumers purchasing health insurance in the individual and small group markets. She said the Workstream held its second meeting on July 26. The focus of this meeting was on barriers to care with respect to providers.

Commissioner Arnold said during its July 26 meeting, the Workstream heard a presentation from Quest Analytics on emerging ideas and approaches state insurance regulators might consider to close the health equity gap when developing plan network adequacy requirements. The Workstream also heard a presentation from an NAIC consumer representative, who discussed barriers that people of color and other historically underrepresented populations encounter when trying to obtain treatment from network providers, particularly for those who have plans with narrow networks. She said the American Medical Association (AMA) presented on the work it is doing related to provider directories and associated challenges, including their accuracy and issues associated with the inclusion of provider race and ethnicity information. The Blue Cross Blue Shield Association (BCBSA) and one of its member plans discussed challenges and efforts to mitigate race-based barriers to insurance. They also discussed ways that state insurance regulators can increase access to culturally competent care.

Commissioner Arnold said the Workstream's next meeting is Aug. 23. She said the focus of this meeting is on barriers to care related to benefit design. She said the Workstream has invited speakers to discuss what ways the structure of available benefits, such as cost-sharing or utilization management, can sometimes uniquely disadvantage communities of color, and what actions can state insurance regulators take to remedy such benefit designs. She said the Workstream anticipates hearing presentations from Mila Kofman (DC Health Benefit Exchange Authority—DCHBX), a representative from the American Academy of Actuaries' (Academy's) Health Equity Work Group, and a panel of NAIC consumer representatives. She said the Workstream's last scheduled meeting is Sept. 20, which will focus on innovations in benefit design. She said the Workstream's planned speakers for this meeting include speakers to discuss standardized plans and value-based insurance designs.

Commissioner Arnold said the Workstream's next series of meetings will focus on effective consumer education and engagement, as well as mechanisms to understand barriers at the community level. She said the Workstream is in the process of finalizing those meeting agendas.

Having no further business, the Health Insurance and Managed Care (B) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/B CMTE/2022 Summer National Meeting/Final Minutes/08-Bmin

Draft: 8/23/22

Health Innovations (B) Working Group
Portland, Oregon
August 10, 2022

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met in Portland, OR, Aug. 10, 2022. The following Working Group members participated: Andrew R. Stolfi, Chair (OR); Laura Arp, Co-Vice Chair (NE); Richard Wicka and Rachel Cissne Carabell, Co-Vice Chairs (WI); Sarah Bailey (AK); Yada Horace (AL); Howard Liebers (DC); Angela Burke Boston and Andria Seip (IA); Alex Peck (IN); Julie Holmes and Kenneth Scott (KS); Robert Wake and Marti Hooper (ME); Renee Campbell (MI); Peter Brickwedde (MN); Carrie Couch and Amy Hoyt (MO); Ross Hartley and Chrystal Bartuska (ND); Maureen Belanger (NH); Paige Duhamel (NM); Jack Childress (NV); Rachel Bowden, Valerie Brown, and R. Michael Markham (TX); Heidi Clausen, Tanji J. Northrup, and Shelley Wiseman (UT); Ned Gaines and Jennifer Kreidler (WA); and Joylynn Fix and Erin K. Hunter (WV). Also participating were: Troy Downing (MT); Glen Mulready and Rebecca Ross (OK); Richard L. Hendrickson and Lindsy Swartz (PA); and Jill Kruger (SD).

1. Adopted its Spring National Meeting Minutes

Mr. Wicka made a motion, seconded by Ms. Arp, to adopt the Working Group's April 4 minutes (*see NAIC Proceedings – Spring 2022, Health Insurance and Managed Care (B) Committee, Attachment Two*). The motion passed unanimously.

2. Heard a Presentation on the Colorado Option Waiver

Commissioner Stolfi said members of the Working Group are interested in learning more about the Colorado Option. Commissioner Conway said the state has been working on the Colorado Option for four years. He said the state's reinsurance program has reduced premiums, but there is no product that is guaranteed to be available off exchange in all parts of the state. He said the Colorado Option will be available for those eligible for federal Affordable Care Act (ACA) subsidies and those who are not. Commissioner Conway said the primary goals of the Colorado Option are to improve affordability and access. He said core components include a standardized plan design, required premium reductions, and expansion of eligibility regardless of immigration status.

Commissioner Conway said the state can continue to control costs through the reinsurance program, and it wants to use available pass-through funds to expand access and affordability. He said the state chose to keep it simple and continue to waive the same provision of the ACA as in the reinsurance waiver. He said the premium rate reductions would be achieved through public hearings. He said the law gives state insurance regulators authority over hospital and provider rates. Commissioner Conway said Colorado will improve access for state residents inside and outside the exchange, in the individual and small group markets. He said the Colorado Option cost controls will affect the market differently from reinsurance. He said all issuers participating in the individual and small group markets will be required to offer Colorado Option plans. He said competition will result in either fewer competing products or lower prices in competing products.

Commissioner Conway said Colorado expects \$1.5 billion in savings from the Colorado Option and 12% higher enrollment. The savings will be reinvested in access and affordability and to boost health equity. The state will use a cost-sharing wrap to increase actuarial value beginning in 2023 and allow some ineligible for federal tax credits to access subsidies. He said state insurance regulators will hold a public hearing when issuers miss the required premium reductions. He said the state has authority to set provider rates (down to a floor specified in law) if provider rates are keeping premiums up. In addition, the state would seek to reduce insurers' administrative costs.

Ms. Seip asked for more details on how premium reductions would be achieved. Commissioner Conway said a formula in the law allows provider rates to be set down to 165% of Medicare rates for hospitals and 130% of Medicare for other providers. He said the hearings will allow a conversation around rates with these limits in mind.

Ms. Bartuska said North Dakota does not have many issuers and asked whether the waiver had encouraged more issuers to enter Colorado's market. Commissioner Conway said it has not led to more carriers coming into the state, but carriers have been expanding within the state, though not necessarily related to the Colorado Option. He said the waiver's competition comes from a new product everywhere in the state that is a better product competing against existing products. Ms. Bartuska asked about issuer participation in both individual and small group markets. Commissioner Conway clarified that the law requires carriers to offer the Colorado Option in the market or markets they participate in—not that they must offer it in both if they only participate in one.

3. Heard Presentations from Health Plans on Programs to Improve Access

Commissioner Stolfi said during this meeting, the Working Group would focus on the last part of its charge from the Special (EX) Committee on Race and Insurance. The Working Group is charged to evaluate mechanisms to resolve disparities through programs to improve access to historically underserved communities. He said the Working Group has not yet narrowed its focus in this work, but would hear presentations on it from both health plans and the federal Centers for Medicare & Medicaid Services (CMS). He said Oregon has a long history of innovation in both Medicaid and commercial markets. He said Oregon's Medicaid coordinated care model has been a proving ground for innovations that can make a difference in the commercial market.

Dr. Briar Ertz-Berger (Kaiser Permanente) said social health includes all aspects of a person's life outside of their physical and mental health. She said social health plays a key role in overall health, and it must be addressed to achieve health equity. She said most of what drives health is outside of the health care system and is instead related to social health, such as physical environment, social and economic factors, and health behaviors. She said structural and institutional racism compounds the barriers to health and social health. Dr. Ertz-Berger said the cost of racial inequities is in the hundreds of billions of dollars. She said patients from different ZIP codes have different outcomes due to different histories and exposures to violence and racism. She said Kaiser Permanente is making investments in improved care delivery and connecting people to social resources. She said patients are screened for social needs, and the results are documented for all clinicians. She said members are linked in Connect Oregon, which allows closed-loop referrals to community organizations.

Karis Stoudamire-Phillips (Moda Health) said Moda is focused on the way to better health, but with a different path for different individuals. She said Moda uses corporate responsibility dollars to fund community organizations across the state. She said the company is deliberate in looking at the connection between health, environment, and social equity. She said nonprofit organizations have connections to Moda employees like customer service workers and community outreach workers. Dr. Yale Popowich (Moda Health) said the company has implemented Moda 360, which shows providers a more complete view of patients. They help guide patients to care coordination interventions and provide health context to evaluate health equity. He gave an example of a member with diabetic status who has transportation challenges who can be referred to a diabetes management program that can be used at home through an app and provides testing supplies for free. He said that some programs carry over from Medicaid to the commercial market. He shared examples of a program to improve access to fresh produce when members have food insecurity and another to provide cribs for parents who cannot afford them. Ms. Stoudamire-Phillips said Moda also provides flex services, which include air purifiers, temporary housing, and cooking supplies. She said the company looks for organizations that are fulfilling community needs and funds them, such as organizations that provide air conditioners to help members deal with heat waves.

Erin Fair Taylor (PacificSource) said the Medicaid Coordinated Care Organizations (CCOs) are testing grounds that provide lessons that can be used across markets. She said the CCO model has been around for 10 years, and its goals are better health, better care, and lower costs. She said each CCO has a health council that is locally accountable and sets priorities. She said each region has unique needs, so solutions have to be local and responsive to community needs. She said hospitals, providers, enrollees, dental providers, and the company are represented on the health councils. She said there is shared decision-making on investments. She said the company's margin is limited, and any earnings above the limit go to the health council to invest in social determinants and addressing equity. She said community benefit initiatives include community health workers, community information exchange, and projects like parks and bike paths. She said getting more stakeholders at the table means it is not just clinicians making decisions to improve health.

Commissioner Stolfi asked how state insurance regulators can be helpful in work to address health equity and improve access. Dr. Ertz-Berger said there is opportunity in thinking about what mandated benefits could improve equity and how provider networks can improve social care access, not just health care access. Dr. Popowich agreed and said state insurance regulators should look to Medicaid because it has encouraged health plans to work closely with hospitals, social workers, and others. Ms. Fair Taylor said state insurance regulators should pay attention to incentives because when they are community-focused, they encourage meaningful change.

Ms. Duhamel asked what uptake has been in diabetes management. Dr. Popowich said plans ask whether they can operate these programs themselves or hire vendors. He said Moda's experience with a vendor, Livongo, has been phenomenal. It provides free supplies and gathers useful data on patients. He said other programs encourage lifestyle changes to prevent diabetes in the first place. He said uptake has been as high as 20%, which Moda considers a win for a new program.

Commissioner Stolfi asked if other states have seen learning from Medicaid spread to the commercial market and if the panel has suggestions for fostering the spread of best practices. Ms. Fair Taylor said community feedback has been standardized in Oregon, including how to perform on quality measures, and this could be used in other states. Dr. Popowich said Moda has spread its Oregon practices to Alaska and other states.

4. Heard a Presentations from CMS about Programs to Improve Access

Commissioner Stolfi introduced Jeff Wu (federal Center for Consumer Information and Insurance Oversight [CCIIO] at CMS). Mr. Wu said working with state insurance regulators is fundamental to CMS' work in health insurance markets. Mr. Wu said CMS has built health equity into its thinking and strategies going forward.

Mr. Wu said health equity work is in many cases complex and subtle. He said CMS has a strategic plan with six pillars, three of which are tied to health equity. He said President Joe Biden's first executive order established a commitment to advancing racial equity and support for underserved communities. Mr. Wu said CMS published a framework for health equity, and its first priority is to collect standardized data.

Mr. Wu outlined the CCIIO's health equity goals, including coverage, access, and consumer protection. He said that coverage has been improved by expanding the open enrollment period and introducing a special enrollment period (SEP) for low-income individuals. He said the SEP will be particularly important as the public health emergency ends and individuals' Medicaid coverage is redetermined. He said the agency has invested heavily in navigators, who may reach underserved communities more than agents and brokers. He said choice of issuers has increased in places where there previously was less choice, and the agency continues to work to increase choice in rural counties. He said that Federally Facilitated Marketplace (FFM) enrollment among underrepresented groups has increased by 25%.

Mr. Wu said many provisions of the last payment notice focus on access to care, including network adequacy. He said CMS has ongoing engagement with carriers where there are network challenges. He said CMS has focused its SEP verification efforts on the most common eligibility factor, loss of minimum essential coverage.

Mr. Wu said consumer protections promote health equity by protecting consumers from limited benefit designs and discriminatory provisions. He said CMS has collaborated with other colleagues in the U.S. Department of Health and Human Services (HHS) to finalize non-discrimination rules.

Mr. Wu said better data is needed to inform work internally and to share with stakeholders. He said the 2023 payment notice provides for expanded data collection through the edge server. This will include five new data elements, including ZIP code, race and ethnicity, and receipt of subsidies. He said CMS is working to increase consumers' completion of race and ethnicity fields in applications.

5. Heard an Update on its Memorandum to the Special (EX) Committee on Race and Insurance

Commissioner Stolfi said the Working Group would collect comments on the final part of its charge by email. He said work on the first part of the charge is closer to completion. He said Kelly Edmiston (Center for Insurance Policy and Research—CIPR) helped summarize findings on health disparities in a draft memorandum to the Special (EX) Committee on Race and Insurance.

Mr. Edmiston said the memorandum focuses on the efficacy of telehealth on reducing disparities and the impacts of alternative payment models on disparities. He said a full report on alternative payment models would be distributed to the Working Group soon. He said the memorandum documents limited access to providers in rural areas and some underserved communities in urban areas. Mr. Edmiston said the greatest potential for telehealth is to increase access to care for many specialties, not just psychiatry and radiology. He said the most significant barriers to telehealth access are physical access to the required technology, privacy when using it, and digital literacy. He said regulatory barriers could include payment levels and licensing of providers.

Mr. Edmiston said that providers consider the quality of care they provide more important than financial incentives. He said alternative payment models were not designed to ameliorate disparities, but rather to increase quality of care and efficiency. He said incentives and disincentives to provide appropriate care vary by program.

Commissioner Stolfi asked Working Group members to send comments on the memorandum to NAIC support staff.

Having no further business, the Health Innovations (B) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/B CMTE/Health Innovations WG/HInnMin8.10

HEALTH ACTUARIAL (B) TASK FORCE

Health Actuarial (B) Task Force Aug. 1, 2022, Minutes 6-12

Health Actuarial (B) Task Force June 30, 2022, Minutes (Attachment One) 6-15

 Society of Actuaries (SOA) Research Institute 2022 Individual Life Waiver of Premium (ILWOP)
 Experience Study Presentation (Attachment One-A) 6-16

Health Actuarial (B) Task Force May 16, 2022, Minutes (Attachment Two) 6-19

 American Academy of Actuaries (Academy) and SOA Research Institute Group Life Waiver of
 Premium Valuation Table (GLWPVT) Work Group Update (Attachment Two-A) 6-20

Long-Term Care Actuarial (B) Working Group June 24, 2022, Minutes (Attachment Three)..... 6-24

 Long-Term Care Insurance (LTCI) Mortality and Lapse Study Update (Attachment Three-A)..... 6-25

SOA Research Institute/Life Insurance Marketing and Resource Association (LIMRA) Experience
 Studies Partnership Update (Attachment Four)..... 6-27

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Academy Health Practice Council Update (Attachment Six) 6-31

Draft: 8/9/22

Health Actuarial (B) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
August 1, 2022

The Health Actuarial (B) Task Force met Aug. 1, 2022. The following Task Force members participated: Andrew N. Mais, Chair, represented by Paul Lombardo (CT); Russel Toal, Vice Chair, represented by Julie Weinberg (NM); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ahmad Kamil (CA); Michael Conway represented by Eric Unger (CO); Vicki Schmidt represented by Nicole Boyd (KS); Kathleen A. Birrane represented by Brad Boban (MD); Timothy N. Schott represented by Marti Hooper (ME); Anita G. Fox represented by Kevin Dyke (MI); Grace Arnold represented by Julia Lyng (MN); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Michael Muldoon (NE); Marlene Caride represented by Seong-min Eom (NJ); Judith L. French represented by Craig Kalman (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Jim Laverty (PA); Cassie Brown represented by Aaron Hodges (TX); Mike Kreidler represented by Lichiou Lee (WA); and Allan L. McVey represented by Joylynn Fix (WV). Also participating was: Tomasz Serbinowski (UT).

1. Adopted its June 30 and May 16 Minutes

Mr. Lombardo said the Task Force met June 30 and May 16. During these meetings, the Task Force took the following action: 1) heard a Society of Actuaries (SOA) Research Institute 2022 Individual Life Waiver of Premium (ILWOP) Experience Study presentation; and 2) heard an update on the American Academy of Actuaries (Academy) and SOA Research Institute Group Life Waiver of Premium Valuation Table (GLWPVT) Work Group efforts towards developing valuation tables to replace the 2005 Group Term Life Waiver Mortality and Recovery Tables in *Actuarial Guideline XLIV—Group Term Life Waiver of Premium Disabled Life Reserves* (AG 44).

Mr. Dyke made a motion, seconded by Ms. Weinberg, to adopt the Task Force’s June 30 (Attachment One) and May 16 (Attachment Two) minutes. The motion passed unanimously.

2. Adopted the Report of the Long-Term Care Actuarial (B) Working Group

Mr. Serbinowski said the Working Group met June 24. During this meeting, the Working Group discussed the Academy and SOA Research Institute’s final Long-Term Care Insurance Mortality and Lapse Study.

Mr. Hodges made a motion, seconded by Mr. Schallhorn, to adopt the report of the Long-Term Care Actuarial (B) Working Group (Attachment Three). The motion passed unanimously.

3. Heard an Update on the SOA Research Institute/LIMRA Experience Studies Partnership

Marianne Purushotham (Life Insurance Marketing and Research Association—LIMRA) and Dale Hall (SOA) gave an update on the SOA Research Institute/LIMRA Experience Studies Partnership (Attachment Four).

4. Heard an Update on the SOA Research Institute Activities

Mr. Hall gave an update on SOA Research Institute activities (Attachment Five).

5. Heard an Update from the Academy Health Practice Council

Barbara Klever (Blue Cross Blue Shield Association—BCBSA) gave an update on Academy Health Practice Council activities (Attachment Six).

6. Heard an Academy Update on Professionalism

Lisa Slotznick (Academy) said the Academy Committee on Qualifications (COQ) issued a final amended U.S. Qualification Standards (USQS) late in 2021 after exposing two drafts. She said during the exposure period, the COQ presented several webinars explaining the changes. She said the USQS specifies that qualifications for statements of actuarial opinion (SAO) are not limited to regulatory required opinions. She said the COQ has also updated frequently asked questions (FAQ) to help actuaries understand the USQS, and many of the FAQ started as questions received through the website. She said the COQ has received nine questions this year, two of which were referred to the Actuarial Board for Counseling and Discipline (ABCD) as requests for guidance. She said most of the other questions were about continuing education (CE) requirements and basic education.

Ms. Slotznick said actuaries who were qualified before the amended version of the USQS took effect remain qualified, and the changes mostly apply to new actuaries. She said the USQS now includes a new requirement for one hour of bias CE, which applies to all actuaries. She said CE can be obtained through self-study.

Darrell Knapp (Actuarial Standards Board—ASB) said the ASB has been focusing on six themes currently running through the ASB's work: 1) addressing various tasks within scope, such as conducting reviews; 2) using a template to increase consistency in language across Actuarial Standards of Practice (ASOPs); 3) trying to avoid duplication with ASOP No. 1, Introductory Actuarial Standard of Practice, with "materiality" and "professional judgment" as examples; 4) adding guidance for reliance on other actuaries and experts; 5) focusing on the distinction between documentation and disclosures; and 6) focusing on gender, race, and employer type diversity on committees and task forces. He said because ASOP No. 1 calls on actuaries to always use professional judgment, the ASB is trying to avoid saying "the actuary should use professional judgment" in other ASOPs.

Mr. Knapp said the ASB approved an exposure draft of ASOP No. 41, Actuarial Communications in June, which will soon be released for exposure and go through the typical exposure process. He said the ASB will review the proposed exposure draft of ASOP No. 12, Risk Classification at its September meeting, and it should be exposed soon after that. He said the ASB is trying to find the right balance between the importance of risk classification systems to actuarial work and potential abuses in their application. He said a revision to ASOP No. 28, Statements of Actuarial Opinion Regarding Health Insurance Assets and Liabilities that was recently implemented took effect July 1. He said the ASB just released a technical correction to the scope of ASOP No. 28, along with that of ASOP No. 36, Statements of Actuarial Opinion Regarding Property/Casualty Loss, Loss Adjustment Expense, or Other Reserves. He said the current scope of each ASOP has a mutual exclusion where if one applies, the other does not. He said both ASOPs were originally written with the scope limited to NAIC SAOs. He said the scope of both ASOPs has been expanded to include broader SAOs, and as a result, the ASB must address those exclusions simultaneously and is therefore exposing just the scope of ASOP No. 28. He said the ASB is working on revisions to ASOP No. 49, Medicaid Managed Care Capitation Rate Development and Certification.

Shawna Ackerman (California Earthquake Authority—CEA) said the ABCD performs the two primary functions of addressing requests for guidance (RFGs) and investigations into complaints. She said the ABCD may recommend discipline, but it is up to the organization the subject actuary is a member of to decide whether to discipline an actuary. She said recent RFGs in the health area included questions about the obligation to report under Precept 13, Violations of the Code of Professional Conduct of the Academy's Code of Professional Conduct (CPC) and the procedures for doing that, as well as qualifications. She said the majority of RFGs are related to CPC Precept 1, Integrity and the actuary's responsibility to the public.

Mr. Lombardo asked when bias CE webinars will be conducted. Ms. Slotznick said several webinars that qualify for bias CE were produced and are available to Academy members on its website.

7. Discussed an Academy and SOA Research Institute GLWPVT Work Group Valuation Tables Proposal

Mr. Lombardo said the Academy and SOA Research Institute GLWPVT Work Group has proposed valuation tables to replace the 2005 Group Term Life Waiver Mortality and Recovery Tables in AG 44. He said the proposed tables exhibit higher recovery rates and lower mortality factors than the current tables. He said the proposal is exposed for a public comment period ending Aug. 11.

Having no further business, the Health Actuarial (B) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/B CMTE/HATF/2022_Summer/08-01-22/ Minutes_HATF_08-01-22.docx

Draft: 7/18/22

Health Actuarial (B) Task Force
Virtual Meeting
June 30, 2022

The Health Actuarial (B) Task Force met June 30, 2022. The following Task Force members participated: Andrew N. Mais, Chair, represented by Paul Lombardo (CT); Russel Toal, Vice Chair, represented by Julie Weinberg (NM); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Rodney Haviland (CA); Michael Conway represented by Eric Unger (CO); Amy L. Beard represented by Stephen Chamblee (IN); Vicki Schmidt represented by Nicole Boyd (KS); Timothy N. Schott represented by Marti Hooper (ME); Anita G. Fox represented by Kevin Dyke (MI); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Michael Muldoon (NE); Marlene Caride represented by Seong-min Eom (NJ); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Jim Laverty (PA); Cassie Brown represented by Aaron Hodges (TX); Mike Kreidler represented by Lichiou Lee (WA); and Allan L. McVey represented by Joylynn Fix (WV).

1. Heard an ILWOP Experience Study Presentation

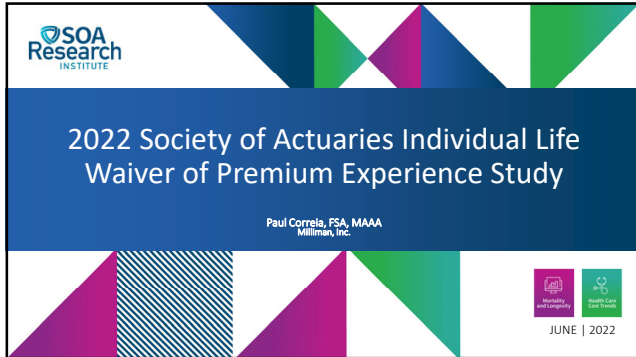
Paul Correia (Milliman) gave a presentation (Attachment One-A) on the Society of Actuaries (SOA) Research Institute 2022 *Individual Life Waiver of Premium (ILWOP) Experience Study*. He said the study's objectives are to: 1) compare recent industry experience for ILWOP insurance products to the expected incidence and claim termination rates from the 1952 SOA Disability Table; 2) analyze actual-to-expected (A/E) incidence and claim termination ratios across key segments such as gender and attained age; 3) develop an illustrative experience basis for calculating policy and claim reserves based on the results from the A/E studies; and 4) compare reserves calculated using experience assumptions to the reserves calculated using the 1952 SOA Disability Table for an illustrative cohort of ILWOP business.

The Task Force identified the following items that it will need to appropriately evaluate the experience study results: 1) the definition of disability that determines disability benefit eligibility as used in the 1952 SOA Disability Table; 2) whether the 1952 SOA Disability Table includes margins; and 3) a comparison of aggregate active life and disabled life reserves using industry data.

Mr. Lombardo said the Task Force will consider whether to proceed with the development of new valuation tables to replace the 1952 SOA Disability Table after it has reviewed needed additional information to be provided by the SOA Research Institute.

Having no further business, the Health Actuarial (B) Task Force adjourned.

Meetings/Member Meetings/B CMTE/HATF/2022_Summer/06-30-22/Minutes_HATF_06-30-22 LTCAWG.docx



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2022 SOA ILWOP Experience Study Objectives

- Compare recent industry experience for individual life waiver of premium (ILWOP) insurance products to the expected incidence and claim termination rates from the 1952 SOA Disability Table;
- Analyze actual-to-expected (A/E) incidence and claim termination ratios across key segments such as gender, attained age, etc.;
- Develop an illustrative experience basis for calculating policy and claim reserves based on the results from the A/E studies; and
- Compare reserves calculated using experience assumptions to the reserves calculated using the 1952 SOA Disability Table for an illustrative cohort of ILWOP business.

SOA Research INSTITUTE

2022 SOA ILWOP Experience Study Background

According to a survey performed by the SOA in 2018, most insurers use the 1952 SOA Disability Table for calculating statutory policy and claim reserves for ILWOP products.

Statutory Reserve Assumptions		
Source: 2018 Survey Sponsored by the Society of Actuaries		
Valuation Table	Incidence Rates	Claim Termination Rates
1952 SOA Disability Table	8	10
1964 CDT Table	0	0
1985 CIDA Table	2	1
2013 Individual Disability Table	0	0
Company experience	1	1
Other	1	1

SOA Research INSTITUTE

2022 SOA ILWOP Experience Study Summary of Experience Studies

<p>A/E Incidence Study</p> <ul style="list-style-type: none"> - Gender - Attained age - Issue age - Policy duration - Face amount - Observation year - Smoker status - Issue state - Annualized premium - Policy type - Optional rider - Underwriting methods - Insurance type 	<p>A/E Claim Termination Study</p> <ul style="list-style-type: none"> - Gender and claim duration - Attained age and claim duration - Issue Age and claim duration - Diagnosis and claim duration - Smoker status and claim duration - Annualized premium and claim duration
--	---

SOA Research INSTITUTE

2022 SOA ILWOP Experience Study Exposures

Policy Database				Claim Database			
Life Years of Exposure				Claim Terminations			
Experience Period: 2002 through 2016				Experience Period: 2002 through 2016			
Attained Age	Male	Female	Total	Claim Duration	Male	Female	Total
< 30	20,749,573	20,100,210	40,849,783	1	7,843	3,949	11,792
30-39	17,559,372	15,334,133	32,893,505	2	9,986	4,901	14,887
40-49	22,382,278	16,723,459	39,105,736	3	7,064	3,583	10,647
50+	28,598,176	17,442,206	46,040,382	4	4,460	2,225	6,685
				5-9	13,434	6,272	19,706
				10+	55,151	15,294	70,445
Total	89,289,398	69,600,008	158,889,406	Total	97,938	36,223	134,160

SOA Research INSTITUTE

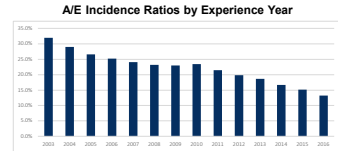
2022 SOA ILWOP Experience Study A/E Incidence Study

A/E Incidence Ratios by Gender and Attained Age			
Attained Age	Male	Female	Total
< 30	19.3%	14.6%	17.0%
30-39	32.7%	34.1%	33.4%
40-49	41.4%	39.5%	40.6%
50 +	19.6%	14.3%	17.6%
Total	23.4%	20.0%	22.1%

- Actual ILWOP incidence rates during the 2003-2016 experience period were significantly lower than the expected incidence rates from the 1952 Table.
- The A/E ratios are higher in total for males than females, and are lower at the youngest and highest attained age bands.



2022 SOA ILWOP Experience Study A/E Incidence Study



- A/E incidence ratios are generally decreasing during the experience period.
- A flattening occurs in 2008-09 followed by a slight uptick in 2010, which may be linked to the economic recession in those years.



2022 SOA ILWOP Experience Study A/E Incidence Study

A/E Incidence Ratios by Coverage Type	
Coverage Type	A/E
Included with Base Policy	14.5%
Optional Rider	26.4%
Total	22.1%

- The A/E incidence ratios are higher when ILWOP benefits are offered as an optional rider than when benefits are included in the base policy.
- May indicate adverse selection risk, or that policyholders are not as aware of waiver of premium benefits when they are included in the base policy.



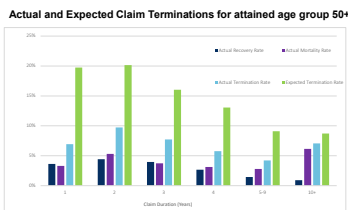
2022 SOA ILWOP Experience Study A/E Claim Termination Study

Gender	Claim Duration (Years)						Total
	1	2	3	4	5-9	10+	
Male	35.6%	45.1%	47.3%	42.2%	46.8%	82.2%	59.2%
Female	30.1%	36.0%	39.7%	35.5%	39.8%	69.6%	45.4%
Total	33.6%	41.6%	44.4%	39.7%	44.3%	79.1%	54.7%

- Actual ILWOP claim termination rates during the 2003-2016 experience period were lower than the expected claim termination rates from the 1952 Table.
- The overall A/E claim termination ratio is 54.7%, although the ratios are lower for claims in durations 1-9 years than in durations 10+ years.



2022 SOA ILWOP Experience Study A/E Claim Termination Study



- Actual claim terminations in later durations are dominated by deaths.



2022 SOA ILWOP Experience Study A/E Claim Termination Study

A/E Claim Termination Ratios by Disability Diagnosis			
Disability Diagnosis	Actual Terminations	Expected Terminations	A/E Ratio
Cancer	8,358	8,638	96.8%
Circulatory	4,334	9,573	45.3%
Musculoskeletal	7,656	20,323	37.7%
Mental & Nervous	3,457	9,941	34.8%
Nervous System	2,563	7,541	34.0%
Other	18,164	49,530	36.7%
No Diagnosis	89,628	139,660	64.2%
Total	134,160	245,206	54.7%

- The A/E ratio for cancer claims is much higher than the overall A/E ratio of 54.7%.
- The A/E ratios for musculoskeletal, mental & nervous, and nervous system claims are lower than the overall result.




2022 SOA ILWOP Experience Study ALR Reserve Comparisons

Illustrative ILWOP Active Life Reserve Comparisons									
Reserves in \$ Millions									
Attained Age	1952 Table			Experience Basis			Ratio: Experience / 1952		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
<30	\$0.29	\$0.24	\$0.53	\$0.21	\$0.21	\$0.42	72%	87%	79%
30-39	\$5.65	\$3.59	\$9.24	\$3.77	\$2.56	\$6.34	67%	71%	69%
40-49	\$17.01	\$8.97	\$25.98	\$9.95	\$5.27	\$15.22	58%	59%	50%
50+	\$14.43	\$6.39	\$20.82	\$7.20	\$3.12	\$10.31	50%	49%	50%
Total	\$37.38	\$19.19	\$56.57	\$21.13	\$11.16	\$32.29	57%	58%	57%

➤ Experience Basis reserves were calculated using adjustment factors to the 1952 Table that reflect the results from the A/E incidence and claim termination studies.


➤ Illustrative reserves were calculated for an illustrative cohort of ILWOP business that includes 1,500,000 inforce policies and 10,000 open claims. The assumed inforce policy and open claim distributions were developed from the industry data provided for the 2022 SOA ILWOP Experience Study.



2022 SOA ILWOP Experience Study DLR Reserve Comparisons

Illustrative ILWOP Disabled Life Reserve Comparisons									
Reserves in \$ Millions									
Duration (Years)	1952 Table			Experience Basis			Ratio: Experience / 1952		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
1	\$1.15	\$0.51	\$1.65	\$2.03	\$1.01	\$3.04	177%	200%	184%
2	\$1.35	\$0.61	\$1.96	\$2.04	\$1.02	\$3.06	151%	167%	156%
3	\$1.38	\$0.65	\$2.03	\$1.96	\$0.99	\$2.95	142%	153%	145%
4	\$1.38	\$0.66	\$2.04	\$1.85	\$0.93	\$2.78	134%	142%	136%
5-9	\$5.27	\$2.73	\$8.00	\$6.74	\$3.55	\$10.29	128%	130%	129%
10+	\$5.26	\$2.59	\$7.86	\$6.56	\$3.21	\$9.77	125%	124%	124%
Total	\$15.80	\$7.75	\$23.54	\$21.19	\$10.71	\$31.90	134%	138%	136%

➤ Experience Basis reserves were calculated using adjustment factors to the 1952 Table that reflect the results from the A/E claim termination study.



2022 SOA ILWOP Experience Study Limitations


The results in this report are technical in nature and are dependent on certain assumptions and methods. No party should rely upon these results without a thorough understanding of those assumptions and methods. Such an understanding may require consultation with qualified professionals. This report should be distributed and reviewed only in its entirety.

In conducting the analysis, Milliman relied upon the policy and data provided by contributors to the ILWOP Experience Study. Milliman did not audit or independently verify any of the information furnished, except for reviewing the data for reasonableness and consistency. To the extent that any of the data or other information supplied to us was incorrect or inaccurate, the results of this analysis could be materially affected.

This report is intended for the benefit of the Society of Actuaries. Although the authors understand that this report will be made available to third parties, Milliman does not assume any duty or liability to such third parties with its work. This report should be distributed and reviewed in its entirety and is subject to the agreement between Milliman and the Society of Actuaries dated May 30, 2017.

This report includes illustrative reserve estimates that are based on a variety of assumptions about ILWOP incidence and claim termination experience. It is highly likely that actual experience on any given block of ILWOP business will vary from the assumptions, and that the illustrative reserves may be higher or lower than reserves calculated using a different set of assumptions. Also the illustrative reserves are presented on a best estimate basis without any added valuation margins.

I, Paul Correia, FSA, MAAA am a consulting actuary for Milliman, Inc and a member of the American Academy of Actuaries. I meet the qualification standards of these organizations to render the actuarial opinion contained herein.




[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/MembershipMeetings/B%20CMTE/HATF/2022_Summer/06-30-22/2022%20SOA%20Individual%20Life%20Waiver%20of%20Premium%20Experience%20Study%206-30-22%20\(reduced\).pdf](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/MembershipMeetings/B%20CMTE/HATF/2022_Summer/06-30-22/2022%20SOA%20Individual%20Life%20Waiver%20of%20Premium%20Experience%20Study%206-30-22%20(reduced).pdf)

Draft: 5/31/22

Health Actuarial (B) Task Force
Virtual Meeting
May 16, 2022

The Health Actuarial (B) Task Force met May 16, 2022. The following Task Force members participated: Andrew N. Mais, Chair, represented by Paul Lombardo (CT); Russel Toal, Vice Chair, represented by Julie Weinberg (NM); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Rodney Haviland (CA); Michael Conway represented by Eric Unger (CO); Amy L. Beard represented by Stephen Chamblee (IN); Vicki Schmidt represented by Nicole Boyd (KS); Timothy N. Schott represented by Marti Hooper (ME); Anita G. Fox represented by Kevin Dyke (MI); Chlora Lindley-Myers represented by William Leung (MO); Eric Dunning represented by Michael Muldoon (NE); Marlene Caride represented by Seong-min Eom (NJ); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Jim Laverty (PA); Cassie Brown represented by Aaron Hodges (TX); Mike Kreidler represented by Lichiou Lee (WA); and Allan L. McVey represented by Joylynn Fix (WV).


1. Heard an Update on GLWPVT Development

Sue Sames (Willis Towers Watson) gave an update (Attachment Two-A) on the American Academy of Actuaries (Academy) and Society of Actuaries Research Institute (SOARI) Group Life Waiver of Premium Valuation Table (GLWPVT) Work Group (Work Group) efforts towards developing valuation tables to replace the 2005 Group Term Life Waiver Mortality and Recovery Tables in *Actuarial Guideline XLIV—Group Term Life Waiver of Premium Disabled Life Reserves* (AG 44).

Ms. Sames said the Work Group will submit an executive summary of the table development process and a paper detailing the predictive analytics approach to table development to the Task Force. Mr. Lombardo said the Task Force will schedule a future meeting to hear an overview of the predictive analytics approach and executive summary, and hold a question-and-answer (Q & A) session with the Work Group.

Having no further business, the Health Actuarial (B) Task Force adjourned.

Member Meetings\2022 NAIC Meetings\Summer National Meeting\Committee Meetings\HEALTH INS and MANAGED CARE (B) COMMITTEE\Health Actuarial (B) TF\Conference Calls\5-16 HATF\05-16-22 HATF.docx



Group Life Waiver Premium Valuation Table Work Group Updates Presentation

Sue Sames, MAAA, FSA
Chairperson, Group Life Waiver Valuation Table Work Group


May 16, 2022—NAIC Health Actuarial (B) Task Force (HATF) Meeting

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Agenda

- Background, Scope and Approach
- Recommendation
- Proposed table
- Predictive Analytics
- Comparison of 2005 and 2022 Tables
- Considerations for AG 44
 - Credibility
 - Retroactive
 - Margins
- How can we best support HATF in its approval process?

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Background: Description of Benefits and Reserves

- Waiver of Premium is a disability benefit on group term life coverage
- If the insured is disabled under the terms of the contract, premiums are waived and benefits are payable upon death
 - Unless the insured recovers or benefits expire, e.g., upon attainment of age 65
 - Possible company variations include: definition of disability, elimination period, benefit period, benefit reduction schedules based on age
- Reserves are the actuarial present value of future benefits
 - Calculated using a double decrement of mortality and recovery, as described in Actuarial Guideline 44 (AG 44)

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Background: Evolution of Waiver Tables

- Historically insurers used 75% of the face amount as the reserve
- Krieger Table published in 1971, based on 1955-65 data
 - 135,000 life-years of experience
 - Table dimensions:
 - recovery/death decrements separated
 - disability duration (quarters 4-8 and years 3-10 select, then ultimate by attained age)
 - age at disability
 - A de facto standard
- SOA 2005 Table published in 2006, based on 1993 through 2002 data
 - 750,000 life-years (~6x more than Krieger study)
 - 17 companies
 - Added gender to table dimensions
 - AG 44 introduced 2005 Table as a valuation standard
- New table (SOA 2022) is based on 2006 to 2015 data
 - Over 2 million life-years (~3x more than 2005 study)
 - 20 companies
 - Adding "diagnosis group" dimension to SOA 2005 table structure
 - Developed using predictive analytics

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Background, Scope, and Approach


Who we are:

- A group of volunteers representing a good cross-section of companies, reinsurers and consultants working in group life
- The group commenced in 2019
- Volunteers represent members of the SOA and the Academy, and we are ably supported by their staff
- We had an external consultant conducting the data analytics under our direction

Our purpose in meeting with HATF:

- Provide an overview of our process
- Present our recommended Group Life Waiver of Premium Valuation Table and Actuarial Guideline 44, as well as supporting information
- Develop a better understanding of how we can support HATF in your review process

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Recommendation


Supporting Documents:

- Table
- Revised AG 44
- Paper supporting predictive analytics by external consultant, Jerry Holman

Improvements over 2005 Table:

- Significantly more (and better) data
- Using predictive analytics better reflects interaction of variables
- Including diagnosis as a new variable improves fit

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Proposed Table

Structure Consistent with 2005:

- Select period based on:
 - gender
 - age at disability
 - duration of disability
- Durations 11+ are on an attained age basis

Enhancements:

- Factors reflecting diagnosis
 - Unisex basis
 - Used same 15 diagnosis variables Group Long-Term Disability (“LTD”)
 - Grouped low/medium/high separately for deaths and recoveries
 - Protocol established for unknown diagnosis
- Developed using predictive analytics

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Predictive Analytics

From ASOP Exposure Draft on Assumptions:

- If Predictive Analytics was utilized for any actuarial assumptions in the analysis:*
- Describe how each model was selected and explain why it was appropriate for the purpose
 - Describe each algorithm in use, its parameterization, and changes in the parameter values from last year if applicable
 - Describe how common data issues, (e.g., cleaning, partitioning, and overfitting) were addressed
 - Provide an attribution analysis for each resultant assumption.

Enhancements:

- Using predictive analytics has greatly improved the quality of the result as these techniques are designed to appropriately attribute interactions between variables
- Work was done by Jerry Holman, the SOA’s external consultant, with oversight by the work group
- A paper outlining Holman’s methodology is submitted with this recommendation—it addresses in detail the issues outlined in the ASOP

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Comparison of 2005 and 2022 Tables

Total – All Benefit Periods	SOA 2005	SOA 2022	Compare %
Reserve: Experience Table	\$4,319 B	\$4,260 B	99%
Reserve: Valuation Table (Full margins)	\$5,228 B	\$4,784 B	92%
Margin: (Valuation Rev/Experience Rev) - 1	21.0%	12.3%	59%
NAR: 1- (Valuation Rev/Face)	71.2%	73.7%	104%
Exposed Claims	239,381	239,381	100%

- To assess the impact of the new table, we calculated reserves for the 239,381 claims open at the end of 2014
- Reserves are calculated using the experience tables and then adding in the margins
 - Results are quite close 99% and 92%
- Margins are quite high for the 2005 Table. We feel that the lower margin is appropriate given that the 2022 Table has more data, more variables and a much stronger technique

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Comparison of 2005 and 2022 Tables (cont.)

Total – All Benefit Periods	SOA 2005	SOA 2022	Compare %
Reserve: Experience Table	\$4,319 B	\$4,260 B	99%
Reserve: Valuation Table (Full margins)	\$5,228 B	\$4,784 B	92%
Margin: (Valuation Rev/Experience Rev) - 1	21.0%	12.3%	59%
NAR: 1- (Valuation Rev/Face)	71.2%	73.7%	104%
Exposed Claims	239,381	239,381	100%

- Results are shown Lifetime versus “To Age 65”
- Lifetime margins are lower than “To Age 65,” which seems reasonable given the lower Net Amount at Risk
- “To Age 65” margins are over 25% for the 2005 Table, which we felt were quite high

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AG 44—Margins

- The current AG 44 assesses margin on each decrement separately
 - 25% for mortality, i.e., mortality rates are multiplied by 125%
 - 35% for recovery, i.e., recovery rates are multiplied by (1-35% or 65%)
 - These margins were based on Krieger’s work in 1970 and result in a very high overall reserve margin of 21.0%, as well as even higher margins for “To Age 65”
- Under our proposal, the base reserve is first calculated on an experience basis, with the margin applied after
 - Margins start at 15% and grade down to 5% for companies with fully credible experience
 - The formula, which is based on that for group long-term disability, is provided in the proposed revision to AG 44

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AG 44—Credibility

- We feel strongly that the proposed table is a very good representation of industry experience. We also want to enable companies to reflect their own experience.
- We continue the practice of assessing credibility separately for mortality and recovery. We assess credibility separately by duration group, as follows:
 - Group 1: durations up to 24 months
 - Group 2: durations 24 to 60 months
 - Group 3: duration over 60 months
- For full credibility, each mortality group requires 800 claims; recovery requires 1,700 claims.

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AG 44—Retroactivity

- Our proposed revised AG 44 is provided.
- Because this table is an enhancement to the prior version, our proposal would allow companies to apply it, along with the AG 44 revisions, retroactively to all claims at their election.
 - Note that the current AG 44 allows an insurer to apply the 2005 Table retroactively to pre-AG 44 claims subject to the approval of the commissioner in the state of domicile.

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Appendix

The following slides illustrate the impact of the diagnosis groupings

- Death decrement – select period
- Death rates – select period table compare
- Death rates – ultimate period
- Recovery decrement – select period
- Recovery rates – select period table compare
- Recovery rates – ultimate period

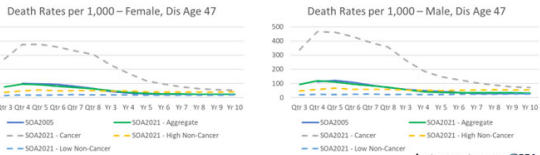
Note these slides were prepared for an SOA presentation November 9, 2021.

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Death Decrement – Select Period

- A key enhancement in the SOA 2022 table is the addition of diagnosis groups to differentiate termination rates.
- Mortality rates in the 2022 table are generally lower than the 2005 table for durations <7 years, but higher in duration years 7 to 10.
 - The Male-to-female mortality ratio has not changed materially in the 2021 table.



15



Death Rates – Select Period Table Compare

- Death rates are generally lower in the early ages and durations in the 2022 table, but higher in the later durations and older ages, when compared to the 2005 experience table.
- Similar relationships exist for females

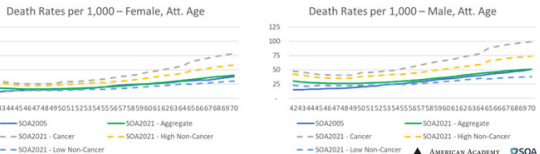
Duration	27	32	37	42	47	52	57	62
Qtr 3	60%	66%	63%	72%	82%	88%	95%	81%
Qtr 4	83%	84%	80%	92%	105%	112%	125%	103%
Qtr 5	100%	92%	69%	60%	51%	105%	120%	119%
Qtr 6	57%	53%	65%	74%	89%	102%	116%	115%
Qtr 7	44%	53%	75%	86%	94%	108%	119%	117%
Qtr 8	33%	46%	77%	89%	101%	116%	144%	129%
Yr 1	58%	65%	74%	84%	94%	107%	113%	121%
Yr 2	69%	76%	83%	92%	104%	108%	116%	121%
Yr 3	63%	70%	69%	77%	87%	100%	107%	113%
Yr 4	66%	69%	77%	86%	97%	108%	109%	118%
Yr 5	68%	69%	99%	109%	113%	126%	124%	138%
Yr 6	96%	96%	101%	112%	124%	133%	100%	101%
Yr 7	100%	115%	109%	115%	123%	119%	97%	101%
Yr 10	126%	126%	113%	126%	122%	112%	96%	96%

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Death Rates – Ultimate Period

- Diagnosis will differentiate ultimate death rates in the 2022 table.
- Notably, the 2022 table ultimate mortality for males is higher than the 2005 table for ages 42 to 70.
 - Female ultimate mortality is also generally higher, but to a lesser degree.

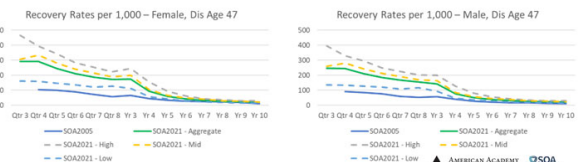


17



Recovery Rates – Select Period

- Like death rates, diagnosis group will be utilized to differentiate recovery rates in the 2022 table.
- The 2022 table has recovery rates 2-3x higher than the 2005 table for the first 4 years of disability for all disability ages.
 - Female recovery rates remain 10-20% higher than male rates, based on the underlying experience data.



18



Recovery Rates – Select Period Table Compare

- Recovery rates are roughly ~250%+ in the early durations in the 2022 table, but about ~150% higher in duration years 4+, when compared to the 2005 experience table.
- Similar relationships exist for males

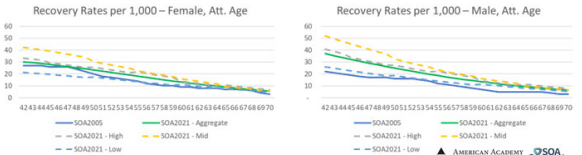
Duration	2022 Table Recovery Rates as a % of 2005 (Female)														
	2005 Age						2022 Age								
	25	32	37	42	47	52	57	62							
Grp 1	260%	260%	239%	211%	240%	243%	253%	339%	296%	260%	239%	211%	240%	243%	253%
Grp 2	196%	200%	219%	230%	260%	243%	253%	339%	296%	260%	239%	211%	240%	243%	253%
Grp 3	214%	216%	215%	216%	244%	222%	236%	284%	260%	239%	211%	240%	243%	253%	339%
Grp 4	236%	233%	199%	210%	239%	208%	243%	288%	260%	239%	211%	240%	243%	253%	339%
Grp 5	215%	225%	183%	216%	259%	229%	270%	314%	260%	239%	211%	240%	243%	253%	339%
Grp 6	233%	232%	199%	223%	305%	275%	330%	433%	260%	239%	211%	240%	243%	253%	339%
U-1	216%	222%	255%	225%	268%	275%	348%	394%	260%	239%	211%	240%	243%	253%	339%
U-2	148%	173%	178%	173%	209%	201%	258%	255%	260%	239%	211%	240%	243%	253%	339%
U-3	123%	143%	149%	149%	182%	194%	182%	159%	260%	239%	211%	240%	243%	253%	339%
U-4	142%	128%	123%	123%	157%	181%	151%	110%	260%	239%	211%	240%	243%	253%	339%
U-5	152%	125%	121%	127%	128%	171%	144%	110%	260%	239%	211%	240%	243%	253%	339%
U-6	155%	127%	118%	127%	112%	148%	126%	119%	260%	239%	211%	240%	243%	253%	339%
U-7	166%	148%	118%	127%	116%	147%	130%	129%	260%	239%	211%	240%	243%	253%	339%
U-8	182%	142%	125%	125%	151%	180%	178%	126%	158%	260%	239%	211%	240%	243%	253%



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Recovery Rates – Ultimate Period

- Diagnosis will differentiate ultimate recovery rates in the 2022 as well.
 - The Mid diagnosis group does in fact exhibit higher recovery rates than the high diagnosis group.
- The 2022 table will have recovery rates 150-200% higher than the 2005 table in the ultimate period.



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Group Life Waiver Premium Valuation Table

- Developed by the Group Life Waiver Valuation Table Work Group of the American Academy of Actuaries and the Society of Actuaries Research Institute
- Chairperson: Sue Sames, MAAA, FSA
- Vice Chairperson: John Murphy, MAAA, FSA
- Contributors:
 - Jeremy Fleischer, MAAA, FSA
 - Michael Krohn, MAAA, FSA
 - Matthew Piccolo, MAAA, ASA
 - Steve Rulis, MAAA, FSA
 - Patrick Wallner, MAAA, FSA



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Thank You

Questions?

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[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/B%20CMTE/HATF/2022_Summer/05-16-22/Academy_SOARI_GLWP_Presentation_to_HATF_5.16.22_\(FINAL\)%20\(reduced\).pdf](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/B%20CMTE/HATF/2022_Summer/05-16-22/Academy_SOARI_GLWP_Presentation_to_HATF_5.16.22_(FINAL)%20(reduced).pdf)

Draft: 7/5/22

Long-Term Care Actuarial (B) Working Group
Virtual Meeting
June 24, 2022

The Long-Term Care Actuarial (B) Working Group of the Health Actuarial (B) Task Force met June 24, 2022. The following Working Group members participated: Tomasz Serbinowski, Chair (UT); Jennifer Li (AL); Lisa Luo (CA); Paul Lombardo (CT); Hannah Howard (FL); Marti Hooper (ME); Michael Muldoon (NE); Bill Carmello (NY); Craig Kalman (OH); Andrew Schallhorn (OK); Steve Boston (PA); Andrew Dvorine (SC); and Aaron Hodges (TX).

1. Discussed an LTCI Mortality and Lapse Study

Warren Jones (Retired) gave an update (Attachment Three-A) to the American Academy of Actuaries (Academy) and Society of Actuaries (SOA) Research Institute's Final Long-Term Care Insurance (LTCI) Mortality and Lapse Study (Mortality and Lapse Study) as requested by the Working Group during its March 9 meeting. He said the Academy Long-Term Care Valuation Work Group used more recent SOA Long-Term Care Intercompany Experience Study data in a comparison to the Mortality and Lapse Study's earlier experience data. He said the more recent experience data has significant limitations that affect its use and that the original earlier data set is a much better data source than the newer source for the purpose of creating a valuation mortality table.

Mr. Serbinowski said the Working Group will draft a set of questions concerning the use of marital status and risk class adjustments, as well as the use of static versus generational tables to be included with an exposure of the Mortality and Lapse Study recommended tables. He said the questions and recommended tables will be exposed in early July for a public comment period of 60 days.

Having no further business, the Long-Term Care Actuarial (B) Working Group adjourned.



Meetings/Member Meetings/B CMTE/HATF/2022_Summer/LTCAWG/06-24-22/Minutes_LTCAWG_06-24-22docx

Long-Term Care Insurance Mortality and Lapse Study

Warren Jones, MAAA, FSA, FCA
Chairperson, Valuation Work Group



Developed by the Long-Term Care Valuation Work Group of the American Academy of Actuaries and the Society of Actuaries Research Institute

Presentation to NAIC Long-Term Care Actuarial (B) Working Group—June 24, 2022

Long-Term Care Insurance (LTCI) Mortality and Lapse Study

- [Study Released November 2021](#)
- Developed by the Long-Term Care Valuation Work Group of the American Academy of Actuaries and the Society of Actuaries Research Institute






Long-Term Care Insurance Mortality and Lapse Study
November 2021

Developed by the Long-Term Care Valuation Work Group of the American Academy of Actuaries and the Society of Actuaries Research Institute



November 2021

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Requests of the LTC Valuation Work Group

- Develop a replacement mortality table for LTCI active life reserves
 - Based on the 2012 Individual Annuity Mortality Table
 - Recommend a margin for conservatism
- Develop a replacement lapse table
 - Recommend a margin for conservatism
- Consider developing tables for valuation on total lives basis as well as active lives basis



Mortality Valuation Tables

- Developed valuation mortality table
 - Mortality is select and ultimate; all previous valuation mortality tables have been aggregate
 - Optional factors are provided for marital status and risk class
 - Mortality tables are provided for both total lives and active lives (off-claim) exposures
 - Margin for valuation mortality tables is included
 - Tables are included in the report as an Excel file



Data Source

- SOA/LIMRA LTC Voluntary Lapse and Mortality Experience Study
 - Comprised of experience data from 2000 through 2011 for 22 companies
- Selected the observation period 2008–2011 to reflect more recent trends
- Identified certain participating companies with relatively more accurate data submitted



Data Source

- Data from 10 companies (DEFN 2 in Report) satisfied the following conditions:
 - Deaths are separately identified from lapses
 - Unknown terminations are less than 25% of total terminations
 - Performed matching with Social Security death records within the previous three years from the date of submission.
 - DEFN 2 companies represent approximately 70% of the industry experience for the exposure period used



More Recent Experience Study

- Long-Term Care Intercompany Experience Study—Aggregate Database 2000–2016 Report published August 12, 2020
- Limitations:
 - Credible data for ages over attained age 80 by individual age from few companies that submitted directly to LIMRA
 - Data via MIB is aggregated for attained ages over 90 and LIMRA has grouped the data for ages 80-90



More Recent Experience Study

- Limitations Continued:
 - Not able to apply DEFN 2 filter used by the 2016 study. DEFN 2 filter provided a better determination of mortality v. lapse
 - Not able to do the same level of validation due to limitations of the data provided and length of time between the data submissions to MIB and when received at LIMRA (over 1 year)
 - Not able to calculate active life exposures; only total life mortality can be calculated
 - Only 6 of the original 10 DEFN companies participated in both studies



Conclusions

- 2016 study has more exposures (2012–2016)
- 2016 experience includes data for more recent period (2016 v. 2011)
- 2016 study has significant limitations that impact its use
- By including the DEFN 2 filter, the 2011 study is a much better data source than the 2016 source for purpose of creating a valuation mortality table
- Limitations of the 2016 study should be considered when designing future LTCI mortality experience studies that could be used to develop valuation mortality tables

Additional Information

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A Powerful Industry Partnership

In 2021, LIMRA and the SOA Research Institute entered into a partnership to support the industry with a **comprehensive program of industry experience studies**.

This program will provide timely, consistent, and comprehensive releases of industry experience data — providing you with the necessary tools for addressing **product development, pricing, and regulatory strategies**.

SOA Research INSTITUTE LIMRA

Together, We have Unmatched Breadth & Depth of Experience

Expertise

We are both associations dedicated to this industry, with a long history of conducting large data-intensive efforts

Trust

Strong reputation for unbiased research, analysis, and industry relationships

Value

Together we provide unparalleled value while delivering cost-effective insights

SOA Research INSTITUTE LIMRA

Benefits to Participants

- Credible, robust, benchmarking, and strong industry representation:**
70% market participation is typical
- Comprehensive and timely:** updates of industry data on a regularly published schedule
- Detailed and deeper analytics:** to support product development, inform management, reserving, and growth strategies

SOA Research INSTITUTE LIMRA

Robust Reporting Options

Standard Data Package

- Executive Summary Dashboard highlighting key findings and top-line analysis
- Detailed report presenting results and analysis of key findings
- Access to an aggregated industry level dataset for further analysis by companies
- Individualized presentation by SOA and LIMRA of your own company results and a discussion of the relationship to industry

Premium Data Package

- Standard Data Package plus...
- Customized tools for participating companies' own analysis
- Including predictive modeling and Artificial Intelligence methods

* Non participants are defined as companies or organizations that do not provide data for the study analysis.
+ per study

SOA Research INSTITUTE LIMRA

Robust Reporting Options

Standard Data Package

\$10-\$15K for participants+
\$30-\$60K for non participants**

- Executive Summary Dashboard highlighting key findings and top-line analysis
- Detailed report presenting results and analysis of key findings
- Access to an aggregated industry level dataset for further analysis by companies
- Individualized presentation by SOA and LIMRA of your own company results and a discussion of the relationship to industry

Premium Data Package

\$20-\$35K for participants+
\$45-\$85K for non participants**


- Standard Data Package plus...
- Customized tools for participating companies' own analysis
- Including predictive modeling and Artificial Intelligence methods

* Non participants are defined as companies or organizations that do not provide data for the study analysis.
+ per study

SOA Research INSTITUTE LIMRA

Wide Breadth of Studies

Product Line	2022	2023	2024 (preliminary)	2025 (preliminary)
Retail Annuity	FIA Contract Behavior VA Contract Behavior Income Annuity (Payout) Study	FIA Contract Behavior VA Contract Behavior Fixed Rate Annuity (Ropes/surrender)	FIA Contract Behavior VA Contract Behavior Fixed Rate Annuity Mortality	FIA Contract Behavior VA Contract Behavior Income Annuity (Payout) Study Structured Settlement Annuity Study
Retail Life Insurance	UL and VUL Flexible Premium – Premium Persistency	UL and VUL Flexible Premium – Premium Persistency Term Conversion Study	UL and VUL Flexible Premium – Premium Persistency Individual Life (Ropes/surrender) Individual Life Post Level Term	UL and VUL Flexible Premium – Premium Persistency Individual Life (Ropes/surrender)
Disability Insurance		Disability Income Claims, Mortality, Lapse LTC Claims, Mortality, Lapse	Critical Illness and LTC on Life	LTC Claims, Mortality, Lapse
Pension	Private Pension Mortality Public Pension Mortality			
Workplace		Group Annuity Mortality Group Life Mortality Study Group Long-term Disability		



Studies to Be Completed in 2022



Payout Annuities

- Data call sent in Sept 2021
- Study to be completed November 2022

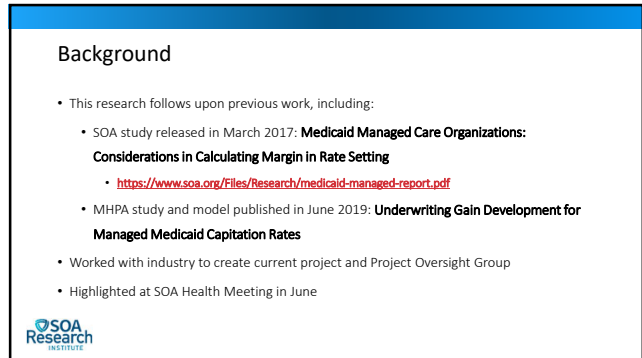
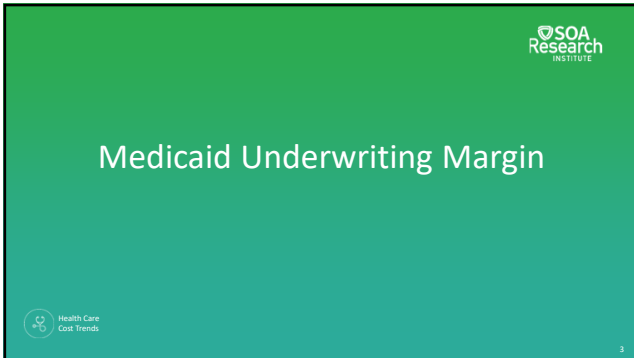
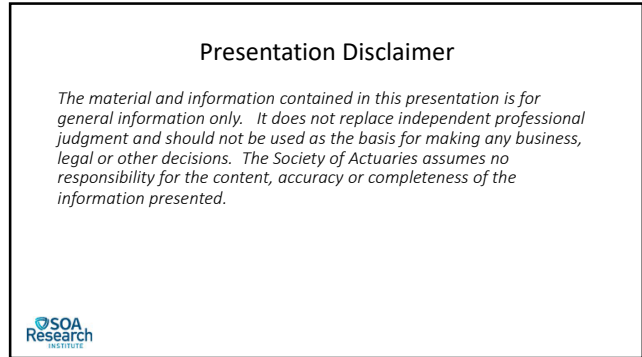
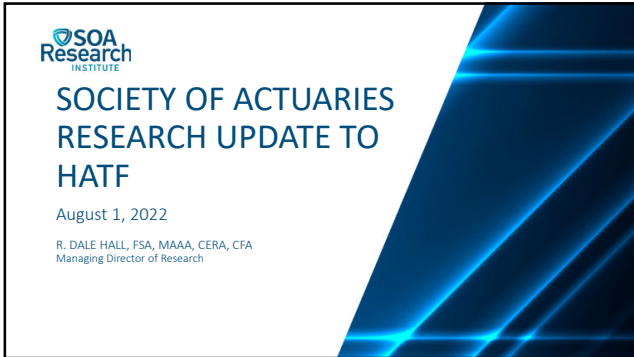


Fixed Indexed Annuities

- Data call sent in February 2022
- Study to be completed December 2022




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Historical Underwriting Margins and Ratios Realized

- On average, the actual performance of Medicaid insurers, measured as the insurer's underwriting ratio before taxes, is less than assumed in the state's rate development. Further, approximately one-third of Medicaid managed care plans can expect to have a net operating loss.
- In general, the margins for Medicaid managed care organizations are significantly less than those earned by either commercial insurers or Medicare Advantage plans.
- However, even a MMC insurer operating with a low profit margin may still offer the potential for significant returns on equity and/or capital.

	Underwriting Margin ¹ Included in Rate Development	Actual Underwriting Ratio ² from MMC Filings	% of MMCs operating at a Loss ² from MMC Filings
2016	1.30%	1.38%	32.5%
2017	1.29%	0.27%	37.6%
2018	1.29%	0.66%	36.8%
2019	1.18%	(0.25%)	48.1%
2020	1.15%	2.89%	23.1%
Overall Average	1.24%	0.99%	35.6%

Note 1: Underwriting Margins extracted from research group's review of 250 individual Medicaid Data Books spanning the five years. Excludes chiropractic and dental plans.
Note 2: Underwriting Ratio reflects data taken from PT, Row 24, Col 8 of NAIC Filings, i.e., Net Underwriting Gain or (Loss).

Purpose of the Underwriting Margin Model

To calculate the cost of capital and determine the risk margin necessary to achieve a user defined target of

- net income before taxes, and
- the probability of ruin

while considering:

- cost of capital,
- transfer payments,
- cash flow considerations, and
- unachieved withholds.

Note: All components are dependent on each other.

Target Selection

The Underwriting Margin Model solves for minimum risk margin needed to achieve the selected target.

Three potential targets are included to address different needs of actuaries.

- Net Income
 - Net Income is program revenues less expenses.
 - The target amount is defined as a percent of premium.
- Probability of Ruin
 - The likelihood that there is a net income loss that exceeds the targeted amount of reserve equity.
- Risk Margin
 - Expressed as a Percent of Premium
 - This target type allows user to define the risk margin while using the model to calculate other items, such as the cost of capital, transfer payments, and the cost of cash flows.



Medicaid Underwriting Gain

Link to the report and model: <https://www.soa.org/resources/research-reports/2022/medicaid-underwriting-margin-model/>



SOA Underwriting Margin Model - USER PARAMETERS		Calculation Is Required
General Parameters		
1. Calculation Target	Risk Margin	1.00%
2. Average Monthly Enrollment		100,000
3. Member In Rating Period		12
4. Member Months		1,200,000
5. UM Margin Curve - Standard Deviation	MED Size Curve	1.2947%
6. Claim Expense PMPM		\$600.00
7. Administrative Expenses PMPM		\$60.00
8. Q-2 Allowance PMPM		\$0.00
9. Withhold %		0.00%
10. W-3 Withhold %		100.00%
11. State Premium Tax %		0.00%
Cost of Capital (COC) Parameters		
12. Expenses to Risk Based Capital (RBC) Calculation		200.00%
13. Minimum RBC Target Threshold		100.00%

Additional Health Research



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Experience Studies

Project Name	Objective	Expected Completion Date
DI COVID19 Survey	Perform a survey of the impact of COVID-19 on Individual Disability Income experience.	https://www.soa.org/resources/experience-studies/2022/covid-19-impact-di-survey-results/
Group Life Waiver of Premium Valuation Tables	Develop valuation tables for claim mortality and recovery on Group Term Life policies with Waiver of Premium benefits.	10/31/2022



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Practice Research & Data Driven In-house Research

Project Name	Objective	Expected Completion Date
Medicaid Underwriting Margin	Build on a previous project designed to provide a theoretical methodology for Medicaid rate setting actuaries to determine the appropriate way to evaluate the risk associated with Managed Medicaid on the carriers underwriting this risk.	https://www.soa.org/resources/research-reports/2022/medicaid-underwriting-margin-model/
Wall Street Journal Health Forum Summary	Summarize the March 2022 Wall Street Journal Health Forum.	https://www.soa.org/resources/research-reports/2022/health-forum-summary/
Interaction Between Health Care Rating Factors with Race, Ethnicity and Socioeconomic Status	Address concerns related to rating factors of tobacco use, obesity, and geography in U.S. health insurance pricing.	7/22/2022
Risk Adjustment White Paper	Address recent concerns brought up by political leaders about the use of risk adjustment through an actuarial user's guide to its past and future applications.	9/15/2022
Health and Health Care Inequalities: Research Challenges and Considerations	Summarize the challenges involved in conducting research that requires health or health care data and protected personal information. Includes considerations for future research.	8/26/2022
Initiative 18/11 - 5/50 Project - Analyzing Characteristics of the Top 5% Members by Cost Who Drive 50% of Medical Expenses	Validate the 5/50 Premia by studying the amount of total costs and average allowed annual costs by percentile grouping. Analyze ability to predict the 5% based on prior claims and risk factors. Calculate transition probabilities between different cohorts.	8/11/2022
Emerging Impact of Long COVID on Healthcare Costs and Medical Conditions	Examine the impact of a COVID-19 diagnosis on patient claims and medical conditions.	9/15/2022
Social Physical and Cultural Determinants of Health	Substantiate overview of Social Determinants of Health research project.	7/15/2022



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American Academy of Actuaries Health Practice Council Summer 2022 Updates


Barbara Klever, MAAA, FSA
Vice Chairperson, Health Practice Council
American Academy Of Actuaries

Aug. 1, 2022—National Association of Insurance Commissioners (NAIC) Health Actuarial (B) Task Force (HATF) Meeting in Lieu of Summer National Meeting




About the American Academy of Actuaries

The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy and its boards also set qualification, practice, and other professionalism and ethical standards for actuaries credentialed by one or more of the five U.S.-based actuarial organizations in the United States.




Public Policy and the Academy

The Academy, through its public policy work, seeks to address pressing issues that require or would benefit from the application of sound actuarial principles. The Academy provides unbiased actuarial expertise and advice to public policy decision-makers and stakeholders at the state, federal, and international levels in all areas of actuarial practice.




Health Practice Council—Key Policy Priorities for 2022

- Health Equity
- COVID-19: Implications for Health Care Utilization and Spending
- Insurance Coverage
- Long-Term Care
- Medicare Sustainability
- Payment and Delivery Reform
- Climate Change and Health




Health Equity

- Issue Briefs:
 - [Data Collection for Measurement of Health Disparities](#) (forthcoming)
 - [Health Risk Assessment and Risk Adjustment in the Context of Health Equity](#) (forthcoming)
- Comment Letters:
 - [Comment letter](#) to the Colorado Division of Insurance on the implementation of Colorado Revised Statute (C.R.S.) § 10-3-1104.9. The law prohibits unfair discrimination based on certain personal characteristics—race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression—in any insurer practice. It also prohibits the use of external data, algorithms, or predictive models that unfairly discriminate against individuals with these characteristics. (2022)



COVID-19: Implications for Health Care Utilization and Spending


- Issue Briefs / Papers:
 - [Considerations for Reflecting the Impact of COVID-19 in Medicaid Managed Care Plan Rate Setting](#) (2021)
- Webinars:
 - May 24 - “Health Spending Projections in the Wake of COVID-19” ([Webinar](#))



Health Insurance Coverage

- Issue Briefs:
 - [Drivers of 2023 Health Insurance Premium Changes \(and infographic\)](#) (2022)
- Comment Letters:
 - [Comments on Family Glitch Proposed Rules](#) (2022)
 - [Comments on Draft 2023 Actuarial Value \(AV\) Calculator Methodology](#) (2022)
 - [Comments on 2023 Notice of Benefit and Payment Parameters \(NBPP\)](#) (2022)
 - [Comment Letter to CMS/CCIIO on Exposure Draft of Risk Adjustment Technical Paper](#) (2021)
- Virtual Briefing:
 - July 5 – “[Drivers of 2023 Health Insurance Premium Changes](#)”


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Long-Term Care Insurance (LTCI)

- Issue Briefs:
 - [Value of Reduced Benefit Options in Long-Term Care Insurance Rate Increases](#) (LTC Actuarial Equivalence) (2022)
- Comment Letters:
 - [Comment letter](#) to the Centers for Medicare & Medicaid Services (CMS) on the Proposed Rule for the 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs (comments involved Dual Eligible Special Needs Plans (D-SNPs) and medical loss ratios (MLRs)) (2022)
- Reports:
 - [Long-Term Care Insurance Mortality and Lapse Study](#) (joint project between Academy and Society of Actuaries Research Institute (SOARI)) (2021)
 - Request from NAIC Long-Term Care Actuarial Working Group (LTCAWG)
 - [Presentation](#) to NAIC HATF in November 2021; discussion with NAIC LTCAWG in March 2022. Follow-up [presentation](#) in June 2022.
 - Group Life Waiver Valuation Table Work Group – submitted report on updating AG-44 for the NAIC (joint project between Academy and SOARI) ([Report/Tables](#)) (2022)
 - [Presentation](#) to NAIC HATF in May 2022.
- Webinars:
 - June 10 – “[Value of Reduced Benefit Options in Long-Term Care Insurance Rate Increases](#)” (LTC Actuarial Equivalence)

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Medicare Sustainability

- Issue Brief:
 - [Medicare’s Financial Condition: Beyond Actuarial Balance](#) (2022)
- Essential Elements:
 - [Medicare’s Long-Term Sustainability Challenge](#) (2022)
- Statements/Testimony:
 - [Statement for the Record](#) to the U.S. Senate Committee on Finance Subcommittee on Fiscal Responsibility and Economic Growth on the Hospital Insurance Trust Fund and the future of Medicare financing (2022)
- Capitol Forum Webinar:
 - June 17 - “[Social Security and Medicare Trustees Reports: A Deep-Dive Discussion With the Programs’ Chief Actuaries](#)”


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Payment and Delivery Reform

- Issue Briefs:
 - [Implications of Hospital Price Transparency on Hospital Prices and Price Variation](#) (2022)
- Comment Letters:
 - [Comments on 2023 Notice of Benefit and Payment Parameters \(NBPP\)](#) (2022)
 - [Comments to CMS on Payment Parameters Proposed Rule](#) (2021)
- Webinars:
 - April 14 - “[Hospital Prices: Can Greater Price Transparency Drive Lower Prices and Reduce Price Variation?](#)”
 - May 24 - “[Health Spending Projections in the Wake of COVID-19](#)”


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Climate Change and Health

- In November of 2021, the Academy launched the Climate Change Joint Task Force
 - Membership is comprised of members from the Health, Casualty, Life, and Pension practice areas and is organized under the Risk Management and Financial Reporting Council (RMFRC)
- Comment Letters:
 - [Comment letter](#) to the International Sustainability Standards Board (ISSB) on the exposure draft of Climate-related Disclosures (due on July 29, 2022)
 - [Comment letter](#) to the Securities and Exchange Commission’s (SEC) request for public input on the enhancement and standardization of climate-related disclosures. (2022)
 - [Comment letter](#) on the RFI from the U.S. Department of Labor (DOL) Employee Benefits Security Administration (EBSA) on possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risks (2022)
 - [Comment letter](#) on the RFI from the U.S. Department of the Treasury and FIO on Climate-Related Financial Risk and the Insurance Sector (2021)—and forthcoming to the Department of Labor on Environmental, Social, and Governance (ESG)


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HPC NAIC Workstreams—HRBC

- Health Risk-Based Capital (E) Working Group (HRBC)
 - Request for Comprehensive Review of the H2—Underwriting Risk Component and Managed Care Credit Calculation in the Health Risk-Based Capital Formula
 - [July 2021](#) Academy comment letter
 - [January 2022](#) Academy report
 - [July 2022](#) Timeline Letter


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HPC NAIC Workstreams—LTCAWG

- NAIC Long-Term Care Actuarial (B) Working Group
- Long-Term Care Insurance Mortality and Lapse Study
 - ▣ Original request from the NAIC LTCAWG
 - ▣ [Report](#) released November 2021
 - Developed by the Long-Term Care Valuation Work Group of the Academy and SOARI
 - [Exposed](#) by the NAIC LTCAWG until Sept. 5, 2022
 - ▣ [Presentation](#) to NAIC HATF in November 2021
 - ▣ [Update presentation](#) to NAIC LTCAWG in June 2022


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Academy 2022 Annual Meeting and Public Policy Forum

- “[Envision Tomorrow: American Academy of Actuaries 2022 Annual Meeting and Public Policy Forum](#)” in Washington, D.C.
- November 2 and 3, 2022
- Health-specific [breakout sessions](#):
 - ▣ Health Care Workforce Shortages
 - ▣ Climate Change and Health
 - ▣ Regulating the Affordable Care Act: What’s New for 2023?
 - Will feature representatives from the Center for Consumer Information and Insurance Oversight (CCIIO) of the Centers for Medicare & Medicaid Services (CMS)


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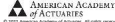
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- ▣ Presentations
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- ▣ Testimony



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Thank You

Questions?

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REGULATORY FRAMEWORK (B) TASK FORCE

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Draft: 8/18/22

Regulatory Framework (B) Task Force
Portland, Oregon
August 10, 2022

The Regulatory Framework (B) Task Force met in Portland, OR, Aug. 10, 2022. The following Task Force members participated: Vicki Schmidt, Chair (KS); Sharon P. Clark, Vice Chair (KY); Lori K. Wing-Heier represented by Sarah Bailey (AK); Mark Fowler represented by Yada Horace (AL); Ricardo Lara represented by Tyler McKinney (CA); Michael Conway represented by Kate Harris (CO); Andrew N. Mais represented by Jared Kosky (CT); Karima M. Woods represented by Howard Liebers (DC); Trinidad Navarro represented by Frank Pyle and Tim Li (DE); David Altmaier represented by Chris Struk and Shannon Doheny (FL); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Weston Trexler and Kathy McGill (ID); Amy L. Beard represented by Alex Peck (IN); Gary D. Anderson represented by Kevin Beagan (MA); Timothy N. Schott represented by Robert Wake (ME); Anita G. Fox represented by Karen Dennis (MI); Chlora Lindley-Myers represented by Carrie Couch and Amy Hoyt (MO); Edward M. Deleon Guerrero represented by Charlette C. Borja (MP); Mike Causey represented by Ted Hamby and Robert Croom (NC); Jon Godfread represented by Chrystal Bartuska (ND); Eric Dunning represented by Laura Arp (NE); Chris Nicolopoulos (NH); Russell Toal represented by Paige Duhamel (NM); Judith L. French represented by Laura Miller (OH); Glen Mulready represented by Andrew Schallhorn (OK); Andrew R. Stolfi represented by TK Keen (OR); Michael Humphreys (PA); Patrick Tigue represented by Alyssa Metivier-Fortin and Courtney Miner (RI); Larry D. Deiter represented by Jill Kruger (SD); Carter Lawrence represented by Brian Hoffmeister (TN); Cassie Brown represented by Rachel Bowden (TX); Jon Pike represented by Tanji J. Northrup (UT); Scott A. White represented by Julie Fairbanks and Julie Blauvelt (VA); Mike Kreidler represented by Molly Nollette and Jane Beyer (WA); Nathan Houdek (WI); and Allan L. McVey represented by Erin K. Hunter (WV). Also, participating was: Erica Weyhenmeyer (IL).

1. Adopted its Spring National Meeting Minutes

Mr. Keen made a motion, seconded by Ms. Kruger, to adopt the Task Force's March 23 minutes (*see NAIC Proceedings – Spring 2022, Regulatory Framework (B) Task Force*). The motion passed unanimously.

2. Adopted its Subgroup and Working Group Reports

a. Accident and Sickness Insurance Minimum Standards (B) Subgroup

Ms. Arp said the Subgroup met July 11, June 13, June 6, May 9, and April 18. She said that during these meetings, the Subgroup discussed comments received on Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171) and its drafting note to clarify what is and what is not “fixed indemnity coverage.” Based on the comments received and discussion, she said she developed a chair draft of proposed revisions to Section 8B. The Subgroup discussed the chair draft of proposed revisions to Section 8B and agreed on preliminary revisions to Section 8B for inclusion in the draft of revisions to Model #171.

Ms. Arp said the Subgroup also discussed comments received on the NAIC consumer representatives' initial comments on Section 8C—Disability Income Protection Coverage and agreed on preliminary revisions to Section 8C for inclusion in the draft of revisions to Model #171.

Ms. Arp said the Subgroup is nearing completion of its work related to Section 8—Supplementary and Short-Term Health Insurance Minimum Standards for Benefits. She said that after it finishes its work on this section, the Subgroup will start reviewing and considering revisions to the disclosure and notice provisions in Model #171. She

said she believes the Subgroup remains on track to finish its work revising Model #171 by the end of the year and forward the revised model to the Task Force for its consideration.

b. ERISA (B) Working Group

Mr. Wake said the Employee Retirement Income Security Act (ERISA) (B) Working Group met Aug. 10. He said that during this meeting, the Working Group adopted its May 24 minutes, which included the adoption of a summary from the case of *Rutledge v. Pharmaceutical Care Management Association (PCMA)* for inclusion in the *Health and Welfare Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation* (ERISA Handbook). The Working Group heard an update from the U.S. Department of Labor (DOL) regarding its ongoing efforts to implement the federal No Surprises Act (NSA) and mental health parity. He said the Working Group discussed and agreed to update the NAIC Chart on Multiple Employer Welfare Arrangements (MEWA)/Multiple Employer Trust (MET) and Association Plans. NAIC staff will survey the states regarding their laws. The Working Group also discussed whether to update the ERISA Handbook, but it decided that it would be premature to undertake such a project at this time given all the case law that remains in flux in the courts. He said the Working Group agreed to survey the states regarding their stop loss laws in relation to level funded plans.

Mr. Wake said that following all these discussions, the Working Group adjourned into a regulator-to-regulator session, pursuant to paragraph 2 (pending investigations), paragraph 3 (specific companies, entities or individuals), and paragraph 8 (consideration of strategic planning issues relating to federal legislative and regulatory matters) of the NAIC Policy Statement on Open Meetings, to continue work on its goals.

c. MHPAEA (B) Working Group

Ms. Weyhenmeyer said most of the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group meetings to date have been in regulator-to-regulator session to provide the opportunity for Working Group members and interested state insurance regulators to discuss MHPAEA enforcement and compliance issues. She said that in March, the Working Group held a series of regulator-to-regulator sessions to discuss potential changes to the mental health parity chapter of the *Market Regulation Handbook*. The Working Group finished its review and forwarded its suggested revisions to the Market Conduct Examination Guidelines (D) Working Group for its consideration. She said the Market Conduct Examination Guidelines (D) Working Group reviewed the Working Group's suggested revisions and adopted them. The Market Regulation and Consumer Affairs (D) Committee will consider adoption of the revised mental health parity chapter during its Aug. 12 meeting.

Ms. Weyhenmeyer said that in June, the Working Group drafted a letter to the U.S. Congress in support of congressional legislation that would provide grants to the states to assist them with mental health parity plan compliance determination, enforcement, and training. She said that during its meetings, the Working Group has discussed how the states are in different positions regarding their level of expertise in carrying out their mental health parity plan compliance work. She said that regardless of such expertise, most states are working to educate their state on the complexities related to mental health parity plan compliance and would benefit from more educational opportunities for their staff.

Ms. Weyhenmeyer said that during the Working Group's April 5 meeting at the Spring National Meeting, it heard a presentation from Illinois and Washington on a designation in behavioral health parity analysis that the Insurance Regulatory Examiners Society (IRES) has developed. She said the first course related to this designation starts in June. She said that during its April 5 meeting, the Working Group also heard: 1) a presentation from the DOL on mental health parity enforcement activities; and 2) a presentation from the American Psychiatric Association (APA) outlining an example of how insurers may document compliance with mental health parity regulations.

Ms. Weyhenmeyer said the Working Group plans to meet Aug. 11. During this meeting, the Working Group plans to hear: 1) a presentation from The Kennedy Forum on insurance coverage for behavioral health emergencies; and 2) presentations from the APA and the American Association for Marriage and Family Therapy (AAMFT) on provider experiences with insurance payment for behavioral health treatment and limitations applied by insurers. She said that following its open session, the Working Group plans to adjourn into regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals), paragraph 8 (consideration of strategic planning issues), and paragraph 9 (any other subject required to be kept confidential) of the NAIC Policy Statement on Open Meetings.

Commissioner Clark highlighted the need of state departments of insurance (DOIs) for training in mental health parity plan compliance and applauded the Working Group's efforts related to that issue. She said that this training issue needs to be at the forefront of everyone's minds, particularly each NAIC member. She said she would take steps to ensure it becomes a focus of the NAIC membership.

d. Pharmacy Benefit Manager Regulatory Issues (B) Subgroup

Mr. Keen said the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup met Aug. 9. During this meeting, the Subgroup adopted its July 29, June 15, April 25, and April 4 minutes. He said the Subgroup also heard: 1) a presentation from the PCMA; 2) the Pharmaceutical Research and Manufacturers of America (PhRMA); and 3) the Oregon Primary Care Association (OPCA). He said these presentations focused on issues for the Subgroup to consider as it begins its work to draft the white paper on pharmacy benefit manager (PBM) business practices.

Mr. Keen said he anticipates the Subgroup holding at least one more meeting in late August during which it would hear from at least one additional stakeholder group on the Subgroup's upcoming work on the white paper. He said he anticipates the Subgroup beginning its work on the white paper in September. He said that on Aug. 15, the Subgroup plans meet in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals), paragraph 8 (consideration of strategic planning issues), and paragraph 9 (any other subject required to be kept confidential) of the NAIC Policy Statement on Open Meetings, to: 1) discuss its approach to the white paper; 2) discuss a draft white paper outline; and 3) seek volunteers from among the Subgroup members to begin drafting sections of the white paper. He said he hopes the Subgroup can complete its work on the white paper by the end of the year.

Commissioner Clark said completing the white paper by the end of the year is an ambitious timeline. She said completing the white paper within that time frame is a laudable goal, but that the Subgroup should not rush its work. Commissioner Schmidt agreed that completing the work by the end of the year should not be set in stone, but it should be a target with the understanding that to ensure robust discussion and stakeholder comment, the white paper may not be finished until sometime in early 2023. Mr. Keen agreed.

Commissioner Clark made a motion, seconded by Ms. Nollette, to adopt the following reports: the Accident and Sickness Insurance Minimum Standards (B) Subgroup, including its July 11 (Attachment One), June 13 (Attachment Two), June 6 (Attachment Three), May 9 (Attachment Four), and April 18 (Attachment Five) minutes; the ERISA (B) Working Group, including its Aug. 10 minutes (Attachment Six), which also includes the adoption of the *Rutledge v. Pharmaceutical Care Management Association* (PCMA) case summary for inclusion in the ERISA Handbook; the MHPAEA (B) Working Group, including its April 5 minutes (Attachment Seven); and the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup, including its Aug. 9 minutes (Attachment Eight). The motion passed unanimously.

3. Heard an Update on the CHIR's Work

Maanasa Kona (Center on Health Insurance Reforms—CHIR, Georgetown University Health Policy Institute) provided an update on the CHIR's recent and forthcoming work. She said the CHIR is researching public option plans and recently published an in-depth analysis of Colorado's federal Affordable Care Act (ACA) Section 1332 waiver for a public option-style plan. The CHIR recently published a brief on the efforts California's state-based insurance marketplace is trying in order to reduce the number of uninsured and underinsured.

Ms. Kona said the CHIR also recently published a brief on actions state insurance regulators can take to prepare for the post-public health emergency (PHE) Medicaid unwinding. She said another issue the CHIR is analyzing is abortion and contraceptive coverage after the recent U.S. Supreme Court ruling in *Dobbs v. Jackson Women's Health Organization*.

Ms. Kona said the CHIR is continuing to monitor and analyze state action related to health equity. She said it recently published a report entitled, "Improving Race and Ethnicity Data Collection: A First Step to Furthering Health Equity Through SBMs."

Ms. Kona said the CHIR is also continuing its work related to the implementation of the NSA as she discussed during her update during the Task Force's March 23 meeting. She said the CHIR plans to release a study on state laws related to surprise billing enacted since the enactment of the NSA. She said the CHIR recently completed a study comparing the federal and state network adequacy standards governing Medicaid and ACA marketplace plans in six states.

Ms. Kona said the CHIR's future work includes: 1) publishing an issue brief on state efforts to enforce the MHPAEA; and 2) a 50-state research project on medical debt consumer protections.

4. Heard a Presentation from the AAM on the Usage of the Term "Interchangeable Biosimilar Product" in Model #22

Craig Burton (Association for Accessible Medicines—AAM) presented on the use of the term "interchangeable biosimilar product" in the *Health Carrier Prescription Drug Benefit Management Model Act* (#22) and its effect on prescription drug substitutions. He first discussed the mission of the Biosimilars Council (Council), which is a division of the AAM. The Council works to ensure a positive regulatory, reimbursement, political, and policy environment for biosimilar products and educates the public and patients about the safety and effectiveness of biosimilars. He said Council member organizations include companies or stakeholder organizations working to develop biosimilar products with the intent to compete in the U.S. market. The Council was created in 2015 to support the growing biosimilars sector and works to increase patient access to biosimilar medicines.

Mr. Burton discussed how biosimilars are currently reducing spending and potential savings in the future. He said the definition of "drug substitution" in Section 3G(2) of Model #22 should be revised as follows to ensure patient savings: "(2) For biologics, the substitution of a biosimilar product, as defined in 42 USC §262(i), that the FDA has determined to be biosimilar in accordance with the standards set forth in 42 USC §262(k) or an interchangeable biosimilar product, which is a biosimilar product, as that term is defined in 42 USC §262(k)(4), and listed as such in the latest edition of or supplement to the FDA Lists of Licensed Biological Products with Reference to Product Exclusivity and Biosimilarity or Interchangeability Evaluations, also known as the Purple Book."

Mr. Burton explained that biosimilar versus interchangeable is not relevant for formulary regulations. The distinction is only meaningful at the pharmacy counter and is not an indication of superior quality. He said that revising Model #22, as the AAM suggests, to allow formularies to substitute a biosimilar for a reference product: 1) empowers plans to encourage the use of an equally effective, lower cost biosimilar; 2) supports patient access

and savings through lower cost biosimilars; and 3) does not change state dispensing requirements for interchangeable products.

Commissioner Clark said that she first became aware of this issue during Kentucky's more recent legislative session during discussions of proposed legislation on step therapy protocols. The Task Force discussed Mr. Burton's presentation, particularly whether there is a need to revise Model #22 as the AAM suggests. After additional discussion, the Task Force decided to have an ad hoc group of Task Force members examine the issues more thoroughly and report back to the Task Force with any recommendations before or at the Fall National Meeting.

5. Heard an Update on the Implementation of the Federal Network Adequacy Standards for QHPs in FFEs

Brian R. Webb (NAIC) provided an update on the implementation of the federal network adequacy standards for qualified health plans (QHPs) in federally facilitated exchanges (FFE). He discussed the history of federal regulators attempting to impose federal network adequacy standards beginning with the Obama Administration, which initially proposed federal network adequacy standards, but after a rocky implementation rollout, the Obama Administration ended its efforts and returned network adequacy oversight to the states.

Mr. Webb said a federal court subsequently ruled this change was arbitrary and capricious and that the federal government must ensure networks are adequate. He said that because of this ruling, federal oversight is scheduled to resume for the 2023 plan year. He said that for QHPs in FFEs, beginning with plan year 2023, the federal Centers for Medicare & Medicaid Services (CMS) will begin implementing time/distance standards for various types of providers and facilities, and beginning in plan year 2024, the CMS will begin implementing wait time standards. To comply with the time and distance standards, at least 90% of QHP enrollees must live within the maximum distance to at least one provider of each type.

Mr. Webb said the proposed regulations include a provision allowing those FFE states that have network adequacy rules that are as stringent as the federal rules and a review process that is as stringent as the federal review process, then the state can determine network adequacy for QHPs in that state. He said that to date, the CMS has found that four states—Michigan, New Hampshire, South Dakota, and West Virginia—satisfy these criteria. For all the FFE states not meeting these criteria, the CMS is in the process of reviewing information from health carriers and determining whether they satisfy the federal network adequacy standards or if the health carrier is “justified” in not meeting the standards. He said there have been ongoing meetings between the CMS and the states to discuss a number of issues as the CMS begins implementation, including issues related to coordination, information-sharing, and enforcement. He said another issue being discussed is whether the states have a role in reviewing or providing information to the CMS on health carrier justifications for not meeting the federal network adequacy requirements.

Having no further business, the Regulatory Framework (B) Task Force adjourned.

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Draft: 7/18/22

Accident and Sickness Insurance Minimum Standards (B) Subgroup
Virtual Meeting
July 11, 2022

The Accident and Sickness Insurance Minimum Standards (B) Subgroup of the Regulatory Framework (B) Task Force met July 11, 2022. The following Subgroup members participated: Laura Arp, Co-Chair (NE); Andy Schallhorn, Co-Chair (OK); Debra Judy (CO); Chris Struk (FL); Amy Hoyt and Camille Anderson-Weddle (MO); Shari Miles (SC); Rachel Bowden (TX); Shelley Wiseman, Heidi Clausen, and Tanji J. Northrup (UT); Jamie Gile and Mary Block (VT); and Ned Gaines (WA).

1. Continued Discussion of Suggested Revisions to Section 8C of Model #171

The Subgroup continued its discussion from its June 13 meeting of the comments received on the NAIC consumer representatives' initial comments on Section 8C—Disability Income Protection Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171).

Ms. Arp asked for additional discussion on Section 8C(1) concerning the age an insurer could potentially reduce periodic payments based solely on age and the NAIC consumer representatives' concern that this provision could encourage an individual to take early retirement at age 62 with reduced Social Security benefits. Their suggestion is to revise this provision to require that any reduction in benefits related to a person's age be tied to an individual's eligibility for full Social Security retirement benefits, not their eligibility for early retirement benefits.

Chris Petersen (Arbor Strategies) said America's Health Insurance Plans (AHIP) has no issues with the current language in Section 8C(1), but in the interest of addressing the NAIC consumer representatives' concerns, AHIP could support removing Section 8C(1) altogether.

J.P. Wieske (Health Benefits Institute—HBI) said that it is HBI's understanding that this provision is rarely, if at all, used because it is hard to administer.

Anna Schwamlein Howard (American Cancer Society Cancer Action Network—ACS CAN) asked about the impact of removing Section 8C(1) and whether due to its removal, insurers could reduce benefits at any age.

The Subgroup discussed the interaction of Section 8C(1) with Section 8C(3). Ms. Howard suggested adding language to Section 8C(1) to refer to both "Social Security retirement benefits" and "Social Security disability income benefits." Mr. Wieske expressed concern with adding such language because Section 8C(1) only concerns Social Security retirement benefits. The Subgroup discussed using the term "Social Security normal retirement age (SSNRA)," as referenced in the HBI's comments. The Subgroup discussed various revisions to Section 8C(1). After additional discussion, the Subgroup decided to revise Section 8C(1) based on the NAIC consumer representatives' suggested revisions.

The Subgroup next discussed Section 8C(2). Ms. Howard reiterated the NAIC consumer representatives' concerns with the elimination periods. After discussion, the Subgroup decided to leave the provision unchanged.

The Subgroup next discussed Section 8C(3). After discussion, the Subgroup decided to remove the phrase referring to pregnancy, childbirth, or miscarriage.

During its May 9 meeting, the Subgroup had agreed to change the reference to six months to three months. The Subgroup next discussed Section 8C(4). Ms. Howard pointed out the NAIC consumer representatives' suggestion to add the word "both" for clarity. After discussion, the Subgroup agreed to accept the suggested revision.

Having no further business, the Accident and Sickness Insurance Minimum Standards (B) Subgroup adjourned.

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Draft: 6/23/22

Accident and Sickness Insurance Minimum Standards (B) Subgroup
Virtual Meeting
June 13, 2022

The Accident and Sickness Insurance Minimum Standards (B) Subgroup of the Regulatory Framework (B) Task Force met June 13, 2022. The following Subgroup members participated: Laura Arp, Co-Chair (NE); Andy Schallhorn, Co-Chair (OK); Howard Liebers (DC); Chris Struk (FL); Robert Wake (ME); Amy Hoyt (MO); Rachel Bowden (TX); Shelley Wiseman, Heidi Clausen, and Tanji J. Northrup (UT); Anna Van Fleet, Mary Block, Emily Brown, Jamie Gile, and Christine Menard-O’Neil (VT); and Ned Gaines (WA).

1. Continued Discussion of Suggested Revisions to Section 8B of Model #171

Using the NAIC staff comment chart (*see NAIC Proceedings – Summer 2022, Regulatory Framework (B) Task Force, Attachment Three-A*), the Subgroup continued its discussion from its June 6 meeting of the comments received on the co-chair’s draft proposed revisions to Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)* and its drafting note. Jolie H. Matthews (NAIC) pointed out draft language for a proposed drafting note for Section 8B(2). She said this proposed drafting note is intended to address the Subgroup’s June 6 meeting discussion about the placeholder language. After discussion, the Subgroup agreed to add the proposed drafting note to the draft of proposed revisions to Model #171. Mr. Struk suggested adding the word “minimum” before the words “benefit amounts.” The Subgroup accepted his suggested revision.

The Subgroup next discussed the Law Office of William G. Schiffbauer comments suggesting revisions to the drafting notes. Ms. Arp said she believes the suggested language for the drafting note is a good reminder to state insurance regulators that it is not necessarily the product that is the issue, but how some insurance producers and insurers market and sell the product to consumers, leading the consumer to believe it is a substitute for major medical insurance coverage. The Subgroup discussed the suggested language. After discussion, the Subgroup agreed to add the language. The Subgroup also agreed to accept the American Council of Life Insurers’ (ACLI’s) suggested edit to Section 8B(1) to change “benefit” to “benefits” and change “event” to “events.”

2. Discussed Comments Received on Section 8C of Model #171

The Subgroup next discussed the comments received on the NAIC consumer representatives’ initial comments on Section 8C—Disability Income Protection Coverage. Ms. Arp said NAIC staff compiled a chart reflecting the comments received from the ACLI, America’s Health Insurance Plans (AHIP), the Health Benefits Institute (HBI), and the NAIC consumer representatives (Attachment Two-A). The Subgroup discussed the comments on Section 8C(1) concerning the age an insurer could potentially reduce periodic payments based solely on age. Cindy Goff (ACLI) discussed the ACLI’s comments and the need for flexibility when an individual elects to receive Social Security benefits at age 62; as a result, the part of the individual’s income is being replaced by those benefits. She explained that this is optional for the insurer, not a requirement. The Subgroup discussed the NAIC consumer representatives’ concern that this provision could encourage an individual to take early retirement at age 62 with reduced Social Security benefits, and their suggestion is to revise this provision to require that any reduction in benefits related to a person’s age be tied to an individual’s eligibility for full Social Security retirement benefits, not their eligibility for early retirement benefits. Ms. Goff explained that this provision does not require an insurer to automatically reduce benefits when an individual turns age 62. The provision allows the insurer, if the insurer decides to do so, to reduce the benefit when the individual elects to take early retirement and access Social Security retirement benefits at age 62. Anna Schwamlein Howard (American Cancer Society, Cancer Action

Network—ACS CAN) asked if Ms. Goff could confirm her comments and understanding on how this provision works with her colleagues at the ACLI during a future Subgroup meeting. Ms. Goff agreed.

Ms. Arp asked about the last sentence in Section 8C(3), which states, “No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period.” Ms. Howard said she believes this language refers to Social Security disability benefits, not Social Security retirement benefits. Bonnie Burns (California Health Advocates—CHA) pointed out that the reference in Section 8C(3) to Social Security does not specifically state whether it is Social Security disability benefits or Social Security retirement benefits. She also expressed concern that an insurer could include a provision in a disability income protection policy requiring an insured to elect early Social Security retirement benefits at age 62. Mr. Schallhorn said he believes this provision was included to establish a floor as to how much an insurer can reduce benefits based solely on age if the insurer elects to reduce the benefits. He said without this provision, an insurer could potentially reduce the amount of benefits at its discretion at age 62. Ms. Howard explained that to address its concerns with this provision, the NAIC consumer representatives suggest tying the reduction of benefits to when an individual reaches full Social Security retirement age. Ms. Arp said the HBI suggests similar language in its comments. She also pointed out that in its comments, AHIP says it could support revising the specific age of 62 to a more flexible reference, such as “the Social Security retirement age.” The Subgroup discussed these comments, including that “full” Social Security retirement age differs based on when an individual was born.

Ms. Arp asked Ms. Goff to poll her colleagues at the ACLI and ACLI members on whether the reference to and language related to age 62 in Section 8C(1) is tied to Social Security retirement benefits or refers to something else. Ms. Goff also agreed to try to get clarification on the language in Section 8C(3) referring to “benefit period” and the length of such a period, such as whether it is a month, a year, or the length of the claim.

Chris Petersen (Arbor Strategies LLC) said AHIP suggests revising Section 3—Applicability and Scope to include a reference to “certificate” to reflect that Model #171 now applies to group disability income protection policies. The Subgroup took this suggested revision under advisement.

The Subgroup decided to continue this discussion during its next meeting on July 11.

Having no further business, the Accident and Sickness Insurance Minimum Standards (B) Subgroup adjourned.

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Disability Income Protection Provision Suggested Revisions
Comments on NAIC Consumer Representatives' Initial Suggested Revisions

<p>C. Disability Income Protection Coverage</p> <p>“Disability income protection coverage” is a policy that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of them that:</p> <p>(1) Provides that periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62);</p> <p>(2) Contains an elimination period no greater than: (a) Ninety (90) days in the case of a coverage providing a benefit of one year or less; (b) One hundred and eighty (180) days in the case of coverage providing a benefit of more than one year but not greater than two (2) years; or (c) Three hundred sixty five (365) days in all other cases during the continuance of disability resulting from sickness or injury;</p> <p>(3) Has a maximum period of time for which it is payable during disability of at least six (6) months except in the case of a policy covering disability arising out of pregnancy, childbirth or miscarriage in which case the period for the disability may be one month. (good with change 7/11/22) No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period;</p> <p>(4) Where a policy provides (good with change 7/11/22) total disability benefits and partial disability benefits, only one elimination period may be required.</p>	<p>ACLI</p> <p>Section 8(C)(1) Payments After Age 62 ACLI recommends preserving this provision because some individuals choose to take partial social security benefits at age 62. When this occurs, some carriers will reduce the benefit payments to reflect the income replacement they are receiving from social security when they take leave. This avoids duplicate or inappropriate wage replacement amounts.</p> <p>Section 8(C)(2) Elimination Periods These standards were originally intended to apply only to individual products and having them apply to both group and individual creates some issues as outlined below.</p> <p>ACLI recommends leaving the elimination periods as is. These elimination periods as a minimum standard allow insurers the ability to offer the choice of products with different elimination periods which can translate into lower premiums.</p>
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For groups specifically, the elimination period should be flexible to allow the employer to customize a plan that is the most appropriate and that considers the employer's paid sick leave, paid time off, paid family or medical leave, salary continuation plans, and/or whether the employer offers short term disability coverage. This highlights a key difference between individual and group policies: that group policies must take into account all other employee benefits, which will vary widely from employer to employer.

As a **specific illustration** of wording for the model regulation to provide for the flexibility requested above, **we suggest the following:** *“Longer elimination periods are permissible if the insured is in receipt of income replacement benefits prior to the start of disability benefits or if the design of the long-term disability plan is selected by a group policyholder on behalf of the members of the group.”*

The proposed changes would create an overly restrictive minimum standard for group policies more so than any state currently requires.

Additionally, longer elimination periods can be used in underwriting as an option for consumers should an underwritable condition or circumstance be discovered during the medical underwriting phase. The longer elimination period allows insurers to offer some level of coverage instead of declining coverage outright. Consumers often choose this option to lower the cost of premium.

Section 8(c)(3) Benefit Duration

ACLI requests clarification on the intent of the change from one month to three months for disabilities arising out of pregnancy, childbirth, or miscarriage because this is typically treated the same as other conditions and as illness. The proposed change would imply that the maximum benefit duration for short term disability plans would become three months. There are some group plans with shorter benefit durations that would need to be increased as a result. ACLI is unsure if this was the intent and, if so, would recommend against the change to keep the lower-cost option available for those employers who have chosen it and any who may choose it in the future.

ACLI recommends clarifying that short term disability plans are exempt from the requirement for disability plans to have a maximum benefit duration of six months. Two of the most popular short term maximum payment durations requested by employers are 13 weeks and 26 weeks, which coordinate with 90-day and 180-day elimination periods respectively. Insurers would appreciate a clarification that these types of plans comply with the minimum standards.

<p>AHIP</p>	<p>Section 8 (C) (1) states that disability income protection coverage:</p> <p><i>(1) Provides that periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62);</i></p> <p>AHIP supports the current language that references age sixty-two (62), which is the earliest time one may choose to receive Social Security retirement benefits. The NAIC Subgroup is asking for specific comments regarding the age a policy could lower the benefit payment amount. Given that this minimum age may change in the future, AHIP would also support revising the specific age of 62 to a more flexible reference such as “<i>the Social Security retirement age.</i>”</p> <p>Section 8 (C) (2) recognizes the need for different elimination periods for different levels of benefits that disability income protection policies offer. We support the current elimination periods outlined in this section.</p> <p>The NAIC Subgroup is asking for specific comments on the “appropriate” elimination period for policies providing benefits at various lengths of coverage. AHIP would like to note that the Texas Department of Insurance has suggested that this provision be simplified and modified “to provide that an elimination period cannot exceed 50% of the benefit period.” AHIP would also support this suggested change.</p> <p>Section 8 (C) (3) requires a minimum benefit duration of three (3) months² payable after a disability and allows a one month minimum for a disability arising out of pregnancy, childbirth or miscarriage.</p> <p>The NAIC Subgroup is asking for specific comments on why there is a separate provision for a disability arising out of pregnancy, childbirth or miscarriage. AHIP believes that all disabilities, including pregnancy, childbirth or miscarriage should be treated equally as other disabilities, as mandated by the Pregnancy Discrimination Act of Title VII of the Civil Rights Act. A separate reference for disability arising out of pregnancy, childbirth or miscarriage, is unnecessary. Our suggested redlined edit follows:</p> <p><i>(3) Has a maximum period of time for which it is payable during disability of at least three (3) months. No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period.</i></p>
<p>Health Benefits Institute (HBI)</p>	<p>Section 8 (C) (1).</p> <p>We believe the language is intended to reflect the fact that insurers are obligated to provide coverage to reflect that the insurer should pay the maximum benefit (i.e. the number of days, months, or years of coverage) until the consumer’s normal retirement age. Insurers will not actually reduce the amount of periodic payments contracted for, but rather stop making payments at the retirement age. This should reflect current disability policy.</p> <p>We would suggest the following language to clarify the issue:</p>

	<p>(1) Provides that periodic payments that are payable at ages after sixty-two (62) as calculated by the Age Discrimination in Employment Act schedule I or schedule II or until social security normal retirement age (SSNRA) as determined by the policy;</p> <p>Drafting Note: The intent of this section is to ensure that disabled employees who are covered under a disability policy are covered under their maximum time benefit or until their social security normal retirement age (specifically when the disabled employee is able to claim 100% of their social security benefits). Some employer plans may be covered under the Age Discrimination in Employment Act which may require a different benefit schedule.</p> <p>Section 8 (C) (2). The current language includes significant employer flexibility surrounding the elimination period of benefits. We believe preserving this language is vital.</p> <p>We urge the committee not to reduce consumer options in purchasing elimination periods. We agree with the general comments that support the affordability of coverage – ensuring that consumers can continue to afford this coverage. More importantly is the impact on employer benefits. Shortening elimination time frames will lead to employers reducing employee benefits like sick leave and PTO which typically pay 100% of salary for an insured benefit which provides less than 100% of salary.</p> <p>Section 8 (C) (3). It is our understanding that current disability policies cover disability arising from pregnancy the same as any other disability. As a result, we believe this section can be deleted.</p>
<p>NAIC consumer representatives</p>	<p>After hearing the conversation at the Working Group’s meeting on May 9, we would like to offer an amended version of our previous comments (first offered in June of 2019). We strongly believe that with respect to the definition of disability income protection, any reduction in benefits related to a person’s age should be tied an individual’s eligibility for full Social Security retirement benefits – not their eligibility for early retirement benefits.</p> <p>Amended Suggested Revisions: “Disability income protection coverage” is a policy that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of them that:</p>

<p>(1) Provides that a plan is prohibited from reducing periodic payments based on age, except that a plan may reduce periodic payments provided that reductions not take place until the individual has reached their full retirement age to receive Social Security benefits, and those payments are at least 50% of amounts payable prior to their reaching that age. Periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62);</p> <p>Drafting Note: States should be aware that the term “full retirement age” is the age at which an individual will start receiving full retirement benefit amounts from Social Security. The full retirement age will differ depending on the age of the individual. The full retirement age is 66 for individuals born between 1943 and 1954. The full retirement age increases gradually for individuals born between 1955 and 1960, until it reaches 67. For individuals born after 1960, their full retirement age is 67.</p> <p>More information is available at https://www.ssa.gov/benefits/retirement/learn.html#:~:text=The%20full%20retirement%20age%20is,are%20payable%20at%20age%2067.</p> <p>(2) Contains an elimination period no greater than: (a) Ninety (90) <u>Thirty (30)</u> days in the case of a coverage providing a benefit of one year or less; (b) One hundred and eighty (180) <u>Ninety (90)</u> days in the case of coverage providing a benefit of more than one year but not greater than two (2) years; or (c) Three hundred sixty-five (365) <u>One hundred and eighty (180)</u> days in all other cases during the continuance of disability resulting from sickness and/or injury;</p> <p>(3) Has a maximum period of time for which it is payable during disability of at least six (6) months except in the case of a policy covering disability arising out of pregnancy, childbirth or miscarriage in which case the period for the disability may be one month. No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period;</p> <p>(4) Where a policy provides both total disability benefits and partial disability benefits, only one elimination period may be required.</p>	
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Draft: 6/14/22

Accident and Sickness Insurance Minimum Standards (B) Subgroup
Virtual Meeting
June 6, 2022

The Accident and Sickness Insurance Minimum Standards (B) Subgroup of the Regulatory Framework (B) Task Force met June 6, 2022. The following Subgroup members participated: Laura Arp, Co-Chair (NE); Andy Schallhorn, Co-Chair (OK); Chris Struk (FL); Camille Anderson-Weddle, Amy Hoyt, and Cynthia Amann (MO); Shari Miles (SC); Rachel Bowden (TX); Shelley Wiseman and Tanji J. Northrup (UT); Anna Van Fleet, Mary Block, and Jamie Gile (VT); and Ned Gaines (WA).

1. Discussed Suggested Revisions to Section 8B of Model #171

Ms. Arp said in response to the Subgroup's request for comments on the co-chair's draft proposed revisions to Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)* and its drafting note, the Subgroup received comments from the American Council of Life Insurance (ACLI), America's Health Insurance Plans (AHIP), the Health Benefits Institute (HBI), the NAIC consumer representatives, the Law of Office William G. Schiffbauer (Schiffbauer), and the Vermont Department of Insurance (DOI). She said NAIC staff developed a chart reflecting the comments received, including suggested revisions to the co-chair's draft proposed revisions (Attachment Three-A). Each of the commenters discussed their comments.

With respect to the ACLI's suggestion to add "fixed percentage," the Subgroup decided not to accept the suggested revision because such language could be confusing to consumers. In addition, the Subgroup said adding such language would deviate from the federal definition with respect to indemnity products. The Subgroup discussed the general purpose of the co-chair's proposed revisions to this provision, including the drafting notes, which is to provide guidance to state insurance regulators on the framework for these products and provide some guardrails on what products fall within the provision's scope and those products that do not.

The Subgroup discussed AHIP's suggestion to replace "health-related" event with "specified" event. Ms. Arp asked if there would ever not be a "health-related" event. After discussion, the Subgroup decided not to accept the suggested revision because of how benefits are triggered. Benefits are triggered based on a health-related event, but the benefits provided due to that triggering event may not be "health-related." To address these issues, the Subgroup decided to revise the language to add "triggered by."

The Subgroup discussed Schiffbauer's comments, including whether the language should include the specific reference to the federal law on excepted benefits and the differences in the language in federal law for individual coverage versus group coverage. After discussion, the Subgroup decided to remove the reference and consider adding language to the last drafting note to flag it for state insurance regulators when reviewing form filings. The Subgroup discussed the following language for the potential drafting note: "If the product does not meet the federal definition of excepted benefits under 42 U.S.C. §300gg 91(c)(3) and its implementing regulations, it should be treated and regulated as a comprehensive major medical coverage subject to the requirements of the federal Affordable Care Act (ACA)."

The Subgroup discussed the HBI's suggestion to delete the reference to "31 days" in paragraph 2 and replace it with "[X] days" because "31 days" is outdated and possibly reflects the previous version of Model #171 that included major medical type coverage. The Subgroup discussed deleting paragraph 2. After additional discussion, the Subgroup decided to retain it because it exists in current state laws and regulations. To address concerns with

the placeholder language, the Subgroup decided to add a drafting note alerting state insurance regulators that when setting lump sum benefits or daily benefits for hospital indemnity coverage, they should be mindful to not set benefits that are so low that they may not provide any actual benefit to consumers or set benefits so high that consumers could be led to believe the coverage is major medical coverage.

The Subgroup decided to continue the discussion during its next meeting June 13.

Having no further business, the Accident and Sickness Insurance Minimum Standards (B) Subgroup adjourned.

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Chair Draft Suggested Indemnity Provision Language Revisions
Comments on Suggested Revisions
(Assuming the chair suggested revisions are accepted)

<p>B. Hospital Indemnity or Other Fixed Indemnity Coverage</p> <p>(1) “Hospital indemnity or other fixed indemnity coverage” provides a benefit for hospital confinement or another health-related event based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations.</p> <p>(2) “Hospital indemnity coverage” may provide a single lump sum benefit for hospital confinement of not less than \$[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than \$[X] per day and not less than thirty one (31) days during each period of confinement for each person insured under the policy.</p> <p>(3) Coverage shall not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.</p> <p>Drafting Notes: Hospital indemnity or other fixed indemnity coverage is recognized as supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the <i>Coordination of Benefits Model Regulation</i> states that the definition of a plan (for the purposes of coordination of benefits)...shall not include individual or family insurance contracts....” States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.</p> <p>For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether an indemnity product’s benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as a replacement for major medical coverage.</p>	<p>ACLI</p> <p>(1) “Hospital indemnity or other fixed indemnity coverage” may include but is not limited to a benefits for hospital confinement or another health-related events based on a fixed dollar amount or fixed percentage, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations.</p>
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<p>AHIP</p>	<p>(1) "Hospital indemnity or other fixed indemnity coverage" provides a benefit for hospital confinement or another specified event based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations.</p> <p>(2) "Hospital indemnity coverage" may provide a single lump sum benefit for hospital confinement of not less than \$[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than \$[X] per day for each person insured under the policy.</p>
<p>Health Benefits Institute (HBI)</p>	<p>*****</p> <p>(2) "Hospital indemnity coverage" may provide a single lump sum benefit for hospital confinement of not less than \$[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than \$[X] per day and not less than [X] days during each period of confinement for each person insured under the policy.</p>
<p>NAIC consumer representatives</p>	<p>*****</p> <p>(3) Coverage shall not be excluded due to a preexisting condition for a period greater six (6) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.</p> <p>Drafting Notes: Hospital indemnity or other fixed indemnity coverage is recognized as supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the <i>Coordination of Benefits Model Regulation</i> states that the definition of a plan (for the purposes of coordination of benefits)...shall not include individual or family insurance contracts...." States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.</p> <p>For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether consumers could reasonably perceive an indemnity product's benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as a replacement for major medical coverage.</p> <p>Drafting Note: In setting the minimum daily or lump sum benefit amounts, states should examine the extent to which the benefit amount is in line with a reasonable expectation of a consumer's out-of-pocket costs. State regulators should also</p>

	<p>examine these benefit amounts to determine whether they could reasonably be construed as violating the state's <i>Unfair Trade Practices Act</i> [#880].</p>
<p>William G. Schiffbauer Law Office</p>	<p>B. Hospital Indemnity or Other Fixed Indemnity Coverage</p> <p>(1) In General. "Hospital indemnity or other fixed indemnity coverage" provides benefits for specified events based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage.</p> <p>(2) Hospital Indemnity Coverage. "Hospital indemnity coverage" may provide a single lump sum benefit fixed dollar benefit for hospital confinement and/or a fixed dollar daily benefit for hospital confinement in addition to benefits for other specified events on an indemnity basis.</p> <p>(3) Other Fixed Indemnity Coverage. Provides benefits for specified events based on a fixed dollar amount, regardless of the amount of expenses incurred, and without coordination with any other health coverage.</p> <p>(4) Preexisting Conditions. Coverage shall not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.</p> <p>Drafting Notes: Hospital indemnity or other fixed indemnity coverage is supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the <i>Coordination of Benefits Model Regulation</i> states that the definition of a plan (for the purposes of coordination of benefits)...shall not include individual or family insurance contracts...." States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.</p> <p>For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether an indemnity product's benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as an alternative to, or substitute for, or replacement for major medical coverage. It is the marketing of supplementary coverage as an alternative, substitute or replacement for major medical coverage that presents the unfair trade practice, and not the supplementary coverage itself when it is offered and marketed as supplementary excepted benefits coverage.</p>

	<p>These proposed changes broaden the definition of indemnity to match the excepted benefit rules for individual coverage. Vermont uses this regulation to regulate group supplemental health insurance as well. If any state used it for that purpose perhaps a drafting note should be added to address that these standards are designed for individual insurance and that the group excepted benefit rule should be consulted for states using this regulation for group insurance. 45 CFR 146.145.</p>
Vermont Division of Insurance	

Draft: 5/23/22

Accident and Sickness Insurance Minimum Standards (B) Subgroup
Virtual Meeting
May 9, 2022

The Accident and Sickness Insurance Minimum Standards (B) Subgroup of the Regulatory Framework (B) Task Force met May 9, 2022. The following Subgroup members participated: Laura Arp, Co-Chair (NE); Andy Schallhorn, Co-Chair (OK); Chris Struk (FL); Robert Wake (ME); Shari Miles (SC); Rachel Bowden (TX); Shelley Wiseman and Heidi Clausen (UT); Anna Van Fleet, Mary Block, Emily Brown, and Christine Menard-O'Neil (VT); and Ned Gaines (WA).

1. Continued Discussion of Comments Received on Model #171

Ms. Arp said that instead of reviewing a chair draft of proposed revisions to Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171) and its drafting note reflecting the Subgroup's discussion during its April 18 meeting, the Subgroup would continue discussion of the comments received on Model #171 beginning with Section 8C—Disability Income Protection Coverage.

The Subgroup discussed America's Health Insurance Plans' (AHIP) suggestion to revise the length of the maximum period for which periodic payments are payable during a disability from at least six months to three months except in the case of a policy covering disability arising out of pregnancy, childbirth, or miscarriage. The Subgroup discussed the suggested revision. Some stakeholders expressed support for revising the time frame to permit more flexibility, particularly with respect to short-term disability income protection coverage. Ms. Arp expressed support for the revision. Without objection, the Subgroup accepted AHIP's suggested revision.

The Subgroup next discussed the NAIC consumer representatives' suggested revisions to Section 8C. Ms. Arp said the NAIC consumer representatives suggest striking the language in paragraph (1). For a policy providing periodic payments at ages after 62, paragraph (1) provides that an insurer may reduce such payments solely based on age at an amount at least 50% of amounts payable immediately prior to age 62. She said the NAIC consumer representatives also suggest shortening the elimination period time frames in paragraph (2). The NAIC consumer representatives also suggest lengthening the maximum period for a disability arising out of pregnancy, childbirth, or miscarriage from one month to three months in paragraph (3). The Subgroup discussed the suggested revisions. The Subgroup discussed why age 62 was chosen as the age when an insurer may reduce benefit payments. Some stakeholders suggested that age 62 was chosen because individuals can receive partial Social Security benefits at that age. The Subgroup also discussed the different elimination periods based on the length of benefit coverage. After discussion, the Subgroup decided to request comments on the NAIC consumer representatives' suggested revisions for a public comment period ending May 27. The Subgroup intends to review any comments received during its next meeting June 6. During its June 6 meeting, the Subgroup also plans to review comments submitted on the chair draft of proposed revisions to Section 8B.

Having no further business, the Accident and Sickness Insurance Minimum Standards (B) Subgroup adjourned.

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Draft: 5/9/22

Accident and Sickness Insurance Minimum Standards (B) Subgroup
Virtual Meeting
April 18, 2022

The Accident and Sickness Insurance Minimum Standards (B) Subgroup of the Regulatory Framework (B) Task Force met April 18, 2022. The following Subgroup members participated: Laura Arp, Co-Chair (NE); Andy Schallhorn, Co-Chair (OK); Debra Judy (CO); Chris Struk (FL); Amy Hoyt, Carrie Couch, and Cynthia Amann (MO); Shari Miles (SC); Rachel Bowden (TX); Shelley Wiseman and Heidi Clausen (UT); Jamie Gile and Christine Menard-O'Neil (VT); and Ned Gaines (WA).

1. Discussed Comments Received on Revising Section 8B of Model #171

Ms. Arp said that during the Subgroup's March 21 meeting, she asked Subgroup members, interested state insurance regulators, and interested parties to submit language for the Subgroup's consideration and discuss revisions to Section 8B—Hospital Indemnity or Other Fixed Indemnity Coverage of the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)* and its drafting note clarifying what is and what is not "fixed indemnity coverage." She said the Subgroup received two comment letters—the Health Benefits Institute (HBI) and the Law Office of William G. Schiffbauer (Schiffbauer Law Office).

J.P. Wieske (HBI) said that in HBI's comments, it suggests adding a new drafting note to Section 8B that addresses the different approaches the states have taken on whether referenced-based pricing constitutes fixed indemnity coverage or major medical coverage. He said the HBI understands that reference-based pricing creates new challenges to state insurance regulators in seeking to protect consumers from being confused and led to believe they are purchasing major medical coverage. He said the proposed new drafting note also suggests state insurance regulators pair a review of reference-based pricing plans with the health carrier's marketing materials to ensure that the carrier is not developing, marketing, or selling products as a replacement for major medical coverage.

Mr. Wieske said the HBI comments also include its previous suggestions on provisions to be added to Model #171 concerning short-term, limited-duration (STLD) plans, including a proposed definition of the term.

Bill Schiffbauer (Schiffbauer Law Office) discussed his suggested revisions to Section 8B. He said the first revision would amend the definition of "hospital indemnity or other fixed indemnity" insurance based on the definition of that term in the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)*, the companion model act to Model #171. He said this revised definition adds further interpretation based on the federal excepted benefits statutory conditions that have remained unchanged in federal Public Health Service Act (PHSA) Section 2721(c) and Section 2971(c) since the enactment of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). He said he also suggests adding language to require a health carrier to annually certify to the state department of insurance (DOI) that its hospital indemnity or other fixed indemnity products are not offered or marketed as major medical coverage or as an alternative or substitute for major medical coverage. He said his last suggested revision is to add a requirement for a prominent disclosure statement in the application above the applicant's signature line. He said this placement provides certainty that the consumer clearly understands that the product being offered for purchase is hospital or other fixed indemnity health insurance coverage and not major medical coverage.

The Subgroup discussed the HBI's and the Schiffbauer Law Office's suggested revisions to Section 8B. Ms. Arp raised a concern about situations when a fixed indemnity plan pays an amount for a certain benefit that substantially or completely covers the actual cost of the service. She said consumers could be confused by this

and led to believe the coverage is major medical coverage. She asked if the Subgroup thinks Section 8B should address this situation. Anna Schwamlein Howard (American Cancer Society, Cancer Action Network—ACS CAN) reiterated the NAIC consumer representatives' concern that the Subgroup rely on disclosures to ensure consumers understand that the fixed indemnity product they are purchasing is not major medical coverage. Ms. Arp acknowledged Ms. Howard's concerns. However, she said some of Ms. Howard's concerns relate to STLD plan coverage, which the Subgroup will address later when it considers what provisions to add to Model #171 for STLD plans. Ms. Bowden said she believes the Subgroup's focus regarding Section 8B is to craft a definition for "hospital indemnity or other fixed indemnity" that aligns with provisions in federal law and regulations on excepted benefits. She said she also believes Section 8B should clarify the issue Ms. Arp raised with respect to the language "regardless of the actual expense incurred" because she does not believe that the situation referenced by Ms. Arp related to this language reflects the intent of the federal law or regulations provisions on excepted benefits. She said, as the Subgroup has discussed, the states have interpreted "regardless of the actual expense incurred" differently when deciding whether a product is a fixed indemnity product or a major medical product. A drafting note to Section 8B could outline both sides of the issue and the different interpretations leaving it up to each state to decide its approach.

After additional discussion, Ms. Arp volunteered to work with other Subgroup members to revise Section 8B to reflect the Subgroup's discussion, including adding a new drafting note to reflect the different approaches taken by the states concerning reference-based pricing plans. She said she would circulate the draft revisions for the Subgroup's consideration and discussion during a future meeting.

Ms. Howard asked Ms. Arp to consider including in the proposed new drafting note language suggesting that in reviewing these products, the states pay particular attention to the benefit amount to be paid under the plan for a specific service to potentially determine if the plan is providing an actual benefit to consumers.

The Subgroup discussed revising the \$40 daily benefit amount in Section 8B because it has not changed since the last time Model #171 was revised in 1998. Mr. Wieske suggested the Subgroup consider replacing the specific dollar amount with a placeholder "X" and including in the proposed new drafting note language suggesting that the states, in reviewing the product filing, consider whether the dollar amount for the benefit included in the filing is so high such that it could lead the consumer to think the product is a major medical product or whether it is so low that the plan does not provide any actual benefit to the consumer. After discussion, Ms. Arp agreed to put language in the proposed new Section 8B drafting note reflecting Ms. Howard's and Mr. Wieske's suggestion.

Having no further business, the Accident and Sickness Insurance Minimum Standards (B) Subgroup adjourned.

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Draft: 8/17/22

Employee Retirement Income Security Act (ERISA) (B) Working Group
Portland, Oregon
August 10, 2022

The ERISA (B) Working Group of the Regulatory Framework (B) Task Force met in Portland, OR, Aug. 10, 2022. The following Working Group members participated: Robert Wake, Chair (ME); Yada Horace (AL); Kate Harris (CO); Howard Liebers (DC); Andria Seip (IA); Julie Holmes (KS); Peter Brickwedde and Julia Dreier (MN); Carrie Couch (MO); Robert Croom (NC); Laura Arp (NE); Stephanie McGee (NV); Rebecca Ross (OK); Jill Kruger (SD); Tanji Northrup (UT); Charles Malone (WA); and Richard Wicka (WI).

1. Adopted its May 24 Minutes

Mr. Wake said the Working Group met May 24 to adopt a summary of the U.S. Supreme Court case *Rutledge v. Pharmaceutical Care Management Association* (PCMA) for inclusion in the *Health and Welfare Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation* (ERISA Handbook).

Mr. Wake made a motion, seconded by Ms. Kruger, to adopt the Working Group's May 24 minutes (Attachment Six-A). The motion passed unanimously.

2. Heard an Update from the DOL

Amber Rivers (U.S. Department of Labor—DOL) gave an update on activity at the DOL. She said the DOL is working on implementation of the federal No Surprises Act (NSA), which was passed as part of the federal Consolidated Appropriations Act, 2021 (CAA). She said that the DOL has been working with the U.S. Department of Health and Human Services (HHS) and the U.S. Department of the Treasury (Treasury) on information sessions. She said there have been a number of lawsuits filed and that the DOL received a couple of adverse decisions vacating some of the core provisions that related to the interim final rules issued last October establishing the independent dispute resolution process. She said that the agencies have been working on additional rulemaking to address those vacated provisions.

Ms. Rivers said the DOL was also working on mental health parity implementation. She said in January, the DOL, HHS, and Treasury issued their Report to Congress addressing compliance with the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) generally and serving as the disclosure requirement implemented by the CAA. A second Report to Congress is currently underway. Ms. Rivers also said that the DOL, HHS and Treasury are working on a new proposed rule to address the new mental health parity requirements under the CAA.

Beth Baum (DOL) said that on July 23, the DOL, HHS, and Treasury issued a frequently asked questions (FAQ) document clarifying access to contraceptive coverage required under the federal Affordable Care Act (ACA). She also said that the DOL, HHS, and Treasury are working on a proposed rule addressing the moral and religious exemption.

3. Discussed Updating the NAIC Chart on MEWA/MET and Association Plans

Mr. Wake explained that there is an NAIC chart on state laws addressing multiple employer welfare arrangements (MEWAs) and multiple employer trusts (METs) that could use some updating. He said that it might be useful to survey the states to see if there are any new laws or regulations. He said that the chart could be turned into a compendium of state options for regulating. Mr. Wake said that he would like to know if any states regulate fully

insured MEWAs—not just the insurer providing the coverage, but the reserves and finances of the MEWA itself—which is specifically allowed under ERISA §514(b)(6)(A)(i). Ms. Seip said that Iowa promulgated association health plan (AHP) regulations in response to the 2018 AHP rule issued by the DOL in 2018, which is not enforceable since the District Court for the District of Columbia vacated key provisions of the AHP rule. Ms. Seip said she would like to know how other states have addressed the situation and what have they done with their rules. Mr. Wake said when Maine enacted the AHP section of its small group law, it included a clause requiring compliance with federal requirements. Jennifer Cook (NAIC) said she will send an email survey to the states regarding their laws.

4. Discussed Whether to Update the ERISA Handbook

Mr. Wake explained that during the drafting of the *Rutledge v. Pharmaceutical Care Management Association* (PCMA) summary for inclusion in the ERISA Handbook, the Working Group received some comments pointing out that the Working Group's last comprehensive review of the ERISA Handbook did not catch all the obsolete points. Mr. Wake said he wondered if it was time to undertake another comprehensive review of the ERISA Handbook. Ms. Arp said her recollection was that the comment to revisit the ERISA Handbook was made in the context of an expansive reading of the *Rutledge* decision and, in her opinion, it is premature to revisit the rest of the ERISA Handbook based on the *Rutledge* decision when the implications of that decision on other laws is still unknown. Mr. Wake said he was thinking that the comments were referencing that the Working Group had not fully digested some of the older cases, but he agreed with Ms. Arp's point that there is likely to be litigation in the near future, and the Working Group is better off waiting a little longer to see how the ERISA case law evolves. He said even the 2018 AHP rule is not completely settled. He said DOL has not replaced or repealed the rule, and as a result, he would not be comfortable amending the ERISA Handbook to remove the information. The Working Group decided it would be premature to undertake a revision of the ERISA Handbook at this time.

Having no further business, the ERISA (B) Working Group adjourned.

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Draft: 5/26/22

Employee Retirement Income Security Act (ERISA) (B) Working Group
Virtual Meeting
May 24, 2022

The ERISA (B) Working Group of the Regulatory Framework (B) Task Force met May 24, 2022. The following Working Group members participated: Robert Wake, Chair (ME); Yada Horace (AL); Jason Lapham (CO); Doug Ommen and Andria Seip (IA); Julie Holmes (KS); Victoria Bares and Norman Barrett Wiik (MN); Amy Hoyt (MO); Ted Hamby (NC); Laura Arp (NE); Jeremy Christensen (NV); Laura Miller (OH); Andrew Schallhorn (OK); Tanji J. Northrup (UT); Andrea Jensen (WA); and Richard Wicka (WI).

1. Discussed the May 6 Draft Case Summary of the *Rutledge v. PCMA* Decision for Inclusion in the ERISA Handbook

Mr. Wake said the first item on the agenda is to discuss the May 6 revision of the summary in the case of *Rutledge v. Pharmaceutical Care Management Association (PCMA)* for inclusion in the *Health and Welfare Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation* (ERISA Handbook). He explained that the May 6 draft incorporates the comments that were submitted on the Feb. 16 draft by the April 21 deadline. Carl Schmid (HIV+Hepatitis Policy Institute) said the NAIC consumer representatives identified other parts of the ERISA Handbook that need updating. Mr. Wake explained that he would like to focus on incorporating the Rutledge decision into the “Key U.S. Supreme Court Opinions on ERISA’s Preemption Provisions” section of the ERISA Handbook, but he agreed that additional updates to the ERISA Handbook should be considered as part of a more full-scale review at some point in the future.

Cari Lee (Stephoe & Johnson LLP) asked for some clarification regarding what was meant by the third sentence in the summary: “Unlike the PBM laws in some states, Act 900 was not structured as an insurance law.” She said it is unclear because Act 900 involves the Arkansas Department of Insurance (DOI). Mr. Wake said the next sentence was intended to clarify what he meant: “It applied to all transactions between PBMs and pharmacies, including transactions where the PBM was acting on behalf of a self-insured ERISA plan, so Arkansas could not rely on the saving clause as its defense against an ERISA preemption challenge.” Mr. Wake suggested making the following revision to the sentence: “Unlike the PBM laws in some states, Act 900 was not strictly structured as an insurance law.” The Working Group agreed that the addition of “strictly” is a helpful change.

Kris Hathaway (America’s Health Insurance Plans—AHIP) suggested the following two revisions to the last paragraph the Rutledge summary:

However, the Court limited its decision to only considered the provisions of the Arkansas PBM law as they stood at the time PCMA filed its preemption challenge, not the amendments the legislature subsequently made while *Rutledge* was making its way through the appellate courts. Additionally, the Court did not address preemption under Medicare Part D and issues that have been raised by PBM and pharmacy laws in other states, including laws regulating provider networks and laws addressing contractual restrictions on discussions between pharmacies and patients. Subsequent to the *Rutledge* decision, additional ERISA challenges continue, at the time of this writing, to make their way through the courts.

Mr. Wake said with respect to the first suggested change, he believes the existing language is more accurate. He said saying the Court “limited its decision” implies certain issues were before the Court and the Court decided not to consider them, which is not the case. The Arkansas law was later amended, but those amendments were never before the Court, so “only considered” language seems to accurately describe the situation. With respect to the second suggested revision, Mr. Wake said Medicare Part D seems to be a peripheral issue, but he agreed that the suggested revision to mention Medicare Part D as an example of an issue not addressed in this case could be helpful for future readers to place the decision in context.

Ms. Arp made a motion, seconded by Mr. Wicka, to adopt the May 6 draft case summary with the “strictly” and “preemption under Medicare Part D and” revisions discussed on the call (Attachment Six-A1). The motion passed unanimously.

Having no further business, the ERISA (B) Working Group adjourned.

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Adopted by ERISA (B) Working Group on May 24, 2022 for inclusion in the *Health and Welfare Benefit Plans Under the Employee Retirement Income Security Act: Guidelines for State and Federal Regulation*

RUTLEDGE v. PHARMACEUTICAL CARE MANAGEMENT ASS'N,
141 S.Ct. 474 (2020)

In *Rutledge v. PCMA*, the Court held that ERISA did not preempt an Arkansas law, Act 900, which required pharmacy benefits managers (“PBMs”)¹ to reimburse pharmacies at a price equal to or higher than what the pharmacy paid to buy the drug. Act 900 required PBMs to provide administrative appeal procedures for pharmacies to challenge reimbursement prices that are below the pharmacies’ acquisition costs, and it also authorized pharmacies to decline to dispense drugs when a PBM would provide a below-cost reimbursement. Unlike the PBM laws in some states, Act 900 was not strictly structured as an insurance law. It applied to all transactions between PBMs and pharmacies, including transactions where the PBM was acting on behalf of a self-insured ERISA plan, so Arkansas could not rely on the saving clause as its defense against an ERISA preemption challenge.

In a suit brought by Pharmaceutical Care Management Association (“PCMA”), a national trade association representing 11 PBMs, the Eastern District of Arkansas ruled that Act 900 was preempted by ERISA, and the Eighth Circuit affirmed.² Both courts relied on a recent Eighth Circuit decision striking down a similar Iowa law because it “made ‘implicit reference’ to ERISA by regulating PBMs that administer benefits for ERISA plans”³ and “was impermissibly ‘connected with’ an ERISA plan because, by requiring an appeal process for pharmacies to challenge PBM reimbursement rates and restricting the sources from which PBMs could determine pricing, the law limited the plan administrator’s ability to control the calculation of drug benefits.”⁴

The Supreme Court, however, concluded that “[t]he logic of *Travelers* decides this case,”⁵ and ruled that Act 900 was not preempted by ERISA. The Court compared its decisions in *Gobeille*, where it held that a state law is preempted if it “governs a central matter of plan administration or interferes with nationally uniform plan administration,”⁶ and *Travelers*, where it held that ERISA does not preempt state price regulations that “merely increase costs or alter incentives for ERISA plans without forcing plans to adopt any particular scheme of substantive coverage,”⁷ even if the law “affects an ERISA plan or causes some disuniformity in plan administration.”⁸ The Court explained that ERISA is “primarily concerned with preempting laws that require ... structure[ing] benefit plans in particular ways, such as by requiring payment of specific benefits, or by binding plan administrators to specific rules for determining beneficiary status. A state law may also be subject to pre-emption if ‘acute, albeit indirect, economic effects of the state law force an ERISA plan to adopt a certain scheme of substantive coverage.’”⁹ The Court observed that Act 900 “does not require plans to provide any particular benefit to any particular

¹ As the term is spelled in Act 900. Supreme Court style refers to “pharmacy benefit managers.”

² *PCMA v. Rutledge*, 891 F.3d 1109 (8th Cir. 2018).

³ 141 S.Ct. at 479, quoting *PCMA v. Gerhart*, 852 F.3d 722, 729 (8th Cir. 2017).

⁴ *Id.* at 479, quoting *Gerhart*, 852 F.3d at 726, 731.

⁵ *Id.* at 481.

⁶ *Id.* at 480, quoting *Gobeille*, 577 U.S. at 320.

⁷ *Id.* at 480, citing *Travelers*, 514 U.S. at 668.

⁸ *Id.*

⁹ *Id.*, quoting *Gobeille*, 577 U.S. at 320.

beneficiary in any particular way,”¹⁰ and determined that like the law at issue in *Travelers*, “Act 900 is merely a form of cost regulation.”¹¹

The Court reviewed the standards it has established for interpreting ERISA’s preemption clause, which preempts all state laws “insofar as they ... relate to any employee benefit plan”¹² unless some exception to preemption applies. The Court explained that a state law triggers the preemption clause when it “has a connection with or reference to” an ERISA plan.¹³ The Court rejected PCMA’s contention “that Act 900 has an impermissible connection with an ERISA plan because its enforcement mechanisms both directly affect central matters of plan administration and interfere with nationally uniform plan administration.”¹⁴ The Court acknowledged that Act 900 required ERISA plan administrators to “comply with a particular process” and standards,¹⁵ but explained that those enforcement mechanisms “do not require plan administrators to structure their benefit plans in any particular manner, nor do they lead to anything more than potential operational inefficiencies” for PBMs.¹⁶ The Court held further that ERISA did not preempt Act 900’s decline-to-dispense provision, even though it “effectively denies plan beneficiaries their benefits” because any denial of benefits would be the consequence of the lawful state regulation of reimbursement rates and the PBM’s refusal to comply.¹⁷

Finally, the Court rejected PCMA’s claim that the law had an impermissible “reference to” ERISA. As the Court explained, Act 900 “applies to PBMs whether or not they manage an ERISA plan,” and Act 900 did not treat ERISA plans differently than non-ERISA plans.¹⁸

However, the Court only considered the provisions of the Arkansas PBM law as they stood at the time PCMA filed its preemption challenge, not the amendments the legislature subsequently made while *Rutledge* was making its way through the appellate courts. Additionally, the Court did not address preemption under Medicare Part D and issues that have been raised by PBM and pharmacy laws in other states, including laws regulating provider networks and laws addressing contractual restrictions on discussions between pharmacies and patients. Subsequent to the *Rutledge* decision, additional ERISA challenges continue, at the time of this writing, to make their way through the courts.

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¹⁰ *Id.* at 482.

¹¹ *Id.* at 481.

¹² 29 U.S.C. § 1144(a).

¹³ 141 S.Ct. at 477.

¹⁴ *Id.* at 481–482.

¹⁵ *Id.* at 482, quoting PCMA brief at 24.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 481.

Draft: 4/27/22

Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group
Kansas City, Missouri
April 5, 2022

The MHPAEA (B) Working Group of the Regulatory Framework (B) Task Force met in Kansas City, MO, April 5, 2022. The following Working Group members participated: Erica Weyhenmeyer, Chair (IL); Jane Beyer, Vice Chair, and John Haworth (WA); Damion Hughes (CO); Kurt Swan (CT); Kenneth Scott and Barbara Torkelson (KS); Mary Kwei (MD); Paul Hanson (MN); Cynthia Amann and Carrie Couch (MO); David Dachs (MT); John Arnold and Chrystal Bartuska (ND); Laura Arp (NE); Maureen Belanger (NH); Laura Miller (OH); Landon Hubbart (OK); Shannen Logue and Katie Merritt (PA); Chris Herrick (TX); Ryan Jubber and Tanji J. Northrup (UT); Don Beatty and Julie Fairbanks (VA); Erin K. Hunter (WV); and Bryce Hamilton (WY).

1. Heard a Presentation on the Development of a Designation in Mental Health Parity by the IRES

Ms. Weyhenmeyer and Mr. Haworth presented on a new designation from the Insurance Regulatory Examiners Society (IRES). Ms. Weyhenmeyer provided background on the IRES and said it has a goal of creating a consistent approach in behavioral health parity audits. Mr. Haworth said the IRES plans to develop core classes for the designation. Core 1 would be the history of state and federal laws and regulations on mental health parity. Core 2 would describe the requirements around quantitative treatment limits (QTLs) and non-quantitative treatment limits (NQTLs). Core 3 would look at medical necessity and utilization review. Core 4 would be a catch-all that looks at claims coding, network access and adequacy, and vendor oversight. Mr. Haworth said supplemental courses would examine criteria for treatment from the American Society of Addiction Medicine (ASAM), quality assessments, and newer state laws. Ms. Weyhenmeyer said the current focus is on the initial core courses, and the intent is to offer some of them in the career development seminar in August or September. Mr. Haworth said ASAM criteria is an example, but the designation would include other criteria as well.

2. Heard a Presentation on Mental Health Parity Enforcement by the DOL

Amber Rivers (U.S. Department of Labor Employee Benefits Security Administration—DOL EBSA) presented on activity on mental health parity enforcement on private employment-based health plans. She said enforcement of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and the new provisions under the Consolidated Appropriations Act, 2021 is a top priority for the EBSA. She said plans are now required to document their compliance with mental health parity, and the DOL is required to collect comparative analyses and report its findings to the U.S. Congress (Congress). She said the new tools have been important in encouraging plans to take the requirements seriously. She said the DOL has released guidance and responded to questions before asking for documentations from plans. She said the substance of mental health parity rules has not changed, so all previous guidance from federal agencies is still applicable; what has been added is a requirement to document compliance.

Ms. Rivers said the DOL has released a report to Congress on its enforcement. She said the report shows the actions the DOL has taken and what it has received from plans. She said NQTLs are complex to analyze, and the DOL has highlighted interest in four areas: 1) prior authorization; 2) concurrent review; 3) admission into plan networks; and 4) out-of-network reimbursement rates. She said the report documents 156 letters requesting analyses of 216 NQTLs across 86 investigations. She said many plans and issuers were unprepared to provide analyses. They were missing key information that was outlined in previously published frequently asked questions (FAQ). Ms. Rivers said the DOL has issued over 30 findings of parity violations. She said plans may submit a

corrective action plan when they are found not compliant. She said the next report will come in October. She said the DOL plans a proposed rule on the MHPAEA.

3. Heard a Presentation on Documenting Compliance with NQTLs

Tim Clement (American Psychiatric Association—APA) presented a sample comparative analysis to demonstrate how a health plan could document that one of its NQTLs complies with mental health parity regulations. He said health plans often hear that their analyses did not hit the mark for what is required. He said his example would be a focus on concurrent review.

Mr. Clement said comparative analyses do not need to be lengthy; rather, being concise is a virtue. He said there are five steps in his example based on the provisions of the MHPAEA statute. He said step one includes definitions of terms used. He said step two covers the factors that determine when concurrent review occurs. He described step three as explaining in more detail how each factor is applied, and it could include supporting data to show that the plan has calculated data appropriately. He said the comparative analysis should be self-contained, and attachments should offer verifying proof in support rather than take the place of the analysis itself. He described how the analysis could demonstrate the factors it applies through data or a chosen rationale. He said all factors should be covered in the analysis, as well as all evidence and sources. He said this step should list sources, which should be explained more fully in step four.

Mr. Clement said step four has the most content. He said the analysis must demonstrate that processes and strategies are no more restrictive for mental health and substance use disorder (MU/SUD) benefits than for medical and surgical (M/S) benefits. He said state insurance regulators should not be unsure whether the standard has been met after reading step four. He said the analysis should discuss the plan's utilization management manual in step four. This discussion establishes whether processes and strategies are the same or no more restrictive as written. Mr. Clement said processes in operation must also be analyzed. He said the analyses should describe first and second level utilization reviews rather than appeals. He said analyses should show that some review occurred to demonstrate that processes meet parity in operation. He said the necessary analysis is at the process level and should show how and why processes are comparable. He said step five should review all the previous steps and show how they lead to a conclusion of parity compliance.

Having no further business, the MHPAEA (B) Working Group adjourned into regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings.

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Draft: 8/17/22

Pharmacy Benefit Manager Regulatory Issues (B) Subgroup
Portland, Oregon
August 9, 2022

The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force met in Portland, OR, Aug. 9, 2022. The following Subgroup members participated: TK Keen, Chair (OR); Laura Arp, Vice Chair, and Eric Dunning (NE); Sarah Bailey (AK); Jimmy Dunn, Reyn Norman, and Sheila Travis (AL); Crystal Phelps (AR); Paul Lombardo and Mike Shanahan (CT); Howard Liebers (DC); Andria Seip (IA); Vicki Schmidt and LeAnn Crow (KS); Daniel McIlwain and Rob Roberts (KY); Chad Arnold (MI); T.J. Patton (MN); Amy Hoyt (MO); Mary Belcher (MT); Robert Croom (NC); Ralph Boeckman and Erin Porter (NJ); Paige Duhamel (NM); Kelli Price (OK); Karen Feather (PA); Melissa Manning (SC); Scott McAnally and Brian Hoffmeister (TN); Tanji J. Northrup (UT); Don Beatty (VA); Jennifer Kreitler and Molly Nollette (WA); Nathan Houdek and Jennifer Stegall (WI); Allan McVey and Jamie Taylor (WV); and Bryce Hamilton (WY). Also participating were: Weston Trexler (ID); Paul Meyer (MD); and Larry D. Deiter (SD).

1. Adopted its July 29, June 15, April 25, and Spring National Meeting Minutes

The Subgroup met July 29, June 15, April 25, and April 4. During these meetings, the Subgroup heard presentations from various stakeholders on issues from their perspective on the Subgroup's 2022 charge to develop a white paper on pharmacy benefit manager (PBM) business practices.

Mr. Lombardo made a motion, seconded by Mr. Roberts, to adopt the Subgroup's July 29 (Attachment Eight-A), June 15 (Attachment Eight-B), April 25 (Attachment Eight-C), and April 4 (Attachment Eight-D) minutes. The motion passed unanimously.

2. Heard a Presentation from the PCMA

Peter Fjelstad (Pharmaceutical Care Management Association—PCMA) discussed the value of PBMs and the services they provide with respect to pharmacy benefit management. He said PBMs are committed to helping patients. PBMs are the only entity in the pharmaceutical supply chain advocating for lower prescription drug costs for patients and payers. He explained that the plan sponsor is the PBM's client, who always has the final say when creating and designing a prescription drug benefit plan to include elements such as formulary management, specialty and mail order pharmacies, preferred pharmacy networks, and negotiation of rebates. There is no one-size-fits all model because each plan sponsor has unique needs.

Mr. Fjelstad outlined the plan sponsor request for proposal (RFP) process and how PBMs bid in this competitive process by offering various design models and compensation terms, depending on the plan sponsor's specific needs. He detailed the types of pharmacy benefit management services PBMs can provide to plan sponsors. He also discussed the tools PBMs use to reduce prescription drug costs for patients and payors, which include: 1) negotiating rebates from prescription drug manufacturers; 2) reducing waste; 3) encouraging use of generics and preferred brand name drugs; 4) improving adherence; and 5) managing high-cost specialty medications. Mr. Fjelstad said that research shows that the current use of these PBM tools will save plan sponsors and consumers more than \$1 trillion in prescription drug costs from 2020 to 2029. He discussed the results of a 2020 survey of company benefit managers and human resource directors indicating high satisfaction with their company's PBM, PBM contract transparency, and the PBM's effectiveness in reducing prescription drug costs for their company.

Mr. Fjelstad discussed a PBM's role in the pharmaceutical supply chain. He suggested that the Subgroup examine and identify in the white paper the role each entity plays in the pharmaceutical supply chain. He said the pharmaceutical drug manufacturer is the only entity in the supply chain that sets the list price of drugs. He also said that an analysis of data from 2016 to 2020, published in January 2022, indicates that manufacturer prescription drug price increases are unrelated to PBM negotiated rebates.

Mr. Fjelstad highlighted how PBM technology and expertise helps patients to lead healthier lives. PBMs administer prescription drug benefits for 266 million Americans, which means immediate access to the right prescription drugs at the right time and place for thousands of patients each day. PBMs continue to innovate, providing information on cost-sharing and drug coverage through real-time benefit tool (RTBT) access to 82% and electronic approval coverage for drugs that need authorization to 98% of patients who have coverage through contracted health plans and PBMs. He said PBMs are also developing technology to directly engage with patients and enhance their lives, which not only improves clinical outcomes, but also gives patients greater control over their own health.

Commissioner Schmidt asked Mr. Fjelstad about PBM vertical integration with PBMs owning pharmacies and concerns that because of such market consolidation, there is less transparency about PBM business practices. She also noted that the statistics cited during the presentation did not include any statistics on independent community pharmacist satisfaction with PBMs, which would probably show a much different level of satisfaction as compared with the level of satisfaction indicated for company benefit managers and human resource directors. Mr. Fjelstad said there is more of an adversarial relationship between independent community pharmacists and PBMs than perhaps other entities in the pharmaceutical supply chain. He said that about 83% of independent community pharmacies use pharmacy services administrative organizations (PSAOs), which are large conglomerates, to negotiate their contracts with PBMs on their behalf. Therefore, it is not like these pharmacies do not have any leverage or are mismatched in their business dealings with PBMs. He said with respect to vertical integration, the health care industry has seen a lot of integration whether it be PBMs and health insurers owning PBMs and a chain of retail pharmacies. He said increased state and federal regulatory requirements since the enactment of the federal Affordable Care Act (ACA) has led to smaller independent community pharmacies going out of business because they do not necessarily have the expertise, time, or manpower to keep up with these regulatory compliance requirements, such as those involved in dispensing prescription drugs under the federal 340B program. He said this is a factor in the market consolidation among the entities in the pharmaceutical supply chain. Commissioner Schmidt disagreed with Mr. Fjelstad's argument that independent community pharmacies lack the expertise necessary to stay in business due to increased regulatory requirements and competition with large "big box" chain pharmacies.

Mr. Beatty said that statistics are not needed to know that there is tension between independent community pharmacists and PBMs. He asked Mr. Fjelstad about the actions the PCMA, on behalf of the PBM industry, could do voluntarily to alleviate this tension without involving state and federal regulators. Mr. Fjelstad suggested that meetings such as this meeting on the local and state level where all the stakeholders are participating would help alleviate such tensions. Mr. Lombardo asked about spread risk pricing and the recent enactment in some states prohibiting it and the impact, if any, on PBM revenue, when spread risk pricing is eliminated. Mr. Fjelstad said he would be happy to follow up with Mr. Lombardo regarding his specific question. He said, generally, in a spread risk pricing model, or risk mitigation model, the PBM takes the risk to either lose money or gain a profit or a margin. However, which risk mitigation model is chosen depends on the plan sponsor. The plan sponsor decides whether it wants to use a pass-through model where rebates are shared with specific entities or a spread risk pricing model. He said he believes that the PBM industry's position on this issue is that the states should not intrude on the private contractual negotiations between the plan sponsor and the PBM. Mr. Lombardo said his concern with eliminating spread pricing, which would increase the payments to pharmacies and allow PBMs to increase their administrative fees to make up lost revenue, is that it would add cost to the pharmaceutical

distribution system. As such, he would appreciate follow-up information on what actions PBMs are taking, if any, in response to the elimination of spread risk pricing.

3. Heard a Presentation from the PhRMA on Issues Related to the Lack of Transparency in PBM Practices

Emily Donaldson (Pharmaceutical Research and Manufacturers of America—PhRMA) discussed issues related to the lack of transparency in PBM practices. She explained that this lack of transparency has led to misaligned incentives, which can cause an increase in costs throughout the health care system. She said that there is evidence that shows one such misaligned incentive appears to provide PBMs incentives to prefer medicines with higher list prices and large rebates. She discussed how PBMs have increased their influence in the pharmaceutical supply chain through horizontal and vertical consolidation.

Ms. Donaldson said a large—and growing—share of the rebates paid by manufacturers are not being used to reduce patient costs at the pharmacy counter. She provided an example of how consumers do not directly benefit from the rebates and discounts with respect to prescription drugs unlike the direct benefits consumers receive with respect to medical services. She said consumers can end up paying a greater share of total cost for their prescription drugs than their health insurers.

Ms. Donaldson discussed policy solutions to address misaligned incentives in the pharmaceutical supply chain. She suggested these policy solutions: 1) anti-steering policies prohibiting PBMs from directing patients to affiliate pharmacies, which would improve competition and reduce incentives for PBMs to self-deal; 2) sharing rebates at the point-of-sale; and 3) “delinking” PBM compensation from the price of medicines, which would prevent PBMs from skirting regulation on rebates.

4. Heard a Presentation from the OPCA on the Federal 340B Prescription Drug Program

Marty Carty (Oregon Primary Care Association—OPCA) discussed the federal 340B prescription drug program. He said the program began in 1992 and requires pharmaceutical manufacturers to sell drugs at a discount to “covered entity” providers. These providers include federally qualified health centers (FQHCs), Ryan White clinics, and disproportionate share hospitals (DSHs). Mr. Carty outlined the 340B program requirements for participants, which include: 1) registration and recurring recertification; 2) subject to federal audits; 3) must work to avoid duplicate discounts on a single drug; and 4) ensure appropriate use of 340B program savings. He highlighted how the 340B program has assisted two entities, the Neighborhood Health Center and the Siskiyou Community Health Center, in enhancing and enabling them to provide much needed assistance to patients by covering the cost of prescription medications, medical and dental care, food, and transportation.

Mr. Carty discussed how in 2016–2017 community health centers began fighting state-by-state to retain 340B savings on prescription drugs reimbursed under Medicaid managed care and how this so-called “pick-pocketing” continues to expand rapidly. He said to combat these actions, states began enacting 340B anti-discrimination legislation. He said 22 states prohibit PBMs from: 1) refusing to contract with 340B program participating providers; 2) reimbursing at a lower amount; 3) imposing different fees; and 4) otherwise discriminating against a 340B covered entity. He asked that the state insurance regulators use the tools available to them to protect the 340B program.

Director Dunning asked about rebates and the 340B program, particularly any rebates paid back to those patients receiving services from an FQHC who are commercially insured. Mr. Carty said he does not have information about commercially insured patients. He said a majority of those receiving services through an FQHC are either uninsured

or Medicaid recipients. Mr. Carty agreed to follow up with any information he might have about rebates and patients receiving services through a FQHC who are commercially insured.

Commissioner Schmidt said she has worked with FQHCs and the 340B program and appreciates the work that they do. She said she believes the Subgroup should discuss the issues Mr. Carty raised with respect to discriminatory pricing that some 340B program participating providers have experienced.

Mr. Keen asked Mr. Carty that because enforcement of the anti-discrimination laws that have been enacted rests with state insurance regulators, if he was aware of any enforcement actions taken by the states. Mr. Carty said he is not aware of any such actions, but he would follow up with Mr. Keen after he does some research. Ms. Seip asked Mr. Carty if he had any examples of discriminatory pricing and what that contract language would look like that he could share with the Subgroup. Mr. Carty said he would follow up with Ms. Seip to provide such examples.

5. Discussed Next Steps

Mr. Keen said he anticipates the Subgroup meeting within the next few weeks to complete its work on hearing from various stakeholders on issues from their perspective on the Subgroup's 2022 charge to develop a white paper examining PBM business practices. He said that he also anticipates during this meeting a discussion of the implications, if any, of a provision in the federal Inflation Reduction Act of 2022 allowing Medicare to negotiate for prescription drug prices.

Having no further business, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adjourned.

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Draft: 8/2/22

Pharmacy Benefit Manager Regulatory Issues (B) Subgroup
Virtual Meeting
July 29, 2022

The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force met July 29, 2022. The following Subgroup members participated: TK Keen, Chair (OR); Laura Arp, Vice Chair, and Eric Dunning (NE); Kayla Erickson (AK); Anthony L. Williams (AL); Kathy Belfi and Michael Shanahan (CT); Howard Liebers (DC); Andria Seip (IA); Vicki Schmidt (KS); Sharon P. Clark and Daniel McIlwain (KY); Jeff Zewe (LA); Joe Stoddard (MI); Chlora Lindley-Myers and Cynthia Amann (MO); Andrew Kleinendorst and Victoria Bares (MN); David Dachs (MT); Tracy Biehn (NC); Erin Porter and Ralph Boeckman (NJ); Paige Duhamel (NM); Kelli Price (OK); Ana Paulina Gomez (PA); Maggie Rosa (SC); Scott McAnally and Brian Hoffmeister (TN); Tanji J. Northrup (UT); Don Beatty (VA); Jennifer Kreitler and Ned Gaines (WA); Jennifer Stegall (WI); Jamie Taylor (WV); and Bryce Hamilton (WY). Also, participating were: Paula Shamburger (GA); and Emily Brown (VT).

1. Discussed Questions on NCPA Presentation

As a follow-up from its June 15 meeting, the Subgroup held a question and answer (Q&A) session on the National Community Pharmacists Association (NCPA) presentation. Ms. Price asked Matthew Magner (NCPA) if the NCPA would be in favor of state laws that require pharmacy benefit managers (PBMs) to reimburse pharmacies for filling prescriptions in amounts at or above the pharmacy acquisition costs, or has the NCPA found that such laws make it difficult for pharmacies and pharmacy services administrative organizations (PSAOs) to negotiate with PBMs with respect to other contract provisions. Mr. Magner said the NCPA has been supportive of a reimbursement benchmark. He discussed recent legislation enacted in West Virginia that the NCPA believes is a good example of a reimbursement benchmark. Mr. Keen asked about higher reimbursement and dispensing fees and the ultimate impact, if any, on consumers and/or end users. Mr. Magner said the NCPA believes the key issue is the lack of transparency in reimbursement. A pharmacist does not know how much he or she will ultimately be reimbursed even after a claim has been adjudicated because of retroactive clawbacks months later. Mr. Magner said that for consumers in the deductible phase, the amount the consumer pays at the counter for a prescription drug is based on the pharmacy's reimbursement amount for that drug, which does not account for any retroactive clawbacks. As such, the consumer is paying an inflated amount. He said that again, the key to address this issue is transparency.

2. Heard a Presentation on the Pharmaceutical Distributor Perspective

Will Dane (Healthcare Distribution Alliance—HDA) presented on a pharmaceutical distributor perspective on issues related to the Subgroup's 2022 charge to develop a white paper to: 1) analyze and assess the role PBMs, PSAOs, and other supply chain entities play in the provision of prescription drug benefits; 2) identify, examine, and describe current and emerging state regulatory approaches to PBM business practices, such as price transparency and reporting requirements, rebating, and spread pricing, including the implications of the *Rutledge v. Pharmaceutical Care Management Association (PCMA)* decision on such business practices; and 3) discuss any challenges, if any, the states have encountered in implementing such laws and/or regulations. He provided background on the HDA, including its role, since its founding in 1876, in helping its members navigate regulations and innovations to get the right medicines to the right patients at the right time, safely and efficiently. The HDA's members include 35 national, regional, and specialty primary distribution companies constantly envisioning new ways to move and secure the nation's medicines, all while protecting patient safety. Mr. Dane described the pharmaceutical distribution system, highlighting the role pharmaceutical distributors play in the supplying

prescription drugs nationwide. He also illustrated what the prescription drug supply chain would look like with and without pharmaceutical distributors.

Mr. Dane summarized the role pharmaceutical wholesale distributors play in the prescription drug supply chain as follows: 1) distributors purchase health care products from manufacturers based on the wholesale acquisition cost (WAC), which manufacturers set; 2) distributors charge manufacturers fees related to their services, which are not passed on to the customer nor do they affect patients' cost; 3) distributors sell brand medications to providers based on the WAC or WAC minus a certain percentage; and 4) for generic drugs, since they are commodities, distributors can negotiate prices typically below manufacturer WACs in exchange for sourcing certain generic drugs solely from one source or from a few specified sources. He also provided an example of supply chain profits. He explained that pharmaceutical wholesale distributors primarily use a fee-for-service model. He added that the pharmaceutical distribution model is a high-value, high-volume but low-profit margin industry. Mr. Dane said a recent analysis from Berkeley Research Group (BRG) shows the profit margin for a wholesaler is approximately 1% of the cost of brand medicines.

Ms. Brown asked Mr. Dane if providers typically purchase pharmaceuticals from one distributor. Mr. Dane said it varies depending on the type of provider, such as, for example, an independent community pharmacy versus a hospital. Mr. Hamilton asked about the extent of vertical integration between manufacturers and wholesale distributors. Mr. Dane said none. He described different approaches some wholesalers have taken regarding pharmaceuticals, such as creating repackaging and relabeling businesses, but he noted that these businesses would not be thought of as manufacturers and as such, this would not be considered vertical integration.

3. Heard Presentation on the PSAO Perspective

Scott Pace (Impact Management Group) provided the PSAO perspective on issues related to the Subgroup's 2022 white paper charge. He discussed the role and value of PSAOs. PSAOs are service organizations that provide back-office support to independent community pharmacies and small chains, including services such as: 1) evaluation and navigation of PBM contracts; 2) help desk to assist pharmacies with communications with the PBMs; 3) credentialing and compliance assistance; 4) central payment facilitation; and 5) PBM audit support. For providing such services, PSAOs charge a flat monthly fee.

Mr. Pace explained who PSAOs are. He said that in a 2013 report, the Government Accountability Office (GAO) identified 22 PSAOs owned by a mix of wholesalers, PSAO-member pharmacies, group purchasing organizations, and other private entities. Today, it is estimated there are fewer than 10 PSAOs in operation. He said that according to one analysis, it is estimated that in 2021, the six largest PSAOs had 1,700 to 6,800 participating independent pharmacies each, with a median of 4,250 per PSAO. He said that in comparison with PBMs, the percentage of total U.S. prescription claims managed by the six largest PBMs in 2018 was 95%. The top three PBMs control 77% percent of the prescription market, and the second largest PBM accounts for approximately 90 million plan members and controlled 68,000+ pharmacies.

Mr. Pace explained that independent community pharmacies and/or small chains often do not have the infrastructure and expertise of their larger chain competitors. He said that as a result, some choose to contract with a PSAO to assist with managing their PBM interactions and "back-office" administrative duties. He described the scope of these services, including services a PSAO does not provide, such as: 1) dictating reimbursement rates; 2) setting maximum allowable cost (MAC) rates; 3) retaining any portion of the pharmacy reimbursement; and 4) creating direct or indirect remuneration (DIR) fees.

Mr. Pace provided a summary of the current landscape with respect to state policy trends and understanding of PSAOs, including misunderstandings of the services PSAOs provide and their role. He suggested that the states

when considering legislative proposals involving PSAOs, they should consider the PSAO perspective and its actual role. He also advocated the idea that “if it ain’t broke, don’t fix it.” He said PSAOs are not PBMs or insurers and should not be treated as such. He also suggested that the states remember the actual role of PSAOs and that PSAOs do not notably affect the cost of medication. PSAOs also are not responsible for patient benefit design. Mr. Pace said PSAOs are administrative support service providers. He also said not all PSAOs are wholesale distributor-owned, and not all wholesalers operate a PSAO business. He said who owns a PSAO does not affect market influence or prices. In summarizing his presentation, Mr. Pace said: 1) PSAOs are administrative service entities that charge a transparent flat fee for their services; 2) PSAOs assist with executing contracts; they do not negotiate with manufacturers, determine medication costs, nor sell medications to pharmacies; 3) pharmacies engage PSAOs to provide administrative support and expertise so pharmacists can focus on serving their patients; and 4) PSAOs do not affect the cost of pharmaceutical drug products and have no role in health benefit plan formulary design.

Ms. Duhamel asked if PSAOs file MAC appeals on behalf of pharmacies. Mr. Pace said sometimes PSAOs have filed such appeals on behalf of pharmacies. He said pharmacies like PSAOs to make such filings, but PBMs have been reluctant to accept appeals from PSAOs. He also said the reluctance of PBMs to accept MAC appeals from PSAOs is easing because some states have passed laws allowing PBMs to accept MAC appeals made on behalf of pharmacies from PSAOs. Mr. McAnally asked about the payment timeline. Mr. Pace said payment terms are usually described in the contract. He explained that in Arkansas, for Medicaid fee-for-service claims, his pharmacy is paid around seven days after the filing a claim. For other types of plans, his pharmacy is paid around 15 days after filing a claim. He noted that some states have enacted prompt pay laws that apply to pharmacy claims that set a maximum time within which a claim is to be paid. Mr. Pace noted that these reimbursements do not account for retroactive clawbacks or so-called “true ups” occurring months after the initial claim has been paid. Mr. Pace also discussed “true up” process and aggregate payments based on the effective rate. He said that a few states, including Arkansas, prohibit the use of effective rates.

Mr. Hamilton asked about vertical integration in the PSAO industry. Mr. Pace said he would consider such integration to fall into two buckets: 1) wholly owned affiliates, which is a PSAO owned by a pharmaceutical wholesaler; and 2) stand-alone entities, some of which are owned by group purchasing organizations. He said from a payment perspective, whether it is a wholly owned affiliate or a stand-alone entity, there is not much of a difference in the reimbursement rates a pharmacy receives. Ms. Shamburger asked about PSAOs’ regulatory compliance and credentialing services. Mr. Pace said one example of this would be the excluded provider list. Prescribers on this list are not eligible to write prescriptions and receive reimbursement under Medicare. He said PSAOs provide pharmacies with updated excluded provider lists on a weekly or monthly basis, which assists pharmacies with regulatory compliance.

Mr. Dachs asked if in Mr. Pace’s experience, in negotiating contract terms with PBMs, does negotiating on behalf of a larger number of pharmacies provider better leverage than negotiating on behalf of one pharmacy. Mr. Pace said that based on his experience, it makes no difference. He said, however, that for contract terms involving non-payment issues, such as audit practices and timelines, he believes PSAOs are better able to negotiate than an individual pharmacy can. Mr. Hamilton asked if pharmaceutical manufacturers are purchasing entities further down the prescription drug supply chain in an effort to possibly maintain their lists prices. Mr. Pace said he is not aware of this. He said that based on his experience, pharmaceutical manufacturers are moving in the opposite direction away from direct purchasers of the product.

Having no further business, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adjourned.

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Draft: 7/14/22

Pharmacy Benefit Manager Regulatory Issues (B) Subgroup
Virtual Meeting
June 15, 2022

The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force met June 15, 2022. The following Subgroup members participated: TK Keen, Chair (OR); Laura Arp, Vice Chair (NE); Kayla Erickson (AK); Anthony L. Williams, William Rogers, and Jimmy Gunn (AL); Beth Barrington (AR); Jessica Ryan (CA); Kathy Belfi, Mike Shanahan, and Paul Lombardo (CT); Howard Liebers (DC); Andria Seip (IA); Vicki Schmidt, Tate Flott, Craig Van Aalst, and Julie Holmes (KS); Daniel McIlwain (KY); Jeff Zewe (LA); Chad Arnold and Joe Stoddard (MI); Amy Hoyt (MO); Andrew Kleinendorst and Galen Benshoof (MN); David Dachs (MT); Ted Hamby and Robert Croom (NC); Erin Porter and Ralph Boeckman (NJ); Renee Blechner (NM); Kelli Price (OK); Mike Humphreys and Ana Paulina Gomez (PA); Katrina Rodon (SC); Scott McAnally (TN); Shelley Wiseman (UT); Don Beatty (VA); Ned Gaines (WA); Jennifer Stegall (WI); Michael Malone (WV); and Jeff Rude and Bryce Hamilton (WY).

1. Heard a Presentation from the NCPA Discussing its Perspective on the Subgroup's Charge to Develop a Whitepaper

Matthew Magner (National Community Pharmacists Association—NCPA) discussed the independent community pharmacists' perspective on issues related to the Subgroup's charge to develop a white paper to: 1) analyze and assess the role pharmacy benefit managers (PBMs), pharmacy services administrative organizations (PSAOs), and other supply chain entities play in the provision of prescription drug benefits; 2) identify, examine, and describe current and emerging state regulatory approaches to PBM business practices, such as price transparency and reporting requirements, rebating, and spread pricing, including the implications of the *Rutledge vs. Pharmaceutical Care Management Association (PCMA)* decision on such business practices; and 3) discuss any challenges, if any, the states have encountered in implementing such laws and/or regulations.

Mr. Magner provided a profile of independent community pharmacists and pharmacies. He said there are 19,400 independent community pharmacies nationwide. Of these pharmacies, approximately 80% are in areas with populations of less than 50,000 people. He said that in such areas and underserved areas, residents consider independent community pharmacists as essential health care providers and local health care problem solvers because they are the only health care providers available to them. He discussed the current business climate for independent community pharmacies and its impact on their ability to contract with PBMs. He said having three PBMs control as much as 80% of the market and the role of PSAOs in the contracting process are key factors independent community pharmacies face in contracting with PBMs. Mr. Magner suggested that such a business climate and other issues—such as the conflicts of interest in the prescription drug supply and distribution chain due to increased consolidation and integration, rising prescription drug costs, and a lack of accountability—is why regulatory oversight of PBMs is necessary. He discussed state efforts to regulate PBMs, including state PBM licensing and registration laws, state laws prohibiting mandatory mail-order, and state laws addressing reimbursements to PBM-affiliated entities.

Mr. Magner described some of the drawbacks in state PBM laws, such as overly broad exclusions and exemptions for Employee Retirement Income Security Act of 1974 (ERISA) plans and Medicare Part D plans, which create obstacles to reform. He pointed out guidance from federal courts on ERISA preemption in recent rulings, such as the U.S. Supreme Court's ruling in *Rutledge* and federal circuit courts of appeal rulings in the *PCMA v. Wehbi* case and the *PCMA v. Mulready* case. He said another obstacle to reform are restrictions placed on the ability of pharmacists to alert state departments of insurance (DOIs) or other regulatory authorities about PBM business

practices that potentially conflict with state laws. He said such restrictions include state laws that only allow a state DOI to accept complaints from a consumer. Mr. Magner also said pharmacists are afraid to complain because they fear retaliation by PBMs through audits and increased scrutiny. He said another obstacle to reform related to state laws is whether the state law applies to the insurer or the PBM and whether the state law applies to plans that originate out of state. He said contractual and definitional loopholes in some state laws are also problematic. Mr. Magner urged the Subgroup to highlight these issues in the white paper to make states aware of these issues and potentially address them.

The Subgroup ran out of time for questions and agreed to invite Mr. Magner back for a question-and-answer session during one of the Subgroup's future meetings.

Having no further business, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adjourned.

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Draft: 5/12/22

Pharmacy Benefit Manager Regulatory Issues (B) Subgroup
Virtual Meeting
April 25, 2022

The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force met April 25, 2022. The following Subgroup members participated: TK Keen, Chair (OR); Eric Dunning, Vice Chair (NE); Sarah Bailey and Kayla Erickson (AK); Beth Barrington (AR); Jessica Ryan (CA); Paul Lombardo (CT); Howard Liebers (DC); Andria Seip (IA); Tate Flott (KS); Sharon P. Clark and Daniel McIlwain (KY); Jeff Zewe (LA); Chad Arnold and Joe Stoddard (MI); Amy Hoyt (MO); Andrew Kleinendorst, Galen Benshoof, and Norman Barrett Wiik (MN); Troy Downing and David Dachs (MT); Ted Hamby and Robert Croom (NC); Erin Porter (NJ); Renee Blechner (NM); Glen Mulready and Kelli Price (OK); Ana Paulina Gomez (PA); Carlos Valles (PR); Maggie Rosa (SC); Brian Hoffmeister and Scott McAnally (TN); Heidi Clausen (UT); James Young (VA); Jennifer Kreitler and Ned Gaines (WA); Jennifer Stegall (WI); Ellen Potter (WV); and Jeff Rude and Bryce Hamilton (WY). Also participating were: Amy L. Beard (IN); Paul Meyer (MD); and Eamon G. Rock (NY).

1. Heard Presentation on PBM Markets

Neeraj Sood (University of Southern California [USC], Shaeffer Center for Health Policy & Economics) and Karen Van Nuys (USC, Shaeffer Center for Health Policy & Economics) presented on “How Well Are PBM Markets Functioning?” Dr. Van Nuys discussed the flow of money through the pharmaceutical distribution system, which is further detailed in a 2017 research paper *The Flow of Money Through the Pharmaceutical Distribution System*, co-authored by Dr. Sood and others. She said Dr. Sood discussed this in his presentation to the Subgroup a few years ago, but she wanted to refresh the Subgroup’s memory on this subject and then provide an update on what she and Dr. Sood are currently researching related to this topic.

Dr. Van Nuys explained that at the time the research paper was published in 2017, the researchers could only examine the flow of money through the pharmaceutical distribution system for prescription drugs in the aggregate. The researchers could not single out one specific prescription drug in following the flow of money and determining the amount of money each entity along that system captured from a typical expenditure. Dr. Van Nuys said that based on this, the natural question to ask is whether the amount of money captured by some of the intermediaries along the distribution system is excessive. She said that determining whether the amount of money being captured is excessive depends, in part, on the level of risk that entity is taking to participate in the distribution system. She said Dr. Sood, along with other researchers, published a research article in January 2021 examining this question. She described the methodology used to estimate so-called “excess returns,” which is the extent to which an entity’s profits are higher than expected given the risk associated with their investments, for manufacturers, and intermediaries in the pharmaceutical supply chain to determine who is making excessive profits. She said the researchers’ findings suggest that: 1) there are excess returns in the distribution system and amongst prescription drug manufacturers and biotech manufacturers; and 2) there are potentially certain public policies, which promote competition in all areas of the pharmaceutical supply chain, that could curtail prescription drug spending. Dr. Sood noted that some aspects of the research into this question were limited due to the fact of vertical integration in the system—insurers owning pharmacies and other such consolidation in the distribution system.

Dr. Van Nuys next discussed current research as a result of changes since 2017, when the first research paper she discussed was published, which allowed researchers, such as herself and Dr. Sood, to analyze the flow of money along the pharmaceutical distribution system for specific drugs, such as diabetes drugs. One example of such a change was the enactment of state laws requiring prescription drug manufacturers to disclose certain financial

information. She referenced a Nevada law that requires such disclosure for diabetes drugs, including insulin, and a report from the Ohio Auditor of State examining the state's Medicaid managed care pharmacy services and spread pricing within the program. Dr. Van Nuys discussed the methodology, including the meanings of "list price," "net price," and "net expenditure." She also discussed findings from a research paper published in the Journal of the American Medical Association (JAMA) Health Forum in November 2021 titled "Estimation of the Share of Net Expenditures on Insulin Captured by U.S. Manufacturers, Wholesalers, Pharmacy Benefit Managers, Pharmacies, and Health Plans from 2014 to 2018," which she co-authored with Dr. Sood and other researchers that uses this new data resource to examine the money flows from insulin distribution.

Dr. Sood discussed preliminary research and findings related to the Medicare Part D market and the issue of vertical integration and market consolidation. He explained that the research in this area is continuing and as such, it has not been published. He said he hopes to be able to publish sometime in the near future. He discussed three insurer-pharmacy benefit manager (PBM) relationships: 1) in-house, where the insurer uses its own PBM—for example, CVS. This PBM also provides PBM services to other insurers; 2) rival PBMs, where the insurer uses a PBM owned by a rival health plan—for example, HealthNet contracting with CVS; and 3) standalone PBM, where the insurer uses a PBM that is not owned by a health plan, such as Catamaran, which no longer exists because it was acquired by UnitedHealthcare. Dr. Sood explained that the last insurer-PBM relationship no longer exists in the Part D market. There are no stand-alone PBMs. He discussed how the market has evolved over time with in-house PBMs taking over more and more of the market share between 2010 and 2018. He noted again that the market share for stand-alone PBMs is zero beginning in 2016 for various reasons, including their acquisition by insurers. Dr. Sood said his preliminary research examines how these changes in market share—the increase market share of in-house PBMs, the decrease in market share for rival PBMs, and the elimination of market share for stand-alone PBMs—are potentially affecting Medicare Part D beneficiaries, health care costs, and premiums. He discussed the concept of "customer foreclosure." He explained that because such a large share of the market, approximately 80% of the Medicare Part D market, is controlled by in-house PBMs, those customers served by these PBMs are not available to rival PBMs, which potentially reduces incentives and creates a barrier to market entry for new entrants, both PBM and insurer new entrants.

Dr. Sood next discussed the concept of "input foreclosure" and why it is relevant for understanding the impact of vertical integration. He explained that input foreclosure occurs when there is a lack of competition in the market, such as in-house PBMs holding a huge portion of the market share and lower market share for rival PBMs. This means that in-house PBMs have reduced incentives to provide high-quality PBM services at a competitive price to rival insurers—input foreclosure. He said input foreclosure could explain the increase in premium by insurers who obtain pharmacy services through a rival PBM from 2010–2018 versus in-house PBM premiums, which barely increased during the same period.

Dr. Van Nuys discussed potential policy solutions to the issues raised during the presentation: 1) enforce existing antitrust laws in key market segments; 2) encourage alternative PBM models, such as independent PBMs, to provide more market competition; 3) create full transparency within the distribution system; 4) pass prescription drug manufacturer rebates through to the patients at the point of sale; and 5) restrict PBMs to fixed fee rather than percent-of-price contracts.

Dr. Van Nuys responded to a question about what information in the reports used for the research related to insulin flow of money distribution chain was most helpful. She said that it would have been help if the Nevada report include more desegregated data and specifics related to insulin and/or specific diabetes drugs, which would also assist researchers in assessing the quality of the data. Mr. Meyer asked about the impact of pharmacy services administrative organizations (PSAOs) on the distribution system. Dr. Sood said it is unclear, but these entities could be trying to counteract the influence of such a small number of players in the prescription drug distribution system by giving pharmacies more bargaining power and leverage. He noted that it appears drug wholesalers are

acquiring more and more of the PSAOs also to get leverage over the PBMs. In addition, he noted that the drug wholesale market also is highly concentrated. He said that it seems that given the way the pharmaceutical distribution system is evolving, it is going to be just two or three large players along the prescription drug supply chain that are super vertically integrated and competing with other, which may not lead to the best outcomes for consumers

Mr. Rock asked about the firewalls that insurers and PBMs point to when countering questions about the impact of vertical integration on access and affordability of prescription drugs. Dr. Sood said one of the reasons he wanted to research vertical integration in the prescription drug market and pharmaceutical distribution system was to determine if such firewalls are effective. He said that based on his preliminary research, it does not appear they are effective. He said that if firewalls were effective, it would not matter if an insurer used a rival PBM for its pharmacy services, but his preliminary research shows it makes a difference in premium costs. The firewalls do not appear to be a significant enough of a barrier to reduce the incentives between the insurer and the PBM it owns when that PBM is working with a rival insurer. Dr. Van Nuys, noting that the preliminary research did not study firewalls, said some insurers with in-house PBMs assert vertical integration creates efficiencies. She said that if this is true, then net expenditures should be shrinking, but that does not appear to be happening. Mr. Eamon asked if Ms. Van Nuys looked at state laws with copayment caps on insulin. She said no but explained that a cap on out-of-pocket costs helps consumers at the point of sale, but such a cap does not reduce net expenditures. Consumers could still be paying more because of increased premium because the difference must be made up somewhere to cover the cost of the prescription drug because the total expenditure for that drug has remained the same.

Mr. Keen asked Dr. Sood and Dr. Van Nuys about the Federal Trade Commission's (FTC's) recently released request for information (RFI) related to PBM business practices. Dr. Van Nuys said she believes this is a good thing and that she is cautiously optimistic that the FTC could start enforcing its antitrust laws against certain PBM business practices. She said that she, Dr. Sood, and other researchers have been compiling information on these issues and plan to submit comments to the FTC in response to the RFI.

Having no further business, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adjourned.

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Pharmacy Benefit Manager Regulatory Issues (B) Subgroup
Kansas City, Missouri
April 4, 2022

The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force met in Kansas City, MO, April 4, 2022. The following Subgroup members participated: TK Keen, Chair, Numi Griffith and Ralph Margrish (OR); Laura Arp, Vice Chair (NE); Yada Horace (AL); Alan McClain and Beth Barrington (AR); Paul Lombardo (CT); Howard Liebers (DC); Andria Seip (IA); Vicki Schmidt and Julie Holmes (KS); Sharon P. Clark and Daniel McIlwain (KY); Chad Arnold (MI); Cynthia Amann (MO); David Dachs (MT); Ted Hamby and Robert Croom (NC); Renee Blechner (NM); Erin Porter (NJ); Glen Mulready and Kelli Price (OK); Ana Paulina Gomez (PA); Carlos Valles (PR); Scott McAnally (TN); Tanji J. Northrup (UT); Stephen Hogge and Katie Johnson (VA); Ned Gaines and Jennifer Kreitler (WA); Nathan Houdek and Jennifer Stegall (WI); Erin K. Hunter (WV); and Bryce Hamilton (WY).

1. Heard an Update from Oklahoma on Implementation of its PBM Law

Ms. Price discussed Oklahoma's Patient's Right to Pharmacy Choice Act, which was effective Nov. 1, 2019. The Act establishes a regulatory structure for pharmacy benefit managers (PBMs), including licensing requirements. She explained how the *Rutledge v. Pharmaceutical Care Management Association* case and the U.S. Supreme Court's decision in that case affected the Oklahoma Department of Insurance's (DOI's) implementation and enforcement of the Act and its potential effect on the U.S. District Court's ruling in the *Pharmaceutical Care Management Association v. Mulready* case.

Ms. Price said since Sept. 1, 2020, the Oklahoma DOI has received and reviewed almost 177,000 alleged violations of the Act. She said approximately 87,000 have been resolved to date. She said enforcement actions taken against PBMs include: eight cease-and-desist orders, 13 other orders, and five settlement agreements entered. Ms. Price described the specific issues the Oklahoma DOI is seeing, such as determining whether: 1) a regulation is a "cost regulation" or "central to plan administration regulation"; 2) settlement agreements made outside of the formal administrative process are confidential or are they subject to federal Freedom of Information Act (FOIA) and/or open records requests; and 3) for purposes of licensing, should a PBM and its financial status be reviewed for stability and solvency.

2. Heard a Presentation on PBM Regulation in Oregon

Mr. Griffith discussed Oregon's current PBM laws and regulations. He highlighted a few of the law and regulation provisions, including: 1) a PBM registration requirement; 2) maximum allowable cost (MAC) appeals process requirements; 3) a prohibition on requiring patients to use mail-order pharmacy; and 4) prohibiting "claw back" claims except under certain circumstances, such as fraudulent submission or duplicate claims. He said that currently 55 PBMs have registered with Oregon. Mr. Griffith explained that the Oregon DOI's enforcement of its PBM laws is driven by pharmacy complaints. He said that to date, the Oregon DOI has not initiated any enforcement actions because as far as the Oregon DOI knows, there have been no pharmacy complaints. He said this reflects PBMs satisfactory compliance with the law. He also highlighted that the Oregon DOI's regulations do not apply to health carriers that directly administer their pharmacy benefits, which is a limitation on the Oregon DOI's ability to review certain types of complaints related to its PBM law.

Mr. Griffith next discussed Oregon's work related to prescription drug price transparency, including the work of the Joint Task Force for Fair Pricing of Prescription Drugs and its recommendations. He also noted that the Oregon

Secretary of State Audits Division recently began an audit of all PBM contracts used by Medicaid managed care entities in Oregon.

Mr. Margrish, chair of the Oregon Prescription Drug Affordability Board (PDAB), discussed additional work being done in Oregon related to PBM transparency and the anticipated work of the PDAB related to PBM transparency. He said Oregon's PDAB legislation passed in 2021, which directs the PDAB to conduct affordability reviews for the health care system for high out-of-pocket costs for residents. He explained that the PDAB will meet for the first time this summer to develop its annual work plan, which will include identifying PBM transparency issues. He said that in addition to conducting affordability reviews, the PDAB is also tasked with studying the entire prescription drug distribution and payment system in Oregon and the policies adopted by other states and countries designed to lower the list price of prescription drugs.

With respect to the drug affordability reviews, Mr. Margrish explained that in conducting the reviews, the PDAB must look at multiple factors in the purchasing and supply chain, including: 1) the estimated total amount of the price concession, discount, or rebate the manufacturer provides to each PBM registered in Oregon for the prescription drug under review, expressed as a percentage of the prices; and 2) the estimated average price concession, discount, or rebate the manufacturer provides or is expected to provide to health insurance plans and PBMs in Oregon for therapeutic alternatives. He discussed Oregon's objectives with respect to transparency and cost, such as 1) identifying where the profits are distributed and living between industry and PBMs; 2) identifying its impact on the system and consumers; and 3) informing what drugs get presented to the PDAB for affordability reviews. He said the PDAB plans to implement through administrative rulemaking the criteria it must use to conduct the affordability reviews, which will take about four to six months. He said that means the PDAB will probably not begin conducting such reviews until the beginning of calendar year 2023. He said he would be happy to share the PDAB's findings to the Subgroup sometime next year.

Mr. Margrish discussed the analytic opportunities the PDAB's work will provide to inform policy because it will be examining the whole transaction and prescription drug distribution supply chain from end to end.

3. Heard a Presentation on the Subgroup's Charge to Develop a White Paper from a Consumer Perspective

Carl Schmid (HIV + Hepatitis Policy Institute) and Anna Schwamlein Howard (American Cancer Society, Cancer Action Network—ACS CAN) provided a consumer perspective on the Subgroup's charge to develop a white paper on PBMs and PBM business practices.

Mr. Schmid discussed the role of PBMs in prescription drug access and affordability for consumers. He discussed how PBMs are involved in formulary decisions and potential factors influencing these decisions, including which drugs will be covered, adding newly approved drugs, removal of drugs, and drug exclusions. He also discussed how PBMs affect prescription drug affordability particularly due to increased prescription drug cost-sharing and other factors affecting health care costs for consumers.

Mr. Schmid also touched on the importance of prescription copayment assistance to consumers and its role in helping to reduce out-of-pocket costs. With respect to such assistance, he discussed copayment accumulator adjustment programs, which are programs that restrict a prescription drug manufacturer's assistance coupon from counting towards a patient's deductible or other out-of-pocket cost-sharing requirement. He also discussed: 1) the percentage of plans in states with copayment accumulator policies and states with laws banning copayment accumulators; 2) potential conflicts of state copayment accumulator ban laws with federal requirements related to health savings account (HSA)-qualified high deductible health plan (HDHP) and continued eligibility to contribute to an HSA in light of such a law; and 3) potential solutions to address the issue.

Ms. Howard said the Subgroup’s proposed [State] Pharmacy Benefit Manager Licensure and Regulation Act was an important first step. She said the NAIC consumer representatives strongly support the development of the white paper. She said the white paper is an opportunity for the Subgroup to build on the policies included in the proposed model’s Section 8—Regulations drafting note and when finished, it will offer a road map for states that might want to go further than what was included in the draft model. She suggested the Subgroup consider additional topics not included in the drafting note related to provisions in PBM laws that states have enacted, such as PBM network adequacy requirements, prior authorization requirements, and PBM complaint process requirements. She discussed additional items the Subgroup should consider for inclusion in the white paper, including: 1) clearly defining health carrier obligations; 2) sharing rebates with patients; and 3) the impact of the *Rutledge* decision and other PBM-related cases working their way through the courts.

Having no further business, the Pharmacy Benefit Manager Regulatory Issues (B) Subgroup adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/B Cmte/RFTF/PBM Regulatory Issues Subgrp/PBM Reg Issues MtgMin 4-4-22.docx

SENIOR ISSUES (B) TASK FORCE

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Draft: 8/17/22

Senior Issues (B) Task Force
Portland, Oregon
August 10, 2022

The Senior Issues (B) Task Force met in Portland, OR, Aug. 10, 2022. The following Task Force members participated: Marlene Caride, Chair (NJ); Jon Pike, Vice Chair, and Tomasz Serbinowski (UT); Lori K. Wing-Heier represented by Sarah Bailey (AK); Mark Fowler represented by Jennifer Li (AL); Ricardo Lara represented by Ahmad Kamil (CA); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods represented by Howard Liebers (DC); Trinidad Navarro represented by Frank Pyle (DE); David Altmaier represented by John Reilly (FL); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Randy Pipal (ID); Amy L. Beard represented by Scott Shover (IN); Vicki Schmidt represented by Craig VanAalst (KS); Sharon P. Clark represented by Rob Roberts (KY); James J. Donelon represented by Ron Henderson (LA); Kathleen A. Birrane represented by James Williams (MD); Timothy N. Schott represented by Marti Hooper (ME); Anita G. Fox represented by Renee Campbell (MI); Grace Arnold represented by Julia Drier (MN); Chlora Lindley-Myers represented by Carrie Couch (MO); Mike Causey represented by Robert Croom (NC); Jon Godfread represented by Chrystal Bartuska (ND); Eric Dunning represented by Laura Arp (NE); Barbara D. Richardson represented by Jack Childress (NV); Judith L. French represented by Daniel Bradford (OH); Andrew R. Stolfi represented by Tricia Goldsmith (OR); Michael Humphreys (PA); Larry D. Deiter represented by Jill Kruger (SD); Carter Lawrence represented by Brian Hoffmeister (TN); Cassie Brown represented by Chris Herrick (TX); Scott A. White represented by Julie Blauvelt (VA); Kevin Gaffney represented by Pat Murray (VT); Mike Kreidler represented by Todd Dixon (WA); Nathan Houdek represented by Jennifer Stegall (WI); and Allan L. McVey represented by Erin K. Hunter (WV).

1. Adopted its June 7, May 11, and Spring National Meeting Minutes

The Task Force conducted an e-vote that concluded June 7 to adopt a letter to the federal Centers for Medicare & Medicaid Services (CMS) asking for assurances that there will be coordination between the CMS and the U.S. Social Security Administration (SSA) should the proposed rule to simplify Medicare enrollment and expand access be made final and implemented, and work with state insurance regulators to minimize any possible gaps in coverage for beneficiaries.

The Task Force met May 11 and examined the proposed rule promulgated by the CMS to simplify Medicare enrollment rules and agreed to send a letter asking for assurances that there will be coordination between the CMS and the SSA should the proposed rule to simplify Medicare enrollment and expand access be made final and implemented, and work with state insurance regulators to minimize any possible gaps in coverage for beneficiaries.

Mr. Lombardo made a motion, seconded by Mr. Croom, to adopt the Task Force's June 7 (Attachment One); May 11 (Attachment Two); and March 17 (*see NAIC Proceedings – Spring 2022, Senior Issues (B) Task Force*) minutes. The motion passed unanimously.

2. Heard a Presentation Regarding Medicare Part D and Auto-Enrollment

Harry Ting (Health Consumer Advocate) presented an issue that poses difficulties for State Health Insurance Assistance Program (SHIP) counselors and the harm inflicted on Medicare Part D enrollees. He said he is asking the Task Force to endorse some actions and contact the CMS regarding this problem.

Dr. Ting said the situation arises when an insurer discontinues one of its Medicare prescription drug plans (PDPs) for the next calendar year and the beneficiary is then crosswalked to another of the insurer's PDPs. He said enrollees are notified via the Annual Notice of Change (ANOC) mailing in September, and in 2021, 3.2 million PDP enrollees were crosswalked into a different PDP for 2022.

Dr. Ting said many of these ANOCs are confused with junk mail and thrown out by the beneficiary. He said the same ANOC formats are sent out every year to all Medicare Part D enrollees, but the choice they are presented with is confusing, and the beneficiaries are not given proper guidance. He provided an example of a client being crosswalked from the Mutual of Omaha Rx Value Plan and thus being switched from one of the lowest cost plans in the beneficiary's area to one of the highest. He said the change in premium for this client went from \$22.20 a month to \$77.90 a month. He said it is not the fault of the insurance plan but rather a problem with the CMS' rules and regulations.

Dr. Ting said the ANOC tells beneficiaries to check the changes to the benefits and costs to see if they affect the beneficiary. He said this is difficult for many beneficiaries to do. For example, he said one client of his takes 43 different medications and drugs, and the ANOC tells the beneficiary to go to the online drug list if there are changes. He said the online drug list is a 45-page formulary for seniors to go through. He said the ANOC asks whether one's drugs are in a different tier with different cost sharing and points out that there are five tiers with 10 cost-sharing categories. He said the ANOC asks whether one's drugs have new restrictions, and it instructs seniors to call their insurer; if the senior can use the same pharmacy, the senior is instructed to go to a website or call to obtain a directory. He said there is no mention of Medicare or SHIP resources, and the section entitled "additional resources" tells seniors to call their insurer, which is not helpful when seeking unbiased and objective answers.

Dr. Ting said there are three changes the CMS can do to address this issue, and he asks that the NAIC act in contacting the CMS to implement these changes. He said the first change is for the CMS to notify crosswalked Medicare Part D enrollees directly so the ANOC letters are not confused as junk mail and the beneficiary has notice from the CMS about upcoming changes. He suggested a sample letter that the CMS could implement. He said the second change is to modify the ANOC template currently being used. He said additional language should be made available beyond the current standard language that this document is available in (e.g., Spanish, Braille, and large print). He suggested that the section start with advising beneficiaries to call their SHIP or the 800 Medicare number, as well as provide the Medicare.gov web page.

Dr. Ting said the first two suggestions can be done by the CMS through its current rules. He said the third suggestion is for the CMS to allow crosswalked Part D plan enrollees to switch Part D plans during the January through March period, the same as Medicare Advantage (MA) enrollees. He said he believes this can be implemented through the CMS' regulations, but if not, he would propose it as an amendment. He said he would like the Task Force and the NAIC to support the three suggestions and ask the CMS to modify its Medicare Part D ANOC template to include objective resources and tell the CMS to give crosswalked Medicare Part D drug plan enrollees the same protections as those in MA plans.

Mr. Lombardo asked Dr. Ting if he has reached out to the CMS and, if so, what response has he received, if any. Dr. Ting said he has reached out several times and has to date received no response. Ms. Seip asked if Dr. Ting has reached out to the SHIP offices and programs about this matter. Dr. Ting said he has spoken to many SHIPs as they are in some states better equipped to address the problems than departments of insurance (DOIs) and they are aware, but the work is on a case-by-case basis.

Commissioner Caride asked if a letter from the Task Force to the CMS to help get a response to Dr. Ting might be in order and asked if there was any objection. Mr. Henderson and Mr. Lombardo both agreed a letter is a good idea, at least to let the CMS know that state insurance regulators are aware of this matter. Mr. Dixon said a letter

is a good idea and pointed out that many SHIP counselors are volunteers and, in most cases, cannot lobby or advocate to the CMS. Commissioner Caride asked David Torian (NAIC) to work with Dr. Ting to draft language.

3. Heard a Discussion About Medicare and COBRA

Bonnie Burns (California Health Advocates—CHA) said the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) is a federal law giving one the legal right to keep their employer's health benefits that might otherwise end due to job loss, divorce, or death. She said employers of a certain size are required to offer COBRA when one retires or leaves an employer, and this is the same health plan coverage one had while working. Yet federal health benefit payment rules that apply while one is working and eligible for Medicare are not the same after one stops working and is eligible for COBRA and Medicare at the same time.

Ms. Burns said CMS' recent rule establishing a new special enrollment period (SEP) for health plan or employer error provides relief in instances where individuals can demonstrate that their employer or health plan, or agent materially misrepresented information related to enrolling in Medicare timely. She said the benefits of this narrow SEP are: 1) it avoids waiting to enroll during the general enrollment period (GEP); 2) it avoids late enrollment penalty avoids gap in coverage; and 3) it provides Medigap guaranteed issue.

Ms. Burns said individuals would be required to provide the SSA or CMS evidence that shows what misinformation was initially provided by the employer, group health plan (GHP), or representative. She said those tasked with providing information and guidance—employers and their agents, including human resources (HR) firms and agents/brokers—often do not understand the complex rules involving Medicare and COBRA coverage and material misrepresentation is difficult to document and prove. She said most information about COBRA occurs in verbal conversations with HR or other representatives, and employers are unlikely to state misrepresentation in writing.

Ms. Burns provided as an example a 76-year-old client who left employment and signed up for Medicare Part A at age 65 but did not sign up for Part B as he was still working. She said the employer is large group health benefits consultant, the employer provided eight months free COBRA as part of his separation agreement, and he was provided a lot of verbal instruction. She said the COBRA carrier is large group health benefits company and paid the COBRA primary benefits, but at six months, the carrier discovered eligibility for Medicare but not enrolled for benefits. She said the client had large medical expenses, and the carrier sought recovery for \$80,000 of primary COBRA paid benefits.

Ms. Burns said COBRA is the same as primary health benefits as employed. She said the former employee pays 100% of premium plus an administrative fee. She said with or without Medicare benefits, Medicare Secondary Payer rules do not apply. She said COBRA is automatically secondary and added there is a disconnect between Social Security and Medicare.

Ms. Burns said the NAIC *Coordination of Benefits Model Regulation* (Model #120) exception pertaining to people who are eligible or who could be eligible for Medicare benefits is unfairly discriminatory. She said the NAIC should delete the exception for Medicare Part B in Model #120 as there is no rationale for this exception in the NAIC historical record, and it unfairly penalizes and discriminates against Medicare beneficiaries. She said the action specified in the exception, "is or could have been covered," produces a result that is expressly prohibited in the same subsection for any other form of health benefits. Ms. Burns recommended changes to parts of Section 5 of Model #120.

Commissioner Caride suggested that the Task Force hold an open meeting solely on this issue to discuss the matter further, and invite relevant stakeholders to help state insurance regulators decide if Model #120 should be opened and edited. Commissioner Pike asked if Ms. Burns knew how many states follow the model law and how

widespread the problem is. Ms. Burns said she does not know how many states follow the model but that most states have their own regulation or laws on coordination of benefits. Ms. Blauvelt raised a similar issue involving the Affordable Care Act (ACA) small group plans, not COBRA, but that there are parallel similarities as it pertains to Model #120. She said she had inquired if other states have guidance or information regarding coordination of benefits with marketplace consumers of Medicare age who not enrolled in Medicare for either residency ineligibility (recently immigrated to the U.S.); insured to pay Part A premium; and/or eligible but not yet enrolled.

4. Disbanded the Long-Term Care Insurance Model Update (B) Subgroup

Commissioner Caride asked Mr. Torian to explain the situation. Mr. Torian said since the previous chair of the Subgroup had left in December 2021, a new chair has not been found. He said in that time, there has been only one inquiry into the status of the Subgroup. He said the anticipated work from the Long-Term Care Insurance Reduced Benefits Options (EX) Subgroup never materialized, and that Subgroup is not disbanded. He pointed out that the charge of the Long-Term Care Insurance Model Update (B) Subgroup is to determine whether the *Long-Term Care Insurance Model Act (#640)* and the *Long-Term Care Insurance Model Regulation (#641)* retain their flexibility to remain compatible with the evolving delivery of long-term care (LTC) services and the evolving long-term care insurance (LTCI) marketplace. He said it appears by the lack of interest in the status of the Subgroup that there may be a feeling that the models do retain their flexibility to be compatible with the evolving delivery of LTC services and the evolving LTCI marketplace, and the purpose of this agenda item is for the Task Force to discuss the future of the Subgroup and whether it should be repurposed or disbanded.

Mr. Lombardo said he thinks that the lack of inquiry into the status of the Subgroup leads towards disbanding the Subgroup and that he would support that move. Ms. Arp said that the models do work and that the work of the Subgroup did not make much of an impact. Mr. Serbinowski said the Subgroup did a lot of work, and it should not end in this manner without some wrap-up or summary of the work done. He said the Subgroup did go section by section through Model #640 and part of Model #641 and offered some good suggestions to address products and changes in the marketplace that are not reflected in the model, such as hybrid products and revision issues. Ms. Burns agreed with Mr. Serbinowski.

Commissioner Caride agreed the work of the Subgroup should not be dismissed so easily but asked the Task Force what should be done.

Mr. Lombardo made a motion, seconded by Mr. Hoffmeister, to disband the Long-Term Care Insurance Model Update (B) Subgroup. The motion passed.

5. Discussed Any Other Matters

Commissioner Caride informed the Task Force that the previous night, she received a response from the CMS to the March 17 letter sent by the Task Force seeking guidance from the CMS on the issue of the treatment of nonparticipating durable medical equipment (DME) suppliers under Medicare's "Limitation on Beneficiary Liability." She said the CMS response was sent out to Task Force members, interested state insurance regulators, and interested parties, and it has been posted on the Task Force's web page.

Having no further business, the Senior Issues (B) Task Force adjourned.

[SharePoint/NAIC Support Staff Hub/Member Meetings/B CMTE/SITF](#)

Draft: 6/21/22

Senior Issues (B) Task Force
E-Vote
June 7, 2022

The Senior Issues (B) Task Force conducted an e-vote that concluded June 7, 2022. The following Task Force members participated: Marlene Caride, Chair (NJ); Jon Pike, Vice Chair (UT); Lori K. Wing-Heier (AK); Jim L. Ridling (AL); Alan McClain (AR); Peni Itula Sapini Teo (AS); Ricardo Lara (CA); Michael Conway (CO); Andrew N. Mais (CT); Trinidad Navarro (DE); David Altmaier (FL); John F. King (GA); Doug Ommen (IA); Dean L. Cameron (ID); Amy L. Beard (IN); Vicki Schmidt (KS); James L. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Timothy N. Schott (ME); Anita G. Fox (MI); Grace Arnold (MN); Chlora Lindley-Myers (MO); Troy Downing (MT); Mike Causey (NC); Jon Godfread (ND); Eric Dunning (NE); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready (OK); Michael Humphreys (PA); Carter Lawrence (TN); Cassie Brown (TX); Scott A. White (VA); Kevin Gaffney (VT); Mike Kreidler (WA); Nathan Houdek (WI); and Allan L. McVey (WV).

1. Adopted a Letter Asking the CMS to Coordinate on its Proposed Rule and Mitigate Possible Gaps in Coverage

The Task Force conducted an e-vote to: 1) consider adoption of a letter to the federal Centers for Medicare & Medicaid Services (CMS) asking for assurances that there will be coordination between the CMS and the U.S. Social Security Administration (SSA) should the proposed rule to simplify Medicare enrollment and expand access be made final and implemented; and 2) work with state insurance regulators to minimize any possible gaps in coverage for beneficiaries.

Without objection, the Task Force adopted the comment letter (Attachment One-A) by a vote of 37 to 1.

Having no further business, the Senior Issues (B) Task Force adjourned.

June 8, 2022

Hon. Chiquita Brooks-LaSure - Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Administrator Brooks-LaSure:

The National Association of Insurance Commissioners (NAIC), the standard setting organization representing the chief insurance regulators in the 50 states, the District of Columbia, and the United States territories, is writing to you regarding the CMS proposed rule to simplify Medicare enrollment and expand access (**CMS-4199-P**). We applaud the proposed rule and CMS' attempt to simplify the Medicare enrollment process. However, as state insurance regulators, we do have concerns about possible and potential gaps in coverage for beneficiaries.

The new special enrollment periods (SEPs) are good and we are pleased to see CMS recognized the need for an SEP to coordinate with the termination of Medicaid coverage that would allow individuals to enroll after termination of Medicaid eligibility. But beneficiaries trying to get a Medicare Supplement (Medigap) plan may experience gaps in coverage while they try to come up with documentation of their dates of Medicare eligibility and try to coordinate with an application for Medigap, or to join a Medicare Advantage (MA) plan. Since the Social Security Administration (SSA) is in charge of eligibility, we hope there will be coordination between CMS and SSA to minimize the possibility of creating gaps in coverage for Medigap or MA plans and to address the delays of beneficiaries receiving their Medicare cards.

We were pleased with the discussions NAIC staff had with CMS and SSA regarding the inquiry made last year about delay issues of beneficiaries receiving their Medicare cards. As you are aware, the initial application for cards starts with the SSA, not CMS. Both CMS and SSA explained that under the current process SSA mails out (usually initiated by a phone call) the application and receives and processes the application then sends to CMS to send the Medicare card to the enrollee. Because SSA field offices were closed due to the pandemic, almost all applications were being mailed to seniors, then they were required to mail the application and supporting materials back to SSA.

CMS and SSA told NAIC staff they have found that serious mail delays (3-4 weeks for each mailing) have resulted in significant delays in the final application being received by SSA. Once a complete application is received by SSA, it usually takes about 24 hours for the information to be forwarded to CMS (through daily data dumps) and then CMS mails the card within a day, but mail delivery problems have caused most of the delay problems. CMS and SSA told NAIC staff they have identified some issues on their ends that have delayed the review and approval of applications and transferring to CMS for final action, and they are working to address these issues.

We would like assurances that there will be coordination between CMS and SSA should this proposed rule be made final and implemented and that Federal agencies will work with state insurance regulators to minimize any possible gaps in coverage for beneficiaries.

Sincerely,

Draft: 5/18/22

Senior Issues (B) Task Force
Virtual Meeting
May 11, 2022

The Senior Issues (B) Task Force met May 11, 2022. The following Task Force members participated: Marlene Caride, Chair, represented by Chanell McDevitt; Jon Pike, Vice Chair (UT); Lori K. Wing-Heier represented by Mayumi Gabor (AK); Jim L. Ridling represented by William Rodgers (AL); Alan McClain represented by Jimmy Harris (AR); Ricardo Lara represented by Tyler McKinney (CA); Michael Conway represented by Peg Brown (CO); Andrew N. Mais represented by Paul Lombardo (CT); Trinidad Navarro represented by Susan Jennette (DE); David Altmaier represented by Chris Struk (FL); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Shannon Hohl (ID); Amy L. Beard represented by Mary Ann Williams (IN); Vicki Schmidt represented by Craig VanAalst (KS); Sharon P. Clark represented by Stephanie McGaughey-Bowker (KY); James J. Donelon represented by Ron Henderson (LA); Gary D. Anderson represented by Rebecca Butler (MA); Kathleen A. Birrane represented by Fern Thomas (MD); Timothy N. Schott represented by Marti Hooper (ME); Anita G. Fox represented by Renee Campbell (MI); Grace Arnold represented by Julia Dreier (MN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Yuri Venjohn (ND); Eric Dunning represented by Laura Arp (NE); Barbara D. Richardson represented by Jack Childress (NV); Judith L. French represented by Laura Miller (OH); Glen Mulready (OK); Michael Humphreys represented by Michael Gurgiolo (PA); Larry D. Deiter represented by Lisa Harmon (SD); Carter Lawrence represented by Vickie Trice (TN); Cassie Brown represented by Rachel Bowden (TX); Scott A. White represented by Bob Grissom (VA); Michael S. Pieciak represented by Mary Block (VT); Mike Kreidler represented by Molly Nollette (WA); Nathan Houdek represented by Jennifer Stegall (WI); and Allan L. McVey represented by Samantha Chase (WV). Also participating were: Eric Anderson (IL); Chris Nicolopoulos (NH); Bogdanka Kurahovic (NM); Sarah Allen (NY); Patrick Smock (RI); Tomasz Serbinowski (UT); and Mavis Earnshaw (WY).

1. Discussed the CMS' Proposed Rule on Medicare Part B Enrollment

Commissioner Pike said the purpose of this Task Force meeting is to examine the proposed rule promulgated by the Centers for Medicare & Medicaid Services (CMS) to simplify Medicare enrollment rules and whether there is an impact on Medicare supplement and guaranteed issue (GI). Commissioner Pike asked William Schiffbauer (Schiffbauer Law Offices) to explain the summary he prepared and shared with the Task Force.

Mr. Schiffbauer said the proposed rule includes changes with respect to: 1) Part B enrollment simplification and new Special Enrollment Periods (SEPs); 2) extended Part B coverage limited to immunosuppressive drugs for certain end-stage renal disease (ESRD) beneficiaries; 3) simplification changes to Medicare enrollment forms; and 4) Medicaid state buy-in of Medicare premiums. He said of interest to Medigap carriers and beneficiaries are proposals relating to: 1) "simplifying" changes to Part B enrollment with respect to the effective dates for Part B entitlement; and 2) new Part B SEPs for "exceptional conditions."

Mr. Schiffbauer said the statutory amendments did not change the open enrollment and GI requirements applicable to Medigap health insurance. He said the SEPs in the proposed rule affect the Medigap GI provision and that current laws are maintained with respect to Medigap open enrollment. He said the proposed rule creates some uniformity for Medicare enrollment timing, making it bit more consistent, and that current federal and state laws remain in place and unaffected by the proposed rule.

Bonnie Burns (California Health Advocates—CHA) asked Mr. Schiffbauer if any those GI events under the new SEPs create a problem to access Medigap. Mr. Schiffbauer said no. He said the new SEPs in the proposed rule all are entries into Medicare, so once one is enrolled in Part B, it would trigger their Medigap open enrollment. He said all of the same GI provisions for Medigap remain the same. Ms. Burns asked if it is the case where a person who exercises an SEP and is 65 years of age or older is the only person who would have access to Medigap. Mr. Schiffbauer said that is dependent on state law, so if state law provides access to open enrollment or GI to those under 65, that state law remains in place, and this proposed rule does not change that. He said everything current regarding Medigap open enrollment and Medigap GI remains the same. He said this proposed rule would begin entitlement to Medicare Part B a little earlier as there has been for some a couple months delay depending on when the person signed up for their initial or general open enrollment for Medicare. He said the proposed rule moves the start date into a more uniform setting across the board.

Ms. Burns said that raises another issue because the time frame for a person to apply and to get Medigap is shortened and that can create a doughnut hole for benefits between the time a person is eligible for Medicare and when Medicare begins and the time the person is actually issued coverage under Medigap that has a different effective date. Mr. Schiffbauer said it is a matter of what evidence Medigap requires today to demonstrate that a person is enrolled in Medicare Part B, which remains the same, and so CMS will have to move faster in getting the enrollment cards or the evidence of enrollment to the beneficiaries within that time frame.

Ms. Burns said therein lies the problem as those cards come out of the Social Security Administration (SSA) and not CMS, and it is well-known the delay problem SSA is encountering with Medicare cards, so this could exacerbate the problem. She said she could envision greater problems for Medicare beneficiaries in proving that they are eligible for Medicare and in getting an effective date for Medigap that is going to coordinate with Medicare.

Mr. Schiffbauer said where CMS is seeking comments from the beneficiary community is on the new SEP and employer information and what is the burden on the beneficiary in getting the needed evidence from the employer to show that they are eligible to enroll in Medicare now. Ms. Burns said this is a place for the NAIC to weigh in and comment on behalf of consumers, as well as the timing issue for getting Medigap under this proposed rule.

Commissioner Pike asked Ms. Burns if SSA were able to address the Medicare enrollment card issue and found a way to get the cards out in a timely fashion, would this rule still be troublesome. Ms. Burns said the proof of eligibility is very important, and the gap that could occur between the time a person is eligible for Medicare and when Medicare begins and the time the person is actually issued coverage under Medigap is of concern. She said she is glad CMS has broad authority regarding the SEPs. Mr. Schiffbauer said CMS has the authority, which is statutory, and has said that if someone does not fall within the specific SEPs, then CMS will consider that person's circumstances on a case-by-case basis and that authority of CMS does not prevent CMS from coming up with other SEPs in the future.

Harry Ting (Health Consumer Advocate) said he is an NAIC consumer representative and State Health Insurance Assistance Program (SHIP) counselor. He said the overall changes in the proposed rule are excellent. He pointed out that the proposed rule would extend coverage for immunosuppressive drugs for people who had kidney transplants and were on ESRD coverage under Medicare for dialysis, which Medicare Part B only covers for 36 months; this new rule would extend coverage indefinitely.

Dr. Ting said there is one area of the proposed rule that he has concerns about, which Mr. Schiffbauer raised earlier, and that is where there is employer misrepresentation on providing information about enrolling in Medicare Part B. He said the proposed rule would create an SEP to allow an individual who can demonstrate that they were misinformed by their employer about enrolling in Medicare Part B, and he cited himself as an example

of being told to choose Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) coverage and to continue under his employer's plan. He said although it initially sounded reasonable when he did research, it was clear that COBRA was much more expensive than getting coverage under Medicare and then getting Medigap and a drug plan. He said most people do not know this or know how to research this, and they rely on the information their employer's human resources (HR) department provides. He said the problem with this SEP is that in order to qualify, the person has to demonstrate that their employer sent them information in writing that gave false or bad information, and that information influenced their delay in enrolling in Medicare Part B. He said most information and guidance from HR departments are verbal, as was in his case, and there would be no written misinformation to provide as evidence. He said the rule should allow for a person who is enrolled in COBRA to be allowed to get into this new SEP until their COBRA expires.

Commissioner Pike asked if any regulators have any questions especially as it may relate to state laws. Ms. Hohl said the proposed rule is a good starting point and perhaps taking a look at the *Coordination of Benefits Model Regulation (Model #120)* may not be a bad idea although that is not the issue currently. She said her concern is that there is no mention of SSA in the proposed rule and how SSA will implement this proposed rule. She said she has seen issues with Idaho SHIP offices and their difficulties to work with SSA, which is the gate keeper for Part B enrollment. She said the SHIP offices see problems where beneficiaries seek equitable relief, which is separate topic, but that there are great challenges in working with the SSA. She said often times CMS is not really involved in the conversation, and it is just the beneficiary and the SSA. She said if the Task Force decides to comment, it may want to consider ask CMS: 1) what guidance will be provided to SSA; 2) where does a beneficiary go if they cannot work with SSA; or 3) how to appeal a decision. She said SSA tends to have a lot of authority in these decisions.

Ms. Burns said she would ask and encourage the NAIC to comment on the proposed rule on behalf of beneficiaries and consumers.

Having no further business, the Senior Issues (B) Task Force adjourned.

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

Property and Casualty Insurance (C) Committee Aug. 12, 2022, Minutes..... 7-2

Property and Casualty Insurance (C) Committee Aug. 1, 2022, Minutes (Attachment One)..... 7-6

Cannabis Insurance (C) Working Group July 12, 2022, Minutes (Attachment Two) 7-8

Catastrophe Insurance (C) Working Group and NAIC/Federal Emergency Management Agency
(FEMA) (C) Advisory Group Aug. 9, 2022, Minutes (Attachment Three) 7-12

Pet Insurance (C) Working Group Aug. 4, 2022, Minutes (Attachment Four)..... 7-21

Pet Insurance (C) Working Group July 21, 2022, Minutes (Attachment Four-A) 7-22

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Transparency and Readability of Consumer Information (C) Working Group Aug. 2, 2022, Minutes
(Attachment Five)..... 7-26

Transparency and Readability of Consumer Information (C) Working Group June 9, 2022, Minutes
(Attachment Five-A)..... 7-27

Draft: 8/19/22

Property and Casualty Insurance (C) Committee
Portland, Oregon
August 12, 2022

The Property and Casualty Insurance (C) Committee met in Portland, OR, Aug. 12, 2022. The following Committee members participated: Mike Chaney, Chair (MS); Alan McClain, Co-Vice Chair (AR); Anita G. Fox, Co-Vice Chair (MI); Mark Fowler (AL); Ricardo Lara (CA); Andrew N. Mais and George Bradner (CT); Trinidad Navarro (DE); Colin M. Hayashida and Martha Im (HI); Vicki Schmidt (KS); James J. Donelon (LA); Chris Nicolopoulos represented by Emily Doherty (NH); Glen Mulready (OK); Larry D. Deiter (SD); and Allan L. McVey represented by Erin Hunter (WV). Also participating was: Kathleen A. Birrane (MD).

1. Adopted its Aug. 1 and Spring National Meeting Minutes

Director Fox said the Committee adopted the Pet Insurance Model Act on its Aug. 1 conference call.

Commissioner Schmidt made a motion, seconded by Commissioner Lara, to adopt the Committee's Aug. 1 (Attachment One) and April 7 (*see NAIC Proceedings – Spring 2022, Property and Casualty Insurance (C) Committee*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

Commissioner Donelon said the Surplus Lines (C) Task Force has been receiving updates from a drafting group revising the *Nonadmitted Insurance Model Act* (#870). The drafting group met six times since its formation, and as a result of those meetings, it addressed 40 comments on the model language. During its May 23 meeting, the Task Force exposed Model #870 for a 60-day public comments period that ended July 21. Commissioner Donelon said the Task Force will be meeting soon to discuss comments.

Mr. Bradner said the Transparency and Readability of Consumer Information (C) Working Group exposed its draft of the *Best Practices for Insurance Rate Disclosures* document in June and received comments. He said the consumer education information section discusses rates, underwriting, and discounts. There were several comments received regarding readability. The drafting group met in July, and NAIC staff are working on making the changes to this piece of the document. Comments have been received on the rate filing checklist, which is based on the checklist that has been used in Kansas for several years. Mr. Bradner noted that Washington released a proposed rule for comments related to a rate filing checklist, which uses language like what is in the disclosure language in the NAIC draft. The disclosure drafting group will meet in August to discuss possible changes to the document based on comments. NAIC staff did a side-by-side comparison on the first draft of Washington's proposed rule, and NAIC staff are updating this comparison to include changes in the second draft. Mr. Bradner said the document could be adopted by the Working Group and forwarded to the Committee by the Fall National Meeting.

David F. Snyder (American Property Casualty Insurance Association—APCIA) asked if the Working Group is looking to adopt the Washington proposal as opposed to disclosure standards in other states. He said the APCIA has concerns about the Washington rate filing checklist, and he believes other state disclosures would be more workable. Mr. Bradner said the Working Group looked at different disclosures, but it is looking for additional information related to rates. Mr. Snyder said insurers have concerns with being able to comply because they are not able to allocate premium increases to individual rate factors.

Commissioner Lara made a motion, seconded by Commissioner Donelon, to adopt the following task force and working group reports: Casualty Actuarial and Statistical (C) Task Force; Surplus Lines (C) Task Force; Title Insurance (C) Task Force; Workers' Compensation (C) Task Force; Cannabis Insurance (C) Working Group (Attachment Two); Catastrophe Insurance (C) Working Group (Attachment Three); Pet Insurance (C) Working Group (Attachment Four); Terrorism Insurance Implementation (C) Working Group; and Transparency and Readability of Consumer Information (C) Working Group (Attachment Five). The motion passed unanimously.

3. Heard a Federal Update

Brooke Stringer (NAIC) said the U.S. Congress (Congress) just passed the Inflation Reduction Act of 2022, which includes significant climate investment. She said the National Flood Insurance Program's (NFIP's) latest extension expires Sept. 30, and another short-term extension is expected. She said senators from Florida, Louisiana, and Mississippi have introduced legislation to reauthorize the NFIP for one year. She also noted that the Federal Emergency Management Agency (FEMA) sent congressional leaders a list of 17 legislative proposals for NFIP reauthorization. The proposals would require legislation in order to become law; they have received mixed reviews from Congress. FEMA is calling for a 10-year reauthorization and focusing on improving the NFIP's financial framework, risk analysis and communication, resilience, and technical/operational enhancements. FEMA included a proposal that the NAIC supports, which would ensure that private flood insurance meets the continuous coverage requirement, so policyholders have a choice to return to the NFIP without losing any subsidy they previously had with the NFIP.

Ms. Stringer said the U.S. Government Accountability Office (GAO) has reached out to the NAIC and is starting work on two separate studies. One is on pandemic business interruption, and the other is on private flood insurance.

Ms. Stringer noted that the U.S. House of Representatives (House) recently passed the Wildfire Response and Drought Resiliency Act (HR 5118), but the measure faces an uncertain future in the U.S. Senate (Senate). House Committee on Financial Services Chairwoman Maxine Waters' (D-CA) Wildfire Insurance Coverage Study Act of 2022 was included in the package that requires FEMA and the GAO to conduct studies assessing the danger wildfires pose to communities and how the market for homeowners insurance is responding to this growing threat. The GAO report would also assess the state insurance regulatory response to increased premium rates, cost-sharing, or both for coverage for damage from wildfires and exclusion of such coverage from homeowners policies.

Ms. Stringer also said the House recently passed the Secure and Fair Enforcement (SAFE) Banking Act for the seventh time, this time as an amendment to the annual National Defense Authorization Act (NDAA). The NAIC supports the SAFE Banking Act, which would provide a safe harbor from violations of federal law for those engaged in the business of insurance participating in cannabis industry activity that is permissible under state law. The amended NDAA with the SAFE Banking Act is now in the hands of the Senate, which has delayed its vote until September.

4. Heard a Presentation on Cyber Insurance Data

Aaron Brandenburg (NAIC) said the Committee has a charge to, "Report on the cyber insurance market including data reported within the Cybersecurity Insurance and Identity Theft Coverage Supplement." He said the data currently available does not include alien surplus lines data, but that data would be added later this year within a written report. The Supplement shows that direct written premium for the admitted cyber market is at \$4.8 billion in 2021, up 75% from 2020. The number of policies in force declined in 2021; however, most of the decrease was in package policies, which make up the bulk of policies. Stand-alone policies increased by 31% in 2021. He said claims reported grew by about 15% in 2021, and the loss ratio remained stable at around 65%.

Mr. Brandenburg said the largest 15 insurers wrote nearly 75% of the market in 2021. He said industry reports show that 2021 saw underpricing in the cyber insurance market, along with an increase in frequency and severity of cyberattacks. He said much of the premium growth was due to actual pricing increases, rather than additional coverage. The market has recently seen stricter underwriting requirements; reduced limits; higher deductibles; more restrictive terms; and with the rise in ransomware, sublimits to policies.

Mr. Brandenburg also said identity theft insurance coverage within the Supplement does not provide valuable information since much of this coverage is provided within existing policies. He also said a definition for package policies could help insurers understand the data being sought. He said he would distribute a memorandum with recommended changes to the Supplement so Committee members could consider forwarding the recommendations to the Blanks (E) Working Group.

5. Received an Update on the Collaboration Forum on Algorithmic Bias

Commissioner Birrane said the Innovation, Cybersecurity, and Technology (H) committee has a goal of ensuring coordination and cooperation among various working groups working on topics relevant to the Committee. She said the Committee decided to establish a Collaboration Forum to identify the various working groups that touch on algorithmic bias. The Collaboration Forum is focused on communication among groups and education of the issue. The Collaboration Forum had a foundational educational session in Kansas City in July to discuss basic concepts and topics related to algorithmic bias and unfair bias. Commissioner Birrane said there were about 200 regulators that participated, including 37 commissioners. She said the working groups working on related issues will begin to step in to provide some additional regulatory-only foundational education.

Commissioner Birrane also said the Collaboration Forum is building out more public-facing education and information, such as what is being planned at the Insurance Summit, including a session related to marketing. She said the Forum will be working on the definition of key terms and will take public comment on these. She said the Forum will also work on a common framework for what is responsible artificial intelligence (AI) and what sort of tools regulators can rely on.

6. Heard an Overview of a Member Visit to the IBHS

Commissioner Richardson said the Climate and Resiliency (EX) Task Force's Pre-Mitigation Workstream co-hosted a trip with the Center for Insurance Policy and Research (CIPR) to Richburg, SC, in late July where state insurance regulators toured the Insurance Institute for Business and Home Safety (IBHS). She said state insurance regulators toured the lab and discussed how fraud and misconceptions about property insurance drive a lot of consumer complaints following catastrophic events. She said state insurance regulators discussed opportunities to work collaboratively with the IBHS to address consumer complaints through consumer outreach and education. State insurance regulators also discussed the changing market and whether insurers are moving towards different coverages and deductibles due to risks such as severe convective storms. Mitigation actions such as those offered through the IBHS FORTIFIED program, or their recently established Wildfire Prepared Home and Community Programs, can help reduce property damage risk and future potential losses for the industry.

Commissioner Richardson said the IBHS has published research showing the impact of mitigation, and it has released numerous communication pieces that commissioners could use with stakeholders to show how mitigation and fortifying property can lead to risk reduction. IBHS research and messaging is available for use by all state departments of insurance (DOIs). Commissioner Richardson encouraged commissioners to leverage the science and expertise of the IBHS as it considers ways to ensure consumers are protected from natural disaster risks.

7. Discussed its Charge Related to Parametric Insurance

Mr. Brandenburg explained that the Committee has a charge to, “Provide a forum for discussing issues related to parametric insurance and consider the development of a white paper or regulatory guidance.” He said NAIC staff have been in contact with several insurers on making presentations in the future. He noted that there has been some work going on related to parametric insurance within the NAIC, including the CIPR having an A-Z topic page that includes academic literature and the Task Force having an innovation workstream, which has heard numerous presentations related to community-based, commercial and personal parametric products.

Mr. Brandenburg said the CIPR web page defines parametric as a contract that “... insures a policyholder against the occurrence of a specific event by paying a set amount based on the magnitude of the event, as opposed to the magnitude of the losses in a traditional indemnity policy.” He said a parametric trigger is met when an objective number is measured and verified. A common example is an earthquake that registers a certain magnitude threshold or when a wind speed reading is met. Mr. Brandenburg also noted that there are academic studies and reports concerning whether such products can improve the financial resilience of low-income households in the U.S. and globally, as well as the regulatory environment, including whether the products qualify as insurance or something like a swap.

Mr. Brandenburg said the Innovation Workstream of the Task Force has heard presentations related to community-based coverage, such as coverage for cities or coral reefs. The workstream has also heard about commercial and personal coverages, such as products that make payouts in low-income areas or to assist with high deductibles, such as in earthquake prone areas or hurricanes in Puerto Rico. Mr. Brandenburg also noted that the May 2022 Central U.S. Quake Summit included reinsurers and brokers speaking about parametric products.

Mr. Brandenburg said parametric insurance products may provide several benefits, such as faster claims approval, which leads to faster payouts and lower time and expense for the insurer. The trigger and payout can be customized, helping to get money quickly to policyholders when they may need to make up a percentage deductible to assist their more traditional indemnity product.

Mr. Brandenburg said there are regulatory concerns with parametric products, including the fact that the product typically pays a relatively small amount, which could lead to consumer confusion. He said one of the big questions is whether the products are insurance since they may not meet requirements, including insurable interest, and they may function more like a derivative or swap.

Birny Birnbaum (Center for Economic Justice—CEJ) said parametric products are not insurance, and they are more like the lottery with a possible quick payout based on whether the numbers come out right. He said an event could cause great damage but not hit the threshold and not lead to any benefits under the parametric policy, creating confusion among consumers. He said parametric products currently exist, such as travel delay benefits under travel insurance that are triggered by a threshold. He said the Committee should look at parametric applications that would be of benefit, such as community-based applications.

Director Fox asked NAIC staff to conduct additional research, including what states are thinking about the products. She said it makes sense to collect insurance definitions within the various states. She said NAIC staff may wish to schedule a presentation for the Committee that could lay the groundwork for the issue. This would then aid the Committee as it begins to look more deeply into the products.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer

Draft: 8/3/22

Property and Casualty Insurance (C) Committee
Virtual Meeting
August 1, 2022

The Property and Casualty Insurance (C) Committee met Aug. 1, 2022. The following Committee members participated: Mike Chaney, Chair (MS); Alan McClain, Co-Vice Chair (AR); Anita G. Fox, Co-Vice Chair (MI); Mark Fowler represented by Brian Powell (AL); Ricardo Lara and Kendra Zoller (CA); Andrew N. Mais represented by George Bradner (CT); Colin M. Hayashida (HI); Vicki Schmidt (KS); James J. Donelon represented by Warren Byrd and Tom Travis (LA); Chris Nicolopoulos represented by Christian Citarella (NH); and Larry D. Deiter (SD). Also participating was: Don Beatty (VA).

1. Adopted the Pet Insurance Model Act

Mr. Beatty said in 2019, the Property and Casualty Insurance (C) Committee created the Pet Insurance (C) Working Group to discuss the potential development of a model law that would address regulatory concerns found within the pet insurance industry. He said the Working Group has held 26 open meetings with active participation from industry, consumer representatives, producers, and veterinarian groups.

Mr. Beatty said the proposed Pet Insurance Model Act covers required definitions and disclosures, as well as regulations for policy conditions, sales practices for wellness programs, and producer training. The Working Group had extensive discussions on the following major issues: preexisting conditions, waiting periods, free-look periods, policy renewals, wellness programs, and licensing. While the Working Group did decide that this model was not the appropriate place to decide the type of license required to sell pet insurance, state insurance regulators wanted to make sure producers are trained on the specific features of pet insurance products before selling those products. Mr. Beatty said the industry does have issues with the waiting periods and wellness programs language in the adopted version, but state insurance regulators thought this language was necessary to include in this model.

Mr. Beatty noted the model was adopted by the Pet Insurance (C) Working Group and the Property and Casualty Insurance (C) Committee prior to the 2021 Fall National Meeting, but there were concerns about language in the producer training section that could cause unintended consequences to producer licensing and reciprocity. At the 2021 Fall National Meeting, the model was sent back to the Pet Insurance (C) Working Group for revision. Mr. Beatty said after discussions about the concerns raised related to the producer licensing language, the Working Group, on July 21, 2022, adopted the Pet Insurance Model Act with revisions to the Producer Training section, which now includes required training topics for pet insurance producers and language that allows for training requirements to be satisfied by substantially similar requirements in another state.

Director Fox made a motion, seconded by Commissioner Schmidt, to adopt the Pet Insurance Model Act (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Three*). The motion passed unanimously.

Commissioner Chaney thanked Mr. Beatty and Ms. Zoller for their leadership on the Pet Insurance (C) Working Group. He noted that the Model Act would be considered by Plenary at the Summer National Meeting.

Cari Lee (North American Pet Health Insurance Association—NAPHIA) thanked state insurance regulators for their work in finalizing the Model Act.

2. Discussed Other Matters

Commissioner Chaney said the Committee would meet at the Summer National Meeting on Aug. 12 and that the agenda has been posted online.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

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Draft: 7/21/22

Cannabis Insurance (C) Working Group
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 12, 2022

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met July 12, 2022. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael and Camilo Pizarro (CA); Michael Conway, Vice Chair, represented by Peg Brown (CO); Lori K. Wing-Heier represented by Austin Childs (AK); Jimmy Harris (AR); Angela King (DC); Christina Miller (DE); Marlene Caride represented by Randall Currier (NJ); Barbara D. Richardson and Gennady Stolyarov (NV); Glen Mulready represented by Andrew Schallhorn (OK); Carlos Valles (PR); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Karla Nussl and Marcia Violette (VT); and Michael Walker (WA).

1. Adopted its Spring National Meeting Minutes

Ms. Brown made a motion, seconded by Mr. Walker, to adopt the Working Group's March 24 minutes (*see NAIC Proceedings – Spring 2022, Property and Casualty Insurance (C) Committee, Attachment One*). The motion passed unanimously.

2. Received a Status Report on the Drafting of the *Understanding the Market for Cannabis Insurance 2.0* White Paper

Ms. Michael stated the drafting group continues to meet every few weeks and has made considerable progress. The draft *Understanding the Market for Cannabis Insurance 2.0* white paper covers the expansion of states legalizing cannabis and recent federal legislative activities. It also provides information on the current cannabis business regulatory, licensing, and educational landscape. The evolution of operating and organizational structures for cannabis businesses is discussed. An understanding of cannabis insurance needs, coverage currently available, and market considerations is also included. The white paper concludes with discussion on the next steps for moving forward. The drafting is in its final stages with only a few additional emerging issues left to be added. This includes minor cannabinoids, which is being discussed today, and on-site consumption lounges. The drafting group anticipates bringing the completed draft before the Working Group by early 2023, with full adoption by the 2023 Summer National Meeting.

3. Heard a Presentation on How Insurers are Dealing with State Legalization of Minor Cannabinoids

Matthew Johnson (QuadScore) stated that QuadScore is a custom cannabis insurance company serving licensed marijuana operations. It was created to help fill the insurance needs of the largest companies in the U.S. Although only a small portion of QuadScore's losses is from product liability, that amount is expected to grow significantly—driven in large part by novel cannabinoids. Losses could come from claims against advertising practices, lack of proper testing or manufacturing protocol, or as a result of frustration from licensed marijuana operators over the entrance of unlicensed businesses operating in a gray market.

Jodi Green (Miller Nash) stated product liability is an area of future concern because the partially regulated, complex nature of this industry lacks a gold standard for labeling, testing, and protocols. Minor cannabinoids that have intoxicating effects are of particular concern for insurers. The federal 2018 Farm Bill de-scheduled hemp, which is defined as a cannabis plant containing no more than 0.3% delta-9 tetrahydrocannabinol (THC)—levels considered too low to be psychoactive. Cannabis plants exceeding the 0.3% THC level constitute marijuana and remain a Schedule 1 controlled substance under the federal Controlled Substances Act (CSA). The U.S. Drug

Enforcement Administration (DEA) responded to the de-scheduling by publishing its interim final rule (IFR) on implementation of the Farm Bill. The IFR stated naturally occurring THC in hemp is not a controlled substance if it has no more than 0.3% delta-9 THC. However, it also stated the DEA would view synthetically derived THC as a Schedule 1 controlled substance regardless of whether it was derived from hemp and its delta-9 THC concentration.

Mr. Johnson stated that the cannabis plant contains more than 500 chemical compounds, including more than 140 cannabinoids, like cannabidiol (CBD) and various forms of THC. Scientists have identified that more than a dozen of these cannabinoids are intoxicating. However, there are only eight or nine major cannabinoids that naturally occur within the cannabis plant with quantities high enough for direct extraction. Since delta-8 and delta-10 only occur naturally in the cannabis plant in very small amounts, they must be derived from the conversion of CBD using chemical agents in a laboratory setting. Ms. Green stated that while delta-8 and delta-10 THC are not explicitly banned or prohibited from production, sale, or ownership under the Farm Bill, the IFR's reference to synthetically derived THC being viewed as a controlled substance creates a gray area of legality. At the heart of the debate is whether the process used to convert hemp-derived CBD should be considered as synthetically derived.

Mr. Johnson stated products with delta-8 and delta-10 THC have become popular because they have a psychoactive effect. In Atlanta, GA, where he lives, medical cannabis laws have been slow to roll out. However, sales of products containing novel cannabinoids like delta-8 have taken off without a strong understanding of the intoxicating chemicals, how they are produced, and the science around its health consequences. Many cannabinoids share similar atomic structures and can be synthesized via chemical processes such as isomerization or acetylation. This synthetization can leave residual chemicals in finished products. There is also a lack of product testing and lack of age verification at the point of sale. Oversight, regulation, and good manufacturing practices are needed in this space to protect consumers. Ms. Green stated the most significant liability concerns involve the potentially harmful solvents used in the chemical conversion process. The health risks increase even more when taken in combination with risk from cartridges.

Mr. Johnson stated delta-8 and delta-10 THC are delta-9 THC's isomers. Isomers are molecules comprised of the same number and types of atoms but with differing arrangements. Isomers are similar in structure and diverge only in one or two bonds. Delta-8 THC and delta-10 THC are distinct from delta-9 THC only in the location of the double bond in the cyclohexene moiety. Because of the difference in the location of one of the double bonds, delta-8 has less potency than delta-9 THC. Delta-10 THC tends to also have milder effects. Manufacturers dilute the delta-9 that still exists after processing to be compliant with the Farm Bill. However, there are some products on the market that contain both delta-8 and delta-9 THC, as well as other fillers or chemicals. Consumers may be unknowingly purchasing higher intoxication inducing products.

Ms. Green stated delta-8 and other minor cannabinoids are being sold outside of the regulated cannabis market because of the loophole in the Farm Bill. In states where it is legal, delta-8 products are being sold in grocery stores and gas stations as hemp or CBD products. This is confusing for consumers, who may not understand they are purchasing an intoxicating product. This includes children who are drawn to the wide variety of colorful gummies in various flavors. In May 2021, the U.S. Food and Drug Administration (FDA) issued five warning letters to companies for selling products containing CBD in ways that violate the Federal Food, Drug, and Cosmetic (FD&C) Act. Specifically, it took issue with its potential safety and efficacy concerns as unapproved CBD products. FDA warning letters are typically followed by litigation, although none has occurred yet. In September 2021, the FDA issued and updated a consumer advisory on delta-8 safety concerns, including the potentially harmful chemicals used in its synthetic production. In September 2021, the DEA clarified in a non-binding response letter to the Alabama Board of Pharmacy that synthetically produced THCs are illegal and not exempt under the Farm Bill. It remains unclear if the conversion process used to produce delta-8 would be considered synthetically produced.

Adding to the confusion, in May 2021, the Ninth Circuit Court of Appeals held in *AK Futures LLC v. Boyd St. Distro* that delta-8 THC is legal for purposes of trademark protection. It further stated that it would be the responsibility of the U.S. Congress to fix any inadvertent loophole. The quandary is that different circuit courts of appeals may reach different decisions or different decisions in a different context.

Ms. Green stated about 18 states have banned or restricted delta-8 THC products. Some states have placed any minor cannabinoids that are considered intoxicating into the regulated cannabis market. Like cannabis, intoxicating cannabinoids are then subject to testing, labeling, and sale requirements. This eliminates the consumer confusion that may occur when being purchased from a whole foods store. Other states, such as Oregon, recently banned all artificially derived (i.e., substances created by changing the molecular structure) cannabinoids from any part of the cannabis plant. California has a complicated system of two regulated markets. The first is for hemp and food products, which diverges from federal law. The second is for cannabis containing more than 0.3% delta-9. This means that delta-8 and delta-10 fall under the hemp and food products regulations. The California legislature has reserved the right to prohibit or add to the list of prohibited items any other intoxicating cannabinoids that are developed after for the research. Ms. Green said that states across the country are grappling with these issues and trying to understand the science just like we are.

Mr. Johnson stated there are three chief concerns: 1) residual chemicals in finished products; 2) lack of product testing; and 3) lack of age verification at point of sale. A dispensary will check consumers' identification when they enter the door and when they make a purchase. There is no control when products are being sold through a gas station or whole food store. This is particularly troublesome in the context of copycat products. These products are similarly packaged to a standard food item but infused with intoxicating cannabinoids. Intoxicating Stony Patch Kids look appealing to young and impressionable children who enjoy nonintoxicating Sour Patch Kids candy. Adults too have been confused and accidentally ingested chocolate they did not realize was intoxicating. This should be caveated with the knowledge that the human endocannabinoid system can automatically shut off people's receptors if they have ridiculously high doses of cannabinoids in their systems. This effectively safeguards the type of overdose one might have in a parallel industry, like alcohol. While these products do illicit intoxicating effects, there have not been any death claims tied to them. The concerns are around how the products are made, labeled, tested, and overseen. Ms. Green stated that outside of a few states, there is not a gold standard on product testing that identifies the amount of each type of cannabinoid and any byproducts in the product. The market for intoxicating minor cannabinoids is attractive as it bypasses the high barriers to entry (licensing costs, testing, compliance, etc.) of the regulated cannabis market.

Ms. Green stated the typical policy form for insurance coverage for cannabis products that is developed for non-cannabis industries is problematic for cannabis operators. They have cannabis exclusions that prohibit coverage for products, bodily injury, or property damage arising from cannabis operations. These cannabis exclusions will read broadly enough to encompass delta-8 THC products. If a negative event occurs related to the product, more exclusions are likely to follow. Exclusions could include language that excludes hemp-derived intoxicating cannabinoids or use the Farm Bill definition by exempting products with less than 0.3% delta-9 THC. Coverage could also be denied on the basis the policy did not specifically specify the cannabinoids are covered. Health hazard exclusions are likely to be more prominent with delta-8 THC as it is synthetically derived and has the potential for harmful byproducts.

Mr. Walker asked if Congress would be likely to take legislative action in this area in the near term.

Ms. Green stated it is plausible federal legislation could be passed in the next five years. Many states have passed medical and/or recreation legislation over the last five years. This, coupled with growing medical research and favorable court and public opinions, increases the likelihood some sort of federal legalization will occur in the next five years. Federal regulation would help eliminate loopholes like the one being used to produce and sell delta-8

THC and create consistent testing and label protocols. Mr. Johnson stated federal regulation would help address disparity issues such as arrest rates for Black cannabis users being four times higher than those for white users.

Mr. Currier asked what the reinsurance market is like for minor cannabinoids. Mr. Johnson stated that the reinsurers he works with do not understand the cannabis industry. Reinsurers are wary of the product liability exposure created by an unregulated market. His company determined the exclusionary language included in its reinsurance policies did not provide appropriate mitigation against potential claims. For this reason, his company has determined to insure only licensed marijuana businesses.

Ms. Michael asked if risks are minimized or eliminated in states that regulate this space and if there are any take-aways state insurance regulators should prioritize from the presentation. Mr. Johnson stated that it helps, but risks can never be truly eliminated. Appropriate regulation and oversight that includes mandatory product testing for new products is needed. Consumers should not consume anything that has not been tested for their own safety. Producers of minor cannabinoids should be held at the same standards as the pharmaceutical industry. Ms. Green stated there has been little research on short-term and long-term effects for some of the minor cannabinoids that are found in small quantities in the cannabis plant. Policy exclusions create the potential for coverage gaps and uninsured risks. These may be particularly troublesome for delta-8 products, where these exclusions may be ambiguous with unknown interpretation.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

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Draft: 8/16/22

Catastrophe Insurance (C) Working Group
and the NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group
Portland, Oregon
August 9, 2022

The Catastrophe Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met in Portland, OR, Aug. 9, 2022, in joint session with the NAIC/FEMA (C) Advisory Group of the Catastrophe Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee. The following Working Group members participated: David Altmaier, Chair, and Christina Huff (FL); Mike Causey, Vice Chair, represented by Tracy Biehn (NC); Lori K. Wing-Heier and Sian Ng-Ashcraft (AK); Brian Powell (AL); Alan McClain (AR); Ricardo Lara, Lucy Jabourian, and Lynne Wehmuller (CA); George Bradner and Amy Waldhauer (CT); Martha Im and Kathleen Nakasone (HI); Travis Grassel (IA); Judy Mottar (IL); Julie Holmes (KS); James J. Donelon and Tom Travis (LA); Joy Hatchette (MD); Jo LeDuc and Lori Cray (MO); Andy Case (MS); Tom Botsko (OH); Glen Mulready (OK); Tricia Goldsmith (OR); David Buono, Michael McKenney, and Shannen Logue (PA); Alexander S. Adams Vega (PR); Beth Vollucci (RI); Stephanie Cope (TN); Mark Worman (TX); David Forte and Matt Stoutenburg (WA); and Greg Elam (WV). The following Advisory Group members participated: Glen Mulready, Chair (OK); Carter Lawrence, Vice Chair, represented by Stephanie Cope (TN); Lori K. Wing-Heier and Sian Ng-Ashcraft (AK); Brian Powell (AL); Lucy Jabourian (CA); George Bradner (CT); David Altmaier and Christina Huff (FL); Travis Grassel (IA); Julie Holmes (KS); Tom Travis (LA); Joy Hatchette (MD); Lori Cray and Jo LeDuc (MO); Tricia Goldsmith (OR); Beth Vollucci (RI); David Forte and Matt Stoutenburg (WA); and Greg Elam (WV). Also participating was: Jennifer Catechis (NM).

1. Adopted the Working Group's and Advisory Group's Spring National Meeting Minutes

Mr. Botsko made a motion, seconded by Mr. Bradner, to adopt the Working Group's and Advisory Group's April 4 minutes (see *NAIC Proceedings – Spring 2022, Property and Casualty Insurance (C) Committee, Attachment Two*). The motion passed unanimously.

2. Heard an Update on Federal Legislation

Brooke Stringer (NAIC) said the U.S. Senate (Senate) passed the Inflation Reduction Act of 2022, which is significant to climate. It is expected to head to the U.S. House of Representatives (House) Aug. 12 and pass. Ms. Stringer said the Act includes funding for climate and clean energy programs and funding for resilience block grants, which include forest restoration and resilience project and coastal community resilience building, among other grants.

Ms. Stringer said the National Flood Insurance Program's (NFIP's) extension expires Sept. 30, and a short-term extension is expected. She said U.S. Sen. Bill Cassidy (R-LA), U.S. Sen. John Kennedy (R-LA), U.S. Sen. Marco Rubio (R-FL), and U.S. Sen. Cindy Hyde-Smith (R-MS) have introduced legislation to reauthorize the NFIP until Sept. 30, 2023. Additionally, Sen. Cassidy has called for Risk Rating 2.0 to be rolled back.

Ms. Stringer said this spring, FEMA sent Congressional leaders a list of 17 legislative proposals for NFIP reauthorization. These proposals would require legislation to become law and have mixed reviews from the U.S. Congress (Congress). Ms. Stringer said FEMA is asking for a 10-year reauthorization, and its proposals focus on improving the NFIP's sound financial framework, risk analysis and communication, resilience, and technical/operational enhancements.

Ms. Stringer said one proposal that has garnered significant attention would prohibit NFIP coverage for new construction in the highest-risk areas and for commercial properties. FEMA says this will help to promote the

growth of the private flood insurance market by creating an inventory of new properties for which private insurers could compete. Ms. Stringer said some members of Congress are strongly opposed to this provision.

Ms. Stringer said FEMA included a proposal the NAIC supports, which would ensure that private flood insurance meets the continuous coverage requirement, so policyholders have a choice to return to the NFIP without losing any subsidy they previously had with the NFIP.

Ms. Stringer said the House passed the Wildfire Response and Drought Resiliency Act (H.R. 5118) on July 29. This bill includes 40 bills aimed at addressing the escalating wildfire and drought in the West. She said this measure faces uncertainty in the Senate. She said this House wildfire package would require FEMA to collaborate with the National Academies of Sciences, Engineering, and Medicine to study wildfire insurance and potential solutions to address affordability and availability, including considering a national “all hazard” insurance program. She said this wildfire package would require FEMA and the National Academies of Sciences, Engineering, and Medicine to consult with state insurance regulators, the insurance industry, and consumers.

Ms. Stringer said the House Committee on Financial Services Chairwoman Maxine Waters’ (D-CA) Wildfire Insurance Coverage Study Act of 2022 was included. This Act requires FEMA and the U.S. Government Accountability Office (GAO) to conduct studies assessing the danger wildfires pose to communities and how the market for homeowners insurance is responding to this growing threat. Ms. Stringer said the report required by FEMA is focused on wildfire assessment, and the report required by the U.S. GAO focuses on assessing the state insurance regulatory response to increased premium rates, cost-sharing, or both for the insurance coverage provided or excluded in a homeowners policy for damage from wildfires. She said even if the bill does not pass, Chairwoman Waters can ask the U.S. GAO to study these items.

3. Discussed *Catastrophe Computer Modeling Handbook* Updates

Aaron Brandenburg (NAIC) said the drafting group formed to consider revisions to the *Catastrophe Computer Modeling Handbook* has held several conference calls. He said Nicole Crockett (FL) has agreed to lead the drafting group.

The drafting group decided to make the *Catastrophe Computer Modeling Handbook* into a primer, which will focus on providing departments of insurance (DOIs) with the information needed to address the basics of catastrophe modeling and serve as a resource available to inform new and non-expert staff about the basics of catastrophe modeling. The Center for Insurance Policy and Research’s (CIPR’s) Catastrophe Modeling Center of Excellence (COE) has been approved, and the primer will serve as a transition to the COE, which will provide more technical training beyond the scope of this primer.

The drafting group has met on several occasions and plans to meet once or twice a month to work on the primer. The next meeting of the drafting group will be held on Aug. 16. Additionally, drafting group members will have access to a SharePoint site, which will allow for improved collaboration.

The drafting group has created an outline that will be used to discuss the items that are determined necessary to include in the primer. A copy of this outline is included in the materials and includes topics such as: 1) what a catastrophe model is and what it is designed to answer; 2) how catastrophe models are used and why they are important and useful; 3) advantages of catastrophe models; 4) the type and complexity of catastrophe models and their components; 5) the types of losses modeled; 6) key metrics; and 7) model usage and regulatory interaction.

Anyone that has not joined the drafting group but has contributions on the outline should reach out Sara Robben (NAIC).

4. Heard an Update from the Alabama DOI Regarding its Private Flood Insurance Initiatives

Mr. Powell provided an update from the Alabama DOI regarding its private flood insurance initiatives. Alabama experiences both coastal and inland flooding, less than 2% of the single-family residences have flood insurance through the NFIP, and consumers have limited choices for flood insurance through private insurers, particularly in the admitted market.

Mr. Powell said the private flood insurance market is relatively underdeveloped and does not bridge much of the flood protection gap. The direct written premium written in the private flood insurance market in Alabama was just over \$6 million, representing less than one-fifth of the NFIP premiums written.

Mr. Powell said the private flood insurance market has grown significantly in recent years across the country. He said this has likely been spurred by the advancement of flood risk modeling and increases in reinsurance capacity. However, the private flood insurance market is not as competitive as other property lines of business, making it difficult for consumers to obtain flood insurance outside of the NFIP.

Mr. Powell said the DOI surveyed the private insurance market to determine some of the regulatory concerns with developing a private flood insurance market so it could prioritize some actions of the DOI to help close the flood protection gap. The Alabama DOI engaged the services of an outside consulting firm to survey insurers, reinsurers, and managing general agents (MGAs) to help the DOI determine the concerns and perspectives regarding writing private flood insurance in the state.

Mr. Powell said there were four recommendations the DOI received from the survey to help increase the writing of private flood insurance in Alabama. The first recommendation was to develop and communicate a long-term strategy for flexible rate and form filing requirements that would reflect the unique nature of flood perils and the underserved flood insurance market. Respondents consistently asked for flexibility in rates, forms, and exposure management. Other concerns expressed were to treat rate and rules pages as confidential in the filings, as well as the ability to cancel, non-renew, or surcharge prior loss properties.

Mr. Powell said the second recommendation was to develop a plan to increase consumer awareness regarding flood risks. Those responding to the survey suggested that the DOI consider creating a risk disclosure that is provided to policyholders when purchasing or renewing property insurance. It was also suggested that it would be effective to highlight that there are differences in coverage depending on the policy and whether a property is inside or outside of a Special Flood Hazard Area (SFHA).

Mr. Powell said the third recommendation was for the DOI to collaborate with insurance agents, insurance industry groups, real estate professionals, flood plain managers, and other government agencies to increase consumer flood risk and flood insurance awareness. The survey results emphasized that real estate professionals and insurance agents play a crucial role in a consumer's decision regarding the purchase of flood insurance. It was suggested that real estate agents receive training and continuing education (CE) regarding flood risk. The insurance industry believes real estate agents dissuade home buyers from purchasing a flood insurance policy if the home is not in an SFHA.

Mr. Powell said the fourth and final recommendation was to promote mitigation and responsible building and raise the profile of the state's effort to close the flood protection gap and reduce flood risk. Respondents specifically asked for the DOI to be more engaged.

Mr. Powell said the DOI has issued a bulletin intended to spur the growth of the private flood insurance market. This bulletin essentially removed the barriers to entry and exit for insurers willing to write private flood insurance policies. The bulletin stated that insurers are not required to file rates for flood insurance on property other than vehicles. This exemption includes standalone flood insurance policies and endorsements for other property insurance policies. Mr. Powell said the DOI requires an insurer writing a private flood insurance policy to firmly state that the policy will meet or exceed the coverage provided in a standard NFIP flood insurance policy.

Mr. Powell said the DOI works closely with the Alabama Center for Insurance Information and Research (ACIIR), which is associated with the University of Alabama. The DOI is in ongoing conversations with the ACIIR to explore prior research data around private flood to develop a strategy to expand the private flood insurance market.

Mr. Powell said the DOI is working with nonprofit organizations to secure additional funding and assistance to deliver programs that would help to support the private flood insurance market. He said the DOI also created a mitigation resource division that deals not only with mitigation but also with resilience issues. He said the mitigation resource division takes on many tasks, including helping to develop the private flood insurance market. Mr. Powell said the DOI also has a successful wind mitigation program that helps to strengthen homes in the mitigation resource division.

Mr. Powell said the DOI is playing a major role in the creation of a resilience council, which provides a forum for coordinating activities of state government and proactively reimagining the state's approach to harmful societal impacts before they occur. This organization will create a coordinated effort to address issues such as expanding the private flood insurance market and bring multiple resources and experts to assist. The council will also help to address other perils.

Mr. Travis asked if the Alabama DOI has considered enacting any legislation. Mr. Powell said he believes this will happen as the private flood insurance market matures and the DOI has additional conversations with the ACIIR. He said the DOI will likely look at some legislation that will give the DOI a little more authority to help stimulate the private flood insurance market. Mr. Travis said Florida, Louisiana, South Carolina, and possibly Iowa have implemented some private flood insurance legislation. He said the Louisiana DOI would like to see the results of the survey.

Commissioner Mulready asked if the training for real estate agents is being done by the DOI or if they are going through a third party. Mr. Powell said it has not started this program yet; however, the DOI did do some training with real estate agents regarding wind mitigation. He said regarding the wind mitigation training, the DOI developed the criteria for the course and hired a third party to deliver the materials.

Commissioner Altmaier said this is an area of interest for many state insurance regulators, and the Working Group is a good forum to collaborate as Alabama continues its work.

5. Heard an Update from the NAIC on Private Flood Insurance Data

Mr. Brandenburg provided an update regarding the data reported on the Property/Casualty (P/C) Annual Statement blank. Prior to the 2020 data year, the private flood insurance line of the annual statement did not separate the commercial line of business and the residential line of business. The NAIC conducted a data call to obtain 2018 and 2019 data. The data is additionally categorized by standalone, first dollar, excess, and endorsement. The NAIC also collected several new data elements; i.e., number of policies, number of claims opened, and number of claims closed with payment. As of the 2020 data year, the annual statement Private Flood Insurance Supplement collects this information. The supplement is due by April 1.

Mr. Brandenburg said there are some caveats. He said last year, there were some insurers that did not file correctly; therefore, there were some errors and missing data within the dataset. He said this data is now available for 2018 through 2021 on the NAIC website.

Mr. Brandenburg said the number of commercial and residential policies combined rose from 431,323 to 561,871, which was approximately a 30% increase. Direct written premiums were just over \$1 billion, which is over two times higher than the direct written premiums reported in 2018.

Mr. Brandenburg said direct written premium for residential private flood insurance policies rose substantially in 2021, as the direct written premium increased by 61%. Standalone policies showed a larger increase—60%—than policies with endorsements. However, policies with endorsements increased by 20%. First dollar policies also increased substantially; however, there was a decline in excess policy direct written premium.

Mr. Brandenburg said the total number of residential private flood insurance policies increased by 30% in 2021, with the largest increases being in standalone policies. The number of policies with endorsements decreased.

Mr. Brandenburg said private flood insurance residential losses increased substantially. Losses in 2020 were approximately \$52 million, while they totaled almost \$175 million in 2021. The number of claims also increased significantly in 2021. There were 380 claims in 2020 and 1,900 claims in 2021.

Mr. Brandenburg said average standalone residential private flood insurance premiums rose in 2021; however, there was a decrease in the two years prior. He said the average premiums for policy endorsements is increasing as well.

Mr. Brandenburg has the highest premiums for residential private flood insurance occurred in California, Florida, New Jersey, New York, and Texas. The highest loss ratios in 2021 occurred in Alabama, Kentucky, New Jersey, Pennsylvania, and Washington. The states with the most residential private flood insurance premiums included California, Florida, New Jersey, New York, and Texas.

Mr. Brandenburg said in 2021, there were 24 insurers writing over \$1 million in residential private flood insurance. The largest insurers wrote \$273 million in direct written premium, which was over 81% of the total residential private flood insurance market. The NFIP wrote 4.9 million flood insurance policies in 2021, which was down from 4.9 million flood insurance policies in the previous year.

Mr. Grassel said during the National Flood Conference in June, it was mentioned that it is a re-education of the agency force and letting agents know that private flood insurance is now something available in the marketplace.

Mr. Travis said Louisiana has done CE for real estate agents.

Director Wing-Heier said flood has been front and center in the past few months in several states. She asked if anything is being done regarding the recommendation of a combined earthquake/flood insurance policy from private insurers where residential private flood insurance is concerned. She said a lot of states that have flood exposure also sit on a fault line. Commissioner Altmaier asked Working Group members to take this back to their zones and let the Working Group know if there is any feedback on this matter.

6. Heard an Update from the New Mexico DOI on Recent Wildfires

Ms. Catechis said on April 6, the Hermits Peak Fire was started by the U.S. Forest Service (USFS), followed by the Calf Canyon Fire on April 19, which was also started by the USFS. These two fires combined on April 22 to create

the largest wildfire in the history of New Mexico. On April 12, the McBride Fire, which was caused by utilities, started in the southeastern portion of the state. This fire has been contained but not before taking two lives on April 22.

Ms. Catechis said on April 22, the Cerro Pelado Fire east of Los Alamos County started from an unknown cause. On May 13, the Black Fire, which was human caused, started in the southwestern portion of the state and was the second largest wildfire in the history of the state; however, there were no structures lost in this fire. These five fires accounted for nearly 800,000 acres burned across the state of New Mexico. Ms. Catechis said there are several fires that have occurred since these fires and continue to occur.

Ms. Catechis said it took months for these fires to be contained, as containment occurred in mid-July. She said hundreds of homes and families continue to be at risk due to flash flooding, which has been exacerbated by the burn scars. To date, four people have died due to flash flooding.

Ms. Catechis said these fires were unique, as they burned for quite some time, and both the state and FEMA declared these fires a national disaster before they were contained. FEMA was on the ground to assist communities before they could even get in to assess damages.

Ms. Catechis said the New Mexico Office of Superintendent of Insurance (OSI) has a small staff. She said there are six staff members between the Consumer Assistance Bureau and the Property and Casualty Bureau. She said four of these staff members were directly affected by these fires and were evacuated themselves. It took at least four hours for a staff member to drive to the evacuation centers due to the size of the state, which made outreach difficult.

Ms. Catechis said New Mexico has a challenge with uninsured homes. Many of the people living in the state have lived in the same home for eight generations, and until recently, they have been spared from wildfire and have not felt the need to purchase insurance.

Ms. Catechis said the counties that were the most affected by wildfires include San Miguel, Mora, and Lincoln. San Miguel County is the largest, most populated county, with a population of 28,000. There were 2,300 homeowners policies in place. Mora County, having a population of 4,500, had 270 homeowners policies in place. Lincoln County, which is more affluent with many vacation homes and a population of 19,000, had 4,300 homeowners policies in place. To date, Lincoln County has had 86 claims totaling \$20 million.

Ms. Catechis said New Mexico has a FAIR Plan that covers vandalism and fire losses only. She said the FAIR Plan insures homes for up to \$250,000 or commercial properties for up to \$500,000. She said the lowest premium in place for a FAIR Plan policy is \$75 per year. She said there were fewer than 12 of these policies in place in northern New Mexico at the time of the wildfires. She said many residents were not aware that the FAIR Plan exists, and insurance agents were not trying to sell policies under the FAIR Plan.

Ms. Catechis said following the wildfires, the DOI was able to take advantage of some of the new emergency powers the New Mexico Superintendent of Insurance received in their 2021 legislative session. This allowed the OSI to help consumers obtain prescriptions, etc.

Ms. Catechis said the OSI created its own emergency staff team, a hotline, and a dedicated web page, and it is still staffing the emergency center in Las Vegas.

Ms. Catechis said the OSI had some good contacts following the FEMA Region 6 event that was held in May. She said the OSI was able to talk with FEMA coordinators daily.

Ms. Catechis said the OSI also had contacts with the American Property Casualty Insurance Association (APCIA) and the Rocky Mountain Insurance Association. These two groups helped the OSI reach out to insurers and provide necessary contact information to the insurers in the state, as well as help with press releases, as the OSI does not have a communications director or press person.

Ms. Catechis said the OSI received assistance from the NAIC and other states regarding best practices and how to use the data obtained through an NAIC data call. She said staff from other states volunteered and were on site to help with the recovery process.

Ms. Catechis suggested making connections with FEMA prior to a catastrophic event occurring, as it is helpful to know who to contact and develop relationships early. She said the OSI created emergency consumer “to go” boxes with materials needed to take to an emergency center site.

Ms. Catechis advised using the media most used in one’s state when messaging with consumers. She said in northern New Mexico, radio is the best form of communication. The OSI also created business cards that simply had the 800 assistance number on the card.

7. Heard an Update from the Northeast Zone on its Catastrophe Team

Mr. Bradner said the Northeast Zone Catastrophe team began meeting again. This team was originally formed in 2012. The purpose of the team was to discuss what each state was seeing in their jurisdiction. This included legislation, what each state was seeing in the insurance industry, and things like hurricane and wind/hail deductibles.

Mr. Bradner said the Northeast Zone states believed it would be beneficial to reach out to each other to discover what each of the states were doing to prepare for a catastrophic event and see if assistance was needed.

Mr. Bradner said prior to Superstorm Sandy, the Northeast Zone Catastrophe team had begun to work on a reporting mechanism tool to provide consistency regarding information for insurers to report damage estimates to the DOIs in the zone. Ultimately, the Working Group created a form to be used on a national level.

Mr. Bradner said the team quit meeting on a regular basis approximately five years ago, and during the Northeast Zone retreat last year, it was suggested that the team reconvene. He said the team had its first meeting in June and coordinated with the NAIC. He said because of this meeting, catastrophe contacts in each of the Northeast Zone states have been updated and are posted on the Working Group’s web page. He said the team also discussed NAIC educational services and support provided by the NAIC in the event of a catastrophic event.

Mr. Bradner said in 2012, the team created a spreadsheet that listed information regarding deductibles in their states. This information included if insurers had caps on hurricane deductibles, the duration of the hurricane deductible, the kind of mitigation that might have been put in place, and whether an insurer could non-renew business in specific locations. Mr. Bradner said this collaboration clarified what was being done at a state level.

Mr. Bradner said the team discussed holding a meeting with the FEMA regions in the Northeast Zone states. There are three different FEMA regions in the Northeast Zone that could hold a collaborative meeting.

Mr. Bradner said the team also discussed how states can work with their sister agencies and construction services. Many states are responsible for construction building codes, and a collaborative effort would prove to be helpful. Mr. Bradner said as of 2018, a code revision was passed in Connecticut, requiring anyone putting a new roof on their home to have to tape the entire roof. To get this code revision passed, it was necessary to determine who

oversaw the building codes and bring those in charge and the Insurance Institute for Business & Home Safety (IBHS) into the meetings to explain how roof taping would help mitigate losses.

Mr. Bradner said the team plans to meet on a quarterly basis.

8. Heard an Update from the Washington DOI on Cascadia Rising

Mr. Stoutenburg said every two years, the U.S. Department of Homeland Security (DHS) conducts national exercises around the country based on regional level catastrophes. This year, an exercise was conducted based on the Cascadia subduction zone, which is approximately 70 miles off the coast of Washington. This subduction zone has the potential to produce a 9.0 magnitude earthquake, as well as a tsunami. An event of this proportion would affect all the Northwest metropolitan areas, including portions of California, Portland, Seattle, Vancouver, and British Columbia, as well as coastal regions.

Mr. Stoutenburg said Washington participated in the exercise for three reasons: 1) to exercise its continuity plan; 2) to determine ways to help consumers following an event; and 3) to learn how the Washington State Office of the Insurance Commissioner (OIC) could implement the NAIC disaster response plan and assistance programs.

Mr. Stoutenburg said the NAIC has been working with the OIC regarding its disaster assistance program and has tested transferring the consumer call center 800 number to the NAIC call center. The NAIC also participated in the exercise by providing information regarding the NAIC disaster assistance program and disaster response plan.

Mr. Stoutenburg said the OIC is resilient, as it has an emergency action plan, which covers its agency on a 24/7 basis. He said the OIC also has a Continuity of Operations Plan (COOP) that provides a plan for the OIC to continue providing services following a disaster. The OIC requires a COOP, as well as practicing the COOP.

Mr. Stoutenburg said FEMA organizes Disaster Recovery Centers (DRCs) for federally declared disasters. DRCs can be open for 30 days or longer. The DRCs include federal and non-federal agencies and volunteer organizations with disaster recovery resources.

Mr. Stoutenburg said when FEMA does not declare individual assistance for a disaster, the states will reach out and provide local assistance. This is another area OIC staff could be participating in.

Mr. Stoutenburg said the OIC had a conversation with the emergency management division in Washington, as it is the liaison between the OIC and FEMA.

Mr. Stoutenburg said the OIC's next steps are to prepare to have a presence at DRCs to enhance preparedness and partner with the emergency management division.

9. Heard an Update on the NAIC/FEMA Region 6 Event

Commissioner Mulready said the five states from FEMA Region 6 met with FEMA Headquarters and FEMA Region 6 colleagues in a hybrid event hosted by the Oklahoma DOI. In addition to hearing an overview of recent catastrophic events in the region, the following items were discussed: 1) information regarding FEMA Region 6 stakeholder roundtables; 2) how states are organized and plan for disaster; 3) NAIC capabilities to assist states; 4) FEMA Headquarter operations, including the flood response playbook; 5) claims information; 6) communication and messaging; and 7) how states interact with FEMA at DRCs.

Commissioner Mulready said the group also visited the severe convective storm facility in Norman, OK, and it heard from Harold Brooks (National Oceanic and Atmospheric Administration—NOAA), a leading expert at the NOAA regarding warning systems and communications at the weather center.

Commissioner Mulready said the states in FEMA Region 6 build relationships with their FEMA colleagues at this event. He believes communication with FEMA is improved through this event and will continue to grow in the future.

Commissioner Mulready suggested that states that would like to hold one of these workshops reach out to the NAIC.

Having no further business, the Catastrophe Insurance (C) Working Group and the NAIC/FEMA (C) Advisory Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer/Catastrophe/NAIC-FEMA/08 CatFEMA Minutes.docx

Draft: 8/4/22

Pet Insurance (C) Working Group
E-Vote
August 4, 2022

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee conducted an e-vote that concluded Aug. 4, 2022. The following Working Group members participated: Don Beatty, Chair, (VA); Kendra Zoller, Vice Chair, (CA); Alex Reno (AK); George Bradner (CT); Warren Byrd (LA); Shirley Corbin (MD); Jo LeDuc (MO); Michael McKenney (PA); and Molly Nollette (WA).

1. Adopted its July 21 Minutes

The Working Group met July 21 to discuss proposed changes and to adopt the Pet Insurance Model Act.

A majority of the Working Group members voted in favor of adopting the July 21 minutes (Attachment Four-A). The motion passed.

Having no further business, the Pet Insurance (C) Working Group adjourned.

[SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer/Pet /PetInsWG_0804evote](#)

Draft: 8/1/22

Pet Insurance (C) Working Group
Virtual Meeting
July 21, 2022

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met July 21, 2022. The following Working Group members participated: Don Beatty, Chair, Jessica Baggarley, Rebecca Nichols, Phyllis Oates, and Richard Tozer (VA); Kendra Zoller, Vice Chair, Risa Salat-Kolm, and Tyler McKinney (CA); Alex Reno (AK); Jimmy Harris (AR); Kristin Fabian (CT); Angela King (DC); Warren Byrd (LA); Sheri Cullen (MA); Shirley Corbin (MD); Jo LeDuc, Jeana Thomas, and Marjorie Thompson (MO); Erin Summers (NV); Michael McKenney and Dennis Sloand (PA); Patrick Smock (RI); Kathy Stajduhar (UT); Jamie Gile, Mary Block, Nick Marineau, and Anna Van Fleet (VT); and Molly Nollette and Eric Slavich (WA). Also participating were: Ken Williamson and Jimmy Gunn (AL); Lucretia Prince (DE); Brenda Johnson and Craig VanAalst (KS); Brock Bubar (ME); Chad Arnold and Michele Riddering (MI); Sandra Anderson and Christine Peters (MN); Eric Dunning (NE); Chris Aufenthie (ND); Larry D. Deiter (SD); Jody Ullman (WI); and Danie Capps (WY).

1. Adopted its June 7 Minutes

The Working Group met on June 7 to discuss proposed changes to Section 7 of the Pet Insurance Model Act.

Mr. Byrd made a motion, seconded by Ms. Nollette, to adopt the Working Group's June 7 meeting minutes (Attachment Four-A1). The motion passed unanimously.

2. Adopted the Revised Pet Insurance Model Act

Mr. Beatty said the Working Group has two versions of the model to consider for adoption, one submitted by Ms. Zoller and the other from Birny Birnbaum (Center for Economic Justice—CEJ).

Ms. Zoller said her proposal, which eliminates the proposed drafting note in Section 3 that clarifies the description of pet insurance as property, is only for the purpose of financial reporting of data. She said this drafting note would not provide uniformity of pet insurance data reporting.

Ms. Zoller said her proposal eliminates the proposed drafting notes in Section 7 because they do not offer uniformity or reciprocity. She said her proposal retains baseline training requirements in the model. She said for the sake of reciprocity, there is language that streamlines the licensing process in different states if the training is substantially similar.

Mr. McKenney said the language "but is not limited to" should be struck from Subsection 7B as it does not make sense to list the required training in the model if it does not include all training. Ms. Summers suggested "shall include at a minimum" to replace the current language. Mr. Byrd said the phrase "is not limited to" is redundant, and he agrees it should be removed. Ms. Zoller agreed with removing "but is not limited to."

Director Dunning said he does not understand the purpose of Subsection 7D because state legislatures are always empowered to make laws and do not need the permission of the insurance commissioner. He said there is regulatory authority already outlined in the model. Ms. Zoller said the language was included to allow states the ability to further clarify, interpret, or implement the model, if necessary. Director Dunning said this language is more appropriate as a drafting note. Mr. Smock said the language in Subsection 7D would apply only to producer

training and allows the individual states to include their producer training requirements. Director Dunning said the regulatory authority provided in Section 8 applies to the whole model and that there does not need to be separate language for this section of the model. Brendan Bridgeland (Center for Insurance Research—CIR) said the language in Subsection 7D should either be included or not but should not be made into a drafting note. He said a drafting note has the potential to limit regulatory authority. Mr. Byrd said the language in Section 8 gives regulatory authority and, therefore, the language in Subsection 7D should be removed. Ms. Zoller agreed this subsection could be removed. Director Dunning said the language in Section 8 should be reworded to say, “The Commissioner may promulgate rules and regulations to administer this part.”

Mr. Byrd said in Subsection 7E, the word “to” should be inserted before “satisfy.” There was no objection to this correction.

Isham Jones (American Veterinary Medical Association—AVMA) and Gail Golab (AVMA) said they support the language in Section 7. Dr. Golab said because this is a unique insurance coverage, it is important that those providing the coverage have a thorough understanding of the product.

Mr. Beatty asked Mr. Bridgeland to discuss the concerns listed in Mr. Birnbaum’s comments and address how his proposal would compare to the California proposal. Mr. Bridgeland said beyond the concerns with Subsection 7D, which have already been discussed, the California proposal does not address the concerns that originally held up the model at the 2021 Fall National Meeting. Ms. Zoller said the California proposal addresses the producer licensing concerns that were brought up at that time.

Mr. Bridgeland said that in Subsection 7E, there needs to be clarification about which subsection is being addressed. Ms. Zoller said the language in Subsection 7E is referring to the list of required training topics in Subsection 7C, and it would be up to individual states to determine if another state’s requirements are substantially similar. Ms. Riddering said this language was included to help address the issue of training required for limited lines licensees. Mr. Bridgeland asked if Subsection 7E could be reworded to clarify that it is referring to the training requirements listed in Subsection 7C. Ms. Riddering suggested changing the language to: “The satisfaction of the training requirements of another state that are substantially similar to the provisions of Subsection C shall be deemed to satisfy the training requirements in this state.” There was no objection to this language.

Ms. Zoller made a motion, seconded by Mr. Byrd to adopt the Pet Insurance Model Act as proposed by California with the following changes: 1) striking the “but is not limited to” language in Subsection 7C; 2) removing Subsection 7D; 3) changing the language in Subsection 7E to reflect that it is referring to the training requirements listed in Subsection 7C; and 4) changing Section 8 to: “ The commissioner may promulgate rules and regulations to administer this part.” The motion passed unanimously.

Having no further business, the Pet Insurance (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Spring National Meeting/Committee Meetings/PROPERTY and CASUALTY INS (C) COMMITTEE/Pet Insurance (C) WG/PetInsWG_0721min

Draft: 6/7/22

Pet Insurance (C) Working Group
Virtual Meeting
June 7, 2022

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met June 7, 2022. The following Working Group members participated: Don Beatty, Chair, Jessica Baggarley, and Phyllis Oates (VA); Kendra Zoller, Vice Chair, and Charlene Ferguson (CA); Alex Reno (AK); Jimmy Harris (AR); George Bradner and Kristin Fabian (CT); Angela King (DC); Warren Byrd (LA); Sheri Cullen (MA); Shirley Corbin and Linas Glemza (MD); Carrie Couch, Jo LeDuc and Jeana Thomas (MO); Michael McKenney (PA); Matt Gendron, Rachel Chester, and Beth Vollucci (RI); Kathy Stajduhar (UT); Jamie Gile, Mary Block, and Anna Van Fleet (VT); and David Forte, Ned Gaines, John Haworth, Molly Nollette, and Eric Slavich (WA). Also participating were: Linda Grant (IN); Tate Flott, Brenda Johnson, and Shannon Lloyd (KS); Sharon P. Clark (KY); Brock Bubar, Sandra Darby, and Leah Piatt (ME); Joseph Sullivan (MI); Sandy Anderson (MN); Eric Dunning (NE); Melissa Robertson (NM); Lee Anne Washburn and Tynesia Dorsey (OH); Jody Ullman and Mark Prodoehl (WI); and Danie Capps (WY).

1. Discussed Proposed Changes to the Pet Insurance Model Act

Mr. Beatty said the Pet Insurance Model Act was adopted by this Working Group and the Property and Casualty Insurance (C) Committee (C Committee) prior to the 2021 NAIC Fall National Meeting. He said at that meeting, there were concerns about Section 7 and the draft model was pulled from the Executive/Plenary meeting agenda. He said this Working Group was reappointed at the 2022 NAIC Spring National Meeting to re-evaluate the Pet Insurance Model Act.

Mr. Beatty said there are two minor edits, and two larger proposed changes to the model at this time.

Mr. Beatty said the first minor edit is changing a reference in Section 5 to Section 6B. He said this reference should be to 5B but was not changed when the model sections were reordered. Mr. Byrd made a motion, seconded by Mr. Gendron, to correct the references in Section 5.

Mr. Beatty said the second minor edit was proposed by Missouri and involves adding the word “the” to the beginning of Section 7B. Ms. LeDuc said adding the word “the” would allow for a more correct reading of the statement. Ms. LeDuc made a motion, seconded by Mr. Forte, to add the word “the” to the beginning of 7B.

Mr. Gendron said Rhode Island submitted a proposal that addressed the concerns around the training requirements outlined in Section 7 of the draft model. He said those specific requirements were removed and replaced with language stating that insurance companies need to make sure producers are trained on the features of their products.

Mr. Bradner suggested having two options in the model for Section 7 where Option 1 would be the original adopted language and Option 2 would be the proposed language from Rhode Island. Mr. Gendron agreed this could be a reasonable approach. Mr. Byrd said the shorter, less specific version of the language would likely be better received by the C Committee.

Ms. Zoller said California would not support the new proposed language as it does not promote uniformity which is the goal of the model.

Birny Birnbaum (Center for Economic Justice —CEJ) said he opposes the removal of the producer training section and its replacement with a drafting note. He said that pet insurance specific producer training is necessary, particularly if it is sold by a property and casualty licensed producer. He said the drafting note says that states may wish to include producer training requirements for pet insurance but with the proposed deletion, there is no guidance for what those training requirements should be. He agreed that removing the specific training requirements would lead to a lack of uniformity.

Mr. Birnbaum proposed that the model should retain Section 7 as it was previously adopted and insert a drafting note that “States may determine that existing training requirements suffice for the sale of pet insurance depending upon the type of producer license and line of insurance used for the sale of pet insurance in the state. If a state determines that existing training requirements for producers are sufficient, the requirements in this section serve as a guide for recommended training for produces engaged in the sale of pet insurance.”

Brendan Bridgeland (Center for Insurance Research—CIR) agreed with Mr. Birnbaum’s proposal. He said he would merge the existing drafting note in Section 7 into the language in 7B.

Wes Bissett (Independent Insurance Agents & Brokers of America—IIABA) said IIABA supported the original adopted language in Section 7. He said the model should be specific about the training requirements for someone holding a major lines license versus someone who has a limited lines license.

Cari Lee (North American Pet Health Insurance Association—NAPHIA) said NAPHIA supports a robust training for all agents selling pet insurance. She said NAPHIA supports uniformity. She said NAPHIA will support states that choose to require producer training and would support the original adopted language in Section 7. Lisa Brown (American Property Casualty Insurance Association—APCIA) and Cate Paolino (National Association of Mutual Insurance Companies—NAMIC) agreed with Ms. Lee.

Mr. Forte said guidance on licensing, continuing education, and pre-licensing education and training should be left to the Producer Licensing Task Force. He said Washington would vote to adopt the language in Section 7 proposed Rhode Island. Commissioner Clark agree that uniformity on this issue should go through the Producer Licensing Task Force.

Mr. Gendron suggested adding language in Section 7 that says states can promulgate a regulation defining other training requirements. Mr. Beatty said it is important to work towards uniformity for states in this model.

Commissioner Clark asked if specific training requirements exists in any other model. Mr. Gendron said the original language was modeled after the producer training sections of the Long-Term Care Insurance Model Act and the Suitability in Annuity Transactions Model Regulation.

Mr. Beatty said there was suggestion to replace the proposed drafting note in Section 3 that deals with the characterization of pet insurance as property insurance for the purposes of financial reporting. Mr. Byrd said the drafting note should be removed from the model.

Mr. Beatty said the Working Group will schedule a meeting in the near future to wrap up discussions on the current proposals for Section 7.

Having no further business, the Pet Insurance (C) Working Group adjourned.

Draft: 8/3/22

Transparency and Readability of Consumer Information (C) Working Group
E-Vote
August 2, 2022

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee conducted an e-vote that concluded Aug. 2, 2022. The following Working Group members participated: Joy Hatchette, Chair (MD); Willard Smith (AL); Ken Allen (CA); Bobbie Baca (CO); George Bradner (CT); Angela King (DC); Julie Rachford (IL); Sara Hurtado (KS); Ron Henderson (LA); Carrie Couch (MO); Kathy Shortt (NC); David Buono (PA); and Vickie Trice (TN).

1. Adopted its June 9 Minutes

The Working Group conducted an e-vote to consider adoption of its June 9 minutes (Attachment Five-A). The motion passed with a majority of the members voting in favor of adopting the Working Group's June 9 minutes.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Transparency/06-09-22/080222 Evote Minutes.docx

Draft: 7/19/22

Transparency and Readability of Consumer Information (C) Working Group
Virtual Meeting
June 9, 2022

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met June 9, 2022. The following Working Group members participated: Joy Hatchette, Chair (MD); Jimmy Gunn, Yada Horace, Willard Smith and Stephanie Tompkins (AL); Ken Allen (CA); Bobbie Baca (CO); George Bradner (CT); Julie Rachford (IL); Sara Hurtado and Brenda Johnson (KS); Ron Henderson (LA); Carrie Couch, Samantha Henson, Jeana Thomas, and Camille Anderson-Weddle (MO); Kathy Shortt (NC); Janelle Middlestead (ND); David Buono (PA); Jennifer Castaldi and Beth Vollucci (RI); and Marianne Baker and J'ne Byckovski (TX). Also participating were: Paula Shamburger (GA); Linda Grant (IN); Renee Campbell (MI); Jana Jarrett (OH); Tracy Klausmeier (UT); Manabu Mizushima and Michael Walker (WA); Jody Ullman (WI); and Bill Cole and Tana Howard (WY).

1. Discussed the Best Practices for Insurance Rate Disclosures Document and Exposed for a 14-Day Comment Period

The Working Group was tasked with creating a document regarding best practices for insurance rate disclosures. This document included an example rate filing checklist, an example disclosure notice for rate increases (with and without capping), and consumer education information regarding rates, underwriting, and discounts.

Ms. Hatchette said the drafting groups formed by the Working Group worked on this product for the past year and a half.

Mr. Bradner provided an overview of the work completed on the disclosure notice that was drafted. The purpose of the disclosure document is to provide a guide for states to use to implement a disclosure that provides consumers with information regarding a premium increase. The drafting group held numerous meetings, which included the participation of interested parties.

The drafting group created two documents: 1) one for increases with capping; and 2) one for increases without capping.

Recommendations for disclosures included: 1) insurers are required to send disclosure notices to insureds receiving at least a 10% premium increase; 2) the notice is required to be sent to insureds at least 30 days prior to the renewal date. (It can be included with the renewal notice, by separate mailing or by email.); 3) the disclosure notice must include a listing of the rating factors/characteristics and the dollar impact of each rating factor/characteristic on premium increase, such that at least 80% of the uncapped premium is explained and listed in descending order; and 4) insureds should receive proper information regarding the rating factors so they are able to understand if they have the ability to mitigate the increase caused by the rating factor.

Mr. Bradner said this notice is not intended to be required to be sent by an insurer if a notification process in place is acceptable to the state's insurance regulator. This is suggested to be the minimum required notice. However, insurers are permitted to provide additional information. Disclosure notice examples for both capped and uncapped are included in the materials.

Mr. Allen said he believes there needs to be more clarity in the way the premium increase is conveyed if capping is being used. The drafting group will review any suggestions for changes.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said the drafting group spent a lot of time trying to figure out how to provide more specific data to a policyholder regarding their premium increase. She said if this notice is used, it will be the first time a notice has gone out regarding a rate capping issue, and providing specific dollar amounts to subsequent renewals would require a detailed document to add all the necessary caveats regarding future rates, such as the insureds have no accidents, no tickets, no additional vehicles, etc. Ms. Brown said she believes the document in its current form is the cleanest way to reflect premium increases due to capping without causing undue confusion.

Birny Birnbaum (Center for Economic Justice—CEJ) said rate increases may result from higher premiums for existing coverage, but increases can also be due to a reduction in coverage. He said policyholders paying the same premium from one year to the next are actually paying a higher rate if their coverage has been reduced by something like a higher deductible, a cap on coverage amounts that are smaller than they were previously, or by paying for actual cash value coverage instead of replacement cost coverage. Mr. Birnbaum said consumer understanding of the impact of premium increases through coverage reduction is as important as simple premium increases.

Mr. Birnbaum suggested the 10% threshold be calculated before the reduction in coverage. For example, if the policyholder's premium increase was 3%, but reflected a coverage change from replacement costs to actual cash value, the actual increase would be 11% prior to the reduction in coverage, and a disclosure should be sent.

Mr. Birnbaum also suggested adding a second section to reflect coverage changes, called coverage reductions and the dollar impact, that would be placed under reasons the policyholder's premium increased. This section would indicate the decrease due to coverage changes and the amount of the decrease.

Mr. Birnbaum said there has been a tremendous amount of shrinking coverage across the country and telling the consumer that their premium has increased does not impart the knowledge to the policyholder that their coverage may have been reduced to keep the premium lower.

Tony Cotto (National Association of Mutual Insurance Companies—NAMIC) said the National Council of Insurance Legislators (NCOIL) is considering insurance scoring and rating transparency issues for a potential model act.

Mr. Cotto said NAMIC additionally believes disclosure notices should be triggered by a consumer request rather than an automatic disclosure going out to every consumer receiving a certain percent increase in their premium. Ken Klein (California Western School of Law) said consumers face problems because they are not being informed. He said he believes there is not a lot of consumer engagement. Therefore, it would not be beneficial to consumers to receive information regarding premium increases only if requested, as usually consumers will not ask for this type of information.

Mr. Cotto said NAMIC also has concerns with "major" reasons for an increase at renewal, as well as providing the exact dollar amount attributable to individual reasons. He said this is impractical and could threaten certain trade secrets and proprietary formulas, allowing for backwards engineering once some of these items are disclosed. Mr. Cotto said NAMIC is more supportive of the list the drafting group developed regarding reasons for rate increases. He said NAMIC plans to submit additional recommendations to ensure the list is more robust, as well as submit comments regarding the consumer education pieces.

Mr. Cotto said a 14-day public comment period is too short and asked for a 30-day public comment period. Ms. Hatchette said the Working Group has been working on this project for more than a year and is not inclined to extend the comment period beyond 14 days. However, she said she will leave it to a vote of the Working Group.

The Working Group formed a drafting group to draft consumer education language for use by departments of insurance (DOIs) for both auto insurance and homeowners insurance. The drafting group met every month (at least twice each month) to create these materials. The drafting groups included state insurance regulators and interested parties.

The purpose of the document is to provide DOIs with information it can use to create social media posts, consumer alerts, or any document to provide information to the consumer.

Mr. Klein said the section on consumer education information for homeowners accurately describes the need for homeowners to be aware that what they pay to buy a home and what it costs to rebuild a home can be different numbers. He said insurers can estimate adequate rebuilding coverage if they are asked. Mr. Klein said what happens is that if a consumer does pursue replacement cost coverage and suffers a catastrophic loss, the insurance can be inadequate to cover rebuilding costs. He said insurers often respond by telling the policyholder it was just an estimate and the policyholder is the one choosing the amount, so they should know if the estimate is low. Mr. Klein says the ultimate decision falls to the consumer. He said the advice this document gives is good advice. However, he said the estimate may not cover the actual loss, and this should be noted.

Ms. Shortt said this is great feedback and that Mr. Klein brings up a valid perspective. She said the drafting group could look at the current language and add some cautionary language within the document. Ms. Shortt said the drafting group would welcome any language Mr. Klein would like to provide. Mr. Klein is to provide some suggested language.

Mr. Bradner made a motion, seconded by Mr. Allen, to expose the Best Practices for Disclosures document for a 14-day public comment period ending June 24. The motion passed.

Once the comments are received, NAIC staff will compile the comments for the Working Group members to review and discuss.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/ Member Meetings/C Cmte/2022_Summer/Transparency/06-09-22/060922 Transparency Minutes.docx

CASUALTY ACTUARIAL AND STATISTICAL (C) TASK FORCE

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Draft: 8/19/22

Casualty Actuarial and Statistical (C) Task Force
Portland, Oregon
August 10, 2022

The Casualty Actuarial and Statistical (C) Task Force met in Portland, OR, Aug. 10, 2022. The following Task Force members participated: Mike Kreidler, Chair, represented by Eric Slavich (WA); Grace Arnold, Vice Chair, represented by Phil Vigliaturo (MN); Ricardo Lara represented by Ken Allen and Lynne Wehmueller (CA); Michael Conway represented by Sydney Sloan (CO); Andrew N. Mais represented by Wanchin Chou (CT); Colin M. Hayashida represented by Randy Jacobson (HI); Doug Ommen represented by Travis Grassel (IA); Dana Popish Severinghaus represented by Bruce Sartain and Judy Mottar (IL); Vicki Schmidt represented by Nicole Boyd (KS); Timothy N. Schott represented by Sandra Darby (ME); Chlora Lindley-Myers represented by Cynthia Amann and Julie Lederer (MO); Mike Causey represented by Richard Kohan (NC); Russell Toal and Anna Krylova (NM); Judith L. French represented by Tom Botsko (OH); Glen Mulready represented by Andrew Schallhorn (OK); Michael Humphreys represented by Shannen Logue (PA); Michael Wise represented by Will Davis (SC); Cassie Brown represented by Miriam Fisk (TX); Kevin Gaffney and Rosemary Raszka (VT); and Allan L. McVey represented by Greg Elam (WV).

1. Adopted its July 12, June 14, and Spring National Meeting Minutes

Mr. Slavich said the Task Force met July 12, June 14, and March 8. During these meetings, the Task Force took the following action: 1) exposed the loss cost multiplier (LCM) form for a 40-day public comment period ending June 7; and 2) exposed the regulatory review of tree-based model guidance for a 25-day public comment period ending Aug. 5.

The Task Force also met June 21, May 17, April 19, and March 15 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to discuss rate filing issues.

The Task Force held Predictive Analytics Book Club meetings on July 26, June 28, April 26, and March 22. On July 26, Betterview presented on “Leveraging Computer Vision and AI for Property and Risk Management.” On June 28, Dorothy L. Andrews (American Academy of Actuaries—Academy) and Julia Romero (Academy) presented on “Correlation vs. Causation.” On April 26, Kris DeFrain (NAIC), Ms. Andrews (NAIC), Sam Kloese (NAIC), and Roberto Perez (NAIC) presented on “Speed to Market.” On March 22, Brian Fannin (Casualty Actuarial Society—CAS) presented on “R for Actuaries and Data Scientists with Application to Insurance.”

Mr. Vigliaturo made a motion, seconded by Mr. Botsko, to adopt the Task Force’s July 12 (Attachment One); June 14 (Attachment Two); and March 8 (*see NAIC Proceedings – Spring 2022, Casualty Actuarial and Statistical (C) Task Force*) minutes. The motion passed unanimously.

2. Adopted the Report of the Actuarial Opinion (C) Working Group

Ms. Krylova said the Actuarial Opinion (C) Working Group met Aug. 2. The Working Group discussed a Financial Analysis (E) Working Group referral on predictive analytics in a reserve setting, potential changes to the qualification documentation requirements and disclosures, and potential changes to 2022 Regulatory Guidance and 2023 *Annual Statement Instructions*. The Actuarial Opinion (C) Working Group has begun to draft some financial surveillance questions that could be asked about reserve models. Because the qualification documentation is a burden on actuaries and does not change much year to year, the Working Group is discussing

whether the qualification documentation only needs to be submitted to the Board ever five years and when there have been significant changes in the actuarial qualifications or a company's operations.

Ms. Krylova said the Working Group also met July 22 and June 3 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to discuss 2021 Statements of Actuarial Opinion (SAOs). She said no serious issues or trends were identified.

Ms. Krylova made a motion, seconded by Mr. Botsko, to adopt the report of the Actuarial Opinion (C) Working Group, including its Aug. 2 minutes (Attachment Three). The motion passed unanimously.

3. Adopted the Report of the Statistical Data (C) Working Group

Ms. Darby said the Statistical Data (C) Working Group met Aug. 4, July 20, June 15, May 18, and April 14. During these meetings, the Working Group: 1) discussed implementing an accelerated timeline for the *Auto Insurance Database Report* (Auto Report); 2) heard a presentation from the Center for Economic Justice (CEJ) on the modernization of statistical data reporting; and 3) discussed proposed changes to the Auto Report, the *Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report), the *Competition Database Report* (Competition Report), and the *Report on Profitability by Line by State* (Profitability Report) presented by Arthur Schwartz (LA). As previously reported, the Working Group adopted an accelerated timeline for the submission of auto insurance premium and exposure data. Statistical agents will now provide that data by Dec. 1 following the end of the data year. The Working Group will continue to consider the proposed changes to the statistical reports, as well as consider the need for updates to the *Statistical Handbook of Data Available to Insurance Regulators* and the statistical data reporting process.

Ms. Darby made a motion, seconded by Mr. Chou, to adopt the report of the Statistical Data (C) Working Group, including its Aug. 4 minutes (Attachment Four). The motion passed unanimously.

4. Exposed the LCM Form and Memorandum

Mr. Slavich said the idea to create an updated LCM form was brought forward at the Spring National Meeting, after which Larry Steinert (IN) led a volunteer group to update and combine the NAIC's numerous forms. At the July 12 meeting, there were no suggested changes to the form; however, the Task Force decided to wait on adoption until the LCM memorandum could be updated and considered for adoption at the same time. A proposed memorandum was distributed for the call. The Task Force had no questions about the form or memorandum.

The Task Force exposed the LCM form and associated memorandum for a 45-day public comment period ending Sept. 23.

5. Adopted the Regulatory Review of Tree-Based Models Guidance

At the Spring National Meeting, the Task Force adopted the appendix for the random forest models as regulatory guidance and noted that the plan would be to combine all similar appendices together for consideration as an attachment to the *Regulatory Review of Predictive Models* white paper.

At the July 14 meeting, Mr. Kloese proposed that the random forest guidance be replaced with guidance for all tree-based models. Mr. Slavich said the guidance did not need to change substantially. The Task Force exposed the regulatory review of tree-based model guidance for a 25-day public comment period ending Aug. 5. No comment letters were received.

Mr. Vigliaturo made a motion, seconded by Mr. Botsko, to adopt the regulatory review of tree-based models document (Attachment Five) as a replacement for the random forest document. The motion passed unanimously.

Mr. Kloese said he plans to next draft generalized additive modeling (GAM) guidance for Task Force review and consideration.

6. Received a Report on the NAIC Algorithmic Bias Training

At the Spring National Meeting, Mr. Slavich said he gave a report about coordination with the Innovation, Cybersecurity, and Technology (H) Committee and the Special (EX) Committee on Race and Insurance Workstream Three. He said that coordination led to the NAIC hosting a Collaboration Forum on Algorithmic Bias in Kansas City, July 18–19. Ms. Andrews gave a brief report on the forum, saying the forum contained numerous sessions on bias, how bias can get into data, governance addressing bias, and data needed for bias detection.

7. Heard a Presentation on the openIDL Initiative

Mr. Slavich introduced Jefferson Braswell (openIDL) and said openIDL is the Linux Foundation project that is coordinating the development of a collaborative, open network of insurance carriers, analytical services, and state insurance commissioners to enable more efficient and timely access to insurance industry data on the part of commissioners. He said the Task Force is hearing the presentation because of the work at the Statistical Data (C) Working Group. Mr. Braswell gave his presentation (Attachment Six).

8. Heard from Professional Actuarial Organizations

The Academy, the Actuarial Board for Counseling and Discipline (ABCD), and the Society of Actuaries (SOA) provided reports on current activities.

Having no further business, the Casualty Actuarial and Statistical (C) Task Force adjourned.

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Draft: 7/28/22

Casualty Actuarial and Statistical (C) Task Force
Virtual Meeting
July 12, 2022

The Casualty Actuarial and Statistical (C) Task Force met July 12, 2022. The following Task Force members participated: Mike Kreidler, Chair, represented by Eric Slavich (WA); Grace Arnold, Vice Chair, represented by Connor Meyer (MN); Ricardo Lara represented by Mitra Sanandajifar (CA); Michael Conway represented by Mitchell Bronson (CO); Andrew N. Mais represented by Wanchin Chou (CT); Karima M. Woods represented by David Christhilf (DC); David Altmaier represented by Greg Jaynes (FL); Colin M. Hayashida represented by Randy Jacobson (HI); Dana Popish Severinghaus represented by Anthony Bredel and Reid McClintock (IL); Amy L. Beard represented by Larry Steinert (IN); Vicki Schmidt represented by Nicole Boyd (KS); James J. Donelon represented by Arthur Schwartz and Nichole Torblaa (LA); Kathleen A. Birrane represented by Ronald Coleman and Walter Dabrowski (MD); Timothy N. Schott represented by Sandra Darby (ME); Chlora Lindley-Myers represented by Cynthia Amann and Julie Lederer (MO); Troy Downing represented by Mari Kindberg (MT); Mike Causey represented by Michelle Osborne (NC); Chris Nicolopoulos represented by Christian Citarella (NH); Russell Toal and Anna Krylova (NM); Barbara D. Richardson represented by Gennady Stolyarov (NV); Judith L. French represented by Tom Botsko (OH); Glen Mulready represented by Andrew Schallhorn (OK); Andrew R. Stolfi represented by David Dahl (OR); Michael Humphreys represented by Michael McKenney (PA); Cassie Brown represented by J'ne Byckovski (TX); Kevin Gaffney represented by Rosemary Raszka (VT); and Allan L. McVey represented by Juanita Wimmer (WV).

1. Adopted the Report of the Statistical Data (C) Working Group

Ms. Darby said the Statistical Data (C) Working Group met June 15 to discuss the timeline of the *Auto Insurance Database Report* (Auto Report) and changes proposed by Mr. Schwartz to the *Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report); the Auto Report; the *Competition Database Report* (Competition Report); and the *Report on Profitability by Line by State* (Profitability Report). The Working Group voted to accelerate the timeline of the Auto Report. Written premium and exposure data will now be submitted by Dec. 1 following the end of the data year. This will move up the publication of the report by about six months. This is generally the same timeline adopted for the Homeowners Report in a prior meeting.

The Working Group plans to meet July 20 to continue the discussion of Mr. Schwartz's proposed changes. It also plans to meet in August after the Summer National Meeting in regulator-to-regulator session to discuss the data for this year's Homeowners Report and Auto Report.

Ms. Darby made a motion, seconded by Ms. Krylova, to adopt the report of the Statistical Data (C) Working Group. The motion passed unanimously.

2. Discussed the NAIC's LCM Form

The idea to compile and update multiple NAIC loss cost multiplier (LCM) forms into one was brought forward at the Spring National Meeting. Mr. Steinert's group of volunteers submitted an initial proposal, which was exposed for a public comment period that ended Feb. 7. The group revised the proposal.

Mr. Steinert said the group proposes that the form be in an Excel file. State insurance regulators can protect cells and include calculations. Mr. Steinert walked through the revised form and pointed out some programming and

wording changes. He said the group did not include the System for Electronic Rates & Forms Filings (SERFF) filing number and the NAIC group code because those can be found in the filing elsewhere. The profit and contingencies entry was combined with investment income offset. Additional calculations of percent change were added.

Mr. Steinert said there is an instructions document that will need some updates. He suggests that the instructions remain a separate document because it is more applicable to providing guidance about loss costs and loss cost filings rather than technical instructions about the LCM calculations. Mr. Schwartz volunteered to redraft the instructions document. Mr. Slavich asked the group to produce an instructions document to be considered for adoption as a package with the proposed form at the Summer National Meeting.

Ms. Darby asked for the consideration of states that require a portable document format (PDF) version in SERFF. The PDF version is needed for production of the SERFF pipeline document. The group will consider adding some instructions for how to convert an Excel file into a PDF document for SERFF filing purposes.

Mr. Steinert said the Excel file will have a password with locked cells. Only the input cells would be changeable, not the formulas.

3. Discussed the Regulatory Review of Tree-Based Rate Models

At its meeting in lieu of the Spring National Meeting, the Task Force adopted a document describing the regulatory review of random forest models and accompanying definitions. Sam Kloese (NAIC) began work to develop similar materials for gradient boosting machines (GBMs) and decided to instead propose a modification to the random forest documents for them to apply more broadly to all tree-based models.

Mr. Kloese provided education on random forest models and tree-based models (Attachment One-A). He presented his proposal for the regulatory review of tree-based models.

With few changes from the already adopted random forest models document, the Task Force agreed to a short exposure. Mr. Slavich said comments would be due Aug. 5 and discussed at the Summer National Meeting.

4. Discussed Other Matters

Mr. Slavich said the Task Force discussed the possibility of creating a handbook to help guide NAIC staff in their technical reviews of models during its June 14 call. NAIC staff will discuss the alternative of creating a steering committee with senior NAIC management.

Having no further business, the Casualty Actuarial and Statistical (C) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer/CASTF/07-12-22/07-12 min.docx

Introduction

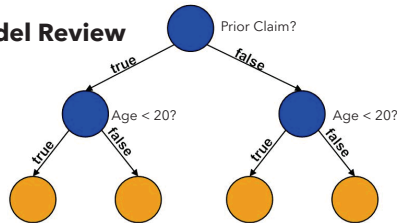
- GLM's are industry standard
- The CASTF White Paper for Predictive Models is focused primarily on GLM's
- New Appendix for Random Forests has been adopted
- Boosted trees are very similar with a couple differences

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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Tree Based Model Review

- Single Decision Tree
- Easy to Understand
- Mimics how people make decisions
- Easily interpreted

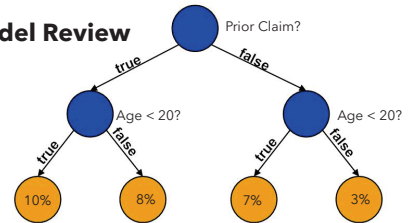


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Tree Based Model Review

- Single Decision Tree
- Easy to Understand
- Mimics how people make decisions
- Easily interpreted
- Classification returns a likelihood

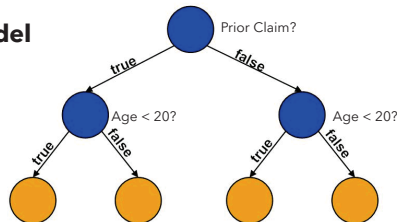


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Tree Based Model

- Single Decision Tree
- Easy to Understand
- Mimics how people make decisions
- Easily interpreted
- Classification returns a likelihood

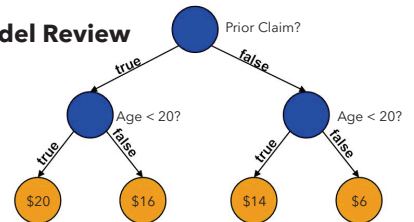


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Tree Based Model Review

- Single Decision Tree
- Easy to Understand
- Mimics how people make decisions
- Easily interpreted
- Classification returns a likelihood
- Regression returns a predicted amount

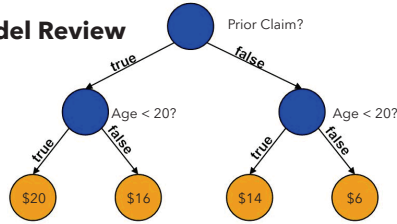


NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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Tree Based Model Review

- Terminology
 - Root
 - Sub-Node
 - Parent/Child
- Splitting
 - Branch
 - Sub-Tree

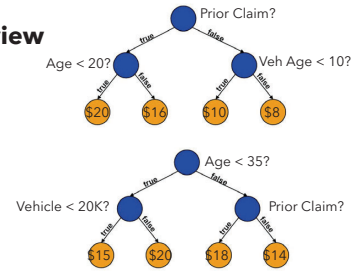


NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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Random Forest Review

- Random Forest
 - Each tree is based on a different bootstrap sample
 - Additionally: **Randomly** chosen variables considered at each **split**
 - Each tree is grown the same way
 - Final prediction is the average of each trees prediction
- Advantages
 - Trees are substantially different
 - Each tree not based on the same sample
 - Each split not based on the same variables

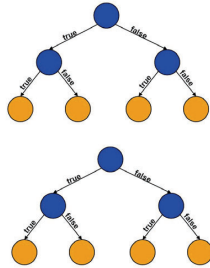


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Random Forest Review

- Hyperparameters
 - Number of trees
 - Criteria on which to split
 - Bootstrap sample size (% of rows)
- When to stop splitting
 - Max Tree Depth
 - Minimum Node Size
 - Max Leaf Nodes
- Random Variables for each split (# of columns)



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Differences Between RF and Boosted Trees

- Main differences
 - Boosting is run sequentially
 - Each subsequent tree attempts to refine the model further
 - The data is reweighted after each tree, so subsequent trees focus more on wrong predictions
 - Often takes longer to run than RF, trees can not be run simultaneously
 - New Hyperparameter "Learning Rate"
 - Also known as "shrinkage parameter"
 - Between 0 and 1 (usually small, closer to 0)
 - There is a trade off between number of trees and learning rate

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Boosted Trees

- Boosted Trees algorithms:
 - Adaboost (Adaptive Boosting)
 - GBM (Gradient Boosting Machines)
 - XGBoost (eXtreme Gradient Boosting)
 - CatBoost (Categorical Boosting)

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XGBoost

- Particularly Popular Boosting Algorithm
 - Many machine learning competitions won with XGBoost
 - Available in open source software R and Python
- Xgboost() function arguments
 - Common Hyperparameters
 - Max_depth: how many splits deep can a tree grow
 - Nrounds: Number of trees
 - Eta: Learning Rate
 - Colsample_bytree: % of columns (predictor variables) to use at each split
 - Subsample: % of rows (records) to use within each tree

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XGBoost

- Other xgboost() function arguments
 - Specifying the input data
 - Data = matrix containing predictor variables
 - Label = matrix containing target variable
 - Weight = matrix containing weights (earned exposures, claim counts, etc.)
 - Specifying the learning objection (many options)
 - Objective = Reg:squarederror
 - Objective = Reg:logistic
 - Objective = Count:poisson
 - Objective = Reg:gamma
 - Objective = Reg:tweedie
 - Objective = binary:logistic

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Tree Based Model Challenges Revisited

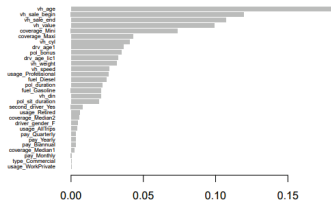
- Interpretability
 - Boosted Trees even less interpretable than RF
 - Individual trees can be counterintuitive, because they target residual from prior trees
- Prone to Overfit
 - Boosted Trees even more likely than RF to be overfit
 - Sequential nature of boosted trees means they can chase after the outliers
- Auditability
 - Same issue with auditability
 - Requires documentation of all trees to reproduce model predictions

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Variable Triaging

- Variable Importance Plots
 - Provide a measure of which variables are relatively more important than others
 - High importance variables should be evaluated as they will have the greatest impact on consumers
 - Low importance variables should be evaluated for whether there is a good reason to include them
 - Similar to questioning variables with high p-values in a GLM

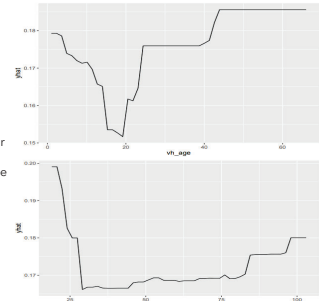


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Interpretability Plots

- Partial Dependence Plots
 - Computes the marginal effect of a given feature on the prediction
 - Fixes the value of the predictor variable of interest, calculating the model prediction for each observation using the fixed value
 - Repeat for all values of the predictor variable



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Interpretability Plots

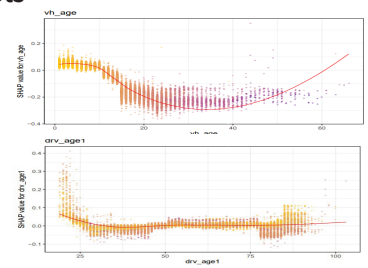
- Accumulated Local Effects
 - Better option in the case of correlated features
 - Calculates and accumulates incremental changes in the feature effects
 - Shows the expected and centered effects of a feature, like a coefficient in a GLM

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July 2021 Book Club: <https://www.youtube.com/watch?v=yMfZAbank> 8/19/2022 17

Interpretability Plots

- Shapely Additive Explanations
 - How much that feature moves the prediction away from the overall average prediction.
 - >0, feature increases predicted value higher than average value
 - <0, feature decreases predicted value lower than average value



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Challenges - Prone to Overfit

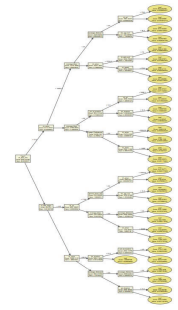
- Review general narrative on setting of hyperparameters
- Hyperparameter Consideration
 - Number of trees should be large enough, but no larger
 - Look at plot to minimize OOB/Test Error or Deviance
 - Learning Rate
 - Greater than 0, commonly < 0.2
 - Tree Complexity
 - Minimum node size should be set high enough for reasonable credibility
 - Rule of Thumb: Max depth of > 8 may be too high
 - Other hyperparameters should be disclosed and briefly commented on
 - Bootstrap sample size (% of rows)
 - Random Variables tried for each split (# of columns)
 - Criteria to split should match the model purpose (classification, regression)
- Review lift charts on test/holdout data

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Challenges - Auditability

- Comprehensive Documentation
 - Allows for third party audit
 - Makes reproducing predictions from data to decision possible
 - Ideally would not require understanding complex code or specific software
 - Document entire tree ensemble
 - Print tree logic for each tree OR
 - Plot all trees OR
 - Provide a table with prediction for all possible values



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Challenges - Auditability

- Sample Prediction Examples
 - Exhibits could be made for **spot-checking** against tree documentation
 - Input Predictors
 - Individual Tree Predictions
 - Overall Model Prediction

Sample Risk	Driver Age	Prior Claims	Vehicle Age	...	Tree 1	Tree 2	Tree 3	...	Model Prediction
1	16	0	5	...	\$ 50.00	\$ 40.00	\$ 30.00	...	\$ 40.00
2	17	0	6	...	\$ 49.00	\$ 39.20	\$ 29.40	...	\$ 39.20
3	18	0	7	...	\$ 48.00	\$ 38.42	\$ 28.81	...	\$ 38.42
4	19	1	8	...	\$ 47.06	\$ 37.65	\$ 28.23	...	\$ 37.65
5	20	0	9	...	\$ 46.12	\$ 36.90	\$ 27.67	...	\$ 36.90

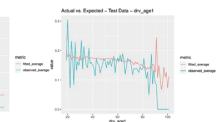
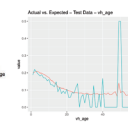
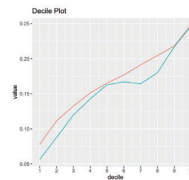
- However, **auditing** every prediction for a book of business would still be **extremely difficult**

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Review Other Useful Exhibits

- Quantile Plots on Holdout Data
- Compares fitted average to observed average by Quantile
- Actual vs. Expected plots on Holdout Data
- Separate plot by variable
- Demonstrates fit across variable levels



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Text References

- Basic Decision Tree Terminology
 - <https://medium.com/datariveninvestor.com/the-basics-of-decision-trees-e5837cc2aba7>
- Theoretical Introduction to Random Forest and Boosted Trees
- Introduction to Statistical Learning (Chapter 8 - 8.2.3)
 - https://web.stanford.edu/~hastie/ISLRv2_website.pdf
- Interpretable Machine Learning (Variable Importance and Interpretability Plots)
 - <https://us.milliman.com/-/media/milliman/pdfs/2021-articles/4-2-21-interpretible-machine-learning.ashx>

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Other References

- YouTube Videos:
 - Actuarial Virtual Data Science Seminar: Risk Pricing with XGBoost
 - <https://www.youtube.com/watch?v=sOyMLB15sFk>
 - CASTF Book Club Call: Tree Based Models
 - <https://www.youtube.com/watch?v=6UCbpAt4r9M>
 - CASTF Book Club Call: Interpretable Machine Learning
 - <https://www.youtube.com/watch?v=-yMdTAlkewk>
- Sample Model R Markdown
 - Illustration purposes only, primarily created to demonstrate sample plot types
 - <https://github.com/skloese/Insurance-Pricing-XGBoost-Example/tree/main>
 - E-mail skloese@naic.org if you'd like to see the plots in PDF

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https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/C%20CMTE/2022_Summer/CASTF/07-12-22/Boosted%20Trees%20Background%20Info%20-%20Full.pptx

Draft: 7/27/22

Casualty Actuarial and Statistical (C) Task Force
Virtual Meeting
June 14, 2022

The Casualty Actuarial and Statistical (C) Task Force met June 14, 2022. The following Task Force members participated: Mike Kreidler, Chair, represented by Eric Slavich (WA); Grace Arnold, Vice Chair, represented by Connor Meyer and Phil Vigliaturo (MN); Jim L. Ridling represented by Daniel Davis (AL); Ricardo Lara represented by Lynne Wehmueller (CA); Michael Conway represented by Mitchell Bronson (CO); Andrew N. Mais represented by Wanchin Chou (CT); Karima M. Woods represented by David Christhilf (DC); David Altmaier represented by Greg Jaynes (FL); Colin M. Hayashida represented by Randy Jacobson (HI); Doug Ommen represented by Travis Grassel (IA); Dana Popish Severinghaus represented by Chantel Long, Reid McClintock, and Judy Mottar (IL); Amy L. Beard represented by Larry Steinert (IN); Vicki Schmidt represented by Nicole Boyd (KS); James J. Donelon represented by Nichole Torblaa and Arthur Schwartz (LA); Kathleen A. Birrane represented by Ron Coleman and Walter Dabrowski (MD); Timothy N. Schott represented by Sandra Darby (ME); Chlora Lindley-Myers represented by Julie Lederer (MO); Troy Downing represented by Mari Kindberg (MT); Mike Causey represented by Michelle Osborne (NC); Chris Nicolopoulos represented by Christian Citarella (NH); Russell Toal and Anna Krylova (NM); Barbara D. Richardson represented by Gennady Stolyarov (NV); Judith L. French represented by Tom Botsko (OH); Glen Mulready represented by Andrew Schallhorn and Kate Yang (OK); Andrew R. Stolfi represented by David Dahl and Ying Liu (OR); Michael Humphreys represented by Kevin Clark and Michael McKenney (PA); Michael Wise represented by Will Davis (SC); Cassie Brown represented by J'ne Byckovski (TX); and Kevin Gaffney represented by Rosemary Raszka (VT). Also participating was: Kevin Dyke (MI).

1. Adopted the Report of the Actuarial Opinion (C) Working Group

Ms. Krylova said the Actuarial Opinion (C) Working Group met in regulator-to-regulator sessions to discuss individual Statements of Actuarial Opinion (SAOs). The Working Group also received a referral from the Financial Analysis (E) Working Group.

Ms. Krylova made a motion, seconded by Ms. Lederer, to adopt the report of the Actuarial Opinion (C) Working Group. The motion passed unanimously.

2. Adopted the Report of the Statistical Data (C) Working Group

Ms. Darby said the Statistical Data (C) Working Group is making progress on its charge to accelerate the reporting of average premiums for auto and homeowners insurance. For both auto and homeowners insurance, 2020 data is being collected. For homeowners insurance, 2021 data is also being collected. The aim for homeowners is to produce two reports, with the 2020 data being released in late 2022 and the 2021 data being released in the early months of 2023. For auto insurance, similar timelines are planned. The Working Group will hear from Louisiana during the June 15 meeting on suggested revisions to future statistical reports.

The Working Group is collecting information on state data calls. The goal is to find common data elements that are being requested in these data calls to inform updates to the *Statistical Handbook of Data Available to Insurance Regulators*. The Working Group is trying to determine the type of data state insurance regulators would find useful and include those data elements in the required statistical reporting. Members of the Task Force were asked to send any data call templates to Libby Crews (NAIC). Ms. Crews said there is no need to send information about past data calls when the NAIC was involved.

Ms. Darby made a motion, seconded by Mr. Chou, to adopt the report of the Statistical Data (C) Working Group. The motion passed unanimously.

3. Discussed the NAIC LCM Form

In March, Mr. Steinert asked if there was interest in updating the NAIC's loss cost multiplier (LCM) forms. After the Task Force agreed, a Subgroup was formed to create a draft for exposure. The Subgroup's draft was then exposed for a public comment period ending June 7. Parties who submitted written comments (Attachment Two-A) presented their comments orally to the Task Force. Mr. Slavich asked the Subgroup to consider the written comments and discussion to produce a revised draft.

4. Discussed the Creation of a Rate Review Support Services Handbook

The NAIC's Rate Model Review Team was created by the Executive (EX) Committee after the former Big Data (EX) Working Group asked the Committee to research the best option to provide rate model assistance to states. Around the same time, the Task Force was asked to write a white paper about the regulatory review of predictive analytics, which was adopted in 2020.

With the completion of its white paper, which contains the recommendations for the priority of information items needed to review a rate filing's risk classification model, NAIC staff were able to begin to implement the NAIC rate model review process based largely on the white paper.

The NAIC Rate Model Review Team has now built processes, a shared model database, and technical review templates based on the white paper, advice from a few state insurance regulators who would use the database, and requests from individual users of the NAIC rate model technical reviews. Those processes and procedures have largely stabilized.

Mr. Slavich said the Blanks (E) Working Group has a handbook for the adoption of blanks changes, the Financial Analysis (E) Working Group has a handbook for its operations, and other NAIC committee activities have handbooks or guidance manuals. He asked the Task Force whether it should create a handbook to explain the NAIC staff technical reviews of models and help guide staff over time. He said such a handbook could contain current processes and procedures for NAIC rate model review; include state insurance regulators' guidance to the NAIC Rate Model Review Team, perhaps including the appendices of the Task Force white paper; explain how regulators want the NAIC to prioritize requests if not on a first come, first served basis; and include a process for requesting changes in the process.

Kris DeFrain (NAIC) said her vision of a handbook would not be technical, such as the development of templates, and would not put restraints on NAIC staff who might need to make changes depending on the individual filing. She said the handbook could document the history and purpose and explain confidentiality. She said most of the other NAIC staff operations have a direct tie to a specific committee that oversees the work.

Mr. Stolyarov said it might be best to keep internal documentation rather than a Task Force handbook.

Mr. Dyke said although the nature of this work is different from other committee/NAIC staff work, there might be some information in other NAIC regulator-only handbooks that could prove useful. He said the handbook for blanks is a public-facing document, and that does not seem appropriate for this case.

Mr. Davis said he sometimes just wants to ask questions to the Rate Model Review Team. He said a compilation of questions and answers (Q&As) might prove useful. He suggested creating an academic resource and Q&A

document for state insurance regulators' access. Ms. DeFrain said there is no Q&A document at this time, but academic resources are available to regulators on I-SITE. Mr. Steinert said a collection of common pitfalls, such as collinearity or things that could go wrong when modeling, would be helpful.

Mr. Slavich said it would be important to record practice and procedures in case of staff turnover. He said he does not believe the Task Force needs to exert control over the process. Ms. Darby agreed, saying that when she used the resource, she had control over how the model was reviewed and what questions were asked for the companies to answer.

The group seemed to agree that the individual state should control the process it uses with NAIC staff. There was no interest in directing the content of the NAIC's technical reports, generally because that was thought to be best handled between the individual state and NAIC staff.

Ms. DeFrain said there are some decisions where it would be helpful to have state agreement. For example, should NAIC staff work on a first come, first served basis? Ms. DeFrain asked if it is fair if one state dominates the staff resource given every state can benefit from every review due to the sharing of information in the shared model database or would regulators prefer a more even distribution of requesting states? Another example is whether there are enough NAIC resources dedicated to the project. Mr. Vigliaturo said determining priorities may be helpful, but he would suggest handling questions on a case-by-case basis. He said things appear to work fine now, and nothing may be needed unless things start to break down. Mr. Dyke said it sounds like NAIC staff may want assistance before things break down.

Mr. Dyke said another approach might be the creation of a steering committee like System for Electronic Rates & Forms Filing (SERFF) uses. That might handle what sounds like a governance role. Ms. DeFrain said she would gather information about whether a steering committee could be created.

5. Discussed the Insurance Summit's Predictive Analytics Session

The Insurance Summit will be a hybrid event hosted in Kansas City, MO, at the Loews Hotel and Convention Center. Mr. Slavich asked what content would be beneficial in a half-day predictive analytics regulator-to-regulator session on Friday, Sept. 23 all via webinar. Given the time, he asked members to send suggestions to Ms. DeFrain.

Having no further business, the Casualty Actuarial and Statistical (C) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer/CASTF/06-14-22/06-14 min.docx

NAIC LOSS COST FILING DOCUMENT

CALCULATION OF COMPANY LOSS COST MULTIPLIER

(EFFECTIVE ____)

Company Name	
NAIC Company Code	
Line, subline, coverage, territory, etc. combination to which this form applies	
Does this form apply to all class codes? (Yes/No) (If no, list class codes in a specifically identified attachment.)	
SERFF Filing # [NEEDED? Group Code needed too?]	
Loss Cost Reference Filing (Advisory Org. and Reference Filing #)	
Expense constant(s) (0 if no expense constant is used): Justify any expense constant(s) in a specifically identified attachment.)	

1. Declaration

The above insurer hereby declares that it is a member, subscriber, or service purchaser of the named advisory organization for this line of insurance and is filing the prospective loss costs in the captioned Loss Cost Reference Filing. The insurer's rates will be the combination of the prospective loss costs and the loss cost multipliers and, if utilized, the expense constants.

2. Rule of Application (Check One)

<input type="checkbox"/>	Current and future loss cost reference filings -- The insurer hereby files to have its loss cost multipliers and, if utilized, expense constants be applicable to future revisions of the advisory organization's prospective loss costs for this line of insurance. The insurer's rates will be the combination of the advisory organization's prospective loss costs and the insurer's loss cost multipliers and if utilized, expense constants. The rates will apply to policies written on or after the effective date of the advisory organization's prospective loss costs. This authorization is effective until disapproved by the Commissioner, or until amended or withdrawn by the insurer. Note: Some states prohibit this option.
<input type="checkbox"/>	Current loss cost reference filing only -- The insurer hereby files to have its loss cost multipliers and, if utilized, expense constants be applicable only to the above Loss Cost Reference Filing.

3. Loss Cost Modification/Deviation

(See examples below. Attach supporting data and/or rationale for the modification(s) in a specifically identified attachment.)

Loss Cost Modification Factor Examples:

- If the loss cost modification is 0%, the Loss Cost Modification Factor is 1.00.
- If your company's loss cost modification is -10%, the Loss Cost Modification factor is 0.900. The calculation is (1.000 - 0.100).
- If your company's loss cost modification is +15%, the Loss Cost Modification Factor is 1.150. The calculation is (1.000 + 0.150).

	Current	Proposed	% Change
Loss Cost Modification Factor			

NAIC LOSS COST FILING DOCUMENT

4. Expense Provisions

Projected expenses should be relative to charged premium (for non-workers’ compensation lines) and standard premium (for workers’ compensation) using the company’s rates in effect. (Attach exhibit detailing insurer expense data, impact of premium discount plans, and/or other supporting information in a specifically identified attachment.)

		Current	Proposed
A.	Commission and Brokerage	%	%
B.	Other Acquisition	%	%
C.	General Expenses	%	%
D.	Taxes, Licenses & Fees	%	%
E.	Underwriting Profit & Contingencies (before investment income offset)	%	%
F.	Investment Income Offset (show as negative value)	%	%
G.	Average Premium Discount (i.e., for workers’ compensation)	%	%
H.	Other 1 (If used, explain in Section 9.)	%	%
I.	Other 2 (If used, explain in Section 9.)	%	%
J.	Total (sum A through I)	%	%

5. Calculation of Permissible Loss (and Loss Adjustment Expense) Ratio

		Current	Proposed
A.	Permissible Loss Ratio: $PLR = 100.0\% - 4J =$	%	%
B.	PLR in Decimal Form =		

6. Additional Adjustments

(Use 1.000 where not applicable.)

		Current	Proposed
A.	Loading Factor Relative to Loss (for states where LAE is not included in loss costs)		
B.	Overall Impact of Expense Constant and Minimum Premiums (e.g., a 2.3% impact would be expressed as 1.023)		

7. Calculation and Selection of Loss Cost Multiplier

(Explain any differences, other than rounding, between 7A and 7B in Section 9.)

		Current	Proposed
A.	Company Formula Loss Cost Multiplier $[(3 \times 6A) / (5B \times 6B)]$		
B.	Company Selected Loss Cost Multiplier		

NAIC LOSS COST FILING DOCUMENT

8. Percent Change (from Current to Proposed)

		% Change
A.	Percent Change in Loss Cost Multiplier (7B proposed / 7B Current – 1.000)	%
B.	Percent Change in Loss Costs (Weighted on company’s own book of business and not the advisory organization unless company has zero premium volume)	%
C.	Percent Change in Other Rating Items (as identified in Section 9.)	%
D.	Total Percent Change [(1.000 + 8A) x (1.000 + 8B) x (1.000 + 8C) - 1.000]	%

9. Additional Comments

(If needed, attach a specifically identified attachment.)

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/C%20CMTE/2022_Summer/CASTF/06-14-22/LCM%20Proposal_subgroup%20042022.doc

6/7/22

Comments about LCM Form Exposure

CONNECTICUT

From: Gozzo Andrews, Susan <Susan.Gozzo.Andrews@ct.gov>
Sent: Wednesday, May 4, 2022 1:44 PM
To: Steinert, Larry <lsteinert@idoi.in.gov>; DeFrain, Kris <kdefrain@naic.org>
Cc: Thomas, Lia C <LCThomas@naic.org>
Subject: RE: CASTF - LCM Form Exposed for Comment

Thanks for the response Larry:
I didn't have you email. Now I do.

To clarify where I was going with that is I want to see three things always:
% in expense component of LCM
% change in loss modification
% total LCM change

This is what I ask for in our actuarial checklist in CT.

- e. Support for changing LCM (Lost Cost Multipliers) – Exhibits and narrative has been provided to explain the LCM changes.

Note 1: For LCMs, this includes a comparison of the proposed and current LCMs total broken out by the “pure LCM” component based on filed expense ratios ($1 / (1 - \text{total expense ratio})$), and the “loss modification factors”.

Note 2: Exhibits need to show % changes for the proposed LCMs in total and separately by “pure LCM” and “loss modification” components.

Seems to me that a lot of companies, maybe do to changing staffs, are changing LCM in total to get to their rate change, but are not connecting the total LCM change to the two components.

I also think sending out updated instructions with the new form is going to help us re-educate industry on this.

Thanks for all your good work on this.

Regards,

Sue

Susan Gozzo Andrews, FCAS, MAAA, PIR, RPLU+
Property Casualty Actuary
State of Connecticut Insurance Department

From: Steinert, Lawrence <LSteinert@idoi.IN.gov>
Sent: Wednesday, May 4, 2022 8:12 AM
To: DeFrain, Kris <kdefrain@naic.org>; Gozzo Andrews, Susan <Susan.Gozzo.Andrews@ct.gov>
Cc: Thomas, Lia C <LCThomas@naic.org>
Subject: RE: CASTF - LCM Form Exposed for Comment

6/7/22

Comments about LCM Form Exposure

Thanks Susan. I would assume sections 4 and 5 would show additive differences, while sections 6 and 7 would show multiplicative differences (% change)?

The drafting group did consider this, but we may have felt that if the total expenses were changing significantly, it would be easy to “eyeball” the current and proposed columns and see what is changing most significantly. But we can certainly ask the larger group what they think.

Thanks again !

Lawrence Steinert, FCAS
Actuary
Indiana Dept. of Insurance
317-234-6622

On May 2, 2022, at 3:20 PM, Gozzo Andrews, Susan <Susan.Gozzo.Andrews@ct.gov> wrote:

I would like to comment that it would be helpful if we could add a column of “% change” to all the elements in Page 2.

With the loss modification percentage change on bottom of Page 1, and all the expense components on Page 2, adding % change to those elements on Page 2 would be helpful to regulators to see major changes in expenses.

And it would also help us understand what is driving the “LCM change” in 8A; that is the Loss Modification Factor or Expense change (and which expense change even).

Thank you for considering this.

Sue

Susan Gozzo Andrews, FCAS, MAAA, PIR, RPLU+
Property Casualty Actuary
State of Connecticut Insurance Department

HAWAII

June 7, 2022

To: Erich Slavich, CASTF Chair
CC: Kris DeFrain, Lia Thomas, and Larry Steinert

From: Randy Jacobson, FCAS, MAAA
Member of the CASTF (representing Hawaii)

Subject: NAIC LCM Form – Exposed on 4/28/2022 for Comments

6/7/22

Comments about LCM Form Exposure

Dear Mr. Slavich:

Thank you for providing me this opportunity to review and comment on the proposed LCM form. After a thorough review of it, I believe it does reflect some good improvements compared to the currently published forms. With that said, I have just one comment (which I title as “*Investment Income Offset Line Item*”):

Investment Income Offset Line Item,

It is suggested that Line 4.F. “*Investment Income Offset ...*”, should be removed. It is confusing and awkward to put this item on the form. It appears to imply that an investment income offset is a result of the profit & contingency load. That is materially untrue. (Investment income comes from the investment return that is expected to be earned on the “float” -- i.e. unearned premium reserve & loss and LAE reserves – as well as earmarked surplus).

With this removal, Line 4.E. would appropriately be modified. If it is wished, Line 4.E. could be asterisked to still say, “*Show corresponding support, including how investment income is accounted for.*”

Once again, thank you for the opportunity to provide comments in this matter.

Very truly yours,

Randy Jacobson

Randy Jacobson, FCAS, MAAA
Property & Casualty Actuary
State of Hawaii Insurance Division
Department of Commerce & Consumer Affairs
335 Merchant Street, Room 213
Honolulu, HI 96813
Phone: 808-587-6744
Email: rjacobso@dcca.hawaii.gov

MICHIGAN

From: Nancy, Tina (DIFS) <NacyT@michigan.gov>
Sent: Friday, May 27, 2022 2:46 PM
To: Robben, Sara <srobben@naic.org>
Subject: RE: Comment Period for CASTF Proposed NAIC Loss Cost Multiplier Form

Sara,

One suggestion I had on this would be to make the file an Excel file that has certain fields locked down. That way, you could include some formulas that calculate certain fields and the company would just

6/7/22

Comments about LCM Form Exposure

input the initial data. We did that on the version we have. Please see the LCM and Expense Constant tab of the attached. This was created by one of our actuarial resources.

Regards,

Tina M. Nancy, AINS - State Administrative Manager

Office of Insurance Rate and Forms - Property & Casualty Section

Michigan Department of Insurance and Financial Services

530 W. Allegan St, 7th fl, Lansing, MI 48933

Phone: 517-284-8709

Email: nacyt@michigan.gov

MISSOURI

From: Lederer, Julie <Julie.Lederer@insurance.mo.gov>

Sent: Monday, June 6, 2022 4:50 PM

To: DeFrain, Kris <kdefrain@naic.org>

Cc: LeDuc, Jo <Jo.LeDuc@insurance.mo.gov>; Lennon, Patrick <Patrick.lennon@insurance.mo.gov>

Subject: RE: CASTF - LCM Form Exposed for Comment

Dear Kris,

Thank you to Larry Steinert and the other volunteer drafters for their work on the LCM form. Missouri appreciates their efforts to modernize the form and combine the two forms into one. We would like to offer a few minor comments.

Minor comments for consideration as we finalize the form:

1. Regarding the line "Does this form apply to all class codes? (Yes/No)": We might consider adding an "N/A" to the options for non-WC filings.
1. Regarding the question on whether the SERFF tracking number should be requested: If the company submits this form with the filing, the company may not know the SERFF number.

Other comments from Missouri – *these likely would **not** lead to any changes in the proposed form, but we were hoping to discuss them on a CASTF call and get insights from others:*

1. Regarding line 4.G ("Average Premium Discount"): It appears that premium discount may be treated differently in the proposed form versus the current WC form. The different treatment appears to lead to a change in the calculated LCM.
 - In the current WC form, the average discount is expressed as a factor in line 7, and this factor is in the denominator of the LCM calculation in line 8. In the proposed form, the average discount is treated as a component of the expenses and therefore factors into the PLR calculation in line 5.

6/7/22

Comments about LCM Form Exposure

- Suppose that the expenses (excluding average discount) are 30%, the average discount is 10%, and the loss cost modification as a factor is 1.00.
 - Then, using the current form, the LCM would be $1.00/(0.70*0.90) = 1.587$.
 - Using the proposed form, the LCM would be $1.00/(0.60) = 1.667$.
1. Regarding line 6.B (“Overall Impact of Expense Constant and Minimum Premiums”): This line item is unchanged from the current WC form but we are wondering how companies generally calculate this item.

Missouri appreciates the opportunity to comment.
Sincerely,

Julie Lederer, FCAS, MAAA
Property and Casualty Actuary
Missouri Department of Commerce and Insurance
816-889-2219
Julie.Lederer@insurance.mo.gov

WEST VIRGINIA

From: Wimmer, Juanita D <juanita.d.wimmer@wv.gov>
Sent: Thursday, May 19, 2022 3:17 PM
To: Thomas, Lia C <LCThomas@naic.org>
Cc: DeFrain, Kris <kdefrain@naic.org>; Gillespie, Tonya <tonya.l.gillespie@wv.gov>
Subject: Re: CASTF - LCM Form Exposed for Comment

Good afternoon,

I'm providing comments for West Virginia on the proposed LCM form.

West Virginia could use the proposed NAIC form for all lines but would like to add the following additions or comments:

- We would like to keep the SERFF Filing number.
- We would like to add the NAIC group code.
- Can we include a field for the policy count affected by the proposed LCM?
- Can we include the effective date for the current factor so we know how long it's been in effect or when it was last changed?
- The check boxes in Question 2: Rule of Application didn't work properly for my test and may need revision before distribution or utilization.
- The current West Virginia loss cost form is located here: <https://www.wvinsurance.gov/Portals/4/pdf/rates/PCA-LCR-2009.pdf>

6/7/22

Comments about LCM Form Exposure

and the current West Virginia Rate Filing abstract is located here: <https://www.wvinsurance.gov/Portals/4/pdf/rates/PCA-R-2009.pdf>

I appreciate the chance to provide feedback and would like to express my thanks to the volunteer drafters for their work on the form.

Please let me know if you have any questions or need additional information.

Thanks,

Juanita Wimmer
Actuarial Analyst
 West Virginia Offices of the Insurance Commissioner
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 Charleston, WV 25302
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 Phone: 304-414-8491
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AMERICAN ASSOCIATION OF INSURANCE SERVICES (AAIS)

From: Lori Dreaver Munn <lorim@AAISonline.com>
Sent: Tuesday, May 24, 2022 3:45 PM
To: Thomas, Lia C <LCThomas@naic.org>; DeFrain, Kris <kdefrain@naic.org>
Cc: Michael Payne <michaelpa@AAISonline.com>; Robin Westcott <robinw@AAISonline.com>
Subject: RE: CASTF - LCM Form Exposed for Comment

Good afternoon Kris and Lia,

On behalf of the American Association of Insurance Services (AAIS) we offer the following comments in response to your email dated April 28, 2022. Overall, we feel that the additional level of detail and explanations are great improvements. We have provided feedback specific to each section as indicated below:

General

- SERFF Filing # would be good information to capture.

3. Loss Cost Modification/Deviation

- For complete transparency, it may be helpful to add another row in this section for the factors instead of using the descriptive examples.

	Current	Proposed	% Change
A. Loss Cost Modification	%	%	N/A
A. Loss Cost Modification Factor (1.000 + 3A)			

6/7/22

Comments about LCM Form Exposure

- A formula for the % Change field may also be beneficial.
5. Calculation of Permissible Loss (and Loss Adjustment Expense) Ratio
- In item 5.B., consideration should be given to displaying the formula, perhaps replacing the '=' with [5A/100] following the word Form. For consistency, perhaps in item 5.A., the '=' following 4J should be removed as well. (Items 7 and 8 do not display '=' in their formulas).
8. Percent Change (from Current to Proposed)
- In item 8.A., for clarity of the formula, it may be more meaningful to move the ')' after the word 'Current' or to use a display similar to 8.D, like [(7B Prop / 7B Curr) – 1.000]

Expense Constant

- Are there instructions for how to calculate an expense constant, if applicable?


Please do not hesitate to contact me if you have any questions or if you require any additional information.

Thank you.


Lori

**Lori Dreaver Munn**

Manager, Government Relations and Compliance

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**ORIGINAL EXPOSURE EMAIL**

On Thu, Apr 28, 2022 at 2:03 PM Thomas, Lia C <LCThomas@naic.org> wrote:

To: Casualty Actuarial and Statistical (C) Task Force, Interested Regulators, and Interested Parties

Eric Slavich, CASTF Chair, exposes the attached proposed NAIC loss cost multiplier form for a 40-day comment period, with comments due by **Tuesday, June 7**. The volunteer drafters, led by Larry Steinert, propose this revised form could apply to any line of business (so there would no longer be a separate form for work comp). There is also an aim for this form to meet the needs of almost all states, if possible, whether LAE is included in loss costs or not. If your state has a special need that could be met with a proposed NAIC form, please submit comments. The

6/7/22

Comments about LCM Form Exposure

current forms are located at this
link: https://content.naic.org/industry_rates_forms_loss_cost.htm

The plan is to be able to discuss comments received on the June 14 CASTF conference call.

Kris DeFrain

Director

Research & Actuarial Services



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Draft: 8/9/22

Actuarial Opinion (C) Working Group
Virtual Meeting
August 2, 2022

The Actuarial Opinion (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met Aug. 2, 2022. The following Working Group members participated: Anna Krylova, Chair (NM); Miriam Fisk, Vice Chair (TX); Qing He (CT); David Christhlf (DC); Judy Mottar (IL); Sandra Darby (ME); Julie Lederer (MO); Gordon Hay (NE); Tom Botsko (OH); Andrew Schallhorn (OK); and Kevin Clark, James DiSanto, and Jeffery Smith (PA).

1. Discussed a Financial Analysis (E) Working Group Referral on Predictive Analytics in Reserve Setting

The Working Group received a referral from the Financial Analysis (E) Working Group (Attachment Three-A) asking for discussion of the use of predictive analytics in reserve setting and consideration of drafting guidance.

Ms. Lederer said it might be helpful to provide financial examiners with questions they might want to ask about any type of model. The Working Group discussed creating questions general in nature; using Actuarial Standard of Practice (ASOP) No. 56, Modeling; paring down questions for rating models in the *Regulatory Review of Predictive Models* white paper; investigating whether models are being used for case reserves, not just incurred but not reported claim reserves; separating out questions based on types of reserves being established; and adding subsections specific to the type of model in addition to the general questions.

2. Discussed Potential Changes to the Qualification Documentation Requirements and Disclosures

Ms. Krylova said the Working Group met June 3 and May 26 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to discuss the individual companies' Statements of Actuarial Opinion (SAOs). The Working Group expressed agreement to reconsider qualification documentation requirements. One idea is to only require qualification documentation every five years or if the company has significant changes. Ms. Lederer said the risk-based capital (RBC) instructions contain a list of requirements for filing the catastrophe risk charge documentation that may be useful as sample language to adjust for the qualification documentation. Interested parties said there would likely be numerous issues that would need to be detailed in the instructions if they are changed.

3. Discussed Proposed Changes to Regulatory Guidance and Annual Statement Instructions

State insurance regulators noticed that COVID-19 exposure was not always mentioned in 2021 actuarial opinions. Ms. Krylova suggested that the Working Group discuss whether COVID-19 exposure should continue to be in the opinions or whether it may be appropriate to eliminate COVID-19 disclosure in the opinion at some point.

Ms. Krylova said the Working Group previously discussed which ASOPs to reference in the instructions or whether to refer to the actuarial matrix. She said some potential wording would be as follows: "Although it is the responsibility of the Appointed Actuary to identify the ASOPs applicable to the Actuarial Opinion, Actuarial Opinion Summary, and the Actuarial Report, the Appointed Actuary may find it useful to review the Applicability Guidelines for Actuarial Standards of Practice published by the Actuarial Standards Board (ASB)."

Ms. Krylova asked whether the applicable ASOPs should be disclosed in the Actuarial Report. Working Group members did not identify significant value in having such a list.

Ms. Krylova said the Working Group previously discussed defining “conclusions” and “actuary’s conclusions” and some additional proposals regarding Section 7. With limited discussion on the call, Ms. Krylova said the changes could be discussed on the next call.

Having no further business, the Actuarial Opinion (C) Working Group adjourned.

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MEMORANDUM

TO: Anna Krylova, Chair, Actuarial Opinion (C) Working Group

FROM: Judy Weaver, Chair, Financial Analysis (E) Working Group

DATE: May 9, 2022

RE: Enhanced Regulatory Guidance

As you may be aware, the Financial Analysis (E) Working Group (FAWG) meets annually in Kansas City to discuss among other things, potentially troubled insurers and insurance groups. During this meeting, FAWG also discusses issues and industry trends, including identifying any that are potentially adverse or might warrant communication and coordination with other NAIC groups. As a result of the issues and trends discussed, FAWG would like to refer the following items to the attention of your group.

1. **Use of Predictive Analytics in Reserve Setting** – In conducting “post-mortem” analysis of a recently failed insurer, we discussed whether the insurer's use of "predictive analytical models" could have been a contributing factor. We would like you to a) discuss the use of predictive analytical models in setting reserves and b) recommend whether additional guidance should be offered to regulators who are reviewing predictive models in reserving.

In considering these issues, FAWG recommends consideration of additional guidance for regulatory actuaries and/or financial analysts/examiners to ensure these concerns are adequately addressed. If necessary and appropriate, the Working Group should consider working with the Financial Analysis Solvency Tools (E) Working Group and/or the Financial Examiners Handbook (E) Technical Group to address. If there are any questions regarding the proposed recommendation, please contact me or NAIC staff (Bruce Jenson at bjenson@naic.org) for clarification.

Thank you for your consideration.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/C CMTE/2022_Summer/CASTF/AOWG/2022 FAWG Referral to AOWG.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/C%20MTE/2022_Summer/CASTF/AOWG/2022%20FAWG%20Referral%20to%20AOWG.docx)

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Draft: 8/4/22

Statistical Data (C) Working Group
E-Vote
August 4, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force conducted an e-vote that concluded Aug. 4, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair (CT); David Christhlf (DC); Arthur Schwartz (LA); Alexander Vajda (NY); Tom Botsko (OH); Landon Hubbard (OK); and David Dahl (OR).

1. Adopted its July 20 Minutes

The Working Group met July 20 to discuss proposed changes to the *Competition Database Report* (Competition Report) and the *Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report).

A majority of the Working Group members voted in favor of adopting the Working Group's July 20 minutes (Attachment Four-A). The motion passed.

Having no further business, the Statistical Data (C) Working Group adjourned.

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Draft: 8/1/22

Statistical Data (C) Working Group
Virtual Meeting
July 20, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met July 20, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair, and Qing He (CT); David Christhif (DC); Arthur Schwartz (LA); Cynthia Amann and Brent Kabler (MO); Christian Citarella (NH); Alexander Vajda (NY); Tom Botsko (OH); Landon Hubbart (OK); David Dahl and Ying Liu (OR); and Brian Ryder and Ken Burton (TX). Also participating were: David Dombrowski (MT); Martin Swanson (NE); and Mike Andring (ND).

1. Adopted its June 15 Minutes

The Working Group met June 15 to: 1) adopt an accelerated timeline for auto premium and exposure data collection; and 2) discuss proposed changes to the *Competition Database Report* (Competition Report) and the *Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report).

Mr. Botsko made a motion, seconded by Ms. Amann, to adopt the Working Group's June 15 minutes (Attachment Four-A1). The motion passed unanimously.

2. Discussed Proposed Changes to NAIC Statistical Reports

Ms. Darby said the Working Group discussed the proposed changes to the Competition Report and the Homeowners Report during its June 15 meeting. She said the Working Group will discuss proposed changes to the *Auto Insurance Database Report* (Auto Report) and the *Report on Profitability By Line By State* (Profitability Report).

Mr. Schwartz said in the Profitability Report, he would like to see a breakout of the rate of return by different types of insurers, including mutual reciprocals, risk retention groups (RRGs), surplus lines, and stock insurers. He said this would be valuable for state insurance regulators when looking at rate filings and company reserves. Birny Birnbaum (Center for Economic Justice—CEJ) agreed that it is useful to look at the profitability of investor-owned insurers versus policyholder-owned insurers because the profitability of the industry is distorted in the aggregate. He said different types of companies have different goals for their rate of return. He said he does not see the need for a breakout of surplus lines insurers. Ms. Darby said she would like NAIC staff to see if Mr. Schwartz's suggested changes can be incorporated into the report.

Mr. Schwartz said the Auto Report is useful and often quoted in the media. He said he would like to improve on the report with additional useful information. He said the report currently shows the average premium by state, but he would like the report to show the average premium by metropolitan statistical area (MSA). He said this would be useful in comparing states and areas with similar populations. Ms. Darby asked if MSA or ZIP code data would be better to include. Mr. Schwartz said he wants to be able to drill down into premiums in heavily populated areas versus less populated areas, but he does not have a preference whether that data is collected by ZIP code or MSA. Mr. Citarella said MSAs can cross state lines, so they may not directly correlate to state totals. Mr. Birnbaum said insurance companies would have to convert existing data into geographic areas that correlate to the MSA. He said companies would more easily be able to provide ZIP code data.

Mr. Schwartz said he would like the Auto Report to include additional information such as the average age of private passenger autos (PPAs) on the road, median value of cars on the road, median liability policy limit, median per capita disposable income, population, number of insured drivers, number of registered personal autos, number of earned exposures, minimum liability limits, number of accidents, number of DUI arrests, and accident count and frequency with autonomous emergency braking (AEB) systems. He said some of this information can be collected from insurers, and other information would need to come from external sources such as government databases. He said adding these metrics would allow the report to become a warehouse of extremely useful data.

Ms. Darby asked if the report should include data on other driver assistance systems beyond the AEB system data. Mr. Schwartz said the AEB data would be most important to collect, but the other data would also be useful.

Mr. Chou said the Working Group should weigh the costs and benefits of adding additional information to the report. He said it should consider the cost of adding data that may delay the publication of the report. He said the Working Group should also consider who the customer is and what benefits this additional data would provide them.

Mr. Citarella said some of the external data would be hard to obtain, such as number of licensed drivers and number of crashes.

Mr. Birnbaum said the Working Group needs to consider how the Auto Report is used and what kind of data state insurance regulators and other users would find useful. He said the report should be a high-level summary of premiums and exposures across states. He said the report should only include insurance-relevant information. He said to get a more granular level of detail, statistical reporting would have to be required on a transactional level. He said some of the additional data elements that are being discussed for this report should be included in a re-engineered statistical plan.

Tony Cotto (National Association of Mutual Insurance Companies—NAMIC) said NAMIC is committed to working with state insurance regulators to provide the data that is needed. He said many of the data found in government databases are estimates that are compiled from state agencies. He encouraged the Working Group to look at information from the Insurance Institute of Highway Safety (IIHS), which may be helpful for its review of auto insurance data. He agreed that the purpose of this Auto Report is to be a high-level public consumption summary.

Mr. Schwartz said he would like the Working Group to consider changing the names of certain statistical reports so that all reports coming from this Working Group have a consistent naming structure. He said, for example, the Homeowners Report should be titled the Homeowners Insurance Database. He said this is more consistent with the name of the Auto Report and allows people to easily search for the report.

Ms. Darby said NAIC staff will summarize the proposed changes and that the Working Group would continue to consider these changes in future meetings.

Having no further business, the Statistical Data (C) Working Group adjourned.

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Draft: 7/18/22

Statistical Data (C) Working Group
Virtual Meeting
June 15, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met June 15, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair, George Bradner, and Qing He (CT); David Christhlf (DC); Arthur Schwartz (LA); Cynthia Amann and Jo LeDuc (MO); Christian Citarella (NH); Alexander Vajda (NY); Andrew Schallhorn and Landon Hubbard (OK); Ying Liu (OR); and Brian Ryder (TX). Also participating were: Luciano Gobbo (CA); Tate Flott (KS); Mari Kindberg and David Dombrowski (MT); and Mike Andring (ND).

1. Adopted its May 18 Minutes

The Working Group met May 18 to hear a presentation from the Center for Economic Justice (CEJ) on statistical data collection.

Ms. Amann made a motion, seconded by Mr. Vajda, to adopt the Working Group's May 18 minutes (Attachment Four-A1a). The motion passed unanimously.

2. Adopted an Accelerated Timeline for Auto Premium and Exposure Data Collection

Ms. Darby said discussion with statistical agents has found that most submitting statistical agents could provide the written premium and exposure data for auto insurance by November following the end of the data year. She said other statistical agents indicated that they would be able to adjust their timelines to the Working Group's requested date. She said Texas data would be available toward the end of November following the end of the data year. Ms. Darby said NAIC staff would need about eight weeks to check the submitted data and compile the full report. She said that after review from this Working Group and the Casualty Actuarial and Statistical (C) Task Force, the publication would be available for release about three months into the following year.

Ms. Darby said the data is currently provided about 18 months after the end the data period. She said the accelerated timeline would speed up the publishing of the *Auto Insurance Database Report* (Auto Report) to about nine months sooner.

Mr. Chou made a motion, seconded by Ms. Amann, to move up the reporting timeline for auto premium and exposure data to Dec. 1 following the end of the data year.

3. Discussed Proposed Changes to NAIC Statistical Reports

Mr. Schwartz said he has proposed changes to the statistical reports that would include data that would be more useful than what is currently in the reports. He said he is open to these additional elements being published after the average premium reports, as the average premium is much more important to have in a timely manner.

Mr. Schwartz said the *Competition Database Report* (Competition Report) should show the breakout of the market share by different types of insurance companies. He said whether a company is a stock, mutual, risk retention group (RRG), or surplus carrier would affect how it is viewed in an analysis of market competition. Mr. Vajda asked where residual market insurers would fit in to the new proposed columns. Jennifer Gardner (NAIC) said the report does currently include RRGs and surplus lines carriers. She said residual markets are not included because most

of them do not report on the NAIC Annual Statement. Mr. Schwartz said he would still like to see additional columns for breaking out stock and mutual companies. Ms. Gardner said those columns replace the columns that currently show the last five-year average.

Mr. Bradner agreed that he would like to see a breakout of residual markets in this report. He said that states could require the residual markets to report their data for this report. Ms. Gardner said she would have to research which residual markets might already report on the NAIC annual statement, but the Working Group could look at collecting the data separate from the annual statement and add it into the Competition Report.

Birny Birnbaum (CEJ) said the Property Insurance Plans Service Office (PIPSO) and AIPSO collect the residual market information. Mr. Bradner said not all state residual markets may provide that data currently. He said if PIPSO and AIPSO could provide that data, it would be a simple way to add the data into the report. He said there is an issue that there are different kinds of residual markets. He said some are assigned risk plans where the risk is assigned to different companies. He said in that case, companies would need to break out their voluntary experience from their assigned risk experience. He said having the residual market data is a good indicator of disruption in the market if a residual market is growing in a certain state. Ms. Gardner said the residual market should be an appendix to the current report in order to not skew the number of insurers shown in the report. Mr. Citarella said states would likely see indicators of an increase in residual market growth before this data would even be available. Mr. Bradner agreed and said this data would just be in addition to other data the department would receive, such as consumer complains. Ms. LeDuc said Missouri receives updates from its residual markets on at least an annual basis, if not quarterly.

Mr. Schwartz said in the *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative United Owners Insurance* (Homeowners Report), he would like to see a chart of average premium by state. He said these premiums would need to be tempered by the average policy limit, as well as the number of homes insured in that particular state. He said the Census Bureau can provide the number of owner-occupied homes versus the number of rental homes, as well as the number of homes insured under a Fair Access to Insurance Requirements Plan (FAIR Plan). He said he would also like to include flood insurance data, including the number of homes insured in a flood zone and how many homes are insured via the National Flood Insurance Program (NFIP) and how many homes are insured by private flood insurance. Mr. Bradner said that the Federal Emergency Management Agency (FEMA) flood data is hard to obtain and that much of the private flood insurance is written by surplus lines carriers, but he would like to be able to see that information included in the report. He said it would be most useful to state insurance regulators to have all of this information available in a Tableau dashboard that each state insurance regulator can use to drill down the data in their state.

Having no further business, the Statistical Data (C) Working Group adjourned.

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Draft: 6/7/22

Statistical Data (C) Working Group
Virtual Meeting
May 18, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met May 18, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair, George Bradner, and Amy Waldhauer (CT); Daniel Davis (AL); Arthur Schwartz (LA); Cynthia Amann (MO); Christian Citarella (NH); Ed Scanlon (NJ); Tom Botsko (OH); Andrew Schallhorn (OK); David Dahl and Ying Liu (OR); and Brian Ryder (TX). Also participating were: Luciano Gobbo (CA); Anthony Bredel (IL); Mari Kindberg (MT); Chris Aufenthie and Mike Andring (ND); and Mary Block (VT).

1. Adopted its April 14 Minutes

The Working Group met April 14 to: 1) discuss the timeline of data collection for the *Auto Insurance Database Report* (Auto Report); and 2) discuss updating the *Statistical Handbook of Data Available to Regulators* (Handbook).

Ms. Amann made a motion, seconded by Mr. Botsko, to adopt the Working Group's April 14 minutes (Attachment Four-A1a1). The motion passed unanimously.

2. Heard a Presentation from the Center for Economic Justice on Statistical Data Collection

Birny Birnbaum (Center for Economic Justice—CEJ) said the topic of his presentation is modernizing statistical data reporting for personal lines insurance. He said the availability of the data relating to the Covid-19 pandemic is a good place to begin looking at how data can be collected. He said Workers' Compensation insurance data related to Covid-19 claims, as well as mortgage lending and other financial data on CARES Act funds were made available during the pandemic. He said the data was available on a one to two month lag. Mr. Birnbaum said there was not available data for regulators for personal lines insurance like auto and homeowners.

Mr. Birnbaum said the NAIC Statistical Handbook says responsibilities most relevant to statistical data collection include ensuring rates meet statutory standards and monitoring market structure and performance. He said currently the statistical data system fails to provide timely and relevant data for most Property and Casualty lines of business to assist regulators in carrying out these responsibilities. He said the statistical agency system has not been updated in most states in 40 years and that has led to the NAIC producing Auto and Homeowners Reports three years after the experience period begins.

Mr. Birnbaum said there are three differences in the reporting of Workers' Compensation data and personal lines insurance data: 1) Workers' Compensation data is collected by a single statistical agent in each state while insurers for other property and casualty lines have about four different statistical agents to choose from; 2) Workers' Compensation data is collected at a transaction level; and 3) Workers' Compensation data is collected on a monthly basis which offers a much faster turn around time for data analysis.

Mr. Birnbaum said the solution to modernizing the collection of statistical data is to use existing regulatory authority to update statistical plans, designate a single statistical agent through a competitive bidding process, and establish requirements that the primary duty of the statistical agent is to serve the regulator. He said updated statistical plans should require reporting on at least a quarterly basis.

Mr. Birnbaum said statistical agents that collect transaction level data are in a better position to provide the data in a timely manner and to do better data quality checks. He said moving to a single statistical agent approach would increase the efficiency of data reporting.

Mr. Scanlon said some statistical agents have more relaxed reporting requirements and therefore companies are reporting skeletal data that still satisfies the requirements. He asked if changing the reporting requirements would increase costs. Mr. Birnbaum said that a new statistical plan and reporting system would increase efficiencies and lower cost. He said companies that are reporting in Texas are already doing this kind of data collection and reporting. He said a more robust statistical plan would decrease the amount of special data calls for companies. Mr. Scanlon asked to what extent should stricter reporting requirements be seen as a barrier to entry. Mr. Birnbaum said reporting transaction data should not be difficult for companies because it is essentially a data dump, whereas a summary report would require a program to pull and aggregate the data.

Mr. Chou asked how to go about getting all statistical agents to compile with transaction reporting. Mr. Birnbaum said Commissioner's have the authority to designate statistical plans and even to designate a single statistical agent. He said that process begins with this working group modernizing the statistical reporting system.

Ms. Darby asked if it is possible to request that all statistical agents provide transaction data. Mr. Birnbaum said at least 2 large statistical agents only collect summary data and would need to transition their systems.

Albert Burton (Independent Statistical Service—ISS) said some companies do not have a need for the expansive reporting required by Insurance Services Office (ISO) and that ISS is able to fill their need with less requirements. He said if reporting requirements in the NAIC Statistical Handbook change, then ISS will comply with those changes.

Mr. Schwartz said auto and homeowners data was coming in during the pandemic via fast track reports and regulators were actively looking at those reports. He said the fast track reports could be improved as an alternative to the idea of a new, single statistical agent.

Steve Clarke (ISO) said the way the Workers' Compensation industry developed led to one statistical agent collecting the data for purposes of experience modification. He said ratemaking is the main reason for statistical agents that are also advisory organization to collect robust data. He said many states that have adopted regulations around statistical reporting have language that while the Commissioner appoints statistical agents, the companies get to choose a statistical agent to act on its behalf. He said instead of making the move to a single statistical agent, regulators should decide what data they need and why they need that data.

Ms. Darby said the discussion of specific data elements and what data regulators need will be a topic during the next meeting.

Having no further business, the Statistical Data (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C Cmte/2022_Summer/CASTF/SDWG/05-18-22/StatDataWGmin_518.docx

Draft: 4/29/22

Statistical Data (C) Working Group
Virtual Meeting
April 14, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met April 14, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair, George Bradner, and Qing He (CT); David Christhilf (DC); Cynthia Amann (MO); Alexander Vajda (NY); Tom Botsko (OH); Landon Hubbard (OK); David Dahl (OR); and Brian Ryder (TX). Also participating were: Luciano Gobbo (CA); Randy Jacobson (HI); Anthony Bredel (IL); Brenda Johnson (KS); Regan Hess (MT); and Michael Muldoon (NE).

1. Adopted its March 10 Minutes

The Working Group met March 10 to: 1) discuss the timeline of data collection for the *Auto Insurance Database Report* (Auto Report); and 2) discuss updating the *Statistical Handbook of Data Available to Regulators* (Handbook).

Ms. Amann made a motion, seconded by Mr. Chou, to adopt the Working Group's March 10 minutes (Attachment Four-A1a1a). The motion passed unanimously.

2. Discussed the Timeline of Data Collection for the Auto Report

Ms. Darby said the Working Group has been discussing the possibility of requesting data on a faster timeline for the Auto Report. She said the NAIC sent questions to the submitting statistical agents to get a better sense of each statistical agent's timeline for submitting data for written premium and exposures, earned premium and exposures, and losses.

Ms. Darby said the first question asked was when statistical agents currently submit their data. She said the responses reflect that the data is submitted between March and May. She said the data is submitted on a two-year lag for written premium and a three-year lag for earned premium and losses.

Ms. Darby said the second question asked was when statistical agents could submit written premium and exposure data for the previous year. She said the Insurance Service Office (ISO) and the Commonwealth Automobile Reinsurers (CAR) indicated that they could submit that data in May following the end of the data year. She said the National Independent Statistical Service (NISS), the American Association of Insurance Services (AAIS), and the California Department of Insurance (DOI) indicated that they could submit that data from October to November following the end of the data year. She said the Independent Statistical Services Inc. (ISS) indicated that it would be able to submit the data on the same timeline that it is currently submitted.

Mr. Bradner asked why certain statistical agents are not able to provide the data as quickly and what they would need to do to get the data in faster. Mr. Gobbo said California collects all the data in one data call, and losses are evaluated as of June 30. He said the deadline for data submission from the companies is Sept. 1. Truman Esmond (AAIS) said the AAIS has similar restraints with respect to when the data is collected. He said the AAIS is also required to reconcile the data to the finalized financial statement data. Theresa Szwast (NISS) said companies submit their auto data by June 15 following the end of the data year. She said the NISS would need until October to do data quality checks before sending it to the NAIC.

Birny Birnbaum (Center for Economic Justice—CEJ) asked what is different about the data collections and systems for the statistical agents that can provide the data much sooner than the others. Laura Panesso (ISO) said the ISO collects data on a quarterly basis as opposed to an annual basis. Mr. Birnbaum asked if the quarterly data was reconciled to the financial statement. Ms. Panesso said the ISO performs several data quality checks on the quarterly data, but the reconciliation to the financial statement happens on an annual basis. Mr. Esmond said the AAIS receives quarterly and some monthly data, but the financial statement reconciliation only happens on an annual basis. He said if the financial statement data can be finalized faster, the AAIS would be able to provide the data faster. Mr. Birnbaum asked why the reconciliation of the annual data would take seven months if the quarterly data is reconciled throughout the year. Mr. Esmond said the AAIS would not need seven months. He said if it relies on only quarterly reports, the data could change in the final annual data. He said the AAIS would be able to meet accelerated requirements as it is able to.

Ms. Darby said she does not want to give statistical agents an unreasonable timeline for data submission, but it seems most statistical agents can speed up the data submission.

Mr. Birnbaum said reconciliation to the financial annual statement is not the only tool to check data quality. He said the reconciliation is not a requirement of the Handbook. Susan Chudwick (Travelers Insurance) said if the reconciliation is not required, that would speed up the reporting of the data. Mary Annese (ISO) said with the accelerated timeline, the ISO would not be able to fully reconcile the data to the financial annual statement. She said the ISO has many other data checks that allow them to be confident in the data quality. Mr. Bradner said it makes sense to speed up the timeline and worry about the reconciliation of the data later since there are other data checks in place. Ms. Szwast said the NISS only receives the data annually in June, and it would still need time to do data quality checks before sending the data to the NAIC. She said the June deadline is set to meet reporting requirements for the statistical data that is sent to states.

Ms. Darby asked if the statistical agents would similarly be able to move up the earned premium and earned exposure data. Ms. Panesso said the ISO would be able to move up the earned premium to the same timeline as written premium. Ms. Szwast said the NISS earned premium data is tied to the loss data, and that could be provided in May, two years after the data year.

Mr. Birnbaum said the Working Group should not aim for a timeline of the lowest common denominator. Ms. Darby said the goal is to really explore the limitations of the statistical agent's ability to send data faster, and once that has been uncovered, state insurance regulators can push for a faster timeline that is feasible for the statistical agents.

3. Discussed Updating the Handbook

Ms. Darby said during the last meeting, Section 1 of the Handbook was opened for comment. She said before beginning specific updates, the Working Group should dig in to see if and how states are currently using the statistical data. She said the Working Group needs to determine what data is useful to state insurance regulators.

Mr. Dahl said Oregon is looking at data reporting because it has questions from the legislature about sub-markets in Oregon. He said Oregon is looking at developing a specialized data call at the zip code level to answer questions about localized markets.

Mr. Birnbaum said the Handbook says the responsibilities most relevant to statistical collection are to: 1) ensure rates meet statutory standards, meaning they are not inadequate, excessive, or unfairly discriminatory; and 2) monitor market structure and performance, and act if necessary to restore competition or remedy problems. He said states cannot use the statistical reports to determine if companies' rates do not meet statutory standards

because there is no individual company data, and the data is too old to be helpful. Robin Westcott (AAIS) said most states do not have specific requirements for statistical reporting in their legislation. She said the AAIS is looking at what data state insurance regulators need, why and how they use it, and how industry can facilitate getting useful data to them.

Ms. Darby said conversations around the timeline of auto data reporting and updating the Handbook would continue in the next meeting.

Having no further business, the Statistical Data (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022_Summer/CASTF/SDWG/04-14-22/StatDataWGmin_414.docx

Draft: 3/31/22

Statistical Data (C) Working Group
Virtual Meeting
March 10, 2022

The Statistical Data (C) Working Group of the Casualty Actuarial and Statistical (C) Task Force met March 10, 2022. The following Working Group members participated: Sandra Darby, Chair (ME); Wanchin Chou, Vice Chair, and Qing He (CT); Daniel Davis (AL); David Christhlf (DC); Cynthia Amann (MO); Christian Citarella (NH); Alexander Vajda (NY); Tom Botsko (OH); David Dahl (OR); and Brian Ryder (TX). Also participating were: Luciano Gobbo (CA); Randy Jacobson (HI); Anthony Bredel (IL); Brenda Johnson (KS); Nichole Torblaa (LA); Regan Hess (MT); Chris Aufenthie and Mike Andring (ND); and Eric Lowe (VA).

1. Discussed Changes to the Timeline of the Auto Database Report

Ms. Darby said that during the Working Group's Jan. 27 meeting, it voted to collect 2020 and 2021 data for homeowners from statistical agents and residual markets. She said the request has been sent out and that while the *2020 Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report) could be released at the end of 2022, the 2021 Homeowners Report would likely be published in early 2023 due to the timeline that certain statistical agents receive and send their data to the NAIC.

Ms. Darby said during that meeting, the Working Group also discussed the timeline of the *Auto Insurance Database Report* (Auto Report), and she had asked NAIC staff to mock up a new version of the Auto Report tables with previous year data. She said Table 1A through Table 5 show written premium and exposure. She said based on previous conversations about this topic, the Working Group knows the Texas previous year data would not be able to be provided. Mr. Ryder said Texas is having internal discussions on the best way to present its data, but it currently find it acceptable to put "N/A" or leave blank the space for its previous year data.

Ms. Darby said adding previous data year written premium and exposure to Table 1A through Table 5 would satisfy the charge from the Casualty Actuarial and Statistical (C) Task Force to speed up the report of average premiums for auto insurance. Mr. Dahl said he agrees this would satisfy the charge. There was no disagreement from Working Group members.

Ms. Darby said during the last meeting of the Working Group, there was discussion about the comparison of premiums and exposure to the loss data. She said this data starts in Table 6 of the Auto Report. She said statistical agents have already commented that they cannot speed up submission of loss data, and there was concern that earned premium data may not directly correlate to the loss data if premium data could be submitted faster than loss data. She said the mock-up of the Auto Report tables shows a possible additional appendix in which to display the earned premium and exposure data. Mr. Chou said the earned premium data should be published as soon as it is available.

Theresa Szwast (National Independent Statistical Service—NISS) said while earned premium can be provided somewhat faster than it currently is, it could be provided even faster if it was not requested at a coverage level. She said if it was provided in a similar matter as the data in Table 1A through Table 5, which groups all liability coverage together, then it could be provided much faster than the current submission time. Birny Birnbaum (Center for Economic Justice—CEJ) asked how much longer the data broken down by coverage type would take to submit. Ms. Szwast said that data is closely related to their claims system and, therefore, could only be provided at the same time as the claims and loss data.

Mr. Birnbaum said the report currently provides average premium and average expenditure calculations. He said without having the earned exposures broken down by coverage, the report would not show both calculations. Mr. Citarella said policies have different coverages included and, therefore, the total earned exposures would not reflect what the earned exposures by coverage type shows.

Mr. Citarella said he understands that it takes time for the statistical agents to be able to submit the data broken down by coverage type. He said the exact timing of data submission is still an open question. Laura Panesso (Insurance Service Office—ISO) said the ISO could provide earned premium and exposure data in the same time frame as the written premium and could provide the loss data mid-year for the prior data year. Ms. Darby said she would like NAIC staff to gather more specific time frame data from submitting statistical agents so the Working Group can evaluate the full time frame for the Auto Report during its next meeting.

2. Discussed the Need for Updates to the Statistical Handbook of Data Available to Insurance Regulators

Ms. Darby said she would like the Working Group to hold open meetings monthly to review and suggest changes to the *Statistical Handbook of Data Available to Insurance Regulators*. She said she would like to work on one section of the Handbook at a time, and she opened Section 1 of the handbook for comment.

Having no further business, the Statistical Data (C) Working Group adjourned.

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APPENDIX B-RF – INFORMATION ELEMENTS AND GUIDANCE FOR A REGULATOR TO MEET BEST PRACTICES’ OBJECTIVES (WHEN REVIEWING RANDOM FORESTS)

This appendix identifies the information a state insurance regulator may need to review a Random Forest predictive model used by an insurer to support a personal automobile or home insurance rating plan. The list is lengthy but not exhaustive. It is not intended to limit the authority of a regulator to request additional information in support of the model or filed rating plan. Nor is every item on the list intended to be a requirement for every filing. However, the items listed should help guide a regulator to sufficient information that helps determine if the rating plan meets state-specific filing and legal requirements. Documentation of the design and operational details of the model will help ensure the business continuity and transparency of the models used. Documentation should be sufficiently detailed and complete to enable a qualified third party to form a sound judgment on the suitability of the model for the intended purpose. The theory, assumptions, methodologies, software, and empirical bases should be explained, as well as the data used in developing and implementing the model. Relevant testing and ongoing performance testing need to be documented. Key model limitations and overrides need to be pointed out so that stakeholders understand the circumstances under which the model does not work effectively. End-user documentation should be provided and key reports using the model results described. Major changes to the model need to be documented and shared with regulators in a timely and appropriate manner. Information technology (IT) controls should be in place, such as a record of versions, change control, and access to the model.¹

Many information elements listed below are probably confidential, proprietary, or trade secret and should be treated as such, in accordance with state laws and/or regulations. Regulators should be aware of their state laws and/or regulations on confidentiality when requesting data from insurers that may be proprietary or trade secret. For example, some proprietary models may have contractual terms (with the insurer) that prevent disclosure to the public. Without clear necessity, exposing this data to additional dissemination may compromise the model’s protection.² Although the list of information is long, the insurer should already have internal documentation on the model for more than half of the information listed. The remaining items on the list require either minimal analysis (approximately 25%) or deeper analysis to generate for a regulator (approximately 25%).

The “Level of Importance to the Regulator’s Review” is a ranking of information a regulator may need to review, which is based on the following level criteria:

Level 1 – This information is necessary to begin the review of a predictive model. These data elements pertain to basic information about the type and structure of the model, the data and variables used, the assumptions made, and the goodness of fit. Ideally, this information would be included in the filing documentation with the initial submission of a filing made based on a predictive model.

Level 2 – This information is necessary to continue the review of all but the most basic models, such as those based only on the filer’s internal data and only including variables that are in the filed rating plan. These data elements provide more detailed information about the model and address questions arising from review of the information in Level 1. Insurers concerned with speed to market may also want to include this information in the filing documentation.

Level 3 – This information is necessary to continue the review of a model where concerns have been raised and not resolved based on review of the information in Level 1 and Level 2. These data elements address even more detailed aspects of the model. This information does not necessarily need to be included with the initial submission, unless specifically requested by a particular state, as it is typically requested only if the reviewer has concerns that the model may not comply with state laws and/or regulations.

Level 4 – This information is necessary to continue the review of a model where concerns have been raised and not resolved based on the information in Level 1, Level 2, and Level 3. This most granular level of detail is addressing the basic building blocks of the model and does not necessarily need to be included by the filer with the initial submission,

¹ Bourdeau, M., 2016. “Model Risk Management: An Overview,” The Modeling Platform, Issue 4, December. Accessed online at <https://www.soa.org/globalassets/assets/library/newsletters/the-modeling-platform/2016/december/mp-2016-iss4.pdf>

² There are some models that are made public by the vendor and would not result in a hindrance of the model’s protection.

unless specifically requested by a particular state. It is typically requested only if the reviewer has serious concerns that the model may produce rates or rating factors that are excessive, inadequate, and/or unfairly discriminatory.

Appendix B-RF is focused on Random Forest models and should not be referenced in the review of other model types. Random Forest models are a tree-based approach with many significant differences from GLMs. This Appendix B-RF is intended to provide state guidance for the review of rate filings based on Random Forest models.

A. SELECTING MODEL INPUT

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
1. Available Data Sources			
A.1.a	Review the details of sources for both insurance and non-insurance data used as input to the model (only need sources for filed input characteristics included in the filed model).	1	<p>Request details of data sources, whether internal to the company or from external sources. For insurance experience (policy or claim), determine whether data is aggregated by calendar, accident, fiscal, or policy year and when it was last evaluated. For each data source, get a list of all data elements used as input to the model that came from that source. For insurance data, get a list all companies whose data is included in the datasets.</p> <p>Request details of any non-insurance data used (customer-provided or other), whether the data was collected by use of a questionnaire/checklist, whether data was voluntarily reported by the applicant, and whether any of the data is subject to the federal Fair Credit Reporting Act (FCRA). If the data is from an outside source, find out what steps were taken to verify the data was accurate, complete, and unbiased in terms of a relevant and representative time frame, representative of potential exposures, and lacking in obvious correlation to protected classes.</p> <p>Note: Reviewing source details should not make a difference when the model is new or refreshed; refreshed models would report the prior version list with the incremental changes due to the refresh.</p>
A.1.b	Reconcile aggregated insurance data underlying the model with available external insurance reports.	4	<p>Accuracy of insurance data should be reviewed. It is assumed that the data in the insurer’s data banks is subject to routine internal company audits and reconciliation. “Aggregated data” is straight from the insurer’s data banks without further modification (i.e., not scrubbed or transformed for the purposes of modeling). In other words, the data would not have been specifically modified for the purpose of model building. The company should provide some form of reasonability check that the data makes sense when checked against other audited sources.</p>

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
A.1.c	Review the geographic scope and geographic exposure distribution of the raw data for relevance to the state where the model is filed.	2	Many models are developed using a countrywide or a regional dataset. The company should explain how the data used to build the model makes sense for a specific state. The regulator should inquire which states were included in the data underlying the model build, testing, and validation. The company should explain why any states were excluded from the countrywide data. The company should provide an explanation where the data came from geographically and that it is a good representation for a state; i.e., the distribution by state should not introduce a geographic bias. However, there could be a bias by peril or wind-resistant building codes. Evaluate whether the data is relevant to the loss potential for which it is being used. For example, verify that hurricane data is only used where hurricanes can occur. The company should provide a demonstration that the model fits well on the specific state or surrounding region.
2. Sub-Models			
A.2.a	Consider the relevance of (i.e., whether there is bias) of overlapping data or variables used in the model and sub-models.	3	Check if the same variables/datasets were used in the model, a sub-model, or as stand-alone rating characteristics. Random Forest models handle redundant variables by splitting on only one of the variables within each component tree. By contrast, generalized linear models (GLMs) struggle with redundant variables as they try to include redundant variables simultaneously. However, best actuarial practice is to keep models as parsimonious as possible and only include additional variables that contribute significant additional predictive power.
A.2.b	Determine if the sub-model was previously approved (or accepted) by the regulatory agency.	1	If the sub-model was previously approved/accepted, that may reduce the extent of the sub-model’s review. If approved, obtain the tracking number(s) (e.g., state, System for Electronic Rates & Forms Filing [SERFF]) and verify when and if it was the same model currently under review. Note: A previous approval does not necessarily confer a guarantee of ongoing approval; e.g., when statutes and/or regulations have changed or if a model’s indications have been undermined by subsequent empirical experience. However, knowing whether a model has been previously approved can help focus the regulator’s efforts and determine whether the prior decision needs to be revisited. In some circumstances, direct dialogue with the vendor could be quicker and more useful.

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
A.2.c	Determine if the sub-model output was used as input to the Random Forest; obtain the vendor name, as well as the name and version of the sub-model.	1	<p>To accelerate the review of the filing, it may be desirable to request (from the company) the name and contact information for a vendor representative. The company should provide the name of the third-party vendor and a contact in the event the regulator has questions. The “contact” can be an intermediary at the insurer (e.g., a filing specialist), who can place the regulator in direct contact with a subject matter expert (SME) at the vendor.</p> <p>Examples of such sub-models include credit/financial scoring algorithms and household composite score models. Sub-models can be evaluated separately and in the same manner as the primary model under evaluation. A sub-model contact for additional information should be provided. Sub-model SMEs may need to be brought into the conversation with regulators (whether in-house or third-party sub-models are used).</p>
A.2.d	If using catastrophe model output, identify the vendor and the model settings/assumptions used when the model was run.	1	<p>To accelerate the review of the filing, get contact information for the SME that ran the model and an SME from the vendor. The “SME” can be an intermediary at the insurer (e.g., a filing specialist), who can place the regulator in direct contact with the appropriate SMEs at the insurer or model vendor.</p> <p>For example, it is important to know hurricane model settings for storm surge, demand surge, and long-term/short-term views.</p>
A.2.e	Obtain an explanation of how catastrophe models are integrated into the model to ensure no double-counting.	1	<p>If a weather-based sub-model is input to the Random Forest under review, loss data used to develop the model should not include loss experience associated with the weather-based sub-model. Doing so could cause distortions in the modeled results by double-counting such losses when determining relativities or loss loads in the filed rating plan.</p> <p>For example, redundant losses in the data may occur when non-hurricane wind losses are included in the data while also using a severe convective storm model in the actuarial indication. Such redundancy may also occur with the inclusion of fluvial or pluvial flood losses when using a flood model or inclusion of freeze losses when using a winter storm model.</p>
A.2.f	If using output of any scoring algorithms, obtain a list of the variables used to determine the score, and provide the source of the data used to calculate the score.	1	<p>Any sub-model should be reviewed in the same manner as the primary model that uses the sub-model’s output as input. Depending on the result of item A.2.b, the importance of this item may be decreased.</p>

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
3. Adjustments to Data			
A.3.a	Determine if premium, exposure, loss, or expense data were adjusted (e.g., on-leveled, developed, trended, adjusted for catastrophe experience, or capped). If so, how? Do the adjustments vary for different segments of the data? If so, identify the segments and how the data was adjusted.	2	<p>The rating plan or indications underlying the rating plan may provide special treatment of large losses and non-modeled large loss events. If such treatments exist, the company should provide an explanation of how they were handled. These treatments need to be identified, and the company/regulator needs to determine whether model data needs to be adjusted.</p> <p>For example, should large bodily injury (BI) liability losses in the case of personal automobile insurance be excluded, or should large non-catastrophe wind/hail claims in home insurance be excluded from the model’s training, test, and validation data? Look for anomalies in the data that should be addressed. For example, is there an extreme loss event in the data? If other processes were used to load rates for specific loss events, how is the impact of those losses considered?</p> <p>Examples of losses that can contribute to anomalies in the data are large losses or flood, hurricane, or severe convective storm losses for personal automobile comprehensive or home insurance.</p> <p>Premium should be brought to current rate level if the target variable is calculated with a premium metric, such as loss ratio. Premium can be brought to current rate level with the extension of exposures method or the parallelogram method. Note that the premium must be on-leveled at a granular variable level for each variable included in the new model if the parallelogram method is used. Statewide on-level factors by coverage are typically sufficient for statewide rate indication development but not sufficient for models that determine rates by variable level.</p>
A.3.b	Identify adjustments that were made to aggregated data (e.g., transformations, binning, and/or categorizations). If any, identify the name of the characteristic/variable, and obtain a description of the adjustment.	1	Pre-modeling binning may be unnecessary in a Random Forest model. The tree model will naturally segment numerical values in the splitting process of the trees. However, if the insurer does bin variables before modeling, the reason should be understood.

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
A.3.c	Ask for aggregated data (one dataset of pre-adjusted/scrubbed data and one dataset of post-adjusted/scrubbed data) that allows the regulator to focus on the univariate distributions and compare raw data to adjusted/binned/transformed/etc. data.	4	<p>This is most relevant for variables that have been “scrubbed” or adjusted.</p> <p>Though most regulators may never ask for aggregated data and do not plan to rebuild any models, a regulator may ask for this aggregated data or subsets of it.</p> <p>It would be useful to the regulator if the percentage of exposures and premium for missing information from the model data by category are provided. This data can be displayed in either graphical or tabular formats.</p>
A.3.d	Determine how missing data was handled.	1	<p>This is most relevant for variables that have been “scrubbed” or adjusted. The regulator should be aware of assumptions the modeler made in handling missing, null, or “not available” values in the data.</p> <p>For example, it would be helpful to the reviewer if the modeler were to provide a statement as to whether there is any systemic reason for missing data. If adjustments or recoding of values were made, they should be explained. It may also be useful to the regulator if the percentage of exposures and premium for missing information from the model data are provided. This data can be displayed in either graphical or tabular formats.</p> <p>The modeler should describe the way the tree fitting process handled missing values. The modeler should specify if missing values are treated before running the tree model or if they are allowed to be handled by the tree model.</p> <p>When creating predictions on new datasets (such as hold out datasets), tree-based models may have different approaches for handling missing data or categorical levels not encountered in the training data for a predictor variable. The modeler should specify the process utilized when this occurs.</p>
A.3.e	If duplicate records exist, determine how they were handled.	1	
A.3.f	Determine if there were any material outliers identified and subsequently adjusted during the scrubbing process.	3	<p>Look for a discussion of how outliers were handled. If necessary, the regulator may want to investigate further by getting a list (with description) of the types of outliers, and determine what adjustments were made to each type of outlier. To understand the filer’s response, the regulator should ask for the filer’s materiality standard.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
4. Data Organization			
A.4.a	Obtain documentation on the methods used to compile and organize data, including procedures to merge data from different sources or filter data based on particular characteristics and a description of any preliminary analyses, data checks, and logical tests performed on the data and the results of those tests.	2	This should explain how data from separate sources was merged and/or how subsets of policies, based on selected characteristics, are filtered to be included in the data underlying the model and the rationale for that filtering.
A.4.b	Obtain documentation on the insurer's process for reviewing the appropriateness, reasonableness, consistency, and comprehensiveness of the data, including a discussion of the rational relationship the data has to the predicted variable.	2	An example is when by-peril or by-coverage modeling is performed; the documentation should be for each peril/coverage and make rational sense. For example, if "murder" or "theft" data is used to predict the wind peril, the company should provide support and a rational explanation for their use.
A.4.c	Identify material findings the company had during its data review, and obtain an explanation of any potential material limitations, defects, bias, or unresolved concerns found or believed to exist in the data. If issues or limitations in the data influenced modeling analysis and/or results, obtain a description of those concerns and an explanation how modeling analysis was adjusted and/or results were impacted.	1	"None" or "N/A" may be an appropriate response.

B. BUILDING THE MODEL

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
1. High-Level Narrative for Building the Model			
B.1.a	Identify the type of model underlying the rate filing (e.g., Random Forest, GLM, decision tree, Bayesian GLM, gradient-boosting machine, neural network, etc.). Understand the model’s role in the rating system and provide the reasons why that type of model is an appropriate choice for that role.	1	<p>It is important to understand if the model in question is a Random Forest and, therefore, these information elements are applicable, or if it is some other model type, in which case other reasonable review approaches may be considered. There should be an explanation of why the model (using the variables included in it) is appropriate for the line of business. If by-peril or by-coverage modeling is used, the explanation should be by- peril/by-coverage.</p> <p>Note: If the model is not a Random Forest, the information elements in this appendix may not apply in their entirety.</p>
B.1.b	Identify the software used for model development. Obtain the name of the software vendor/developer, software product, and a software version reference used in model development.	3	<p>Changes in software from one model version to the next may explain if such changes, over time, contribute to changes in the modeled results. The company should provide the name of the third-party vendor and a contact in the event the regulator has questions. The contact can be an intermediary at the insurer (e.g., a filing specialist) who can place the regulator in direct contact with the appropriate SME at the vendor.</p> <p>Open-source software/programs used in model development should be identified by name and version the same as if from a vendor.</p>
B.1.c	Obtain a description of how the available data was divided between model training, test, and/or validation datasets. The description should include an explanation why the selected approach was deemed most appropriate, whether the company made any further subdivisions of available data, and reasons for the subdivisions (e.g., a portion separated from training data to support testing of components during model building). Determine if the validation data was accessed before model training was completed and, if so, obtain an explanation of why that came to occur. Obtain a discussion of whether the model was rebuilt using all the data or if it was only based on the training data.	1	<p>The reviewer should be aware that modelers may break their data into three or just two datasets. Although the term “training” is used with little ambiguity, “test” and “validation” are terms that are sometimes interchanged, or the word “validation” may not be used at all.</p> <p>The reviewer should note whether a company employed cross-validation techniques instead of a training/test/validation dataset approach. If cross-validation techniques were used, the reviewer should request a description of how cross-validation was done and confirm that the final model was not built on any particular subset of the data, but rather the full dataset.</p> <p>The discussion of training, test, and/or validation datasets is a separate discussion from the percentage of observations (rows of data) or percentage of features (columns of data) used within each tree. These splits are based on hyperparameters and are commented on in other sections.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
B.1.d	Obtain a brief description of the development process, from initial concept to final model and filed rating plan.	1	The narrative should have the same scope as the filing.
B.1.e	Obtain a narrative on whether loss ratio, pure premium, or frequency/severity analyses were performed and, if separate frequency/severity modeling was performed, how pure premiums were determined.	1	
B.1.f	Identify the model's target variable.	1	A clear description of the target variable is key to understanding the purpose of the model. It may also prove useful to obtain a sample calculation of the target variable in Excel format, starting with the "raw" data for a policy, or a small sample of policies, depending on the complexity of the target variable calculation.
B.1.g	Obtain a description of the candidate variable selection process prior to the model building.	1	<p>Candidate variables are the variables used as input to the modeling process. Certain variables may not end up used in the final model if none of the component trees of the model split on the variable. The narrative regarding the candidate variable selection process may address matters such as the criteria upon which variables were selected or omitted, identification of the number of preliminary variables considered in developing the model versus the number of variables that remained, and any statutory or regulatory limitations that were taken into account when making the decisions regarding candidate variable selection.</p> <p>The modeler should comment on the use of automated feature selection algorithms to choose candidate predictor variables and explain how potential overfitting that can arise from these techniques was addressed.</p>
B.1.h	In conjunction with variable selection, obtain a narrative on how the company determined the granularity of the rating variables during model development.	3	The narrative should include discussion of how credibility was considered in the process of determining the level of granularity of the variables selected.
B.1.i	Determine if model input data was segmented in any way (e.g., by-coverage, by-peril, or by-form basis). If so, obtain a description of data segmentation and the reasons for data segmentation.	1	The regulator would use this to follow the logic of the modeling process.

Section	Information Element	Level of Importance to the Regulator's Review	Comments
2. Medium-Level Narrative for Building the Model			
B.2.a	At crucial points in model development, if selections were made among alternatives regarding model assumptions, techniques, or hyperparameters, obtain a narrative on the judgment used to make those selections.	2	
B.2.b	If post-model adjustments were made to the data and the model was rerun, obtain an explanation on the details and the rationale for those adjustments.	2	Evaluate the addition or removal of variables and the model fitting. It is not necessary for the company to discuss each iteration of adding and subtracting variables, but the regulator should gain a general understanding of how these adjustments were done, including any statistical improvement measures relied upon.
B.2.c	Identify which distribution was used for the model (e.g., Regression based on Poisson, Gamma, Logistic, or Tweedie are common choices). Obtain an explanation of why the distribution was chosen. Certain distribution assumptions will involve numerical parameters; i.e., regression with a Tweedie assumed distribution will have a p power value. Obtain the specific numerical parameters associated with the distribution.	1	
B.2.d	Obtain a narrative on how the predictions from the component trees are combined to arrive at a final model prediction.	2	Tree-based methods combine predictions from multiple component trees and aggregate them into a final prediction for each observation. Common methods for combining Random Forest model predictions include the arithmetic or geometric mean of all the component trees.
B.2.e	If there were data situations in which weights were used, obtain an explanation of how and why they were used.	3	Investigate whether identical records were combined to build the model.

Section	Information Element	Level of Importance to the Regulator's Review	Comments
B.2.f	Obtain the number of component trees comprising the Random Forest model. Obtain a narrative on how this number was chosen.	1	<p>Random Forest models should contain enough trees to reduce error to an acceptable level. Random Forest models should balance this with the concept of parsimony. A model with fewer trees that achieves relatively similar reduction in error is preferable to a model with more trees. Checking the error on a test dataset or out of bag error for different numbers of trees can reveal at what value the error on test data starts to level off.</p> <p>Modelers might rely on early stopping rules within modeling software to arrive at the final number of trees. The narrative on the number of trees should discuss the stopping criterion, which defines what condition is met when the model stopped adding more trees.</p>
B.2.g	Obtain the sampling parameters that apply to both the percent of observations used in each component tree and the number of features tested for each split within each tree. Obtain a narrative on how the sampling parameters were selected.	1	<p>Random Forest models often sample both the observations (typically rows of modeling data) with replacement and sample the features (typically columns of modeling data) This means that each tree has a bootstrapped dataset.</p> <p>The company should discuss the bagging fraction (sample size) applied to observations (typically rows of data). This is often expressed as a percent. For example: perhaps each tree is based on a bootstrapped sample that is 50% of the original dataset.</p> <p>The company should discuss the number of features considered at each split. This is often expressed as an integer. A common choice for the number of features is equal to roughly the square root of the total number of candidate variables. For example: perhaps each split is based on 10 randomly selected features (typically columns of data) when there are 100 candidate variables.</p>
B.2.h	Obtain the maximum depth that applies to the component trees in the model. Obtain a narrative on how this number was chosen.	1	<p>The depth of a tree is the number of splits that are allowed to occur between the root node and the terminal nodes. This number can be set explicitly in modeling software or may be implicitly set if the company applies a splitting constraint, such as a minimum observations per node. Maximum tree depths of eight or higher are considered extremely high.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
B.2.i	Obtain parameters that determined the volume of data in each tree node and a narrative of how parameters were chosen.	1	<p>Minimum data volume constraints can be applied to a tree-based model, such that the trees will not create a split that would result in terminal nodes with volume below a set amount. The modeler should comment on how the threshold was chosen.</p> <p>If there was no minimum data volume threshold applied to the trees, or if the threshold was exceedingly small, obtain an explanation of any post-modeling adjustments the modeler made to address the credibility considerations and how the adjustments were applied.</p>
B.2.j	Obtain a narrative of the process to select all hyperparameters for the Random Forest. Detail how this process addressed potential overfitting in the model.	2	<p>The narrative should include a description of each hyperparameter, document the values of the hyperparameters, specify the implication of using a higher or lower value for each hyperparameter, and discuss any sensitivity testing completed on the hyperparameters and observations from the sensitivity analysis. Hyperparameter tuning can be done in a variety of ways. The rigor of the tuning process should reflect the risk of overfitting on the specific dataset.</p>
3. Predictor Variables			
B.3.a	Obtain a complete data dictionary, including the names, types, definitions, and rationales for each variable.	1	<p>Types of variables might be continuous, discrete, Boolean, etc. Identify any variable used as an offset or control in the Random Forest model and the offset factor that was applied for each level of the offset variable.</p> <p>For any variable(s) intended to function as a control or offset, obtain an explanation of its purpose and impact. Also, for any use of interaction between variables, obtain an explanation of its rationale and impact.</p>
B.3.b	Obtain a list of predictor variables considered but not used in the final model and the rationale for their removal.	4	<p>The purpose of this requirement is to identify variables the company finds to be predictive but ultimately may reject for reasons other than loss-cost considerations (e.g., price optimization). Also, look for variables the company tested and then rejected. This item could help address concerns about data dredging.</p>
B.3.c	Obtain a correlation matrix for all predictor variables included in the model and sub-model(s).	3	<p>High correlation is less of an issue for tree-based models than it is for GLMs. Tree-based models naturally only use one variable at a time during each split in each tree. However, a correlation matrix still helps the reviewer understand relationships in the data being modeled better. The company should indicate what statistic was used (e.g., Pearson, Cramer's V, etc.) in the correlation matrix. The regulatory reviewer should understand what statistic was used to produce the matrix but should not prescribe the statistic.</p>

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
B.3.d	Obtain plots describing the relationship between each predictor variable and the target variable. Obtain a rational explanation for the observed relationship between each predictor variable and the target variable (frequency, severity, loss costs, expenses, or any element or characteristic being predicted).	1	<p>Partial dependence plots (PDPs), accumulated local effects (ALE) plots, or Shapley plots will help improve model interpretability. There should be at least one plot for every variable used in the model. The plots should be accompanied by commentary on why the visualized relationship is reasonable for variables of concern. Considering possible causation may be relevant, but proving causation is neither practical nor expected. If no rational explanation can be provided, greater scrutiny may be appropriate.</p> <p>For example, the regulator should look for unfamiliar predictor variables and, if found, the regulator should seek to understand the relationship that variable has to the target variable.</p> <p>The regulator should also consider that interpretability plots for tree-based models need to be reviewed with other considerations in mind. For example, partial dependence calculations assume independence with other variables in the model.</p>
B.3.e	If the modeler made use of one or more dimensionality reduction techniques, such as a principal component analysis (PCA), obtain a narrative about that process, an explanation why that technique was chosen, and a description of the step-by-step process used to transform observations (usually correlated) into a set of linearly uncorrelated variables. In each instance, obtain a list of the pre-transformation and post-transformation variable names, as well as an explanation of how the results of the dimensionality reduction technique was used within the model.	2	
B.3.f	Obtain variable importance plots. Obtain a description of how variable importance was calculated.	1	<p>Variable Importance Plots for tree-based methods highlight which variables contributed most to the model. There are multiple ways to calculate variable importance.</p> <p>Variables with the lowest importance measures should be prioritized when identifying variables that may not be contributing significantly to the model. Variables may have a low importance measure due to high correlation with other variables but may still prove useful if they interact with other variables to identify unique subsets of risks.</p> <p>Variables with the highest importance measures should be prioritized when determining which variables have the largest impact on predictions.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
4. Adjusting Data, Model Validation, and Goodness-of-Fit Measures			
B.4.a	Obtain a description of the methods used to assess the statistical significance/goodness-of-fit of the model to validation data, such as lift charts and statistical tests. Compare the model's projected results to historical actual results and verify that modeled results are reasonably similar to actual results from validation data.	1	<p>For models that are built using multistate data, validation data for some segments of risk is likely to have low credibility in individual states. Nevertheless, some regulators require model validation on state-only data, especially when analysis using state-only data contradicts the countrywide results. State-only data might be more applicable, but it could also be impacted by low credibility for some segments of risk.</p> <p>Note: It may be useful to consider geographic stability measures for territories within the state.</p>
B.4.b	Obtain evidence that the model fits the training data well by variable and for the overall model.	2	<p>The regulator should ask for the company to provide exhibits or plots that show the fitted average makes sense when compared to the observed average for variables of interest. Regulators would ideally review this comparison for every variable, but time constraints may limit the focus to just variables of interest. Variables of interest should include those with a high importance measure (which will have the most material impact on rates), those with a low importance measure (which may not be contributing significantly to the model), variables without an intuitive relationship to loss, or variables that may be proxies for a protected class attribute.</p>

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
B.4.c	Obtain a description how the model was tested for stability over time.	2	<p>Evaluate the build/test/validation datasets for potential time-sensitive model distortions (e.g., a winter storm in year 3 of 5 can distort the model in both the testing and validation datasets).</p> <p>Obsolescence over time is a model risk (e.g., old data for a variable or a variable itself may no longer be relevant). If a model being introduced now is based on losses from years ago, the reviewer should be interested in knowing whether that model would be predictive in the proposed context. Validation using recent data from the proposed context might be requested. Obsolescence is a risk even for a new model based on recent and relevant loss data.</p> <p>The reviewer may want to inquire as to the following: What steps, if any, were taken during modeling to prevent or delay obsolescence? What controls exist to measure the rate of obsolescence? What is the plan and timeline for updating and ultimately replacing the model?</p> <p>The reviewer should also consider that as newer technologies enter the market (e.g., personal automobile), their impact may change claim activity over time (e.g., lower frequency of loss). So, it is not necessarily a bad thing that the results are not stable over time.</p>
B.4.d	Obtain a narrative on how potential concerns with overfitting were addressed.	2	<p>Tree-based models such as Random Forest models are notorious for overfitting. The company should provide a narrative on how overfitting was addressed. The company should provide a lift chart on training data used to fit the model and a lift chart on testing data that was not used to fit the model. If pruning was used to address overfitting, the narrative should provide commentary on the pruning process.</p>
B.4.e	Obtain support demonstrating that the Random Forest assumptions are appropriate.	3	<p>A visual review of plots of actual errors is usually sufficient.</p> <p>The reviewer should look for a conceptual narrative covering these topics: How does this particular Random Forest work? Why did the rate filer do what it did? Why employ this design instead of alternatives? Why choose this particular distribution function and this particular link function? A company response may be at a fairly high level and reference industry practices.</p> <p>If the reviewer determines that the model makes no assumptions that are considered to be unreasonable, the importance of this item may be reduced.</p>

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
B.4.f	Obtain 5-10 sample records with corresponding output from the model for those records.	2	The company should provide comprehensive documentation of the rating algorithm such that a rate can be reproduced for any theoretical risk. The company should demonstrate the comprehensiveness of the documentation by providing 5-10 sample records with corresponding input variable values and the final model prediction. The company should describe how the final model prediction aggregates the individual tree model predictions. The company should describe how to use other filing exhibits to reproduce the final model prediction for each sample record.
B.4.g	Obtain a deviance analysis by number of trees.	2	The company should provide a plot showing that the deviance of the overall model decreases after each iteration (each additional tree).
5. “Old Model” Versus “New Model”			
B.5.a	Obtain an explanation of why this model is an improvement to the current rating plan. If it replaces a previous model, find out why it is better than the one it is replacing; determine how the company reached that conclusion and identify metrics relied on in reaching that conclusion. Look for an explanation of any changes in calculations, assumptions, parameters, and data used to build this model from the previous model.	2	The regulator should expect to see improvement in the new class plan’s predictive ability or other sufficient reason for the change.
B.5.b	Determine if two Gini coefficients were compared and obtain a narrative on the conclusion drawn from this comparison.	3	This information element requests a comparison of the Lorenz curve and Gini coefficient from the prior model to the Gini coefficient of proposed model. It is expected that there should be improvement in the Gini coefficient. A higher Gini coefficient indicates greater differentiation produced by the model and how well the model fits that data. This is relevant when one model is being updated or replaced. The regulator should expect to see improvement in the new class plan’s predictive ability. One example of a comparison might be sufficient. Note: This comparison is not applicable to initial model introduction. The reviewer can look to CAS monograph, “Generalized Linear Models for Insurance Rating.”
B.5.c	Determine if double-lift charts were analyzed and obtain a narrative on the conclusion drawn from this analysis.	3	One example of a comparison might be sufficient. Note: “Not applicable” is an acceptable response.

Section	Information Element	Level of Importance to the Regulator's Review	Comments
B.5.d	<p>If replacing an existing model, obtain a list of any predictor variables used in the old model that are not used in the new model as candidate variables. Obtain an explanation of why these variables were dropped from the new model.</p> <p>Obtain a list of all new predictor variables in the new model that were not in the prior old model.</p>	2	It is useful to differentiate between old and new variables so the regulator can prioritize more time on variables not yet reviewed.
6. Modeler Software			
B.6.a	Request access to SMEs (e.g., modelers) who led the project, compiled the data, and/or built the model.	4	The filing should contain a contact that can put the regulator in touch with appropriate SMEs and key contributors to the model development to discuss the model.

C. THE FILED RATING PLAN

Section	Information Element	Level of Importance to the Regulator’s Review	Comments
1. General Impact of Model on Rating Algorithm			
C.1.a	In the actuarial memorandum or explanatory memorandum, for each model and sub-model (including external models), look for a narrative that explains each model and its role (i.e., how it was used) in the rating system.	1	<p>The “role of the model” relates to how the model integrates into the rating plan as a whole and where the effects of the model are manifested within the various components of the rating plan. This is not intended as an overarching statement of the model’s goal, but rather a description of how specifically the model is used.</p> <p>This item is particularly important if the role of the model cannot be immediately discerned by the reviewer from a quick review of the rate and/or rule pages. (Importance is dependent on state requirements and ease of identification by the first layer of review and escalation to the appropriate review staff.)</p>
C.1.b	Obtain an explanation of how the model was used to adjust the filed rating algorithm.	1	The regulator should consider asking for an explanation of how the model was used to adjust the rating algorithm.
C.1.c	Obtain a complete list of characteristics/variables used in the proposed rating plan, including those used as input to the model (including sub-models and composite variables) and all other characteristics/variables (not input to the model) used to calculate a premium. For each characteristic/variable, determine if it is only input to the model, whether it is only a separate univariate rating characteristic, or whether it is both input to the model and a separate univariate rating characteristic. The list should include transparent descriptions (in plain language) of each listed characteristic/variable.	1	Examples of variables used as inputs to the model and used as separate univariate rating characteristics might be criteria used to determine a rating tier or household composite characteristic.
2. Relevance of Variables and Relationship to Risk of Loss			
C.2.a	Obtain a narrative regarding how the characteristics/rating variables included in the filed rating plan relate to the risk of insurance loss (or expense) for the type of insurance product being priced.	2	<p>The narrative should include a discussion of the relevance each characteristic/rating variable has on consumer behavior that would lead to a difference in risk of loss (or expense). The narrative should include a rational relationship to cost, and model visualization plots (such as partial dependence plots, accumulated local effects plots, or Shapley plots) should be consistent with the expected direction of the relationship.</p> <p>Note: This explanation would not be needed if the connection between variables and risk of loss (or expense) has already been illustrated.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
3. Comparison of Model Outputs to Current and Selected Rating Factors			
C.3.a	Obtain documentation and support for all calculations, judgments, or adjustments that connect the model's indicated values to the selected rates filed in the rating plan.	1	<p>The documentation should include explanations for the necessity of any such adjustments and each significant difference between the model's indicated values and the selected values. This applies even to models that produce scores, tiers, or ranges of values for which indications can be derived.</p> <p>Note: This information is especially important if differences between model-indicated values and selected values are material and/or impact one consumer population more than another.</p>
C.3.b	For each characteristic/variable used as both input to the model (including sub-models and composite variables) and as a separate univariate rating characteristic, obtain a narrative regarding how each characteristic/variable was tempered or adjusted to account for possible overlap or redundancy in what the characteristic/variable measures.	2	<p>The insurer should address this possibility or other considerations; e.g., tier placement models often use risk characteristics/variables that are also used elsewhere in the rating plan.</p> <p>One way to do this would be to model the loss ratios resulting from a process that already uses univariate rating variables. Then the model/composite variables would be attempting to explain the residuals.</p>
4. Responses to Data, Credibility, and Granularity Issues			
C.4.a	Determine what, if any, consideration was given to the credibility of the output data.	2	The regulator should determine at what level of granularity credibility is applied. If modeling was by coverage, by form, or by peril, the company should explain how these were handled when there was not enough credible data by coverage, form, or peril to model.
C.4.b	If the rating plan is less granular than the model, obtain an explanation of why.	2	This is applicable if the company had to combine modeled output in order to reduce the granularity of the rating plan.
C.4.c	If the rating plan is more granular than the model, obtain an explanation of why.	2	A more granular rating plan may imply that the company had to extrapolate certain rating treatments, especially at the tails of a distribution of attributes, in a manner not specified by the model indications. It may be necessary to extrapolate due to data availability or other considerations.

Section	Information Element	Level of Importance to the Regulator's Review	Comments
5. Definitions of Rating Variables			
C.5.a	Obtain a narrative regarding adjustments made to model output (e.g., transformations, binning and/or categorizations). If adjustments were made, obtain the name of the characteristic/variable and a description of the adjustment.	2	If rating tiers or other intermediate rating categories are created from model output, the rate and/or rule pages should present these rating tiers or categories. The company should provide an explanation of how model output was translated into these rating tiers or intermediate rating categories.
6. Supporting Data			
C.6.a	Obtain aggregated state-specific, book-of-business-specific univariate historical experience data, separately for each year included in the model, consisting of loss ratio or pure premium relativities and the data underlying those calculations for each category of model output(s) proposed to be used within the rating plan. For each data element, obtain an explanation of whether it is raw or adjusted and, if the latter, obtain a detailed explanation for the adjustments.	4	For example, were losses developed/undeveloped, trended/untrended, capped/uncapped, etc.? Univariate indications should not necessarily be used to override more sophisticated multivariate indications. However, they do provide additional context and may serve as a useful reference.
7. Consumer Impacts			
C.7.a	Obtain a listing of the top five rating variables that contribute the most to large swings in renewal premium, both as increases and decreases, as well as the top five rating variables with the largest spread of impact for both new and renewal business.	4	These rating variables may represent changes to rating factors, be newly introduced to the rating plan, or have been removed from the rating plan.
C.7.b	Determine if the company performed sensitivity testing to identify significant changes in premium due to small or incremental change in a single risk characteristic. If such testing was performed, obtain a narrative that discusses the testing and provides the results of that testing.	3	One way to see sensitivity is to analyze a graph of each risk characteristic's/variable's average fitted model prediction. Look for significant variation between the average fitted model predictions for adjacent rating variable levels and evaluate if such variation is reasonable and credible.
C.7.c	For the proposed filing, obtain the impacts on renewal business, and describe the process used by management, if any, to mitigate those impacts.	2	Some mitigation efforts may substantially weaken the connection between premium and expected loss and expense and, hence, may be viewed as unfairly discriminatory by some states.

Section	Information Element	Level of Importance to the Regulator's Review	Comments
C.7.d	Obtain a rate disruption/dislocation analysis demonstrating the distribution of percentage and/or dollar impacts on renewal business (created by rerating the current book of business) and sufficient information to explain the disruptions to individual consumers.	2	<p>The analysis should include the largest dollar and percentage impacts arising from the filing, including the impacts arising specifically from the adoption of the model or changes to the model as they translate into the proposed rating plan.</p> <p>While the default request would typically be for the distribution/dislocation of impacts at the overall filing level, the regulator may need to delve into the more granular variable-specific effects of rate changes if there is concern about particular variables having extreme or disproportionate impacts, or significant impacts that have otherwise yet to be substantiated.</p> <p>See Appendix D for an example of a disruption analysis.</p>
C.7.e	Obtain exposure distributions for the model's output variables and show the effects of rate changes at granular and summary levels, including the overall impact on the book of business.	3	See Appendix D for an example of an exposure distribution.
C.7.f	Identify policy characteristics, used as input to a model or sub-model, that remain "static" over a policy's lifetime versus those that will be updated periodically. Obtain a narrative on how the company handles policy characteristics that are listed as "static," yet change over time.	3	<p>Some examples of "static" policy characteristics are prior carrier tenure, prior carrier type, prior liability limits, claim history over past X years, or lapse of coverage. These are specific policy characteristics usually set at the time new business is written, used to create an insurance score or to place the business in a rating/underwriting tier, and often fixed for the life of the policy.</p> <p>The reviewer should be aware of, and possibly concerned about, how the company treats an insured over time when the insured's risk profile based on "static" variables changes over time, but the rate charged, based on a new business insurance score or tier assignment, no longer reflect the insured's true and current risk profile.</p> <p>A few examples of "non-static" policy characteristics are age of driver, driving record, and credit information (FCRA-related). These are updated automatically by the company on a periodic basis, usually at renewal, with or without the policyholder explicitly informing the company.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
C.7.g	Obtain a means to calculate the rate charged a consumer.	3	<p>The filed rating plan should contain enough information for a regulator to be able to validate policy premium. However, for a complex model or rating plan, a score or premium calculator via Excel or similar means would be ideal, but this could be elicited on a case-by-case basis. The ability to calculate the rate charged could allow the regulator to perform sensitivity testing when there are small changes to a risk characteristic/variable. Note: This information may be proprietary.</p> <p>For the rating plan, the rate order of calculation rule may be sufficient. However, it may not be feasible for a regulator to get all the input data necessary to reproduce a model's output. Credit and telematics models are examples of model types where model output would be readily available, but the input would not be readily available to the regulator.</p>
C.7.h	In the filed rating plan, be aware of any non-insurance data used as input to the model (customer-provided or other). In order to respond to consumer inquiries, it may be necessary to inquire as to how consumers can verify their data and correct errors.	1	<p>If the data is from a third-party source, the company should provide information on the source. Depending on the nature of the data, it may need to be documented with an overview of who owns it.</p> <p>The topic of consumer verification may also need to be addressed, including how consumers can verify their data and correct errors.</p>
8. Accurate Translation of Model into a Rating Plan			
C.8.a	Obtain sufficient information to understand how the model outputs are used within the rating system and to verify that the rating plan's manual, in fact, reflects the model output and any adjustments made to the model output.	1	The regulator can review the rating plan's manual to see that modeled output is properly reflected in the manual's rules, rates, factors, etc.
9. Efficient and Effective Review of Rate Filing			
C.9.a	Establish procedures to efficiently review rate filings and models contained therein.	1	<p>"Speed to market" is an important competitive concept for insurers. Although the regulator needs to understand the rate filing before accepting the rate filing, the regulator should not request information that does not increase his/her understanding of the rate filing.</p> <p>The regulator should review the state's rate filing review process and procedures to ensure that they are fair and efficient.</p>

Section	Information Element	Level of Importance to the Regulator's Review	Comments
C.9.b	Be knowledgeable of state laws and regulations in order to determine if the proposed rating plan (and models) are compliant with state laws and/or regulations.	1	This is a primary duty of state insurance regulators. The regulator should be knowledgeable of state laws and regulations and apply them to a rate filing fairly and efficiently. The regulator should pay special attention to prohibitions of unfair discrimination.
C.9.c	Be knowledgeable of state laws and regulations in order to determine if any information contained in the rate filing (and models) should be treated as confidential.	1	The regulator should be knowledgeable of state laws and regulations regarding confidentiality of rate filing information and apply them to a rate filing fairly and efficiently. Confidentiality of proprietary information is key to innovation and competitive markets.
C.9.d	Obtain complete documentation that would allow future audits of model predictions.	1	The company should provide comprehensive documentation of the rating algorithm such that a rate can be reproduced for any theoretical risk. Comprehensive documentation could be provided as one of the following: a complete set of tree diagrams, a set of if-else logic statements that represents the trees, or a table showing every possible combination of risk characteristics and the final prediction.

RANDOM FOREST GLOSSARY OF TERMS

Accumulated Local Effects Plots: A type of interpretability plot. Accumulated local effects (ALE) plots calculate smaller, incremental changes in the feature effects. ALE shows the expected and centered effects of a variable.

Bagged Trees: An ensemble of trees where each tree is based on a “bootstrap aggregated” sample.

Branch: A connection on a decision tree between a parent node and a child node. A relationship based on a predictor variable is checked at each node, determining which branch applies.

Candidate Variables: The variables specified by the modeler to be used within the full model. The random variable selection by a Random Forest means that component trees might only use a subset of these variables in each tree.

Child Node: The node below a parent node. The child node is the result of a split that occurs based on a predictor variable. The node above the child node, which is where the split occurred resulting in the creation of the child nodes, is called the parent node. There is one parent node for every child node. The root node is the only node that is not a child node.

Component Tree: An individual tree within an approach based on an ensemble of trees, such as Random Forest or gradient boosting machine.

Deviance: A measure of model fit. Deviance is based on the difference between the log-likelihood of the saturated model and the log-likelihood of the proposed model being evaluated. Smaller values of deviance demonstrate that a model’s predictions fit closer to actual. Deviance on training data will always decrease as model complexity increases.

Hyperparameter: A model hyperparameter is a model setting specified by the modeler that is external to the model and whose value cannot be estimated from data.

Node: A point on a decision tree. Nodes are either root nodes (the top node), leaf nodes (a terminal node at which point no further splitting occurs), or an internal node that appears in the middle of the tree while splitting is still taking place.

Out-of-Bag Error: Error calculated for observations based on the trees that did not include them in the set of training observations. Out-of-Bag Error is calculable when bootstrapping is used to generate different datasets for each component tree in an ensemble tree method.

Parent Node: The node above a child node. The parent node is where a split occurs based on a predictor variable. The nodes below the parent node, which are a direct result of the parent node’s split, are called child nodes. There are typically two child nodes for every parent node. Terminal nodes cannot be parent nodes.

Partial Dependence Plots: A type of interpretability plot. The partial dependence plot computes the marginal effect of a given variable on the prediction.

Pruning: The process of scaling back a tree to reduce its complexity. This results in trees with fewer branches and terminal nodes appearing higher on the tree. Pruning is more common on models built on a single decision tree rather than on ensemble models such as Random Forests or gradient boosting machines.

Random Forest: An ensemble of trees where each tree is based on a bootstrap aggregated sample, and each split is based on a random sample of the candidate variables.

Root Node: The first (top) node in a decision tree. This node contains the entire set of data used by the tree as no splits have occurred yet.

Shapley Additive Explanation Plots: A type of interpretability plot. Shapley plots investigate the effect of including a variable in the model by the order in which it is added. The Shapley value represents the amount the variable of interest contributes to the prediction.

Splitting: The process of dividing a node into two or more sub-nodes, starting from the root node. Splitting occurs at every node up until the terminal (leaf) nodes when the stopping criterion is met.

Stopping Criterion: A criterion applied to the splitting process that informs the node when it is ineligible to split any further. Volume of data is often used as a stopping criterion, such that each leaf node is based on at least a pre-determined amount of data.

Terminal Node: An end node containing no child nodes because the node has met the stopping criterion. The terminal node is associated with a prediction for one of the component trees. The terminal node is also known as a “leaf” node, the resulting endpoint of a decision tree.

Tree-Based Model: A model that can be represented as a decision tree or a collection of decision trees.

Tree Depth: The maximum number of splits between the root node and a leaf node for a tree.

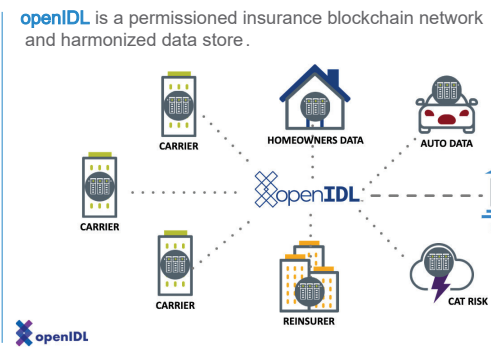
Variable Importance: A measure of how the variables (a.k.a. features) contribute to the overall model. There are multiple ways to measure variable importance.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/C%20CMTE/2022_Summer/CASTF/CASTF%20Random%20Forest%20Appendix%20\(Final\).pdf](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/C%20CMTE/2022_Summer/CASTF/CASTF%20Random%20Forest%20Appendix%20(Final).pdf)




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Generating operational efficiency, flexibility, interoperability, and product development opportunities.

Regulators

Access to timely and accurate information enabling more holistic and dynamic reporting as well as valuable and relevant insights into exposures, market activity, and trends.


Industry at Large

Establishing and maintaining an agnostic network, providing efficient mechanisms for relevant participation and collaboration.



openIDL Members

PREMIER MEMBERS




GENERAL MEMBERS


SELECTIVE INSURANCE[®]

ASSOCIATE MEMBERS



Regulators



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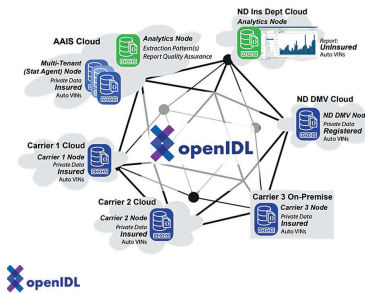



Goals and Benefits of openIDL for the Insurance Industry

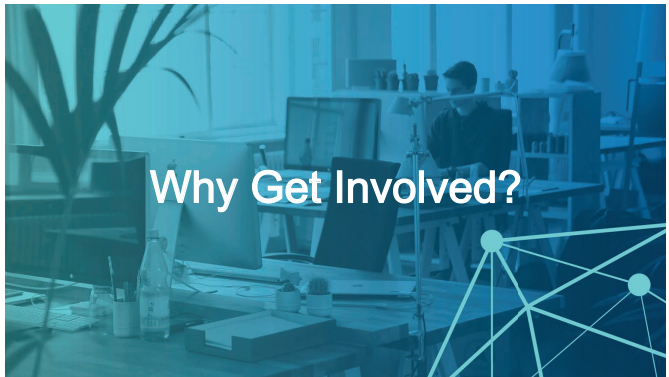
- Dramatically improve the **timeliness** and **availability** of insurance industry data for regulators
- **Reduce costs** and **improve security** of regulatory reporting by carriers
- Enable transparent and constructive **collaboration** of regulators, agencies, and carriers
- Provide a **standardized, federated** insurance data repository and an extensible network community



North Dakota Uninsured Motorist Network



- › Establishes a role for regulators and advisory organizations on the network.
- › Demonstrates how "stat data" can be reused for other applications.
- › The network is being evaluated for procurement.



openIDL for Regulators:

Interdepartmental/Interjurisdictional Data

Data efficiency and integration across your state, departments and related jurisdictions.

Officials and Legislatures

Provide legislators and leaders visualizations into trusted data for policy decisions and dashboards on impact and effectiveness.

Community Information, Preparation and Response

Collaborate with the public and industry to prepare and protect communities from common risks.

Licensing and Regulation

Connect trusted state and third-party data sources and licensing agencies to provide efficient experiences and solve problems unique to your community.

Industry Audit and Compliance

Streamline and help your businesses and critical infrastructure remain compliant to the needs of the constituents and law through objective rules, transparent infrastructure and private data.



openIDL for Technology Providers

Products & Platforms

Create and leverage private data in the openIDL Regulatory Reporting Data Network or your own proprietary network while ensuring your assets and confidential data remain secure – within your control.

Services & Partnerships

Design, implement and maintain solutions for your clients' businesses and operations, or your own unique vertical or horizontal partnerships to enable a unique customer experience and value.

Data and Insights

Gather actionable insights from customer activities and experiences that can inform and improve the value of your products and services.

Customer Data Privacy

Gain insights, efficiently and transparently, while still protecting your customers' data, identity and operations

Quality and Accountability

Establish a framework of operations that assures integrity and objective quality, with transparent accountability and controls that establish and maintain your competitors.



openIDL is Strategic for Member Insurers

As an **Insurer** and Member, leverage **openIDL** for you:

Enterprise

- › Automate internal reporting/auditing, retire legacy datastores/endpoints, integrate/automate operations, reduce data sharing/shipping, dynamic capital management, internal accountability

Partner Relationships

- › Efficient data operations, transparent/accountable performance, innovative solution delivery and new value-add opportunities in existing relationships: reinsurance, broker, TPAM/GA, agent, systems, etc.

Programs

- › Parametric benefits, automated/objective underwriting, ML/AI knowledge pooling, responsive/specific rating, contract certainty, loss control solutions, niche and customized coverage programs



Why companies join openIDL

<p>Thought Leadership</p> <p>Be part of defining and maintaining the technologies that are at the forefront of the industry</p>	<p>Networking & Partnerships</p> <p>Network with other members of openIDL Support the community</p>	<p>Build</p> <p>Ensure the success of openIDL by building networks, products, services and solutions with and on top of openIDL's code bases that are critical to your lines of business.</p>
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"It is strategically important for Selective to be part of industry efforts to innovate our regulatory reporting and use distributed ledgers"

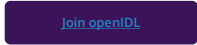


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SURPLUS LINES (C) TASK FORCE

The Surplus Lines (C) Task Force did not meet at the Summer National Meeting.

TITLE INSURANCE (C) TASK FORCE

Title Insurance (C) Task Force Aug. 11, 2022, Minutes 7-100

Draft: 8/22/22

Title Insurance (C) Task Force
Portland, Oregon
August 11, 2022

The Title Insurance (C) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Eric Dunning, Chair, and Connie Van Slyke (NE); Kevin Gaffney, Vice Chair (VT); Mark Fowler represented by Erick Wright (AL); Michael Conway represented by Peg Brown, Neil A. Derr, Kris Fabricius, Evelyn Keuter, and Dennis Newman (CO); David Altmaier represented by Anoush Brangaccio and Jeffrey Joseph (FL); Colin M. Hayashida represented by Grant Shintaku and Randy Jacobson (HI); Vicki Schmidt represented by Jessica Lillibridge and Barb Rankin (KS); James J. Donelon represented by Warren Byrd and Matthew Stewart (LA); Kathleen A. Birrane represented by Mary Kwei and David Zitterbart (MD); Grace Arnold represented by Jason Broberg (MN); Chlora Lindley-Myers represented by Carrier Couch and Marjorie Thompson (MO); Troy Downing represented by Ole Olson (MT); Mike Causey represented by Angela Hatchell (NC); Barbara D. Richardson represented by David Cassidy (NV); Judith L. French represented by Tom Botsko, Tynesia Dorsey, Maureen Motter, and Michelle Brugh Rafeld (OH); Glen Mulready represented by Diane Carter (OK); Michael Humphreys represented by Shannen Logue and Michael Mckenney (PA); Elizabeth Kelleher Dwyer represented by Patrick Smock (RI); Michael Wise represented by Daniel Morris (SC); Larry D. Deiter represented by Tony Dorschner (SD); Cassie Brown represented by Randall Evans, David Muckerheide, and Jamie Walker (TX); and Scott A. White represented by Richard Tozer (VA).

1. Heard an Educational Roundtable Discussion on the Various Approaches States Use to Regulate Rates

Joe Petrelli (Demotech) and Sharon Romano Petrelli (Demotech) discussed the approaches Ohio and Louisiana take to regulating title insurance rates. They are retained by the members of the Ohio Title Insurance Rating Bureau (OTIRB) and the Louisiana Title Statistical Services Organization (LATISSO) to serve in a non-voting, administrative support role. Ohio and Louisiana require prior approval of title insurers' rates and forms and use statistical agents. The OTIRB is the statistical agent for Ohio. The current OTIRB was incorporated July 29, 1991. Chapter 3935 of the Ohio Revised Code references rating bureaus. Chapter 3953 of the Ohio Revised Code references title insurance. All meetings, whether full membership or committee meetings, are coordinated to accommodate the participation of antitrust counsel. The meetings include an agenda approved by antitrust counsel prior to distribution and begin with an antitrust statement of direction. All rate, rule, and form filings are submitted to the Ohio Department of Insurance (DOI) for its review, evaluation, and, if sufficiently documented, approval. Virtually all submissions have had questions, comments, or requests for clarification or additional documentation. Some of the OTIRB's rate, rule, and form filings have been disapproved by the Ohio DOI. Ohio law requires that a financial and statistical plan be completed and approved by the DOI each year. The compilation is reviewed and the aggregated, completed financial and statistical plan is forwarded to the Insurance Department for its review, consideration, and acceptance. Updates to the financial and statistical plan are also submitted to and approved by the DOI. The OTIRB uses a certified public accountant to compile and submit its annual filing requirements with the Internal Revenue Service (IRS). Dues, including minimum dues, are set by members with input from antitrust counsel to ensure that minimum dues are reasonable. Throughout its history, several deviations from the manual, rules, forms, and rates filed by the OTIRB have been submitted to and approved by the DOI.

The LATISSO is the statistical agent for Louisiana. The LATISSO was incorporated Feb. 7, 2002, and commenced business circa 2003–2004. Section 22 of the Louisiana Revised Statutes addresses title insurance and rating organization. The LATISSO is member-managed with constant communication with antitrust counsel. All meetings, whether full membership or committee meetings, are coordinated to accommodate the participation of antitrust counsel. All meetings have an agenda and begin with an antitrust statement of direction. All rate, rule, and form

filings are submitted to the Louisiana DOI for its review and, if sufficiently documented, approval. Virtually all submissions have had questions, comments, or requests for clarification or additional documentation. Some of the LATISSO's rate, rule, and form filings have been disapproved by the Louisiana DOI. A financial and statistical plan, approved by the DOI, is completed each year. The compilation is reviewed, and then the completed financial and statistical plan is forwarded to the DOI for its review, consideration, and acceptance. Updates to the financial and statistical plan are also submitted to and approved by the DOI. The LATISSO uses a certified public accountant to compile and submit its annual filing requirements with the IRS. Dues, including minimum dues, are set by members with input from antitrust counsel to ensure that minimum dues are reasonable. Throughout its history, deviations from the manual, rules, forms, and rates filed by the LATISSO have been submitted to and approved by the DOI. The LATISSO has never contested a deviation filing by a member. By statute, the Louisiana commissioner of insurance, chair of the Louisiana House of Representatives Insurance Committee, and chair of the Louisiana Senate Insurance Committee are ex-officio members.

Mr. Muckerheide stated that Texas employs an extensive body of rules, forms, and a promulgated rate that is set at a hearing about every five years. Promulgated rates are required under Chapter 2703 of the Texas Insurance Code. Rates are set or changed through the insurance commissioner during periodic hearings. Hearings used to be more frequent until legislation in 2011 that lengthened the periodic hearing requirement to about every five years. However, certain stakeholders can request a hearing to change rates. Stakeholders include title insurance companies from the Texas Office of Public Insurance Counsel (OPIC), qualifying trade associations, and interested persons. Under the new legislation, the Department of Insurance conducts rate setting hearings as rulemaking hearings. Once the DOI receives a request for a hearing, it begins as a rulemaking hearing with a tight timeline within which stakeholders can request the hearing be conducted as a contested case hearing. If granted, the process becomes more similar to a litigation process. The few times a contested case hearing has been requested, it proceeded as a rulemaking hearing. The rulemaking hearing must be initiated within 60 days of the hearing request, and then the insurance commissioner has 120 days to issue a final order. Only two petitions to change the rates have been received since the new legislation in 2011. To manage the tight timeline following these petitions, the DOI collected information informally and set up public stakeholder meetings in advance of the formal petition coming in. The insurance commissioner's main statutory charge is to consider all relevant income and expenses of title insurance companies and agents. Unlike most other states, title insurance rates in Texas include costs associated with the title search and transaction, but not the escrow fees. However, the DOI does collect data on escrow data and considers if it is excessive in its ratemaking proceedings. Other annual data collected includes income statement operating revenues and expenses from title agents. From title insurance companies, it collects: income statement operating revenues and expenses; balance sheet; information about policies written and endorsements; claims and losses; and agent ownership and affiliation with underwriters.

Ms. Rankin stated Kansas uses a file and approve system. While the Kansas DOI reviews filings for compliance, it does not regulate title insurance rates. It operates off statutory construct that went into effect in 1999. Insurance companies issuing the title policy in Kansas are required to file policy forms with the DOI according to K.S.A. 40-216(a)(2)(A). In addition, under K.S.A. 40-952(c), companies must file the rates, rate manuals, rate plans, and charges to be used in connection with approved title policy forms. All insurance agents and agencies authorized to transact title insurance in the state must file all the rates they plan to charge with the insurance commissioner. This includes title premium rates and separate agency fees charged to clients for other services, such as escrow settlement and closing fees. There is no standard of review for the DOI. Agencies can either adopt the rates that are charged by the underwriters, or they can decide to deviate from those rates and charge lower rates. The title agency then sends an agreed upon premium to the underwriter. The DOI does not regulate the percentage of premiums allocated. This allows title agencies to decide if they want to take less of the premium to sell more policies. The financial difference is then made up through volume. The market controls the rates and keeps them low. To further increase transparency, the DOI is considering placing all rate filings on its website. This would eliminate the need for a records request. Anecdotally, agencies express they can make more money in states that set the rates, such as Texas.

2. Heard a Presentation on New Title Insurance-Like Alternatives that Use Attorney Opinion Letters Backed by an Enhanced Errors and Omissions Policy Through the Surplus Lines Market

Chris Morton (American Land Title Association—ALTA) stated that in April, Fannie Mae issued selling guidance that for the first time allowed the use of attorney opinion letters in lieu of title insurance in limited circumstances. This provides protection on the lender policy side. Freddie Mac did this several years ago and has indicated there has been little adoption in the marketplace. This shift in selling guidance is the outcome of efforts by the Federal Housing Finance Agency (FHFA), which is over Fannie Mae and Freddie Mac. The FHFA has been asked to put together what are called equitable housing finance plans designed to provide additional opportunities for affordable and sustainable housing amongst minority and low-income borrowers. Components of these plans include consumer education to ensure homeowners understand the housing marketplace, credit reform, improving the appraisal process with technology, and developing special purpose credit programs with lenders. There has been discussion on whether there are ways to reduce costs within the marketplace. The use of attorney opinion letters is being purported as an opportunity to explore. However, there are gaps in coverage, particularly on the consumer side, with this approach. Additionally, there is a question as to how an attorney opinion letter fits into title insurance in the context of these plans.

Tim Kemp (Greenberg Traurig) stated the only information available to him for analysis were marketing materials, policies, and attorney's opinions. In previous times, the Task Force has acted on entities providing title-type coverages without a license. This product should be of concern to state insurance regulators. Attorneys' opinions have been around for a long time. This product combines an attorney opinion letter, service agreement, and specialty errors and omissions insurance into one comprehensive alternative to traditional title insurance. The company currently selling these, Voxtur, is publicly traded and based in Toronto, Canada. Its marketing materials state it accelerates the lending loan cycle with technology-driven settlement services, evaluation tax assessment data, and analytics. Attorney opinions require an attorney license in a state, so this product also includes a partnership with attorneys. There is also a partnership with carriers since the attorney's opinion letter is backed by mortgage service providers. The insurance policy covers the full value of the loan for the life of the loan and is fully transferable in the secondary market. Unlike title insurance, this product uses legal opinions to confirm marketability of title. The product's market materials state that this is not new, but a new iteration that makes these opinions scalable, affordable, and widely available. This allows for the product to be offered as a more affordable option than title insurance. Each attorney is acting under the authority and blessing of the Supreme Court of the state of the subject property, with the protection of a comprehensive liability wrapper. To state it has the blessing of the state Supreme Court could be misleading.

Today, Freddie Mac and Fannie Mae allow the use of an attorney opinion letter in lieu of title insurance. Freddie Mac's guidelines are limited to areas where attorney opinion letters are more commonly used in southern Ohio, Kentucky, and Iowa. There must be a statement stating, "We [I] agree to indemnify you and your successors in interest in the [Mortgage] [deed of trust] opined hereto, to the full extent of any loss attributable to a breach of our [my] duty to exercise reasonable care and skill in the examination of the title and the giving of this opinion." Additionally, the attorney must have malpractice insurance. Similarities between the title policy and the attorney's opinion include that both have some assurance that the title is vested as described, there is protection offered in having a marketable title, protection against having no right of access to the property, and protection in the lean priority of the mortgage. However, there is no closing protection letter (CPL). The insurance wrapper is structured like a service provider policy. The lender is made whole for any monetary loss if the provider fails to meet its obligations, including following closing instructions. However, there are no protections for the consumer if someone absconds with the settlement money. Additionally, the attorney opinion letter with the liability wrap only has a duty to search the most current public records available. Unrecorded interests, mechanic liens, etc., are not within the scope of coverage. Those of the income level who would benefit most from a lower cost alternative to title insurance are least likely to be able to protect themselves in the event of a claim. Also not covered under the alternative product are fraud, forgery, duress, incapacity, impersonations, and other similar

coverages. Proper execution of documents, including the use of a remote notary, is not included. Other core coverages not provided under the alternative product include defective judicial proceedings, boundary line disputes, and marketability line coverage. Additionally, the alternative product has limited or no coverage for liens and encumbrances, other coverages, claims duties, and defalcation.

State insurance regulators are asked to consider if these should be considered title insurance coverages. If they determine they do qualify as title insurance coverage, then state insurance regulators should consider if those selling these alternative products are licensed to do so, if they are reserving, how reserves are being determined, and if other guard rails for the title industry are being adhered to.

Director Dunning stated it was his understanding that a standard title insurance policy did not require proof of error for the policy to respond and clean the title. He asked if the alternative product would require the property owner to show competency failure on the part of the lawyer before he could recover. Mr. Morton stated it does not matter if the policyholder proves anything. It only matters if it is covered under the terms of the policy. Regarding the alternative product, only the lender benefits from the errors and omission policy. There must be a foreclosure before the homeowner recovers anything.

Ms. Rankin asked for clarification on when the malpractice insurance attorneys must have come into play. Mr. Morton stated if the attorney opinion is issued to the lender, then the liability wrap is around that opinion. He did not know if the homeowners could go against the attorney. This begs another question as to who the attorney's client is in this circumstance. Mr. Kemp stated that this product is currently being marketed as available in all 50 states with up to \$1 million of coverage.

Birny Birnbaum (Center for Economic Justice —CEJ) stated he has worked on title insurance rates since 1991. The presentations illustrate why title insurance markets are not competitive and why title insurance is massively overpriced. Over the last 30 years, loss ratios have typically been around 4%, outside of the financial crisis, when they reached double digits. The paper-based manual process has been replaced with a digitized automated process. Despite innovations, such as Dolma's underwriting through an algorithm, the innovator struggles to gain market share. This is because competition is based on which real estate professionals can steer business to the title agent or insurer rather than price. State insurance regulators should be skeptical about efforts to exclude innovators. Unlike other types of insurance, title insurance is characterized by reverse competition. This suggests that not all expenses are reasonable. The real innovation in title insurance would be to create a competitive market in which the purchasers of title insurance have the market power to discipline the seller of title insurance. Mr. Birnbaum offered to present at a future meeting on how different states examine title rates for reasonableness.

Having no further business, the Title Insurance (C) Task Force adjourned.

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WORKERS' COMPENSATION (C) TASK FORCE

Workers' Compensation (C) Task Force Aug. 2, 2022, Minutes..... 7-105

Draft: 8/3/22

Workers' Compensation (C) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
August 2, 2022

The Workers' Compensation (C) Task Force met Aug. 2, 2022. The following Task Force members participated: Alan McClain, Chair, and Jimmy Harris (AR); John F. King, Vice Chair, Steve Manders, Paula Shamburger, and Martin Sullivan (GA); Lori K. Wing-Heier represented by Anna Latham and Alex Reno (AK); Mark Fowler represented by Yada Horace and Erick Wright (AL); Ricardo Lara represented by Yvonne Hauscarriague, Giovanni Muzzarelli, Mitra Sanandajifar, and Sarah Ye (CA); Andrew N. Mais, George Bradner, and Wanchin Chou (CT); Karima M. Woods represented by David Christhilf and Angela King (DC); Trinidad Navarro represented by Christina Miller (DE); David Altmaier represented by Greg Jaynes and Sandra Starnes (FL); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Travis Grassel, Jared Kirby, and Jolene Schurman (IA); Dean L. Cameron represented by Katie Deaver and Randy Pipal (ID); Vicki Schmidt represented by Julie Holmes, Sara Hurtado, and Craig VanAalst (KS); James J. Donelon represented by Warren Byrd and Tom Travis (LA); Gary D. Anderson represented by Matthew Mancini (MA); Timothy N. Schott represented by Brock Bubar and Sandra Darby (ME); Grace Arnold represented by Sandra Anderson, Tammy Lohmann, and Phil Vigliaturo (MN); Chlora Lindley-Myers represented by Jo LeDuc, Patrick Lennon, and Debbie Goeller; (MO); Mike Causey, Tracy Biehn, and Fred Fuller (NC); Marlene Caride represented by Mark McGill and Carl Sornson (NJ); Barbara D. Richardson represented by Gennady Stolyarov (NV); Andrew R. Stolfi represented by David Dahl (OR); Michael Humphreys represented by Shannen Logue and Eric Zhou (PA); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Larry D. Deiter represented by Tony Dorschner (SD); Jon Pike represented by Tracy Klausmeier and Reed Stringham (UT); Kevin Gaffney represented by Mary Block, Isabelle Turpin Keiser, Nick Marineau, Pat Murray, and Rosemary Raszka (VT); and Allan L. McVey, Tonya Gillespie, and Juanita Wimmer (WV). Also participating were: Kaylee Baumstark (AZ); Anthony Bredel, Keith Fanning, and Reid McClintock (IL); Thomas Faust (IN); Tina Nacy (MI); Connie Van Slyke (NE); Ruju Dave (NH); Bogdanka Kurahovic and Jennifer Catechis (NM); Benna Nye (OK); Marianne Baker and Nicole Elliott (TX); Rebecca Nichols (VA); and David Haushalter and Shasta Hoffhein (WI).

1. Discussed Presumptions and Their Erosion of a Balanced Workers' Compensation Industry

Commissioner McClain said several states enacted presumption legislation in response to the COVID-19 pandemic. While the presumptions have expired in many states, there are a few states that extended their presumptions into late 2022 and 2023.

Heather Lore (International Association of Industrial Accident Boards and Commissions—IAIABC) said the IAIABC is a trade association of regulatory bodies, which now also includes private sector organizations. These organizations all met and shared ideas regarding workers' compensation policy, regulation, and administration. The IAIABC includes members from 65 jurisdictions from the U.S. and around the world, including Australia, Canada, Germany, Malaysia, South Korea, and Taiwan. There are additionally 171 private sector members that have an interest in workers' compensation. Ms. Lore said that state insurance regulators do have a membership with the IAIABC. She said if state insurance regulators have interest in a particular workers' compensation topic, the IAIABC can help by providing access to resources.

Ms. Lore said the IAIABC develops informational resources and data reporting standards on workers' compensation. The IAIABC additionally hosts virtual educational programs on hot topics, trends, and continuing challenges in the regulation and administration of workers' compensation. The IAIABC provides opportunities for members to connect and share information and insights with their peers.

Ms. Lore said the IAIABC stays current on issues that are affecting the workers' compensation system, including the issue of presumptions and the future of work.

Ms. Lore said presumptions have existed in workers' compensation for years. Presumptions are created where injuries or illnesses occurring to an employee would not be covered by workers' compensation or could be easily challenged by a jurisdiction's workers' compensation act. These injuries are presumed to have occurred in the workplace due to the nature of the work. Commonly, these presumptions include first responders, such as emergency medical technicians (EMTs), firefighters, and police officers. Presumptions affecting the employee cover cancers, such as colon or kidney cancer, heart disease, or infectious disease.

Ms. Lore said presumptions typically have employment requirements, as well as requiring a minimum number of years of service. Presumptions are usually rebuttable, allowing the presumption of a workplace injury to be rebutted through evidence. She said other presumptions include miners who contract black lung disease, or for hazardous waste workers.

Ms. Lore said there has been a lot of activity related to presumptions in the last two years. The COVID-19 pandemic had a dramatic impact on presumptions and started a heated discussion regarding what is promised by workers' compensation as the exclusive remedy. Many states enacted COVID-19 presumptive coverage for essential workers, namely health care workers, including doctors, nurses, and first responders.

Ms. Lore said in California, there is a measure that would extend the current COVID-19 presumption for another two years. She said this measure will be addressed by the California Senate Appropriations Committee next week.

Ms. Lore said Florida is adding post-traumatic stress disorder (PTSD) for corrections officers and 911 operators, and Michigan is extending presumptions to part-time employees and volunteer firefighters. She said Washington now has a presumption for personnel working at a radiological hazardous waste facility.

Ms. Lore said the National Council on Compensation Insurance (NCCI) has been tracking the COVID-19 presumption activity, which confirms that some states have extended their presumptions, while many others have allowed their presumptions to expire.

Ms. Lore said workers' compensation was meant to be the exclusive remedy for any workplace injury but asked if presumptions create inequities in the workers' compensation system based on an employee's type of work. In 2020, when the COVID-19 presumptions began rolling out, alarms were raised in the workers' compensation industry. The workers' compensation industry raised the concern that these presumptions went beyond the original intent of workers' compensation of just providing medical care and wage loss benefits for workplace injuries.

Ms. Lore said COVID-19 is a highly communicable disease, and suddenly workers were receiving workers' compensation for medical and indemnity benefits for something they may have caught outside of work. It was determined that the likelihood of contracting COVID-19 was much higher for the doctors, nurses, firefighters, and police officers compared to the rest of the general population of workers, so presumptions allowed these workers to receive workers' compensation coverage should they get ill or need to miss work.

Ms. Lore said workers' compensation is supposed to be the exclusive remedy for workplace injuries and illnesses, so she posed the question, "Why did the presumption stop with these few types of workers?" Washington did extend its presumption to any worker; however, all other states had qualifiers regarding the types of employment.

Ms. Lore said that beyond COVID-19 presumptions, first responders are usually the only ones typically covered for PTSD. She said mental health was typically becoming less stigmatized, and workers' compensation is more aware

of it now that it has been in the past. Ms. Lore asked if PTSD care must be a part of presumptive activity, or should states confer coverage to all workers to ensure equity in the system.

Ms. Lore said these are complex questions that will likely require a great deal of discussion, and the IAIABC held a conversation regarding this topic.

Commissioner King said Georgia passed a mental health parity bill last year. He said the concerns regarding this bill mainly deal with the cost and the impacts of these costs to the business community. Commissioner King said it is important to discuss the impact, as well as the cost. He said the topic of 911 operators has been seriously discussed because people do not realize the pressures exerted on these employees and how critical they are to law enforcement functions.

Mr. Manders said one thing Georgia did several years ago was to take cancer out of the workers' compensation system and create a private separate benefit that private insurers are writing. He said the benefit has prescribed benefits like workers' compensation, but it is not covered by the workers' compensation system. He said the benefit provides medical and indemnity benefits for a limited period. Mr. Manders said there is discussion in the legislature to do something of a similar nature regarding PTSD.

Ms. Lore said many of the workers' compensation presumptions are for workers that work for self-insured employers, such as municipalities. She said this means the municipalities are bearing the costs. Ms. Lore said the IAIABC has discussed how this can be managed and balanced to ensure that the benefit is there for the people in need but are not causing an undue burden on the municipalities that are paying out benefits on the presumptions.

2. Discussed the Future of Work and How the Hybrid Work Force is Affecting Claims Frequency

Ms. Lore said the IAIABC and the NAIC collaborated last year on a paper regarding the future of work. The name of the paper is *Workers' Compensation Policy and the Changing Workforce*, and it can be found on either the IAIABC website or on the NAIC website. The paper discusses the changes in work and the evolving landscape of workplaces, as well as the shifting responsibility of workers' compensation coverage and benefits.

Ms. Lore said while the future of work was changing prior to 2020, the pandemic accelerated these changes and shifted the workplace and work arrangements drastically. There has been a lot of job shifting over the last couple of years. Ms. Lore said there has been an increase in workers who have been at their jobs for less than a year. She said according to a McKinsey Global Institute report from 2021, the COVID-19 pandemic will cause an estimated 25% of workers to not only change jobs, but to change their occupations by 2030. Ms. Lore said the report indicated younger workers have faced higher levels of unemployment, as well as reduced access to training.

Ms. Lore said there was a huge change in the number of remote workers between 2015 and 2021. She said remote work is continuing in many industries and jobs. She said the IAIABC's entire staff is now full-time remote. Ms. Lore said the McKinsey Global Institute report estimated that 25% of workers in high-income countries will continue full- or part-time remote work.

Ms. Lore said the number of workers in non-standard work arrangements has been growing since 2008. These workers are largely without job protections, such as workers' compensation. Ms. Lore said the Pew Research Center estimated that gig work was the main job for 31% of gig workers in 2021.

Ms. Lore said regarding automation, artificial intelligence (AI), and robotics, workplaces are changing in response to the pandemic and lack of workers. More than half of global businesses have increased automation. Businesses are finding increases and efficiency using innovative technologies, and some of these technologies are taking on more risky, unsafe jobs, allowing workers to retrain in other areas.

Ms. Lore said during the NCCI's Annual Insights Symposium (AIS), there was a discussion regarding the great reshuffle in the labor markets. She said part of what was discussed was the impact of the reshuffling on claim frequency. They also discussed short-tenured workers, remote workers, and industry mix. Ms. Lore said the NCCI did not discuss gig workers or automation, but certainly what they discussed has an impact on claims frequency.

Ms. Lore said short-tenured workers are more likely to suffer injuries, and claims frequency has been affected due to the increase in the number of short-tenured workers over the last couple of years. She said frequency is low for remote workers, although there is not much data to compare since the share of remote workers was much lower pre-pandemic.

Ms. Lore said the Pew Research Center estimated that 9% of U.S. adults are current or recent gig workers. The continued increase in gig work, coupled with the increase in automation, may make up for some of the shifts in the workforce. Since gig workers are typically not covered by workers' compensation, their workplace injuries are not affecting claims frequency, as they are being moved into general health care and Social Security disability income.

Ms. Lore said the future of work is having an impact on claims frequency and is going to continue to have an impact. She said for non-COVID-19 claims, the California Workers' Compensation Insurance Rating Bureau (WCIRB) reported that non-COVID-19 claims decreased by 22.2% in California in 2020 due to layoffs, businesses closing or cutting back on hours, and the large number of employees moving to remote work. However, the frequency increased by 12.6% in 2021, which was the first increase in frequency in a decade. In the past 20 years, frequency has been decreasing.

Ms. Lore said increases in automation and safety are helping to drive that frequency down, as well as more workers moving to gig work and more employees moving to remote work. While the increases in short-tenured workers are driving the frequency up, the downward trend in frequency is likely to continue due to all the shifts in the future of work.

Mr. Stolyarov said he appreciates the focus on the various trends that are driving frequency down versus the trends that are driving frequency up. He said he believes the future trajectory will depend on what happens with both remote work, as well as the great reshuffle. Mr. Stolyarov said he agrees that remote work has a favorable impact on frequency. He said there is uncertainty whether the increase in short-tenured employees is going to be commonplace or a temporary phenomenon because of one-time structural changes to the economy.

Commissioner McClain said he recalls that the NCCI presentation indicated a lot of the shuffle occurred in the service industry. He said the service industry typically sees reshuffling.

Mr. Byrd said employees in the Louisiana Department of Insurance (DOI) are asking if they can do their job remotely, which is currently not an option. He said an overall concern is how much of the labor force is required to be at a physical location—such as plumbers, carpenters, and electricians—versus those who can work from home.

Commissioner McVey said during the pandemic, many of the DOIs' employees worked remotely, which did decrease the claims frequency. He said operations like construction and maintenance, or industries of this type, are going to see a shifting from the older employees to younger employees, who are going to be in training. Commissioner McVey said frequency will be dictated by the type of industry.

Mr. Byrd asked if a person was working remotely and was walking to get a cup of coffee and fell, would that be covered under workers' compensation. Ms. Lore said this would generally be covered, as this is something you would do in the office. She said if you were walking up the stairs to change your laundry during the day, this would

generally not be covered. Ms. Lore said some organizations come to a remote worker's office and do a safety check or have employees send a picture of their workspace.

Mr. Byrd asked if this would raise the level of potential fraud. Ms. Lore said this is being discussed because it is a valid concern.

3. Discussed How States are Recruiting and Training With the DOI

Commissioner McClain said he thinks remote work is a good strategy for recruitment and retention of employees.

Mr. Bradner asked Ms. Lore if the IAIABC indicated in the job posting if the job was remote and the applicant did not have to live in the state where the business is located. He said Connecticut is allowing employees to work from home, but, remote workers must be within two hours of the office so they are able to come into the office. He said, however, that they are trying to waive this restriction.

Ms. Lore said the IAIABC's job posting said the position would be remote for the right candidate. Currently, all the IAIABC employees are remote.

Commissioner McClain said if the Arkansas DOI were able to have more flexibility with remote work, it would help with recruitment and retention. He said they lost several employees throughout the DOI to employers that offer a more flexible work environment.

Mr. Grassel said the Iowa DOI recently started a pilot internship program that it is in the middle of structuring to recruit talent. Currently, this is being done with high school students, but the Iowa DOI is hoping it will be able to begin bringing in college students. Mr. Grassel said the Iowa DOI is in the office three days a week and remote two days a week. He said it is a challenge for retention if full remote work is not offered.

Ms. Murray said the Vermont DOI has a successful internship program and has retained one college graduate on a full-time basis. She said this is the fifth year of its internship program, and it has three summer interns. Ms. Murray said the Vermont DOI looks for local students. She said, however, it takes students from all over the country.

Ms. Murray said the Vermont DOI has worked hybrid the past two years, and it has worked out well. Commissioner Gaffney said DOIs cannot always make up the compensation gap. He said, however, that learning that working in a remote fashion can be productive for many jobs has helped fill that gap. He said embracing remote work will help balance the compensation difference.

Mr. Byrd said the Louisiana DOI has performance standards in place. He said if these standards are being met, it will provide some guidance on when working from home is working for a particular work situation. Mr. Byrd said performance standards would play a role in the future.

Ms. Lore posted a link to a webinar and discussion session held in May regarding recruitment and retention. This webinar discusses strategies to improve recruitment and retention. The link to the webinar is as follows: <https://educationhq.iaiaabc.org/learn/course/86/play/455/dive-in-discussion-on-recruitment-and-retention-2022>

Mr. Manders said there are two large risk management schools in Georgia. He said it is helpful to reach out to the local colleges and develop a relationship with the deans. Mr. Manders said Georgia has two deans that sit on its residual market boards as public members.

Ms. Klausmeier said Utah is offering remote work, and it has been key to attracting and retaining employees.

Having no further business, the Workers' Compensation (C) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022_Summer/WCTF/0822 WCTF Minutes.docx

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

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Market Regulation and Consumer Affairs (D) Committee
Portland, Oregon
August 12, 2022

The Market Regulation and Consumer Affairs (D) Committee met in Portland, OR, Aug. 12, 2022. The following Committee members participated: Jon Pike, Chair (UT); Trinidad Navarro, Vice Chair (DE); Evan G. Daniels (AZ); Sharon P. Clark (KY); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Jon Godfread represented by John Arnold (ND); Eric Dunning represented by Martin Swanson (NE); Russell Toal represented by Leatrice Geckler (NM); Barbara D. Richardson (NV); Michael Humphreys (PA); Cassie Brown (TX); and Kevin Gaffney represented by Karla Nuissl (VT). Also participating were: Michael Conway (CO); Erica Weyhenmeyer (IL); Rebecca Nichols (VA); and John Haworth (WA).

1. Adopted its July 15 Minutes

Commissioner Clark made a motion, seconded by Ms. Biehn, to adopt the Committee's July 15 minutes (Attachment One). The motion passed unanimously.

2. Adopted Revisions to the Handbook

Ms. Weyhenmeyer said revisions to Chapter 1—Introduction of the *Market Regulation Handbook* (Handbook) were adopted by the Market Conduct Examination Guidelines (D) Working Group during its July 14 meeting. She said discussion on the issue of coordination between market conduct state insurance regulators and state insurance financial examiners had been occurring since the drafting of Chapter 20—General Examination Standards of the Handbook. She said the purpose of adding the revision to Section B of Chapter 1 is to insert guidance into the Handbook to address the need for state insurance market conduct regulators to recognize domestic financial examiners as a resource available to them and market conduct examiners to coordinate with domestic financial regulators to obtain information relating to a company's group capital calculations (GCCs), liquidity stress test (LST) results, corporate governance, and Own Risk and Solvency Assessment (ORSA), as needed.

Ms. Weyhenmeyer said revisions to Chapter 20 of the Handbook were also adopted during the Working Group's July 14 meeting. The revisions align the Handbook with various provisions of the *Insurance Holding Company System Regulatory Act* (#440) and make several changes to Chapter 20.

Ms. Weyhenmeyer said revisions to Chapter 21—Conducting the Property and Casualty Examination of the Handbook were adopted during the Working Group's April 21 meeting. The revisions align the chapter with provisions of the *Real Property Lender-Placed Insurance Model Act* (#631).

Ms. LeDuc made a motion, seconded by Ms. Biehn, to adopt the revisions to Chapters 1 (Attachment Two), 20 (Attachment Three), and 21 (Attachment Four) of the Handbook. The motion passed unanimously.

3. Adopted the New Handbook Chapter 24B

Ms. Weyhenmeyer said the Market Conduct Examination Guidelines (D) Working Group adopted the new Chapter 24B—Conducting the Mental Health Parity Addiction Equity Act-Related Examination of the Handbook on July 14. She said the drafting of the new chapter was in response to the Nov. 3, 2021, letter to the Committee from 19 organizations in the mental health field. She said the letter indicated that the mental health parity examination chapter of the Handbook was outdated because of 2021 federal amendments to the federal Paul Wellstone and

Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requirements for analyzing the parity compliance of non-quantitative treatment limitations (NQTLs).

Ms. Weyhenmeyer said a new draft of Chapter 24B entitled “Conducting the Mental Health Parity Addiction Equity Act-Related Examination” was first prepared under the guidance of the MHPAEA (B) Working Group, as its members have expertise in this subject area. She said the drafting sessions were attended by state insurance regulators and federal regulators who provided input on the updated MHPAEA chapter. She said after the Working Group reviewed the draft chapter, it was distributed to the Market Conduct Examination Guidelines (D) Working Group, interested state insurance regulators, and interested parties. Numerous comments were received on the chapter from state insurance regulators, industry representatives, and consumer representatives.

Ms. Weyhenmeyer said interested parties asked the Working Group to defer adopting the MHPAEA chapter until another federal rule is potentially issued in the fall of this year. She said those potential federal rules have not yet been drafted or presented, and the Working Group decided it was important to move forward with adoption of the chapter and then modify the chapter, as needed.

Commissioner Clark made a motion, seconded by Ms. Biehn, to adopt Chapter 24B of the Handbook (Attachment Five). The motion passed unanimously.

4. Adopted Recommendations for the Incorporation of AI in the MIS

Commissioner Conway said on June 16, the Market Information Systems (D) Task Force adopted the report of the Market Information Systems Research and Development (D) Working Group, including the “Recommendations for the Incorporation of Artificial Intelligence in the NAIC Market Information Systems.” He said the report is the final product of the Task Force’s charge to make recommendations regarding the use of artificial intelligence (AI) techniques in the NAIC Market Information Systems (MIS).

Commissioner Conway said the report was completed and adopted by the Working Group prior to the 2021 Summer National Meeting. He said the Task Force considered the report during its next three meetings and had robust discussions among regulatory, consumer, and industry stakeholders. He said the final adoption by the Task Force accepted the report with no revisions.

Commissioner Conway said the recommendations consist of five steps: 1) analyze current MIS data and identify deficiencies; 2) identify the predictive power of market analysis scoring systems, and integrate all data into a single analysis; 3) incorporate promising AI modes of analyses, as well as statistical models; 4) assess the ways AI can improve analysis and facilitate pattern recognition; and 5) systematically explore potential data sources suitable for AI techniques.

Ms. LeDuc made a motion, seconded by Director Daniels, to adopt the “Recommendations for the Incorporation of Artificial Intelligence in the NAIC Market Information Systems” (Attachment Six) The motion passed with Commissioner Brown voting against.

5. Adopted Guidelines for Amending the NAIC Uniform Applications

Commissioner Clark said the Producer Licensing (D) Task Force adopted the “Guidelines for Amending the NAIC Uniform Applications” on May 5. She said the guidelines will be used for the review and adoption of substantive changes to the NAIC’s Uniform Licensing Applications in support of the NAIC and National Insurance Producer Registry (NIPR) missions of maintaining stable and consistent NAIC Uniform Applications for producer licensing.

Commissioner Clark said the guidelines set forth a five-step process to be followed on a biennial basis. She said any party requesting proposed changes to the NAIC's Uniform Licensing Applications would submit the proposed changes to NAIC staff by Feb. 1, and the proposed changes would be circulated for a 30-day public comment period. She said after the comment period, the Producer Licensing Uniformity (D) Working Group and the Task Force will have until the close of the next Summer National Meeting to adopt or reject the proposed changes. She said for proposed changes that are adopted, NAIC staff will coordinate with NIPR and the states, including any back-office system support vendors, to conduct an analysis of how long it will take to implement the proposed change and the cost to implement. She said this work is to be completed within 45 days. She said the Committee will then be presented with the proposed changes for consideration and consider adoption of the proposed changes by Oct. 15 for the Executive (EX) Committee and Plenary to consider adoption of the proposed changes at the Fall National Meeting.

Commissioner Clark said the guidelines are intended to provide structure around how proposed changes to the NAIC's Uniform Licensing Applications should be considered. She said the time periods set forth in the guidelines are not intended to be strict administrative rules that cannot be modified, as needed, to efficiently complete the review of proposed changes to the NAIC's Uniform Licensing Applications. She said if adopted, the guidelines will be used by the Working Group to review the proposed amendments to the NAIC's Uniform Licensing Applications from 2018.

Commissioner Clark made a motion, seconded by Commissioner Navarro, to adopt the "Guidelines for Amending the NAIC Uniform Applications" (Attachment Seven). The motion passed unanimously.

6. Adopted the Antifraud Plan Repository Workflow

Commissioner Navarro said in 2019, the Antifraud (D) Task Force began discussing the development of an NAIC antifraud plan submission and repository system to automate and streamline antifraud plan compliance nationwide. He said the topic was introduced to the Task Force after industry representatives explained how cumbersome it is to stay in compliance with state antifraud plan laws.

Commissioner Navarro said antifraud plan requirements differ tremendously from state to state, and insurance company representatives manually create and submit individual plans to states that have an antifraud plan requirement. He said to address the industry's concern, as well as to promote antifraud plan uniformity, the Task Force determined that it would be beneficial to create an antifraud plan system that works in the same way as the NIPR system.

Commissioner Navarro said Task Force members determined that a similar electronic system could be created, using a uniform antifraud plan template, to streamline the antifraud plan creation and submission process. He said as part of this project, the Task Force, with industry assistance, redesigned the *Antifraud Plan Guideline* (#1690) to ensure it included all the key elements that insurance companies should consider when developing an antifraud plan. He said the revisions of the guideline were adopted during the 2021 Spring National Meeting.

Commissioner Navarro said in the second phase of the project, the Antifraud Technology (D) Working Group, using the newly adopted guideline, worked with industry representatives to develop an Antifraud Plan Repository Workflow. He said in June, the Task Force adopted the workflows and business rules. He said the workflows and business rules, not only outline how the Task Force envisions the system working from a user perspective but will also serve as a resource for the NAIC's Information Technology (IT) Department as it works on the project.

Commissioner Richardson said she believes this is a good idea, but she is worried that using a template would make the creation of antifraud plans perfunctory, and she would have to vote against the proposal due to that concern.

Commissioner Clark made a motion, seconded by Director Daniels, to adopt the Antifraud Plan Repository Workflow (Attachment Eight). The motion passed with Commissioner Richardson voting against.

7. Adopted it Task Force and Working Group Reports

a. Antifraud (D) Task Force

Commissioner Navarro said the Antifraud (D) Task Force met June 30 and finalized the Antifraud Technology (D) Working Group's charge concerning the development of an Antifraud Plan Repository.

b. Producer Licensing (D) Task Force

Commissioner Clark said the Producer Licensing (D) Task Force met May 5. She said the Task Force received a report from the NIPR Board of Directors, which highlighted that NIPR is now processing appointments and terminations for all states. She said the Task Force also discussed the 1033 waiver process and industry's request to simplify this process. She said in response to this request, NAIC staff were asked to work with a small group of state insurance regulators to develop suggested next steps for review by the Task Force. She said the Task Force discussed the potential development of best practices and a national solution on how states should address the submission of producer applications with errors or misstatements completed by authorized third-party submitters.

c. Market Analysis Procedures (D) Working Group

Mr. Haworth said the Market Analysis Procedures (D) Working Group met June 8 and July 13. He said on June 8, the Working Group adopted standard ratios for the travel insurance Market Conduct Annual Statement (MCAS) and the short-term limited-duration (STLD) MCAS. He said the standard ratios are calculated at the state level and publicly posted on the NAIC MCAS web page each year. He noted that during the July 13 meeting, the Working Group considered some additional standard ratios for travel insurance, and these are posted for comment.

Mr. Haworth said during both the June 8 and July 13 meetings, the Working Group began discussions on the next line of business to be added to the MCAS. The Working Group heard several suggestions, including pet insurance, credit life insurance, credit disability insurance, title insurance, and business owner's policy (BOP) insurance. He said the Working Group hopes to make a final recommendation before the Fall National Meeting.

Mr. Haworth said the Working Group has been considering enhancements to the Market Analysis Review System (MARS). He said the enhancements are focused on more quickly incorporating new MCAS data into the MARS and adding additional line of business options to be available to market analysts.

d. Market Regulation Certification (D) Working Group

Mr. Haworth said the Market Regulation Certification (D) Working Group met June 1 and July 13. He said the Working Group is working on three documents that make up the Voluntary Market Regulation Certification Program: 1) the Certification Program requirements and guidelines; 2) the Certification Program scoring matrix; and 3) the Certification Program implementation plan.

Mr. Haworth said during the Working Group's June and July meetings, the Working Group adopted the scoring matrix and began work on the requirements and implementation plan. He said a small group of state insurance regulators are reviewing the requirements and the revisions that were suggested by the pilot states. He said the small group will be meeting weekly or bi-weekly, as needed, and report back to the Working Group at each of its meetings.

Mr. Haworth said the implementation plan is being re-drafted in its entirety since it has been quite some time since its original drafting and much of the material is dated. He said this work is being done at the Working Group level.

Mr. Haworth said the Working Group plans to complete its work in time for the Fall National Meeting.

e. Speed to Market (D) Working Group

Ms. Nichols said the Speed to Market (D) Working Group met April 20 and July 12. She said during the April 20 meeting, Working Group members were updated about the ongoing review and editing of the 2016 *Product Filing Review Handbook*. She said the drafters are editing outdated and obsolete information, such as referring to the Working Group as the Speed to Market (D) Task Force.

Ms. Nichols said the Working Group also heard an update from NAIC staff on the System for Electronic Rates & Forms Filing (SERFF) Modernization Project. She said attendees on the call were invited to attend the SERFF Product Steering Committee (PSC) meetings. She said Working Group meetings will include a standing agenda item to receive updates regarding the SERFF Modernization Project.

Ms. Nichols said during the July 12 meeting, Working Group members discussed and considered suggestions for changes to the uniform transmittal documents (UTDs) and the product coding matrix (PCM). She said a change to the Life & Health UTD was unanimously adopted by the Working Group. She said the change adds “withdrawn” as a status option. She said the change will be effective Jan. 1, 2023.

Director Daniels made a motion, seconded by Mr. Arnold, to adopt the following reports: 1) Antifraud (D) Task Force; 2) Market Information Systems (D) Task Force; 3) Producer Licensing (D) Task Force; 4) Market Analysis Procedures (D) Working Group (Attachment Nine); 5) Market Conduct Annual Statement Blanks (D) Working Group (Attachment Ten); 6) Market Regulation Certification (D) Working Group (Attachment Eleven); 7) Market Conduct Examination Guidelines (D) Working Group (Attachment Twelve); and 8) Speed to Market (D) Working Group (Attachment Thirteen). The motion passed unanimously.

8. Heard a Presentation on Dark Patterns on Websites

Birny Birnbaum (Center for Economic Justice—CEJ) said dark patterns are user interface techniques that benefit an online service by leading consumers into making decisions they might not otherwise make. He said some dark patterns deceive consumers, while others exploit cognitive biases or shortcuts to manipulate or coerce them into choices that are not in their best interests. He said dark patterns are a specific type of choice architecture in website and application design that interfere with a user’s autonomy and choice. He said dark patterns modify the presentation of choices available to users or manipulate the flow of information so users make selections they would not otherwise have chosen to their own detriment and the benefit of the website or app provider.

Mr. Birnbaum provided examples of types of dark patterns utilized by website and application developers including: 1) Nagging – repeated requests to do something the firm prefers; 2) Confirm-Shaming – a choice framed in a way that makes it seem dishonorable or stupid; 3) Forced Action – requiring opt-out of optional services and the manipulative extraction of personal information and information about other users; 4) Social Proof – false/misleading notices that others are purchasing or offering testimonials; 5) Roach Motel – asymmetry between signing up and canceling; 6) Price Comparison Prevention – difficulties in understanding and comparing prices; and 7) Hidden Information/Aesthetic Manipulation – important information visually obscured. He also said a common example of a dark pattern is the ease with which websites will allow a user to accept cookies, but if a user does not want to accept cookies, many steps are necessary. He provided results of testing on dark patterns

that indicate that the use of dark patterns is very effective in guiding user choices to the benefit of the website provider.

Mr. Birnbaum said it is important for state insurance regulators to address the use of dark patterns by insurance providers. He noted that insurance regulatory disclosures are based on and designed for paper, not digital interfaces. He said on a digital interface, requirements such as “prominently display” and font size have no meaning. He noted that there has been a rapid increase in digital interactions in place of paper or face-to-face interactions between consumers and insurers from digital claim settlements to interactions involving insurance applications.

Mr. Birnbaum urged state insurance departments and the NAIC to: 1) train analysts and examiners to recognize dark patterns and manipulative digital design; 2) compile resources on manipulative digital design; 3) review existing disclosure requirements and whether they make sense for a digital interface and protect against dark patterns; 4) update guidance in regulations identifying dark patterns as an unfair and deceptive trade practice; and 5) develop relevant methods of regulatory review and update the Handbook accordingly.

Having no further business, the Market Regulation and Consumer Affairs (D) Committee adjourned.

[D Cmte Minutes](#)

Draft: 8/2/22

Market Regulation and Consumer Affairs (D) Committee
Virtual Meeting
July 15, 2022

The Market Regulation and Consumer Affairs (D) Committee met July 15, 2022. The following Committee members participated: Jon Pike, Chair (UT); Trinidad Navarro represented by Frank Pyle, Vice Chair (DE); Evan G. Daniels (AZ); Sharon P. Clark (KY); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Jon Godfread represented by Johnny Palsgraaf (ND); Barbara D. Richardson (NV); Michael Humphreys represented by David Buono (PA); Cassie Brown represented by Matthew Tarpley (TX); and Kevin Gaffney represented by Mary Block (VT). Also participating was: Erica Weyhenmeyer (IL).

1. Adopted its Spring National Meeting Minutes

Commissioner Richardson made a motion, seconded by Commissioner Clark, to adopt the Committee's April 7 minutes (see *NAIC Proceedings – Spring 2022, Market Regulation and Consumer Affairs (D) Committee*). The motion passed unanimously.

2. Adopted its 2022 Revised Charges

Commissioner Pike said the references to the System for Electronic Rates & Forms Filing (SERFF) Advisory Board are being deleted since this Board was disbanded at the Spring National Meeting. In addition to this charge, the Producer Licensing (D) Task Force charges are being revised to appoint a new Adjuster Licensing (D) Working Group. Commissioner Pike said this will allow for a new working group to review adjuster licensing reciprocity and uniformity issues rather than the Producer Licensing (D) Task Force.

Ms. LeDuc made a motion, seconded by Mr. Pyle, to adopt the Committee's revised charges (Attachment One-A). The motion passed unanimously.

3. Adopted Revised Homeowners MCAS, Revised PPA MCAS, Revised Life and Annuity MCAS, and New Other Health MCAS

Ms. Weyhenmeyer said the changes to the homeowners data call and definitions and the private passenger auto (PPA) data call and definitions are the same and that the Market Conduct Annual Statement (MCAS) digital claims reporting additions for home and PPA have already been adopted by the Committee for reporting in the 2023 data year. Ms. Weyhenmeyer said the interrogatories have some minor revisions since their initial adoption.

Ms. Weyhenmeyer said the Market Conduct Annual Statement Blanks (D) Working Group adopted a significant change for the lawsuits reporting within the homeowners and PPA data call and definitions. The lawsuit data elements are removed from the claims reporting section and placed into a newly created reporting section specifically created for reporting lawsuit activity. Ms. Weyhenmeyer said only claims-related lawsuits have been reported, and to keep continuity, the coverage-type reporting of claims will continue to include only claims-related lawsuits. An additional reporting category was created to capture non-claims-related lawsuits.

Ms. Weyhenmeyer said this change to the lawsuit reporting required edits to the lawsuit definition.

Ms. Weyhenmeyer said the Market Conduct Annual Statement Blanks (D) Working Group adopted edits to the life Market Conduct Annual Statement (MCAS) data call and definitions to include the reporting of accelerated

underwriting data. A new Interrogatories reporting section was created to capture basic information related to the products where accelerated underwriting is used and the types of data companies use for Accelerated Underwriting. Ms. Weyhenmeyer said the accelerated underwriting reporting breakouts were created for existing life MCAS data elements. This will allow for the reporting of individual cash value and non-cash value products with MCAS accelerated underwriting vs. other than MCAS accelerated underwriting. The data elements selected for accelerated underwriting reporting include: new policies issued; policies applied for; free looks; policies in-force at the end of the period; direct premiums; amount of insurance issued; and amount of insurance in-force at the end of the period.

Ms. Weyhenmeyer said the Market Conduct Annual Statement Blanks (D) Working Group had hoped to adopt accelerated underwriting reporting last year but delayed the adoption to ensure that the Accelerated Underwriting (A) Working Group's definition of accelerated underwriting could be considered for MCAS reporting. The Market Conduct Annual Statement Blanks (D) Working Group found that for reporting purposes, the Accelerated Underwriting (A) Working Group's adopted definition did not quite fit. At the same time, Ms. Weyhenmeyer said the definition adopted by the Accelerated Underwriting (A) Working Group is included within the life MCAS data call and definitions document to ensure consistency.

Ms. Weyhenmeyer said the Market Conduct Annual Statement Blanks (D) Working Group adopted the other health MCAS blank. With the adoption of this blank, the MCAS now collects underwriting, claims, complaint, and marketing information on health plans not subject to the federal Affordable Care Act (ACA). Those plans include the following: 1) accident only; 2) accidental death and dismemberment; 3) specified disease and critical illness; 4) hospital and other indemnity; and 5) hospital/surgical and other expense. Ms. Weyhenmeyer said the data on these policies is divided into those sold directly to individuals, those sold through associations, and those sold through employer groups. The blank is divided into five sections. The interrogatories collect information on how the company distributes its products and their relationships with associations and third-party administrators (TPAs). There are also questions regarding fees that are either included, or not included, in the premium charged to policy and certificate holders. The underwriting section collects information such as premium written, numbers of policies and covered lives, cancellations, and reasons for cancellations. The claims sections will provide market analysts with information on claims received, paid, and denied, and the reasons for the denials. The claims section will also collect information on the total dollar amount of claims paid and the timeliness of the payments or denials. The consumer complaints and lawsuits section collects data on the number of complaints and lawsuits received against the company. The marketing section collects information on the number of applications received, approved, and denied. This section also collects data on how the applications are received by the company and commissions paid or returned to the company. Ms. Weyhenmeyer said there is a \$50,000 premium threshold for reporting, and policies/certificates will be reported to the state in which the insured resides. In combination with the health MCAS blank, which collects data on plans subject to the ACA, and the short-term, limited-duration (STLD) MCAS blank, most of the health insurance marketplace will now be subject to MCAS reporting.

Mr. Pyle made a motion, seconded by Ms. LeDuc, to adopt the revised homeowners MCAS (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Five*), the revised PPA MCAS (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Six*), the revised life and annuity MCAS (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Seven*), and the new other health MCAS (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Four*). The motion passed unanimously.

Having no further business, the Market Regulation and Consumer Affairs (D) Committee adjourned.

[D Cmte Minutes 7.15.22](#)

Draft: 6/2/22

Adopted by the Executive (EX) Committee and Plenary, _____, _____

Adopted by the Market Regulation and Consumer Affairs (D) Committee, July, xx, 2022

2022 Proposed Revised Charges

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

The mission of the Market Regulation and Consumer Affairs (D) Committee is to monitor all aspects of the market regulatory process for continuous improvement. This includes market analysis, regulatory interventions with companies, and multi-jurisdictional collaboration. The Committee will also review and make recommendations regarding the underwriting and market practices of insurers and producers, as those practices affect insurance consumers, including the availability and affordability of insurance.

Ongoing Support of NAIC Programs, Products or Services

1. The **Market Regulation and Consumer Affairs (D) Committee** will:
 - A. Monitor the centralized collection and storage of market conduct data, national analysis, and reporting at the NAIC, including issues regarding the public availability of data.
 - B. Monitor and assess the current process for multi-jurisdictional market conduct activities and provide appropriate recommendations for enhancement, as necessary.
 - C. Evaluate all data currently collected in the NAIC Market Information Systems (MIS) and considered confidential to determine what, if any, can be made more widely available.
 - D. Oversee the activities of the Antifraud (D) Task Force.
 - E. Oversee the activities of the Market Information Systems (D) Task Force.
 - F. Oversee the activities of the Producer Licensing (D) Task Force.
 - G. Monitor the underwriting and market practices of insurers and producers, as well as the conditions of insurance marketplaces, including urban markets, to identify specific market conduct issues of importance and concern. Hold public hearings on these issues at the NAIC national meetings, as appropriate.
 - H. In collaboration with other technical working groups, discuss and share best practices through public forums to address broad consumer concerns regarding personal insurance products.
 - I. Coordinate with the International Insurance Relations (G) Committee to develop input and submit comments to the International Association of Insurance Supervisors (IAIS) and/or other related groups on issues regarding market regulation concepts.
 - J. Coordinate with the Health Insurance and Managed Care (B) Committee to provide policy recommendations regarding uniform state enforcement of the federal Affordable Care Act (ACA).
 - K. Review the “Best Practices and Guidelines for Consumer Information Disclosures” (adopted October 2012) and update, as needed.

2. The **Advisory Organization (D) Working Group** will:
 - A. Revise the protocols, as necessary, for the examination of national or multistate advisory organizations (including rating organizations and statistical agents) to be more comprehensive, efficient, and possibly less frequent than the current system of single-state exams. Solicit input and collaboration from other interested and affected committees and task forces.
 - B. Monitor the data reporting and data collection processes of advisory organizations (including rating organizations and statistical agents) to determine if they are implementing appropriate measures to ensure data quality. Report the results of this ongoing charge, as needed.
 - C. Actively assist with and coordinate multistate examinations of advisory organizations (including rating organizations and statistical agents).

3. The **Market Actions (D) Working Group** will:
 - A. Facilitate interstate communication and coordinate collaborative state regulatory actions.
4. The **Market Analysis Procedures (D) Working Group** will:
 - A. Recommend changes to the market analysis framework based on results over the past five years, including the current set of Level 1 and Level 2 questions.
 - B. Discuss other market data collection issues and make recommendations, as necessary.
 - C. Consider recommendations for new lines of business for the Market Conduct Annual Statement (MCAS).
5. The **Market Conduct Annual Statement Blanks (D) Working Group** will:
 - A. Review the MCAS data elements and the “Data Call and Definitions” for those lines of business that have been in effect for longer than three years and update them, as necessary.
 - B. Develop an MCAS blank to be used for the collection of data for additional lines of business, where appropriate.
6. The **Market Conduct Examination Guidelines (D) Working Group** will:
 - A. Develop market conduct examination standards, as necessary, for inclusion in the *Market Regulation Handbook*.
 - B. Monitor the adoption and revision of NAIC models and develop market conduct examination standards to correspond with adopted NAIC models.
 - C. Develop updated standardized data requests, as necessary, for inclusion in the *Market Regulation Handbook*.
 - D. Develop uniform market conduct procedural guidance (e.g., a library, depository, or warehouse with market conduct examination templates, such as an exam call letter, exam exit agenda, etc.) for inclusion in, or for use in conjunction with, the *Market Regulation Handbook*.
 - E. Coordinate with the Innovation, Cybersecurity, and Technology (H) Committee to develop market conduct examiner guidance for the oversight of regulated entities’ use of insurance and non-insurance consumer data and models using algorithms and artificial intelligence (AI).
 - F. Discuss the effectiveness of group supervision of market conduct risks and develop examination procedural guidance, as necessary.
 - G. Discuss the role of market conduct examiners in reviewing insurers’ corporate governance as outlined in the NAIC’s *Corporate Governance Annual Disclosure Model Act* (#305) and *Corporate Governance Annual Disclosure Model Regulation* (#306).
7. The **Market Regulation Certification (D) Working Group** will:
 - A. Develop a formal market regulation certification proposal for consideration by the NAIC membership that provides recommendations for the following: 1) certification standards; 2) a process for the state implementation of the standards; 3) a process to measure the states’ compliance with the standards; 4) a process for future revisions to the standards; and 5) assistance for jurisdictions to achieve certification.
8. The **Speed to Market (D) Working Group** will:
 - A. Consider proposed System for Electronic Rate and Form Filing (SERFF) features or functionality presented to the Working Group by the SERFF ~~Advisory Board (SAB), likely originating from the SERFF~~ Product Steering Committee (PSC). ~~Upon approval and acquisition of any needed funding, direct the SAB to implement the project.~~ Receive periodic reports from the ~~SAB~~ PSC, as needed.
 - B. Provide feedback and recommendations concerning the SERFF modernization when requested by the Executive (EX) Committee and any group assigned oversight of the SERFF modernization by the Executive (EX) Committee.

- C. Discuss and oversee the implementation and ongoing maintenance/enhancement of speed to market operational efficiencies related to product filing needs, efficiencies, and effective consumer protection. This includes the following activities:
- i. Provide a forum to gather information from the states and the industry regarding tools, policies, and resolutions to assist with common filing issues. Provide oversight in evaluating product filing efficiency issues for state insurance regulators and the industry, particularly regarding uniformity.
 - ii. Use SERFF data to develop, refine, implement, collect, and distribute common filing metrics that provide a tool to measure the success of the speed to market modernization efforts, as measured by nationwide and individual state speed to market compliance, with an emphasis on monitoring state regulatory and insurer responsibilities for speed to market for insurance products.
 - iii. Facilitate proposed changes to the product coding matrices (PCMs) and the uniform transmittal document (UTD) on an annual basis, including the review, approval, and notification of changes. Monitor, assist with, and report on state implementation of any PCM changes.
 - iv. Facilitate the review and revision of the *Product Filing Review Handbook*, which contains an overview of all the operational efficiency tools and describes best practices for industry filers and state reviewers regarding the rate and form filing and review process. Develop and implement a communication plan to inform the states about the *Product Filing Review Handbook*.
- D. Provide direction to NAIC staff regarding SERFF functionality, implementation, development, and enhancements. Direct NAIC staff to provide individual state speed to market reports to each commissioner at each national meeting. Receive periodic reports from NAIC staff, as needed.
- E. Conduct the following activities, as desired, by the Interstate Insurance Product Regulation Commission (Compact):
- i. Provide support to the Compact as the speed to market vehicle for asset-based insurance products, encouraging the states' participation in, and the industry's usage of, the Compact.
 - ii. Receive periodic reports from the Compact, as needed.

NAIC Support Staff: Tim Mullen/Randy Helder

B. Resources Within State Insurance Departments

Many of these resources, such as a state insurance department consumer complaint resolution unit, are discussed in detail in the body of this handbook. Other key resources include:

Market Conduct and Financial Examinations

Market conduct examinations focus on such areas as operations/management, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, and claims. The financial condition examination system focuses on financial and corporate matters. Market conduct compliance issues can have a significant effect on legal and compliance risks, which in turn can create material solvency issues. Coordination with the financial examination function is an important area for market conduct examiners to understand. Guidance on financial condition examinations is provided in the *Financial Condition Examiner's Handbook* and is available through the Insurance Products and Services Division of the NAIC.

Financial Analysis

Financial reporting and analysis information is shared with the NAIC, which assembles a wide range of data compilations on a multistate basis. An insurance department's financial analysis and examination staff can provide valuable assistance in interpreting this information. [Additionally, market regulators are encouraged to coordinate with a company's domestic financial regulator to obtain information related to the company's group capital calculations, liquidity stress test results, corporate governance, and Own Risk and Solvency Assessment \(ORSA\).](#)

Rates and Forms Information

Tools such as the System for Electronic Rate and Form Filing (SERFF) and the insurance department posting of state filing review requirements provide a wide range of new data in formats that are more readily comparable across state and regional lines. As of April 2021, 53 jurisdictions including the District of Columbia, Puerto Rico, Guam and the Virgin Islands – plus more than 6,500 insurance companies, third-party filers, rating organizations and other companies—are using SERFF to efficiently and effectively speed insurance products to the market. The SERFF system provides an indicator of marketplace trends, such as overall increases in premiums or changes in coverages by the submission of filing of amendatory endorsements and exclusions.

Organized Intra-Department Communication

State insurance departments are organized differently, but all perform a range of market regulation functions, from consumer assistance to producer licensing, from rate and form review to market conduct exams, and from investigations to enforcement. All of these functions, as well as financial regulation functions, generate useful information about market problems. An effective market analysis program must include clear procedures for regularly sharing data and other information among the various divisions of an insurance department. Recommended methods of sharing internal information include holding a monthly update meeting or emailing issues that may be of concern or interest to other sections.

**STANDARDS
MARKETING AND SALES**

Standard 1

All advertising and sales materials are in compliance with applicable statutes, rules and regulations.

Apply to: All regulated entities

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations (Note: Reference applicable Interstate Insurance Product Regulation Commission (IIPRC) uniform standards for products approved by the IIPRC)
- _____ All regulated entity advertising and sales materials, including radio and audiovisual items such as television commercials, telemarketing scripts, pictorial materials, social media or other electronic medium
- _____ Policy forms as they coincide with advertising and sales materials
- _____ Producer's own advertising and sales materials
- _____ Regulated entity policies and procedures

Others Reviewed

- _____
- _____

NAIC Model References

Unfair Trade Practices Act (#880)
Advertisements of Life Insurance and Annuities Model Regulation (#570), Section 3B
Risk-Based Capital (RBC) for Insurers Model Act (#312), Section 8B
Life Insurance Disclosure Model Regulation (#580), Section 8C
Life and Health Insurance Guaranty Association Model Act (#520), Section 19A
Long-Term Care Insurance Model Act (#640)
Life Insurance Illustrations Model Regulation (#582)
Small Employer and Individual Health Insurance Availability Model Act (#35)
Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Model Act (#171), Section 7(H)(1)(a)(I)
Advertisements of Accident and Sickness Insurance Model Regulation (#40)
Individual Health Insurance Portability Model Act (#37), Section 5
Title Insurers Model Act (#628)
Title Insurance Agent Model Act (#230)
Home Service Disclosure Model Act (#920)
Marketing Insurance Over the Internet White Paper
Group Health Insurance Standards Model Act (#100)
Medicare Supplement Insurance Minimum Standards Model Act (#650)
Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (#651)
The Use of Social Media in Insurance White Paper
[*Insurance Holding Company System Regulatory Model Act \(#440\), Section 8G*](#)

IIPRC Uniform Standard References

IIPRC Standards for Individual Long-Term Care Advertising Materials (applicable to individual long-term care (LTC) products and associated advertising materials submitted and/or approved by the IIPRC)

Review Procedures and Criteria

Review advertising materials in conjunction with the appropriate policy form. If statistics are included, proper citation should be included in the documentation.

Materials should not:

- Misrepresent the dividends or share of the surplus to be received on any policy;
- Make a false or misleading statement as to the dividends or share of the surplus previously paid on the policy;
- Misrepresent any policy as being shares of stock;
- Misrepresent policy benefits forms or conditions by failing to disclose limitations, exclusions or reductions or use terms or expressions that are misleading or ambiguous;
- Make unfair or incomplete comparisons with other policies;
- Make false, deceptive or misleading statements or representations with respect to any person, regulated entity or organization in the conduct of insurance business; and
- Offer unlawful rebates or inducements.

Materials should:

- Disclose the name and address of insurer;
- Comply with applicable statutes, rules and regulations; and
- Cite the source of statistics used by the regulated entity.

Determine if the regulated entity approves producer sales materials and advertising. Determine if advertisements or lead-generating calls falsely project the image that they were sent by a government agency.

Review the regulated entity's and producer's websites with the following questions in mind:

- Does the website disclose who is selling/advertising/servicing for the website?
- Does the website disclose what is being sold or advertised?
- If required by statutes, rules or regulations, does the website reveal the physical location of the regulated entity/entities?
- Does the website reveal the jurisdictions where the advertised product is (or is not) approved, or use some other mechanism (including, but not limited to, identifying persons by geographic location) to accomplish an appropriate result?

For the review of Internet advertisements:

- Run an inquiry with the regulated entity's name;
- Review the regulated entity's home page;
- Identify all lines of business referenced on the regulated entity's home page;
- Research the ability to request more information about a particular product and verify the information provided is accurate; and
- Review the regulated entity's procedures related to producers advertising on the Internet and ensure the regulated entity requires prior approval of the producer pages, if the regulated entity name is used.

For the review of social media:

- Perform a search of social media sites with the regulated entity's name;
- Identify social media sites in which the regulated entity is active;

- Review identified social media sites and verify any product information provided by the regulated entity is accurate;
- Review the regulated entity’s policies and procedures to identify the personnel involved in monitoring the regulated entity’s marketing and sales-related social media activity;
- Review the regulated entity’s policies and procedures for tracking marketing and sales-related social media requiring regulated entity review; and
- If the regulated entity requires preapproval of producer advertising on the Internet, review the regulated entity’s preapproval procedures to determine whether the regulated entity identifies marketing and sales-related social media as also requiring regulated entity preapproval.

Automation Tip:

Enter a summary of all marketing materials of whatever description in an Excel spreadsheet. Capture the regulated entity’s name of the material; the form number, if any; the edition date, if any; source, if applicable; and media, such as Internet or direct mail. Include fields to note exceptions, such as unsupported statistics or possible misleading statements. Insert each possible violation/exception in a separate field.

Statistics and statements are likely to be repeated in more than one “piece” of marketing material. It is also possible that one piece of marketing material will contain more than one violation/exception.

The spreadsheet will make it easier to track any repeated statements and to identify any marketing material containing apparent multiple violations/exceptions.

**STANDARDS
MARKETING AND SALES**

Standard 1
The regulated entity’s mass marketing of property/casualty insurance is in compliance with applicable statutes, rules and regulations.

Apply to: All regulated entities

Priority: Recommended

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ New business policy forms and certificate of insurance (such certificates will only be requested for lender-placed insurance policies)

_____ Advertising materials

_____ Disclosure materials

_____ Marketing complaints

_____ Underwriting guidelines

Others Reviewed

_____ _____
_____ _____

NAIC Model References

Mass Marketing of Property and Liability Insurance Model Regulation (#710)
Group Personal Lines Property and Casualty Insurance Model Act (#760)
[Real Property Lender Placed Model Act \(#631\), Sections 5, 8 and 9](#)

Review Procedures and Criteria

Review documentation in new business policy files to determine a legitimate basis for the group. If not evident from the file, request additional documentation from the regulated entity to verify that the group is not fictitious.

Review underwriting guidelines, new business policy files, advertising materials, disclosure materials and complaints to verify:

- Compulsory participation not required for employment or group membership;
- Tie-in sales are not a condition of purchase; and
- Disclosures are provided, as required.

**STANDARDS
UNDERWRITING AND RATING**

Standard 4
Verification of premium audit accuracy and the proper application of rating factors.

Apply to: All regulated entities

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Insurance department approved and/or filed rating plans, including risk modification plans

_____ Copies of cost containment certificates and loss improvement criteria to determine cost containment discount

_____ Final rate manual tables by classification codes applicable to the period under examination (tables maintained at the regulated entity level)

_____ Workers' Compensation Experience Modification Rating Sheets pertaining to the policy sample (experience modifiers as published by the NCCI and similar advisory organizations)

_____ [For lender placed insurance, documentation showing regulated entity's separate rates for mortgage servicer obtained lender-placed insurance versus voluntary insurance on real estate owned property](#)

Others Reviewed

NAIC Model References

Property and Casualty Model Rating Guideline (File and Use Version) (#1775)

Property and Casualty Model Rating Guideline (Prior Approval Version) (#1780)

Property and Casualty Commercial Rate and Policy Form Model Law (Condensed) (#777)

Guidelines for the Filing of Workers' Compensation Large Deductible Policies and Programs (#1970)

Guidelines for Regulations and Legislation on Workers' Compensation Coverage for Professional Employer Organization Arrangements (#1950)

[Real Property Lender Placed Model Act \(#631\), Section 9](#)

Review Procedures and Criteria

The purpose of this review is to determine that the final premium charged to the employer is being applied correctly, fairly and consistently.

The sample's premium audits should contain specific information on each policy. The sample's information should be compared to the NCCI unit statistical report and to the company's rating plan, to verify accuracy in the application and reporting of the following factors when applicable:

- Premiums by classification code;
- Payroll exposure;

- Schedule rating;
- Cost containment discount;
- Premium discounting;
- Designated medical provider discount;
- Expense loading;
- Application of the correct experience modifier;
- Small employer discount;
- Discount for rehiring previously disabled employees; and
- Any other rating elements.

The company documents should be reviewed. Any additional areas or lack of information should be discussed with company management.

It is recommended that separate samples be obtained for standard voluntary market, assigned risk (if applicable), large deductible (if applicable) and PEO accounts.

**STANDARDS
 UNDERWRITING AND RATING**

Standard 6
Verification of loss reporting.

Apply to: All workers’ compensation examinations [and lender-placed insurance examinations, as applicable](#)

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ NCCI (and similar advisory organizations’) rules governing the reporting of losses on unit statistical reports
- _____ Loss data pertaining to the policy sample and maintained by the regulated entity
- _____ Unit statistical reports pertaining to the policy sample and used to report regulated entity information to the NCCI (and similar advisory organizations)
- _____ [Applicable reports filed with the commissioner \(e.g., required reporting for insurers with at least \\$100,000 in direct written premium for lender-placed insurance, and required rate filing for insurers with an annual loss ratio of less than 35% in any lender-placed program, except with respect to lender-placed flood insurance, for two consecutive years\)](#)

Others Reviewed

- _____
- _____

NAIC Model References

- Property and Casualty Model Rating Guideline (File and Use Version) (#1775)*
- Property and Casualty Model Rating Guideline (Prior Approval Version) (#1780)*
- Property and Casualty Commercial Rate and Policy Form Model Law (Condensed) (#777)*

Guidelines for the Filing of Workers’ Compensation Large Deductible Policies and Programs (#1970)
Guidelines for Regulations and Legislation on Workers’ Compensation Coverage for Professional Employer Organization Arrangements (#1950)
[Real Property Lender Placed Model Act \(#631\), Section 9](#)

Review Procedures and Criteria

Losses under each policy should be clearly and accurately maintained at the regulated entity, so that paid amounts, reserves, ~~and deductibles~~ and, with respect to losses under lender-placed insurance policies, any excess amounts paid to the mortgagor can be easily reviewed. The sample data should be compared to the unit statistical reports to verify accuracy of reporting of the following items:

- Paid losses;
- Paid loss adjustment expenses;
- Net of deductible reporting on the unit statistical reports;
- Adjustments to reserves and revised unit statistical reports; and
- Any other adjustments, such as subrogation.

The regulated entity’s documents should be reviewed. Any additional areas or lack of information should be discussed with the regulated entity’s management.

**STANDARDS
 UNDERWRITING AND RATING**

Standard 8
Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.

Apply to: All regulated entities

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Application

_____ Underwriting files

Others Reviewed

NAIC Model References

Unfair Trade Practices Act (#880)
[Real Property Lender Placed Model Act \(#631\), Section 4](#)

Review Procedures and Criteria

Decisions should be based on information that reasonably should have been developed at the inception of the policy or during initial underwriting and not, through audit or other means, [before the policy went into effect or](#) after the policy has expired.

Determine if the initial underwriting of a policy is based on the information obtained after a claim is submitted.

**STANDARDS
UNDERWRITING AND RATING**

Standard 13
The regulated entity does not engage in collusive or anti-competitive underwriting practices.

Apply to: All regulated entities

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Underwriting files

[For lender-placed insurers, books and records containing compensation, contingent commissions, profit sharing and other payments dependent on profitability or loss ratios](#)

[For lender-placed insurers, third party agreements for outsourced services](#)

Others Reviewed

NAIC Model References

Unfair Trade Practices Act (#880)
[Real Property Lender Placed Model Act](#) (#631), Section 6

Review Procedures and Criteria

Any practice suggesting anti-competitive behavior may involve legal considerations that should be referred to insurance department legal counsel. This would include engaging in collusive underwriting practices that may inhibit competition; e.g., entering into an agreement with other companies to divide the auto market within the jurisdiction by territory.

The examiner should be aware of unlawful pricing and other prohibited anti-competitive acts or practices.

Chapter 24B—Conducting the Mental Health Parity and Addiction Equity Act (MHPAEA) Related Examination

IMPORTANT NOTE:

The standards set forth in this chapter are based on established procedures and/or NAIC models, not on the laws and regulations of any specific jurisdiction. This handbook is a guide to assist examiners in the examination process. Since it is based on NAIC models, use of the handbook should be adapted to reflect each state's own laws and regulations with appropriate consideration for any bulletins, audit procedures, examination scope and the priorities of examination. Further important information on this and how to use this handbook is included in the Foreward section of the handbook.

Introduction

The purpose of this chapter, Conducting the Mental Health Parity and Addiction Equity Act (MHPAEA) Related Examination, is to provide guidance for examiners when reviewing insurers whose business includes major medical policies offering mental health and/or substance use disorder coverage.

Federal law relies on state insurance regulators as the first-line enforcers of health reform provisions in the individual, small group and large group insurance markets. The examination standards in Chapter 24—Conducting the Health Examination of the *Market Regulation Handbook* provide guidance specific to all health carriers that may or may not include offering mental health and/or substance use disorder coverage. Chapter 24, Section G Claims, Standard 3 applies to examinations related to the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008 found at 42 U.S.C. § 300gg-26.

The guidance found in this chapter recognizes that when developing an examination or review plan related to MHPAEA compliance, it is important to consider examination standards as applicable from Chapter 24 and Chapter 24A—Conducting the Affordable Care Act (ACA) Related Examination, as well as Chapter 20.

Regardless of which chapter is used in the *Market Regulation Handbook*, the examiner will also need to reference Chapter 20—General Examination Standards for general examination standards that apply to all insurers.

Mental Health and Substance Use Disorder Parity

1. Purpose

Mental health and substance use disorder parity compliance examinations should be designed to ensure that all health carriers are in compliance with all the requirements of the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008 (as amended by the Consolidated Appropriations Act of 2021) found at 42 U.S.C. § 300gg-26 and its implementing regulations found at 45 CFR § 146.136 and 45 CFR § 147.160.

These standards require health carriers to demonstrate compliance in terms of defining mental health or substance use disorder benefits, classifying benefits, financial requirements, quantitative treatment limitations (QTLs), nonquantitative treatment limitations (NQTLs), required disclosures and vendor coordination.

2. Definitions

For purposes of this Guide, except where the context clearly indicates otherwise, the following terms have the meanings indicated:

Aggregate Lifetime Dollar Limit means a dollar limitation on the total amount of specified benefits that may be paid under a health plan (45 CFR § 146.136(a)).

Annual Dollar Limit means a dollar limitation on the total amount of specified benefits that may be paid in a 12-month period under a health plan (45 CFR § 146.136(a)).

Classifications of benefits used for applying parity rules:

(1) Inpatient, In-network. Benefits furnished on an inpatient basis and within a network of providers established or recognized under a plan or health insurance coverage (45 CFR § 146.136(c)(2)(ii)(A)(1)). See special rule for plans with multiple network tiers in paragraph (c)(3)(iii)(B) of 45 CFR § 146.136.

- a. If a plan provides benefits through multiple tiers of in-network providers (such as in-network preferred and in-network participating providers), the plan may divide its benefits furnished on an in-network basis into subclassifications that reflect network tiers, if the tiering is based on reasonable factors determined in accordance with the rules for NQTLs (such as quality performance, and market standards) and without regard to whether a provider provides services with respect to medical/surgical benefits for MH/SUD benefits. After the tiers are established, the plan may not impose any financial requirement or treatment limitation on MH/SUD benefits in any tier that is more restrictive than the predominant financial requirement or treatment limitation that applies to substantially all medical/surgical benefits in the tier.

(2) Inpatient, Out-of-network. Benefits furnished on an inpatient basis and outside any network of providers established or recognized under a plan or health insurance coverage. This classification includes inpatient benefits under a plan (or health insurance coverage) that has no network of providers (45 CFR § 146.136(c)(2)(ii)(A)(2)).

(3) Outpatient, In-network. Benefits furnished on an outpatient basis and within a network of providers established or recognized under a plan or health insurance coverage. See special rules for office visits and plans with multiple network tiers in paragraph (c)(3)(iii)(C) and (c)(3)(iii)(B) of 45 CFR § 146.136.

- a. A plan may divide its benefits furnished on an outpatient basis into two subclassifications: (1) office visits; and (2) all other outpatient items and services, for purposes of applying the financial requirement and treatment limitation rules.
- b. If a plan provides benefits through multiple tiers of in-network providers (such as in-network preferred and in-network participating providers), the plan may divide its benefits furnished on an in-network basis into subclassification the reflect network tiers, if the tiering is based on reasonable factors determined in accordance with the rules for NQTLs (such as quality, performance, and market standards) and without regard to whether a provider provides services with respect to medical/surgical benefits or MH/SUD benefits. After the tiers are established the plan may not impose any financial requirements or treatment limitation on MH/SUD benefits in any tier that is more restrictive than the predominant financial requirement or treatment limitation that applies to substantially all medical/surgical benefits in the tier.

(4) Outpatient, Out-of-network. Benefits furnished on an outpatient basis and outside any network of providers established or recognized under a plan or. This classification includes outpatient benefits under a plan (or health insurance coverage) that has no network of providers (45 CFR § 146.136(c)(2)(ii)(A)(4)). See special rule for office visits in paragraph (c)(3)(iii)(C) of 45 CFR § 146.136.

- a. A plan may divide its benefits furnished on an outpatient basis into two subclassifications: (1) office visits; and (2) all other outpatient items and services, for purposes of applying the financial requirement and treatment limitation rules.

(5) Emergency Care. Benefits for emergency care (45 CFR § 146.136(c)(2)(ii)(A)(5)).

(6) Prescription Drugs. Benefits for prescription drugs (45 CFR § 146.136(c)(2)(ii)(A)(6)).

Coverage Unit refers to the way in which a plan (or health insurance coverage) groups individuals for purposes of determining benefits, or premiums or contributions. For example, different Coverage Units include self-only, family, and employee plus-spouse (45 CFR § 146.136(a)).

Cumulative Financial Requirements are financial requirements that determine whether or to what extent benefits are provided based on accumulated amounts and include deductibles and out-of-pocket maximums. (However, cumulative financial requirements do not include aggregate lifetime or annual dollar limits because these two terms are excluded from the meaning of financial requirements.) (45 CFR § 146.136(a))

Cumulative Quantitative Treatment Limitations are treatment limitations that determine whether or to what extent benefits are provided based on accumulated amounts, such as annual or lifetime day or visit limits (45 CFR § 146.136(a)).

Expected Plan Payments are payments expected to be paid under the plan for the plan year (45 CFR § 146.136(c)(3)(i)(C)). Any reasonable method may be used to determine the dollar amount expected to be paid under the plan for medical/surgical benefits subject to a financial requirement or QTL (45 CFR § 146.136(c)(3)(i)(E)).

Plan Payment is the dollar amount of plan payments and is based on the amount the plan allows (before enrollee cost sharing) rather than the amount the plan pays (after enrollee cost sharing) because payment based on the allowed amount covers the full scope of the benefits being provided (45 CFR § 146.136(c)(3)(i)(D)).

Financial Requirements include deductibles, copayments, coinsurance, or out-of-pocket maximums. Financial requirements do not include aggregate lifetime or annual dollar limits (45 CFR § 146.136(a)).

Medical/Surgical Benefits means benefits with respect to items or services for medical conditions or surgical procedures, as defined under the terms of the plan or health insurance coverage and in accordance with applicable Federal and State law, but does not include mental health or substance use disorder benefits. Any condition defined by the plan or coverage as being or as not being a medical/surgical condition must be defined to be consistent with generally recognized independent standards of current medical practice (for example, the most current version of the International Classification of Diseases (ICD) or State guidelines) (45 CFR § 146.136(a)).

Mental Health Benefits means benefits with respect to items or services for mental health conditions, as defined under the terms of the plan or health insurance coverage and in accordance with applicable Federal and State law. Any condition defined by the plan or coverage as being or as not being a mental health condition must be defined to be consistent with generally recognized independent standards of current medical practice (for example, the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), the most current version of the ICD, or State guidelines) (45 CFR § 146.136(a)).

Substance Use Disorder Benefits means benefits with respect to items or services for substance use disorders, as defined under the terms of the plan or health insurance coverage and in accordance with applicable Federal and State law. Any disorder defined by the plan as being or as not being a substance use disorder must be defined to be consistent with generally recognized independent standards of current medical practice (for example, the most current version of the DSM, the most current version of the ICD, or State guidelines) (45 CFR § 146.136(a)).

Treatment Limitations include limits on benefits based on the frequency of treatment, number of visits, days of coverage, days in a waiting period, or other similar limits on the scope or duration of treatment. Treatment limitations include both quantitative treatment limitations (QTLs), which are expressed numerically (such as 50 outpatient visits per year), and nonquantitative treatment limitations (NQTLs), which are not expressed numerically but otherwise limit the scope or duration of benefits for treatment

under a plan or coverage. A permanent exclusion of all benefits for a particular condition or disorder, however, is not a treatment limitation for purposes of this definition (45 CFR § 146.136(a)).

3. Techniques

To evaluate compliance with MHPAEA, examiners must request that the carrier submit the analyses and other underlying documentation that it has performed to determine that it meets all of the standards of MHPAEA. There must be specific documentation of how mental health conditions, substance use disorders and medical/surgical conditions were defined and how they were assigned to benefit classifications. There are specific mathematical analyses that the carrier must have performed in order to determine that it satisfies the MHPAEA requirements for financial requirements and quantitative treatment limitations QTLs. There are separate analyses the carrier must have performed in order to determine that it satisfies the MHPAEA requirement for NQTLs, which entail analyses for the “as written” component and analyses for the “in operation” component.

4. Standards and the Regulatory Tests

The mental health and substance use disorder parity review includes, but is not limited to, the following standards related to MHPAEA. The sequence of the standards listed here does not indicate priority of the standard.

STANDARDS
Mental Health and Substance Use Disorder Parity Compliance

Standard 1

The health carrier shall define all covered services as mental health or substance use disorder benefits or as medical or surgical benefits. Mental health benefits or substance use disorder benefits must be defined to mean items or services for the treatment of a mental health condition or substance use disorder, as defined by the terms of the health plan and applicable state and federal law. Any definition of a condition or disorder as being or as not being a mental health condition or substance use disorder must be consistent with generally recognized independent standards of current medical practice or state guideline. (45 CFR § 146.136(a)).

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Applicable state and federal statutes, rules, regulations and published sub-regulatory guidance
- _____ Type of generally recognized independent standards of current medical practice, state law or guidance, used to define mental health conditions, substance use disorders and medical/surgical conditions (e.g., the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Statistical Classification of Diseases and Related Health Problems (ICD code), etc.)
- _____ List of specific mental health conditions or substance use disorders by diagnosis excluded from coverage as stated in the policy documents
- _____ Mental health and/or substance use disorder and medical/surgical claim files
- _____ Health carrier complaint/grievances/appeals records concerning mental health and/or substance use disorders (supporting documentation, including, but not limited to: written and phone records of inquiries, call center scripts, complaints, complainant correspondence and health carrier response)
- _____ Internal department appeals/grievance files
- _____ Applicable external appeals register/logs/files, external appeal resolution and associated documentation

Other References

Enforcement of the Public Health Services Act
42 U.S. Code § 300gg–22

Preemption relating to the Public Health Services Act
42 U.S. Code § 300gg–23

Mental Health Parity and Addiction Equity Act of 2008
42 U.S. Code § 300gg–26

Publication of summary plan description
ERISA 104(b) (29 U.S.C. § 1024(b))

The Federal Parity Self Compliance Tool: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf>

[U.S. Department of Labor Frequently Asked Questions Guidance: https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity](https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity)

Review Procedures and Criteria

Review definitions in the health carrier's policy forms and/or certificates of coverage for compliance with the definitions in 45 CFR § 146.136(a) and included in the definitions section of this chapter.

Review the health carrier's description of the independent standards it used to define mental health conditions, substance use disorders and medical/surgical conditions. These independent standards must be generally recognized independent standards of current medical practice such as the Diagnostic and Statistical Manual (DSM) or the International Classification of Diseases (ICD), or state guidelines.

Review exclusions in the health carrier's policy forms and/or certificates of coverage to identify those that involve a mental health or substance use disorder condition or diagnosis and compare it to the list of mental health and substance use disorder conditions excluded from coverage provided by the health carrier.

Verify that exclusions in the health carrier's policy forms and/or certificates of coverage identified as not a mental health or substance use disorder condition comply with state law and are consistent with generally recognized independent standards such as the International Classification of Diseases (ICD) or the Diagnostic and Statistical Manual of Mental Disorders (DSM).

Review any attestations required by the state and submitted by the health carrier.

For services the health carrier has determined are both medical/surgical and mental health/substance use disorders, review the explanation of how they determine the correct expected dollar amount for these services (e.g., nutritional counseling, occupational therapy).

STANDARDS
Mental Health and Substance Use Disorder Parity Compliance

Standard 2

The health carrier must apply the same standards to medical/surgical benefits and to mental health or substance use disorder benefits in determining the classification in which a particular benefit belongs (or applicable sub-classification) (45 CFR § 146.136(c)(2)(ii)(A)).

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Applicable state and federal statutes, rules, regulations and published sub-regulatory guidance
- _____ All policy documents (e.g., if group or association, request master policy and a sample of each certificate type issued during the examination scope)
- _____ Documentation as to how the carrier demonstrates assignment to the six classifications of benefits (and applicable sub-classifications) and the standard used
- _____ Company and vendor claim procedure manuals and bulletins/communications (if a carrier uses a behavioral health claims vendor for processing MH/SUD claims or for providing utilization management services)
- _____ Internal company claim audit reports for both mental health or substance use disorders and medical/surgical services
- _____ Provider contracts, instructions, communications and similar documents regarding coding instructions, code changes, etc.
- _____ Utilization review and managed care guidelines and procedure manuals
- _____ Mental health and/or substance use disorder and medical/surgical claim files
- _____ Mental health and/or substance use disorder and medical/surgical complaint and grievance files

Other References

Enforcement of the Public Health Services Act
42 U.S. Code § 300gg–22

Preemption relating to the Public Health Services Act
42 U.S. Code § 300gg–23

Mental Health Parity and Addiction Equity Act of 2008
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[U.S. Department of Labor Frequently Asked Questions Guidance: https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity](https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/mental-health-and-substance-use-disorder-parity)

Review Procedures and Criteria

Review the health carrier's list that specified the classification or sub-classification to which each benefit was assigned.

Determine whether the health carrier uses permissible sub-classifications for any benefits.

Please note that the only permissible sub-classifications are: multiple tiers for prescription drugs benefits that are based on reasonable factors¹ (45 CFR § 146.136(c)(3)(iii)(A)); multiple network tiers that are based on reasonable factors within the inpatient in-network and outpatient in-network classifications (45 CFR § 146.136(c)(3)(iii)(B)); outpatient office visits and outpatient other services within the outpatient in-network and outpatient out-of-network classifications (45 CFR § 146.136(c)(3)(iii)(C)). Reasonable factors include cost, efficacy, generic versus brand name, and mail order versus pharmacy pick-up (45 CFR § 146.136(c)(3)(iii)(A)).

Review the standard used by the health carrier to determine which classification of benefits (or applicable sub-classification) a particular benefit was assigned to and verify that the same standards were used for assigning medical/surgical benefits and mental health or substance use disorder benefits.

Review the health carrier's documentation that demonstrates that mental health or substance use disorder benefits are covered in each classification in which medical/surgical benefits are covered.

STANDARDS
Mental Health and Substance Use Disorder Parity Compliance

Standard 3

The health carrier shall not apply any financial requirement on mental health or substance use disorder benefits in any classification (or applicable sub-classification) that is more restrictive than the predominant financial requirement of that type applied to substantially all medical/surgical benefits in the same classification (or applicable sub-classification) (45 CFR § 146.136(c)(2)(i)).

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Applicable state and federal statutes, rules, regulations and published sub-regulatory guidance
- _____ Health carrier list of all financial requirements applied to mental health or substance use disorder benefits and medical/surgical benefits in each classification (or applicable sub-classification) (this will include schedules of benefits and other policy documents)
- _____ Health carrier documentation of the reasonable method used to determine expected plan payments for medical/surgical benefits within each classification of benefits (or applicable sub-classification), including documentation and communications with vendors engaged to provide assistance with analyses
- _____ Documentation demonstrating the predominant and substantially tests performed by the health carrier for each applicable financial requirement applied to all benefits
- _____ Internal company claim audit reports specific to mental health or substance use disorders
- _____ Mental health and/or substance use disorder and medical/surgical claim files
- _____ Health carrier complaint records concerning mental health and/or substance use disorder (supporting documentation, including, but not limited to: written and phone records of inquiries, complaints, complainant correspondence and health carrier response)
- _____ Internal department appeals/grievance files concerning mental health and/or substance use disorders
- _____ Applicable external appeals register/logs/files related to concerning mental health and/or substance use disorder, external appeal resolution and associated documentation

Other References

Enforcement of the Public Health Services Act
42 U.S. Code § 300gg–22

Preemption relating to the Public Health Services Act
42 U.S. Code § 300gg–23

Mental Health Parity and Addiction Equity Act of 2008
42 U.S. Code § 300gg–26

Publication of summary plan description
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Review Procedures and Criteria

Financial requirements include deductibles, copayments, coinsurance and out-of-pocket maximums (45 CFR § 146.136(c)(1)(ii)). A financial requirement is considered to apply to substantially all medical/surgical benefits in a classification of benefits if it applies to at least two-thirds of all medical/ surgical benefits in that classification (45 CFR § 146.136(c)(3)(i)(A)). The level of the financial requirement that is considered the predominant level of that type in a classification of benefits is the level that applies to more than one-half of medical/surgical benefits in that classification subject to the financial requirement (45 CFR § 146.136(c)(3)(i)(B)). The determination of the portion of medical/ surgical benefits in a classification of benefits subject to a financial requirement (or subject to any level of a financial requirement) is based on the dollar amount of all plan payments for medical/surgical benefits in the classification expected to be paid under the plan for the plan year (or for the portion of the plan year after a change in plan benefits that affects the applicability of the financial requirement) (45 CFR § 146.136(c)(3)(i)(C)).

Review the health carrier's methodology for performing its analysis that determines expected plan payments within each classification of benefits (or applicable sub-classification) for medical/surgical benefits. Note: A health carrier must always use appropriate and sufficient data to perform the analysis in compliance with applicable Actuarial Standards of Practice (ACA FAQ 34 Q3).

Review the health carrier's documentation that demonstrates that any type of financial requirement applied to mental health or substance use disorder benefits in a classification (or applicable sub-classification) applies to at least two-thirds of expected plan payments on medical/surgical benefits within that classification (or applicable sub-classification) (45 CFR § 146.136(c)(3)(i)(A)). Note: If the financial requirement applies to all medical/surgical benefits in the classification, no cost analysis is required. No financial requirements shall apply only to mental health or substance use disorder benefits.

Determine whether the health carrier's documentation supports that the level of financial requirement applied to mental health or substance use disorder benefits in a classification (or applicable sub-classification) is comparable and no more restrictive than the level of financial requirement that applies to more than one-half of expected plan payments that are subject to the financial requirement within that classification for medical/surgical benefits (45 CFR § 146.136(c)(3)(i)(B)(1)).

If no single level of the financial requirement applies to more than one-half of medical/surgical benefits in the classification, determine whether the health carrier can demonstrate that it has satisfied this test (45 CFR § 146.136(c)(3)(i)(B)(2)).

STANDARDS
Mental Health and Substance Use Disorder Parity Compliance

Standard 4

The health carrier shall not apply any QTL on mental health or substance use disorder benefits in any classification (or applicable sub-classification) that is more restrictive than the predominant QTL of that type applied to substantially all medical/surgical benefits in the same classification (or applicable sub-classification) (45 CFR § 146.136(c)(2)(i)).

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Applicable state and federal statutes, rules, regulations and published sub-regulatory guidance
- _____ Health carrier list of all QTLs applied to mental health or substance use disorder benefits and medical/surgical benefits in each classification (or applicable sub-classification) (this will include schedules of benefits and other policy documents)
- _____ Health carrier documentation of the reasonable method used to determine expected plan payments for medical/surgical benefits within each classification of benefits (or applicable sub-classification), including documentation and communications with vendors engaged to provide assistance with analyses
- _____ Documentation demonstrating the predominant and substantially tests performed by the health carrier for each applicable financial requirement applied to all benefits
- _____ Internal company claim audit reports
- _____ Mental health and/or substance use disorder and medical/surgical claim files
- _____ Health carrier complaint, grievance and appeals records (supporting documentation, including, but not limited to: written and phone records of inquiries, complaints, call center scripts, complainant correspondence and health carrier response)

Other References

Enforcement of the Public Health Services Act
42 U.S. Code § 300gg–22

Preemption relating to the Public Health Services Act
42 U.S. Code § 300gg–23

Mental Health Parity and Addiction Equity Act of 2008
42 U.S. Code § 300gg–26

Publication of summary plan description
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The Federal Parity Self Compliance Tool: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf>

Review Procedures and Criteria

QTLs include annual, episode, and lifetime day and visit limits. (45 CFR § 146.136(c)(1)(ii)). A QTL is considered to apply to substantially all medical/surgical benefits in a classification of benefits if it applies to at least two-thirds of all medical/ surgical benefits in that classification (45 CFR § 146.136(c)(3)(i)(A)). The level of the QTL that is considered the predominant level of that type in a classification of benefits is the level that applies to more than one-half of medical/surgical benefits in that classification subject to the QTL (45 CFR § 146.136(c)(3)(i)(B)). The determination of the portion of medical/ surgical benefits in a classification of benefits subject to a quantitative treatment limitation (or subject to any level of a quantitative treatment limitation) is based on the dollar amount of all plan payments for medical/surgical benefits in the classification expected to be paid under the plan for the plan year (or for the portion of the plan year after a change in plan benefits that affects the applicability of the quantitative treatment limitation) (45 CFR § 146.136(c)(3)(i)(C)).

Review the health carrier's methodology for performing its analysis that determines expected plan payments within each classification of benefits (or applicable sub-classification) for medical/surgical benefits. Note: A health carrier must always use appropriate and sufficient data to perform the analysis in compliance with applicable Actuarial Standards of Practice (ACA FAQ 34 Q3).

Review the health carrier's documentation that demonstrates that any type of QTL applied to mental health or substance use disorder benefits in a classification (or applicable sub-classification) applies to at least two-thirds of expected plan payments on medical/surgical benefits within that classification (or applicable sub-classification) (45 CFR § 146.136(c)(3)(i)(A)). Note: If the quantitative limitation applies to all medical/surgical benefits within the classification, no cost analysis is required. No quantitative treatment limitations shall apply only to mental health or substance use disorder benefits.

Determine whether the health carrier's documentation supports that the level of QTL applied to mental health or substance use disorder benefits in a classification (or applicable sub-classification) is no more restrictive than the level of QTL that applies to more than one-half of expected plan payments that are subject to the quantitative treatment limitation within that classification for medical/surgical benefits (45 CFR § 146.136(c)(3)(i)(B)(1)).

If no single level applies to more than one-half of medical/surgical benefits in the classification, determine whether the health carrier can demonstrate that it has satisfied this test (45 CFR § 146.136(c)(3)(i)(B)(2)).

STANDARDS**Mental Health and Substance Use Disorder Parity Compliance****Standard 5**

The health carrier shall apply non-quantitative treatment limitations (NQTLs) to mental health or substance use disorder benefits within a classification of benefits (or applicable sub-classification) so that any processes, strategies, evidentiary standards, or other factors used to apply a limitation, 1) as written and 2) in operation, are comparable to the processes, strategies, evidentiary standards, or other factors used to apply the limitation to medical/surgical benefits within the classification (or applicable sub-classification) (45 CFR § 146.136(c)(i)). The health carrier shall perform and document comparative analyses of the design and application of NQTLs in accordance with 42 U.S.C. § 300gg-26(a)(8)(A).

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage.

Priority: Recommended

Documents to be Reviewed

_____ Applicable state and federal statutes, rules, regulations and published sub-regulatory guidance

_____ A list of all NQTLs imposed upon mental health or substance use disorder benefits within each classification of benefits (or applicable sub-classification), including the methodology used to determine those NQTLs. A state may focus its review on a subset of NQTLs rather than all NQTLs. (See reference link to DOL Self-Compliance Tool for a non-exhaustive list) Note: Due to the significant number of potential NQTLs, it is advised that the examiner selects a targeted subset or sample of NQTLs based on examination resources, state specific concerns, company common practices, etc. to avoid the review of hundreds of service variations. Additional NQTLs can be phased into the review as appropriate.

_____ Utilization management manuals and utilization review documents such as: utilization review criteria; criteria hierarchies for performing utilization review; case management referral criteria; initial screening scripts and algorithms; policies relating to reviewer discretion; processes for identifying and evaluating clinical issues and utilizing performance goals

_____ Notes and/or logs kept during utilization review, such as those describing: peer clinical review; telephonic consultations with attending providers; consultations with expert reviewers; clinical rationale used in approving or denying benefits; the selection of information deemed reasonably necessary to make a medical necessity determination; adherence to utilization review criteria and criteria hierarchy; professional judgment used in lieu of utilization review criteria; actions taken when incomplete information is received from attending providers

_____ Company claim procedure manuals and bulletins/communications

_____ Claims processor and customer services MHPAEA training materials

_____ Company fraud, waste, and abuse policies and procedures

_____ Internal company claim audit reports

_____ Prescription drug formulary for each product/plan design

_____ Prescription drug utilization management documentation

- _____ Fail-first policies or step therapy protocols
- _____ Network development/contracting policies and procedures
- _____ Standards for provider admission to participate in a network, including credentialing requirements
- _____ Standards for determining provider reimbursement rates
- _____ Samples of provider/facility contracts in use during the exam period
- _____ Plan methods for determining usual, customary and reasonable charges for each product/plan design
- _____ Mental health and/or substance use disorder and medical/surgical claim files.
- _____ Mental health and/or substance use disorder and medical/surgical utilization review procedures
- _____ Complaint files, logs and disposition notes
- _____ Documentation, including but not limited to comparative analyses, demonstrating that within each of the 6 classifications of benefits (and applicable sub-classifications), the as written and in operation processes, strategies, evidentiary standards, or other factors used in applying a NQTL are comparable to and applied no more stringently to mental health or substance disorder benefits than to medical/surgical benefits in the classification.

Other References

Enforcement of the Public Health Services Act
42 U.S. Code § 300gg–22

Preemption relating to the Public Health Services Act
42 U.S. Code § 300gg–23

Mental Health Parity and Addiction Equity Act of 2008
42 U.S. Code § 300gg–26

Publication of summary plan description
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The Federal Parity Self Compliance Tool: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/self-compliance-tool.pdf>

FAQs about Mental Health and Substance Use Disorder Parity Implementation and the Consolidated Appropriations Act, 2021 Part 45 (ACA FAQ 45): <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-45.pdf>

Review Procedures and Criteria

Review the list of all NQTLs imposed on mental health/substance use disorders and choose a sample.

Review the health carrier’s comparative analyses to verify that within any classification of benefits, as written and in operation, the process, strategies, evidentiary standards, or other factors used in applying an NQTL to mental health or substance disorder benefits are comparable to, and are applied no more stringently than those used in applying the limitation with respect to medical/surgical benefits in the classification. The comparative analyses

shall include the following, for each NQTL applied to mental health or substance use disorder benefits, separately for each classification of benefits (42 U.S.C. § 300gg-26(a)(8)(A):

- The specific coverage terms or other relevant terms regarding the NQTL and a description of all mental health or substance use disorder and medical or surgical benefits to which such NQTL applies in each respective benefits classification;
- The factors used to determine that the NQTL will apply to mental health or substance use disorder benefits and medical or surgical benefits;
- The evidentiary standards used for the factors identified, when applicable, provided that every factor shall be defined, and any other source or evidence relied upon to design and apply the NQTL to mental health or substance use disorder benefits and medical or surgical benefits;
- The comparative analyses demonstrating that the processes, strategies, evidentiary standards and other factors used to apply the NQTL to mental health or substance use disorder benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, and other factors used to apply the NQTL to medical or surgical benefits in the benefits classification; and
- The specific findings and conclusions reached by the health carrier with respect to the health insurance coverage, including any results of the analyses described in 42 USC 300gg-26(a)(8)(A) that indicate that the health carrier is or is not in compliance with 45 CFR 146.136(c)(4).

The health carrier's analyses must contain the following, at a minimum (ACA FAQ 45 Q2):

1. A clear description of the specific NQTL, plan terms and policies at issue;
2. Identification of the specific mental health or substance use disorder and medical/surgical benefits to which the NQTL applies within each benefit classification, and a clear statement as to which benefits identified are treated as mental health or substance use disorder and which are treated as medical/surgical;
3. Identification of any factors, evidentiary standards or sources, or strategies or processes considered in the design or application of the NQTL and in determining which benefits, including both mental health or substance use disorder benefits and medical/surgical benefits, are subject to the NQTL. Analyses should explain whether any factors were given more weight than others and the reason(s) for doing so, including an evaluation of any specific data used in the determination;
4. To the extent the health carrier defines any of the factors, evidentiary standards, strategies, or processes in a quantitative manner, it must include the precise definitions used and any supporting sources;
5. The analyses, as documented, should explain whether there is any variation in the application of a guideline or standard used by the health carrier between mental health or substance use disorder and medical/surgical benefits and, if so, describe the process and factors used for establishing that variation;
6. If the application of the NQTL turns on specific decisions in administration of the benefits, the health carrier should identify the nature of the decisions, the decision maker(s), the timing of the decisions and the qualifications of the decision maker(s);
7. If the health carrier's analyses rely upon any experts, the analyses, as documented, should include an assessment of each expert's qualifications and the extent to which the health carrier ultimately relied upon each expert's evaluations in setting recommendations regarding both mental health or substance use disorder and medical/surgical benefits;
8. A reasoned discussion of the health carrier's findings and conclusions as to the comparability of the processes, strategies, evidentiary standards, factors and sources identified above within each affected classification, and their relative stringency, both as applied and as written. This discussion should include citations to any specific evidence considered and any results of analyses indicating that the health carrier is or is not in compliance with MHPAEA; and
9. The date of the analyses and the name, title and position of the person or persons who performed or participated in the comparative analyses.

The health carrier shall avoid the following practices and procedures when responding to a request for comparative analyses (ACA FAQ 45 Q3):

1. Production of a large volume of documents without a clear explanation of how and why each document is relevant to the comparative analysis;

2. Conclusory or generalized statements, including mere recitations of the legal standard, without specific supporting evidence and detailed explanations;
3. Identification of processes, strategies, sources and factors without the required or clear and detailed comparative analysis;
4. Identification of factors, evidentiary standards and strategies without a clear explanation of how they were defined and applied in practice;
5. Reference to factors and evidentiary standards that were defined or applied in a quantitative manner, without the precise definitions, data, and information necessary to assess their development or application; and
6. Analysis that is outdated due to the passage of time, a change in plan structure, or for any other reason.

STANDARDS**Mental Health and Substance Use Disorder Parity Compliance****Standard 6**

The health carrier shall ensure that it complies with all availability of plan information and related disclosure obligations regarding: 1) criteria for medical necessity determinations; 2) reasons for denial of services; 3) information relevant to medical/surgical, mental health and substance use disorder benefits; 4) rules regarding claims and appeals, including the right of claimants to free reasonable access to and copies of documents, records and other information including information on medical necessity criteria for both medical/surgical benefits and mental health and substance use disorder benefits, as well as the processes, strategies, evidentiary standards and other factors used to apply a NQTL with respect to medical/surgical benefits and mental health or substance use disorder benefits under the plan, including any analyses performed by the carrier as to how the NQTL complies with MHPAEA.

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Plan policies and procedures for responding to participant requests for medical necessity criteria for either or both mental health and substance use disorder services and medical/surgical services
- _____ Plan policies and procedures for responding to requests for information on the processes, strategies, evidentiary standards and other factors used to apply a NQTL with respect to medical/surgical benefits and mental health or substance use disorder benefits under the plan
- _____ Sample adverse benefit determination letters
- _____ Sample letters responding to disclosure requests for medical necessity criteria and information on NQTLs
- _____ Policies and procedures for classifying denials as administrative or medical necessity
- _____ Internal and external appeals files for mental health and substance use disorder services adverse benefit determinations
- _____ Log of disclosure requests, including date requested, date responses was provided, samples of documents sent in response

Other References

- 45 CFR § 146.136(d)
- ERISA 104
- 29 CFR § 2520.104b-1
- 29 CFR § 2560.503-1
- 29 CFR § 2590.715-2719

Review Procedures and Criteria

Review the health carrier's method for providing to any current or potential participant, beneficiary, or contracting provider upon request the medical necessity criteria used to make mental health or substance use disorder determinations (45 CFR § 146.136(d)(1)).

Review the health carrier's letters providing the reason for any denial of reimbursement for mental health or substance use disorder benefits and verify that the letters are dated within 30 days of the request (45 CFR § 146.136(d)(2)).

Review the health carrier's policy & procedure for responding promptly to requests for all documents, records and other information relevant to an adverse benefit determination, including medical necessity criteria and the comparative analysis required under (42 USC 300gg-26(a)(8)(A)), disclosures referenced above (45 CFR § 146.136(d)(3)) as referenced in ACA FAQ 45-Q6.

Document that the health carrier's claims processing and disclosure regarding adverse benefit determinations complies with the federal claims and appeals regulations (45 CFR § 147.136).

STANDARDS
Mental Health and Substance Use Disorder Parity Compliance

Standard 7

The health carrier as the entity is responsible for parity compliance. The health carrier shall ensure that management of mental health and substance use disorder benefits coverage as a whole complies with the applicable provisions of MHPAEA, including any vendor relationships. The carrier shall provide or require sufficient information in terms of plan structure and benefits to or from any vendor to ensure that the mental health and substance use disorder benefits are coordinated with the medical/surgical benefits for purposes of compliance with the requirements of MHPAEA.

Apply to: Certain group and individual health carriers offering mental health and substance use disorder coverage

Priority: Recommended

Documents to be Reviewed

- _____ Contractual agreements between the carrier and vendors having administrative, claims and/or medical management responsibilities
- _____ Policies and procedures for ensuring availability of health carrier information needed for vendor analysis of compliance with MHPAEA
- _____ A narrative summary outlining how the vendor and the carrier coordinate benefit design and application to ensure compliance with MHPAEA
- _____ Select written communications relevant to mental health and substance use disorder benefits between the carrier and the vendor

Other References

- 29 CFR § 2590.712(e).
- 75 FR § 5426
- 78 FR § 68250

Review Procedures and Criteria

Review the contractual agreements between the health carrier and any vendors providing administrative, claims and/or medical management responsibilities.

Review the health carrier's protocols and procedures to document that any contracted vendors are collaborating with the health carriers to satisfy compliance with MHPAEA. This shall include explanation of how both the design of benefits and the application of benefits, in operation, are compliant with MHPAEA.

Review any audits the health carrier has completed of its vendors to ensure compliance with MHPAEA.

Adopted by the Market Information Systems Research and Development (D) Working Group, Oct. 14, 2021

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The Market Information Systems Research and Development (D) Working Group Review of Artificial Intelligence Techniques in Market Analysis

Executive Summary

This report fulfills the Market Information Systems Research and Development (D) Working Group charge to evaluate the potential benefits of artificial intelligence (AI) in relation to market analysis. After careful consideration, the Working Group concluded that there may be possible benefits to improve analysis techniques. Several caveats are discussed as well. AI may not be suitable for data currently available to state insurance regulators. In addition, some of the techniques perform complex data mining operations, which can produce results that lack a clear interpretation. Lastly, AI techniques are designed for, and many require, very large datasets. As such, AI should be contemplated in the context of a long-range plan, beginning with repairing known issues with existing data, and employing more rigorous traditional statistical techniques to assess predictive accuracy of analytical tools. Subsequently, state insurance regulators can consider the acquisition of data appropriate to AI.

Introduction

In early 2021, the Market Information Systems Research and Development (D) Working Group received a charge from the Market Information Systems (D) Task Force to explore possible applications of artificial intelligence (AI) methods in market analysis. An early difficulty encountered by the Working Group is that the term “AI” itself has a variety of contested meanings. In addition, private sector entities have adopted the term as a marketing concept and inappropriately apply the label to products simply as a selling point. As such, the term has come to acquire a variety of meanings and is an “essentially contested concept.”¹

At its most general level, the term “AI” implies machine capacities that mimic or are analogous to processes of human reasoning and learning and entail some degree of machine autonomy in which learning occurs without significant human intervention. Beyond this general description, the Working Group did not feel that an attempt to define the term more strictly would be fruitful. Rather, the term is employed simply as a shorthand reference for a collection of various techniques that algorithmically seek patterns in data that are predictive of some future outcome. Common methods include machine learning, neural networks, and decision tree analysis. These processes are often contrasted to the traditional hypothetical-deductive methods of model specification associated with classical statistics. However, there does not appear to be a bright line of demarcation so that a particular technique can be firmly fixed within either category.

¹ The term “essentially contested concept” was coined by W.B. Gallie in the seminal presentation to the Aristotelian Society in 1956.

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In addition, the Working Group focuses on what is commonly called “narrow AI,” in which machine algorithms are employed for narrowly defined and limited tasks. More advanced systems, called “general AI,” possess generalized autonomous problem-solving capacities that are comparable to the processes of the human brain, and they are able to adapt to novel situations or information (Macnisch et al., 2019).

It is important to emphasize the ways in which AI modeling techniques contrast to the standard scientific model employed in classical or traditional statistics:

Classical Statistics: Method of hypothetical-deductive reasoning in which hypotheses are clearly and narrowly specified *prior* to data testing, often with a prior understanding of the underlying causal nature of the relationships between variables. **Purpose:** To further causal understanding.

AI: Often employs a type of “data mining” in which a machine pattern-seeking algorithm is released “into the wild” to identify possible correlations between variables that may be predictive of some independent variable. Hypotheses are not specified prior to data analysis, and the algorithm may very well identify correlations that would not have occurred to an analyst and whose causal relationship is constructed post-hoc (to the degree that AI users are concerned with causality at all). **Purpose:** Predict future outcomes or events.

The difference between these two approaches is not trivial, and significant disagreements about the advantages and disadvantages of AI remain. It is of note that AI did not emerge principally from university statistics departments, but rather from the field of computer science. Many statisticians remain skeptical of the techniques and have offered up a variety of caveats for their use. For example, recently the American Statistical Society (ASA) reacted to the “reproducibility crisis” afflicting some disciplines that have discovered, with much consternation, that a large volume of published works could not be replicated. The concern was that increasingly less rigorous statistical methods departing from the hypothetical-deductive approach were becoming more prominent in a variety of fields, undermining confidence on research findings. Remarking on departures from a rigorous hypothetical-deductive approach with “data mining” and like methods in which pattern seeking is largely ceded from a researcher to a machine, the ASA warned about improper inferences that might result from such techniques. The ASA centered its discussion on the p-value, related to the probability that some observed relationship occurred by chance alone. A low p-value is often employed to minimize the probability that chance relationships will be misinterpreted as a relationship that is a meaningful, non-random outcome:

“Conducting multiple analyses of the data and reporting only those [analyses] with certain p-values...renders the reported p-values essentially uninterpretable. Cherry-picking promising findings, also known by such terms as data dredging, significant chasing, significance questions, selective inference and a ‘p-hacking’ leads to a spurious excess of statistically significant results...and should be vigorously avoided” (Wasserstein & Lazar, 2016).

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To translate the ASA's statement into more easily understood and less technical terms, the ASA is warning against *false positives* in which an analysis produces random or chance correlations between items that are not meaningfully related—that is, where a chance relationship is mistaken for a true causal relationship. That AI largely jettisons causal understanding as its primary goal (to the degree that causality is a concern at all) increases the probability that statistical results may be uninterpretable in any meaningful sense. This is clearly evinced by the increasing debate among state insurance regulators and insurers regarding the meaning of statistical relationships appearing in predictive models that lack intuitive or, in many cases, even plausible explanations. See Appendix A for further discussion of the ASA statement.

The discussion above is not intended to sway state insurance regulators one way or the other with respect to AI. The purpose is simply to proffer some caveats shared by many statisticians. A final caveat is the AI techniques were developed to analyze very large data sets consisting of millions of records and possibly thousands or tens of thousands of variables. It is said to have an advantage in that algorithms can perform a large volume of analyses across different constellations of variables in a way that would be highly impractical employing traditional (and manual) model building. For small data sets, such as the limited data currently available to market analysts, it is unclear whether the expense associated with developing AI techniques can be justified, nor whether AI is at all superior to traditional model building methods. This is not an unimportant point and is discussed in more depth elsewhere in this recommendation.

Current Status of Market Analysis

Quantitative market analysis relies on just a handful of data sources:

The Complaint Database System (CDS): The NAIC compiles complaints against insurers received by state insurance regulators. Thus, each state has access to a national-level database. Complaint indices are “normalized” by expressing the volume of complaints to premium, compared with the overall industry total.

The Regulatory Information Retrieval System (RIRS): Regulatory actions in relation to insurance entities are captured in the RIRS database. Actions range from intervention in financially troubled entities to violations of producers and insurance carriers. Each record identifies the cause of the action, as well as any orders, fines, or restitution amounts. The RIRS database is currently being substantially revised to capture significantly more detail.

The Market Actions Tracking System (MATS): The MATS database captures information pertaining to market conduct exams, as well as actions short of exams. Data captured include area of scrutiny (claims, underwriting, etc.) and the outcome of the market action (order, fine, etc.). By matching MATS actions with RIRS, additional detail about the nature of the violation can be assessed.

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The Market Conduct Annual Statement (MCAS): The MCAS was developed to capture data with the primary purpose of assessing an insurer’s market performance and identify potential market irregularities. The data focus primarily on claims handling and underwriting, and data are scrutinized with respect to claims processing times and denials, nonrenewal and cancellation practices, and overall turnover in a book of business. Data are captured by line and coverage. To date, MCAS data are collected for life and annuities, private automobile, homeowners, health (both on and off the federally facilitated marketplace [FFM]), long-term care (LTC), lender-placed insurance, disability income, and private flood.

Miscellaneous Data Sources: Some financial data has been incorporated into market information systems. Insurers that are under financial stress, or that rapidly expand into or contract out of a line of business, or that exhibit high defense or other adjudication costs, may be subjected to additional analysis. While financial indicators are only indirect or proxy measures of potential market issues, and by themselves may have no clear market-based interpretation, interpretation within the context of a host of other indicators may be reflective of the present of a market-relevant issue.

The NAIC, in conjunction with state insurance regulators, has developed a broad scope “market score” that incorporates much of the data referenced above, which is made available to regulators via the Market Analysis Prioritization Tool (MAPT). One such data are “normalized” by the premium volume and scope of company operations as necessary. For example, several RIRS-based ratios express the volume of RIRS actions in relation to premium volume, the number of states in which they have significant premium, and a composite ratio that incorporates both premium and scope. Each ratio is given a score, and their contribution to the overall score weighted according to their perceived predictive relevance. For example, financial ratios are accorded significantly less weight than complaints, as their relationship to market misconduct is considered more speculative and indirect.

An important caveat is that predictive analytics is not well developed in market regulation. The ratios employed in the Market Analysis Review System (MARS) have not been subjected to rigorous statistical tests that demonstrate their analytic utility. While some work has been performed in this regard, such work is significantly hampered by a dearth of appropriate data. For example, future RIRS actions are often employed as the dependent variable (the outcome of interest to be predicted). However, this presents all manner of statistical challenges. While it is certainly reasonable to use prior outcomes (past RIRS actions) to predict future outcomes (the RIRS actions to be predicted), employing RIRS actions as both dependent and independent variable introduces significant complexities in the interpretation of any observed relationship between the two. One can imagine, for example, that the use of RIRS actions in market analysis invites greater scrutiny to a given insurer, and that in turn generates future regulatory actions precisely because the company received additional scrutiny. Companies that have no “prior offenses” fail to attract regulatory scrutiny, so that any infractions may escape regulatory action *for precisely that reason*. This problem is certainly not insurmountable, but it must be explicitly recognized in any model building exercise, whether with AI or with more conventional statistical techniques.

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In general, the paucity of rich data sources has significantly hampered the adoption of more rigorous analytical techniques. To return to RIRS, these data are not rich sources of detailed information. Schematics are not well designed “from the ground up.” Essential data are missing, such as line of business.

Any consideration of AI or any other analytical techniques must necessarily view the utility of such techniques within the context of available data. Regardless of the validity of a technique in general, it will have limited utility if data are themselves limited. Any recommendation to employ such methods must therefore at the same time recommend a thorough review of available data.

Importantly, results of quantitative analysis are always treated as merely suggestive and tentative and are regarded as at most a precursor to more qualitative analysis. It currently is employed to prioritize entities that may merit additional scrutiny and to narrow focus on a much more limited subset of companies out of a larger pool of companies. It therefore primarily prioritizes limited regulatory resources.

State insurance regulators avail themselves of the formal analytical processes adopted by the NAIC. Quantitative or “baseline” analysis identifies entities with anomalous indicators that significantly depart for industry-wide values. A “level 1” analysis may be pursued, in which an analyst devotes additional scrutiny to such things as complaint trends, common reasons complaints are lodged against an insurer, similarities in RIRS actions, etc. If concern still remains (or additional concerns are identified) subsequent to level 1 analysis, a structured level 2 analysis may be performed. A level 2 analysis requires a much greater commitment of time and resources. For example, rather than just manually reviewing complaint data to identify patterns, an analyst may manually review actual complaint documentation to garner a more detailed understanding of the nature of complaints.

As a preliminary to the following discussion, AI/statistical analysis may have two primary functions within the context of the current market analysis structure:

1. More accurately identify companies that merit the additional expenditure of resources necessary to perform the more labor-intensive level 1 and level 2 analyses. Analysis processes that more efficiently identify problem companies for this purpose are by definition more effective and more effectively target resources by avoiding “false positives” (for lack of a better word).
2. Potentially, AI methods could assume many of the functions that are currently performed manually. For example, many of the pattern-seeking analysis performed by analysts in a level 1 review could conceivably be more efficient if automated. Potentially, AI could identify patterns that might elude a human analysis. A very advanced level of AI could perhaps assume complex analysis involved with manually reviewing complaint files and documents. However, while the possibility is raised here, it is not further pursued. That level of AI suitable for tasks may not even exist as yet, or if it does, it may be so specialized that it may not be available to state insurance regulators. Even if available, the likely enormous costs themselves would render them highly impractical.

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Whether such AI exists, is available at a practical cost, and can actually out-perform more conventional analyses are questions that the Market Information Systems Research and Development (D) Working Group is simply unable to satisfactorily address. The Working Group merely suggests initially limiting the scope of ambitions to a few methods that are commonly, if not universally, recognized as AI, such as machine learning or neural networks. More expansive or ambitious efforts may result in a fruitless search for “unobtainium.”²

Given very large data sets, well beyond what is currently available to market analysts, AI may have clear advantages to more conventional approaches. The slow, methodical, hypothetical-deductive approach that forms the core of conventional statistics may have advantages in terms of generating valid causal conclusions. However, AI may have certain advantages with respect to confronting the enormity of modern data. As AI is well-suited to performing much more expansive analysis and pattern-seeking routines over vast quantities of data, it may well identify predictive patterns that would have escaped conventional analysis or that are counterintuitive such that some hypotheses may never have occurred to an analyst employing a standard hypothetical-deductive approach. However, there are distinct disadvantages as well, and they are shared by other approaches often termed “data mining.” The fact is that patterns may lack an intuitive meaning, and the manner in which such patterns are identified and render interpretation may be unclear. Additionally, patterns may generate numerous “false positives,” apparent patterns or correlations that are purely random and possess no meaning or any real predictive power whatsoever. This is not fatal for AI techniques, but it introduces much in the way of caveats and requires significant remedial measures to be employed. This problem is so significant that it merits a much fuller discussion in a separate section below.

The Work of Market Information Systems Research and Development (D) Working Group

The Working Group solicited input from various parties. Two parties delivered presentations to the Working Group:

1. On June 16, 2021, the Working Group discussed a presentation regarding AI methods currently being explored by NAIC staff to predict which insurers are likely to experience financial stress, including insolvency. Beginning in January 2021, an outside consulting group was retained to develop both AI as well as more traditional statistical techniques to construct predictive models of insolvency risk. The efforts are ongoing at the time of writing. Presenters believed the methods were promising and could significantly advance financial risk surveillance. Among AI and statistical models explored were decision tree analysis, generalized linear models (GLMs), and logistic regression.

² A tongue-in-cheek term originating among engineers in the 1950s. It is defined by Wikipedia as “... any hypothetical, fictional, or impossible material, but it can also mean a tangible but extremely rare, costly, or reasonably unobtainable material. Less commonly, it can refer to a device with desirable engineering properties for an application, but which are exceedingly difficult or impossible to achieve.”

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2. During the Working Group's June 21, 2021, meeting, Birny Birnbaum (Center for Economic Justice—CEJ) encouraged the Working Group to adopt a long-term perspective and develop a multiyear plan to explore AI techniques that might be beneficial to market analysis. He also indicated that state insurance regulators have to date failed to acquire granular transactional data that could be exploited by AI methods to afford a much more robust surveillance system to reduce consumer harm to the extent possible.

After the meeting, the Working Group convened a subject-matter expert (SME) group with the intent of creating a draft recommendation to be submitted to the Working Group.

Recommendations

The Working Group recommends developing a long-range plan, in a sequence of five steps.

I. Existing Market Analysis Data

As noted above, market analysis suffers from a paucity of detailed data. Some movement in expanding data and remedying deficiencies was made with a complete redesign of the RIRS data, which will facilitate analysis of factors related to an entity sanctioned by state insurance regulators. If implemented, RIRS will also capture much more detailed data related to the specific misconduct that garnered a regulatory response. The RIRS proposal is currently under discussion with the Market Information Systems (D) Task Force, to which Working Group reports.

The remainder of available data also suffers from significant deficiencies. Insurers employ a variety of definitions to produce MCAS data. Even such a fundamental concept as a “claim” is reported differently by different insurers, making market-wide analysis challenging. For example, the MCAS defines a claim in the conventional sense of “a demand for payment.” Investigation by the Missouri Department of Commerce & Insurance (DCI) has determined that the definition is interpreted in wildly divergent ways across the industry that simply makes meaningful comparison impossible and renders key market indicators or ratios largely meaningless. Some insurers set up a claim on a coverage that is reasonably related to the facts of the incident as relayed by a claimant. Other insurers set up all possible coverages on a policy as a claim in their internal systems regardless of whether those coverages might be reasonable implicated in a claim. As might be imagined, those carriers have significantly higher ratios of claims closed without payment. This and other issues remain with the MCAS and significantly impair market analysis.

Recommendation 1: Survey currently available market analysis data, and identify substantive deficiencies based on the nature and substance of the data elements collected. Ensure that all data are consistently reported across insurers to the degree practical and ensure adherence to definitions of data elements.

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II. Existing Methods of Market Analysis

Current quantitative methods of market analysis are largely based on *ad hoc* and *intuitive* understanding of how data indicators might be related to market misconduct. For example, one of the earliest indicators developed are complaints received by state insurance regulators regarding insurers. It is probably not unreasonable to interrogate complaint data to identify trends over time, as well as just overall complaint volume, to attempt to identify potential problems in a market. Similar indices consider the volume of RIRS actions, as well as the gravity of infractions in terms of potential consumer harm. It is the opinion of many state insurance regulators that such indicators possess a rational relationship to market misconduct and are relevant to identify market actors that might benefit from a heightened level of regulatory scrutiny.

While the Working Group agrees with the rationale behind such market indicators, analytical tools have not to date been subjected to more rigorous statistical methods to clearly identify the predictive power and assess their relative importance or weight. For example, the MAPT, maintained by the NAIC and available to state insurance regulators, employs overall insurer scores based on various indicators. However, the weight of these indicators employed in the score were assigned by state insurance regulators based on experience, as well as assessment of whether a likely relationship have a clear rational meaning. For example, complaint ratios are weighted significantly more heavily than things like financial indicators. The Working Group believes subjecting the scoring system to rigorous statistical analysis could yield significant benefits in identifying problem market actors.

Recommendation 2: In conjunction with recommendation 1 (assess data quality), state insurance regulators should adopt a much more rigorously statistical approach to identify the predictive power of market scoring systems, assess how each variable should be weighted in terms of its unique contribution to productiveness, and drop those that lack analytic utility. In addition, effort should be made to integrate data into a single overall analysis. For example, the MAPT does not incorporate MCAS data, which is typically subject to a separate analysis. The Working Group believes that a “piecemeal” approach is likely less effective than a more integrated approach.

It is noted that the current state of data will likely prove limiting and that such efforts may not make much progress until additional data are made available (such as the proposed revisions to the RIRS data, currently subject to NAIC discussion).

III. Available Approaches: Exploring AI

In addition to more traditional statistical tools, such as various types of regression models and correlation analyses, AI may offer additional benefits. Some commercial statistical packages have incorporated AI methods. The statistics package SAS, which is widely used in both the private and

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public sectors, makes some AI techniques available in its standard statistical module.³ In addition, SAS has developed a module called Enterprise Miner, which incorporates both data mining and some lower-level AI routines. (For those familiar with the terms, it performs such things as decision-tree analysis, neural networks, and like forms of analyses). Other modules make machine learning available—a potentially powerful type of analysis that modifies prior predictive algorithms as new data become available.

Recommendation 3: In undertaking recommendation 2, incorporate various promising AI modes of analyses, as well as traditional statistical modeling. Constantly assess the precision of model outcomes relative to objectives such as identifying potential market issues.

IV. Qualitative Analysis

The current model of market analysis incorporates a multistage hierarchical structure. First, quantitative analysis such as that produced by the MAPT identifies potential market problems and narrows focus to entities that appear to exhibit potential areas of regulatory concern. Having narrowed down the focus of analysis to a much more limited pool of candidates, market analysts in the states engage in more manual or qualitative analysis of additional information sources. For example, an analyst may review a selection of complaint files to identify additional patterns of market behavior to better understand their nature and substance.

As noted above, AI techniques such as text analysis could potentially expand such exercises and improve the identification of concerning patterns at a deeper level, as well as assess ways to improve the efficiency of other qualitative tasks.

Recommendation 4: Assess ways AI can improve both the efficiency of *qualitative* analysis and facilitate pattern recognition across larger volumes of textual evidence, including most especially complaints, but perhaps other textual sources. For example, the “level 1” analysis formalized in NAIC market system may include a review of the “management discussion and analysis” of the financial annual statement.

V. Longer-Range Planning

As noted above, data mining and AI techniques were developed primarily as tools to analyze large volumes of data. For data past a certain magnitude, including especially those containing many hundreds or even thousands of variables, the traditional hypothetical-deductive cornerstone that is the cornerstone of traditional statistical inference may be ill-suited as well as cost-prohibitive in terms of

³ SAS is markets in “modules,” each consisting of a different suite of capabilities that can be tailored to a user’s need. For example, “base SAS” provides standard data handling programs. A “statistics module” provides a wide-ranging set of analytical routines.

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time and resources. If the purpose is solely prediction as opposed to causal understanding, AI can fine-tune predictive algorithms by testing relationships that may be unlikely to occur to a statistician employing causal modeling.

Currently, such large volumes of data are unavailable to market analysts, though they could potentially be obtained. More granular data pertaining to claims, underwriting, and other areas of company operations are routinely collected via the “standard data requests” adopted as a supplement to the *Market Regulation Handbook* and commonly employed in market conduct exams.

However, AI and data mining can churn up counterintuitive statistical relationships that defy ready interpretation. In addition, it is likely to detect proxy relationships that are not understood. Proxy relationships, in which a third variable is substituted for an underlying variable of interest, are often employed in statistical models. This is often due to the accessibility or cost of obtaining data of the actual causal variable of interest. However, when employed in traditional statistical analysis, the nature of the relationship between the proxy variable and the actual variable of interest is generally well understood. This is not true of AI techniques that employ or resemble data mining.

The techniques are also likely to generate some number of purely chance relationship, where a correlation is generated by random chance. Inferential statistics seek to minimize mistaking a chance relationship for a meaningful association. Typically, the use of a p-value requirement of 0.05 or less limits the probability of accepting a random relationship to no more than 5% of occurrences. However, a 5% threshold means that over time, false, or chance relationships will be misinterpreted of a true correlation.

This fact is not fatal for the use of AI in market analysis, but it does represent a strong caveat for those employing the techniques, at least those that share elements with data mining. Careful interpretations of p-values should recognize an increased possibility of false positives. Observed relationships should be assessed and validated over time to ensure correlations are stable. In addition, once relationships are identified via AI and found useful, standard statistical models should also be employed to test whether different techniques yield superior predictive power. Additional discussion of caveats is presented in the appendix.

That said, there is much potential of AI in market analysis, *assuming that additional, more granular, data are available*. As noted, such techniques are most suited for large datasets whose very size would make a standard statistical approach impractical just given the sheer number of possible correlations available for testing.

Recommendation 5: Systematically explore potential data sources suitable for AI techniques, with an eye for discovering patterns and relationships in relation to some well-defined outcome one is attempting to predict. This may be identifying entities that may merit additional regulatory scrutiny in a way that is currently done by the less sophisticated methods employed in the MAPT or with the

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MCAS. Larger volumes of data, such as the standard data requests, can be subjected to AI to identify problematic claims handling, underwriting, and other insurer practices.

Summary of Recommendations

Recommendation 1: Survey currently available market analysis data, and identify substantive deficiencies based on the nature and substance of the data elements collected. Ensure that all data are consistently reported across insurers to the degree practical, and ensure adherence to definitions of data elements.

Recommendation 2: In conjunction with recommendation 1 (assess data quality), state insurance regulators should adopt a much more rigorously statistical approach to identify the predictive power of market scoring systems, assess how each variable should be weighted in terms of its unique contribution to productiveness, and drop those that lack analytic utility. In addition, effort should be made to integrate data into a single overall analysis. For example, the MAPT does not incorporate MCAS data, which is typically subject to a separate analysis. The Working Group believes that a “piecemeal” approach is likely less effective than a more integrated approach.

Recommendation 3: In undertaking recommendation 2, incorporate various promising AI modes of analyses, as well as traditional statistical modeling. Constantly assess the precision of model outcomes relative to objectives, such as identifying potential market issues.

Recommendation 4: Assess ways AI can improve both the efficiency of *qualitative* analysis and facilitate pattern recognition across larger volumes of textual evidence, including most especially complaints, but perhaps other textual sources. For example, the “level 1” analysis formalized in NAIC market system may include a review of the “management discussion and analysis” of the financial annual statement.

Recommendation 5: Systematically explore potential data sources suitable for AI techniques, with an eye for discovering patterns and relationships in relation to some well-defined outcome one is attempting to predict. This may be identifying entities that may merit additional regulatory scrutiny in a way that is currently done by the less sophisticated methods employed in the MAPT or with the MCAS. Larger volumes of data, such as the standard data requests, can be subjected to AI to identify problematic claims handling, underwriting, and other insurer practices.

Adopted by the Market Information Systems Research and Development (D) Working Group, Oct. 14, 2021

Adopted by the Market Information Systems (D) Task Force, June 16, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, Aug. 12, 2022

Appendix: Caveats

Recently, some fields of scientific inquiry have experienced much consternation and hand-wringing due to the so-called “replicability crisis” resulting from the realization that many studies published in top-tier journals could not be replicated. In 2015, Open Science Collaboration published research into the replicability of psychological studies. Of the 100 studies that were subjected to testing, replications yielded statistically significant results in only 36% compared to 97% of the original publications (Open Science Collaboration, 2015). Similar reproducibility issues were found in other fields.

Attention was directed at quantitative methods, particularly those made possible by modern computing power. Researchers can run countless variations of models, including multiple different variables, cross-effects, and other tweaks, until they eventually produce positive or statistically significant results. The inevitable outcome of the lack of rigor of such methods is that many chance correlations will be mistaken for meaningful relationships.

Think of it this way. The probability of obtaining all heads from 10 flips of a fair coin is $1/1024$. So, if a researcher actually performed the experiment 1,024 times and obtained 10 heads at least once, it would obviously be improper to infer that the coin was a two-headed coin. Without knowledge of the total number of trials, one might reject the “null hypothesis” that the coin is fair, and results would be “statistically significant” with a p-value of $(1/1,024) = 0.00098$, well below the 0.05 maximum threshold to establish statistical significance. But the true p-value can only be calculated with knowledge of the total number of trials prior to obtaining the recorded result, such that the true p-value is well above the maximum threshold.

There are no allegations of willful misconduct so much as careless and sloppy methods, producing much introspection about how statistics methods are taught to scientists at colleges and universities. The problem is so significant that the following year, the American Statistical Association (ASA) released a statement regarding misuse of p-values and practices known as “p hacking” or “data dredging.” A letter from the ASA is reprinted below, with a link to the full statement (used with permission).

Really, this is a warning for state insurance regulators not to adopt a casual attitude about apparent relationships turned up by the methods. When such methods are employed, modelers should be on constant guard against mechanical interpretations of model outputs. It is important to fully understand what is going on in the “black box” of an AI algorithm, the results of all statistical tests performed, and the totality of processes generating final results.

A high number of false positives that prompt regulatory follow-up can risk draining away regulatory resources going down blind allies.

Adopted by the Market Information Systems Research and Development (D) Working Group, Oct. 14, 2021
Adopted by the Market Information Systems (D) Task Force, June 16, 2022
Adopted by the Market Regulation and Consumer Affairs (D) Committee, Aug. 12, 2022

AMERICAN STATISTICAL ASSOCIATION RELEASES STATEMENT ON STATISTICAL SIGNIFICANCE AND P-VALUES

Provides Principles to Improve the Conduct and Interpretation of Quantitative Science

March 7, 2016

The American Statistical Association (ASA) has released a “Statement on Statistical Significance and P-Values” with six principles underlying the proper use and interpretation of the p -value [<http://amstat.tandfonline.com/doi/abs/10.1080/00031305.2016.1154108#.Vt2XIOaE2MN>]. The ASA releases this guidance on p -values to improve the conduct and interpretation of quantitative science and inform the growing emphasis on reproducibility of science research. The statement also notes that the increased quantification of scientific research and a proliferation of large, complex data sets has expanded the scope for statistics and the importance of appropriately chosen techniques, properly conducted analyses, and correct interpretation.

Good statistical practice is an essential component of good scientific practice, the statement observes, and such practice “emphasizes principles of good study design and conduct, a variety of numerical and graphical summaries of data, understanding of the phenomenon under study, interpretation of results in context, complete reporting and proper logical and quantitative understanding of what data summaries mean.”

“The p -value was never intended to be a substitute for scientific reasoning,” said Ron Wasserstein, the ASA’s executive director. “Well-reasoned statistical arguments contain much more than the value of a single number and whether that number exceeds an arbitrary threshold. The ASA statement is intended to steer research into a ‘post $p < 0.05$ era.’”

“Over time it appears the p -value has become a gatekeeper for whether work is publishable, at least in some fields,” said Jessica Utts, ASA president. “This apparent editorial bias leads to the ‘file-drawer effect,’ in which research with statistically significant outcomes are much more likely to get published, while other work that might well be just as important scientifically is never seen in print. It also leads to practices called by such names as ‘ p -hacking’ and ‘data dredging’ that emphasize the search for small p -values over other statistical and scientific reasoning.”

The statement’s six principles, many of which address misconceptions and misuse of the p -value, are the following:

1. *P-values can indicate how incompatible the data are with a specified statistical model.*

Adopted by the Market Information Systems Research and Development (D) Working Group, Oct. 14, 2021

Adopted by the Market Information Systems (D) Task Force, June 16, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, Aug. 12, 2022

2. *P-values do not measure the probability that the studied hypothesis is true, or the probability that the data were produced by random chance alone.*
3. *Scientific conclusions and business or policy decisions should not be based only on whether a p-value passes a specific threshold.*
4. *Proper inference requires full reporting and transparency.*
5. *A p-value, or statistical significance, does not measure the size of an effect or the importance of a result.*
6. *By itself, a p-value does not provide a good measure of evidence regarding a model or hypothesis.*

The statement has short paragraphs elaborating on each principle.

In light of misuses of and misconceptions concerning p -values, the statement notes that statisticians often supplement or even replace p -values with other approaches. These include methods “that emphasize estimation over testing such as confidence, credibility, or prediction intervals; Bayesian methods; alternative measures of evidence such as likelihood ratios or Bayes factors; and other approaches such as decision-theoretic modeling and false discovery rates.”

“The contents of the ASA statement and the reasoning behind it are not new—statisticians and other scientists have been writing on the topic for decades,” Utts said. “But this is the first time that the community of statisticians, as represented by the ASA Board of Directors, has issued a statement to address these issues.”

“The issues involved in statistical inference are difficult because inference itself is challenging,” Wasserstein said. He noted that more than a dozen discussion papers are being published in the ASA journal *The American Statistician* with the statement to provide more perspective on this broad and complex topic. “What we hope will follow is a broad discussion across the scientific community that leads to a more nuanced approach to interpreting, communicating, and using the results of statistical methods in research.”

About the American Statistical Association

The ASA is the world’s largest community of statisticians and the oldest continuously operating professional science society in the United States. Its members serve in industry, government and academia in more than 90 countries, advancing research and promoting sound statistical practice to inform public policy and improve human welfare. For additional information, please visit the ASA website at www.amstat.org.

For more information:

Ron

Adopted by the Market Information Systems Research and Development (D) Working Group, Oct. 14, 2021

Adopted by the Market Information Systems (D) Task Force, June 16, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, Aug. 12, 2022

Wasserstein

Citations

Macnish, K., Ryan, M. & Stahl, B. (2019). Understanding ethics and human rights in smart information systems: A multi-case study approach. *The Orbit Journal*, 2(2), 1–34.

Open Science Collaboration. 2015. Estimating the reproducibility of psychological science. *Science*, 349(6251). <https://science.sciencemag.org/content/349/6251/aac4716>

Wasserstein, R.L., & Lazar, N.A. (2016). The ASA statement on p-values: Context, process and purpose. *The American Statistician*, 70(2), 129–133.

Draft: 3/22/22

Adopted by Market Regulation and Consumer Affairs (D) Committee, Aug. 12, 2022

Adopted by Producer Licensing (D) Task Force, May 5, 2022

DRAFT FOR DISCUSSION
GUIDELINES FOR AMENDING THE UNIFORM LICENSING APPLICATIONS

The mission of the Producer Licensing (D) Task Force includes the development and implementation of uniform standards with a primary emphasis on encouraging the use of electronic technology. As part of this mission, the Task Force has appointed a Producer Licensing Uniformity (D) Working Group to “review and update, as needed, the NAIC’s uniform producer licensing applications and uniform appointment form.” In support of this mission and charge, the Producer Licensing (D) Task Force recognizes the importance of having stable, streamlined, and consistent NAIC’s Uniform Producer Licensing Applications, which comply with the statutes and regulations of the NAIC Membership and encourage the use of electronic technology in the most efficient manner.

In support of this mission and the importance of maintaining stable and consistent NAIC Uniform Licensing Applications, the Producer Licensing (D) Task Force will use the following guidelines for substantive changes to the NAIC’s Uniform Licensing Applications.

1. On a biennial basis, the Producer Licensing (D) Task Force will send an email communication by Dec. 1, to members of the Producer Licensing (D) Task Force, interested regulators, interested parties, and state producer licensing directors, asking for proposed changes to the NAIC Uniform Licensing Applications. The requested changes are to be submitted as a Word document using the NAIC Uniform Licensing Application Change Request form. The form should be completed in its entirety, attached to an email message, and directed and submitted to the NAIC staff providing primary support for the Producer Licensing (D) Task Force. All requests should be submitted by Feb. 1.
2. If the Producer Licensing (D) Task Force recommends further analysis of the request, the Task Force will assign the request to the Producer Licensing Uniformity (D) Working Group by the close of the NAIC Spring National Meeting. The Working Group will review the request using the following guiding questions:
 - a. Does the proposed change maintain the NAIC Membership’s mission of uniform licensing standards with a primary emphasis on encouraging the use of electronic technology?
 - b. Does the proposed change serve the regulatory purpose of strengthening consumer protection while maintaining an efficient licensing process for producer applicants? This should include documentation on why the existing Uniform Applications do not meet these objectives.
 - c. Does the proposed change comply with the statutes and regulations of the NAIC Membership and encourage the use of the NAIC’s Uniform Applications in all jurisdictions?
3. The initial comment period on exposure drafts issued by the Producer Licensing Uniformity (D) Working Group should be 30 calendar days. The Working Group may consider additional exposure periods of less than 30 days for revisions to the same draft.
4. Revisions to the NAIC’s Uniform Applications should be adopted by the Producer Licensing Uniformity (D) Working Group and the Producer Licensing (D) Task Force by the close of the NAIC Summer National Meeting.¹
5. If the Producer Licensing Uniformity (D) Working Group recommends a requested change not be pursued, the request will be updated with that decision and filed for future reference. A copy of the recommendation and decision will be provided to the requestor.
6. If the Producer Licensing Uniformity (D) Working Group recommends proceeding with a requested change, NAIC staff providing primary support for the Producer Licensing (D) Task Force will coordinate with NIPR and States, including

¹The dates and meetings set forth herein pertain only to the year in which the Producer Licensing (D) Task Force solicits proposed changes to the Uniform Licensing Applications as described in item 1.

back-office system support vendors, during the next 45 days, conduct an analysis culminating in the provision of a time and cost estimate for the Producer Licensing (D) Task Force's review and prioritization. Using staff analysis, the Producer Licensing (D) Task Force will identify an appropriate implementation date.

7. Revisions to the NAIC's Uniform Applications should be adopted by the Market Regulation and Consumer Affairs (D) Committee by Oct. 15, and the Executive Committee and Plenary by the conclusion of the NAIC Fall National Meeting.

NAIC Uniform Application Change Request

Date Submitted: _____

Name: _____

State: _____

E-Mail: _____

Phone: _____

Change Request to Following NAIC Uniform Application (Check all that apply)

- Uniform Application for Individual License/Registration
- Uniform Application for Individual License Renewal/Continuation
- Uniform Application for Business Entity Licensing Registration
- Uniform Application for Business Entity License Renewal/Continuation

Provide Concise Description of Proposed Change

Provide Reason for the Proposed Change

Provide Supporting Information Related to the Proposed Change

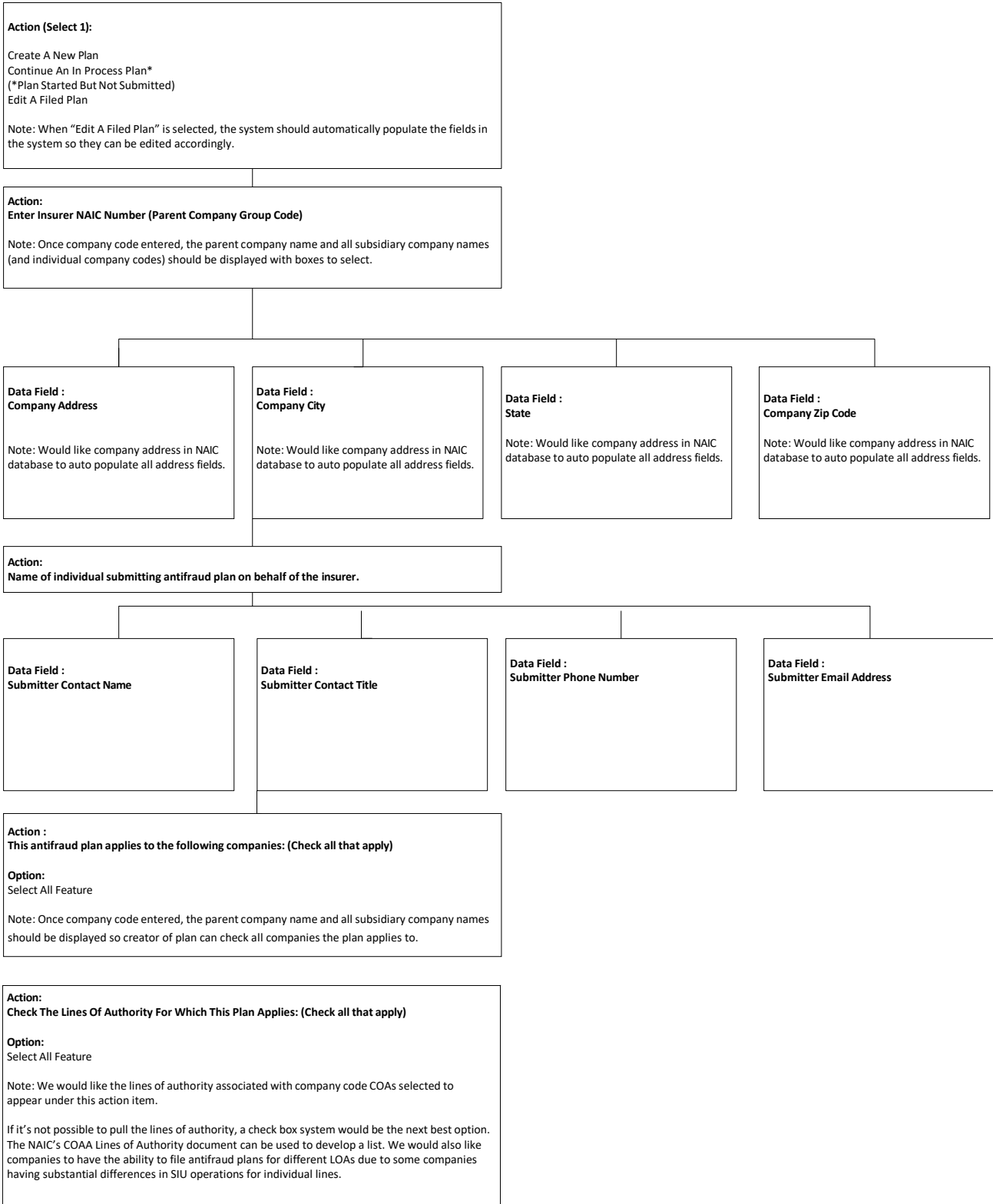
To Be Completed by NAIC Staff

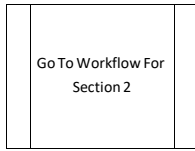
Change Request ID #	Date Received	Estimated Hours	Recommendation

[Guidelines for Uniform Apps](#)

Section 1:
Company Information

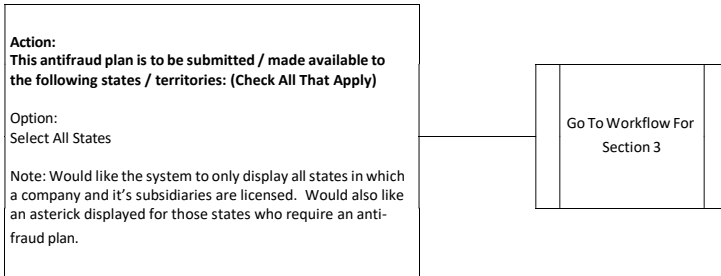
Antifraud Plan
Repository
Workflow





State Submission

Workflow



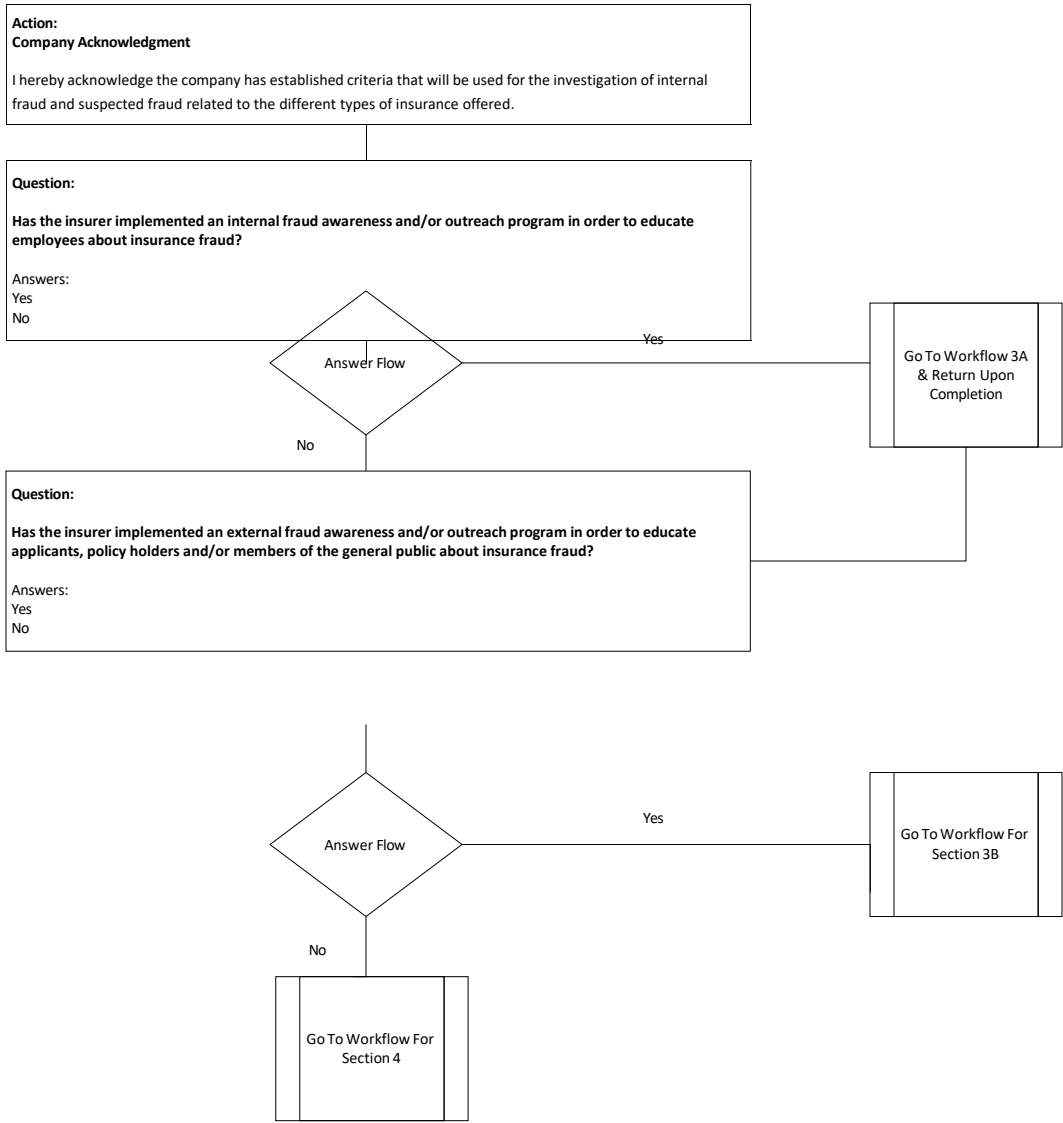
If auto-display not possible, the following states / territories should be displayed:

Alaska	Idaho	Massachusetts	North Dakota	Texas
American Samoa	Illinois	Minnesota*	Northern Mariana Islands	US Virgin Islands
Arizona	Indiana	Mississippi	Ohio	Utah*
Arkansas*	Iowa	Missouri	Oklahoma	Vermont
California*	Kansas*	Montana	Oregon	Virginia
Colorado	Kentucky*	Nebraska	Pennsylvania	Washington*
Connecticut	Georgia	Nevada	Puerto Rico	West Virginia
Delaware	Guam	New Hampshire*	Rhode Island	Wisconsin
District of Columbia*	Louisiana	New Jersey	South Carolina	Wyoming
Florida*	Maine	New Mexico	South Dakota	
		New York		

*Denotes antifraud plan required

Investigation Of Fraud

Workflow



**Section 3A (Alternate Choice):
Internal Antifraud Awareness**

**Antifraud Plan Repository
Workflow**

Action:
Provide a description of the insurer’s internal awareness / antifraud education and training initiatives of any personnel involved in antifraud related efforts. Insurers should include all of the following when providing their description:

- *An overview of antifraud training provided to new employees.
- *An overview of the internal positions the insurer offers regular education and training, such as underwriters, adjusters, claims representatives, appointed agents, attorneys, etc.
- *A description of the various training topics covered with employees.
- *The method(s) in which training is provided.
- *The frequency and minimum number of training hours provided.

NOTE: A free form box with unlimited text allowance should appear beneath the overview so the insurer has the ability to provide a general narrative before getting into the added sections. The ability for spell check would be preferred as well.

Action:
Describe the various method(s) in which internal employees can report suspected fraud.

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Go To Workflow For
Section 3B

Section 3B: External Awareness

Antifraud Plan Repository Workflow

Action:
Provide a description of the insurer's external fraud awareness or outreach program(s) geared towards applicants, policy holders and members of the general public.

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Action:
Describe the various method(s) in which policyholders and members of the general public can report suspected fraud.

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Go To Workflow For
Section 4

Workflow

Corporate Policy Regarding Internal Fraud

Action:
Provide a description of the insurer's corporate policies for preventing, detecting and investigating suspected internal fraud committed by company employees, consultants or others, such as underwriters, claims representatives, appointed agents, etc.
NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Action:
Provide a description of the company's internal fraud reporting policy.
NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Action:
Identify the position and/or person(s) within the organization who is ultimately responsible for the investigation of internal fraud.

Data Field:
Position Title(s)
Note: Companies may have more than one person responsible for internal fraud. Insurers should provide multiple position titles and contact information for multiple individuals.
Yes

Data Field:
Name:
Data Field:
Address:
Data Field:
City:
Data Field:
State:
Data Field:
Zip Code:
Note: This field is only activated if the name of the person responsible is provided.
Note: This field is only activated if the name of the person responsible is provided.
Note: This field is only activated if the name of the person responsible is provided.
Note: This field is only activated if the name of the person responsible is provided.

Overview:
Insurer's are required to provide a description of their standard operating procedures (SOP) for investigating internal fraud. Insurers will be able to provide a description of their SOP and/or upload an organizational chart.

Action:
Provide a description of the reporting procedure the company will follow upon a criminal and/or insurance law violation being identified as the result of an internal investigation conducted (i.e., agent misconduct, referral to Fraud Unit or law enforcement, etc.).
NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Action:
Insurer given ability to upload documents.
NOTE: Insurer's should have the ability to upload multiple documents.

Action:
Provide a description of the company's standard operating procedures (SOP) for investigating internal fraud.
NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Action:
Insurer given ability to upload documents.
NOTE: Insurer's should have the ability to upload multiple documents.

Go to Workflow for Section 5

Corporate Policy Regarding Fraud Prevention / Identification Of Suspected Fraud

Workflow

Action:

Provide a description of the insurer’s corporate policies for preventing fraudulent insurance acts committed by first or third party claimants, medical or service providers, attorneys, or any other party associated with a claim.

NOTE: A free form box with unlimited text allowance should appear beneath the overview so the insurer has the ability to provide a general narrative before getting into the added sections. The ability for spell check would be preferred as well.

Action:

Provide a description of the technology and/or detection procedures the insurer has put in place to identify suspected fraud.

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Question:

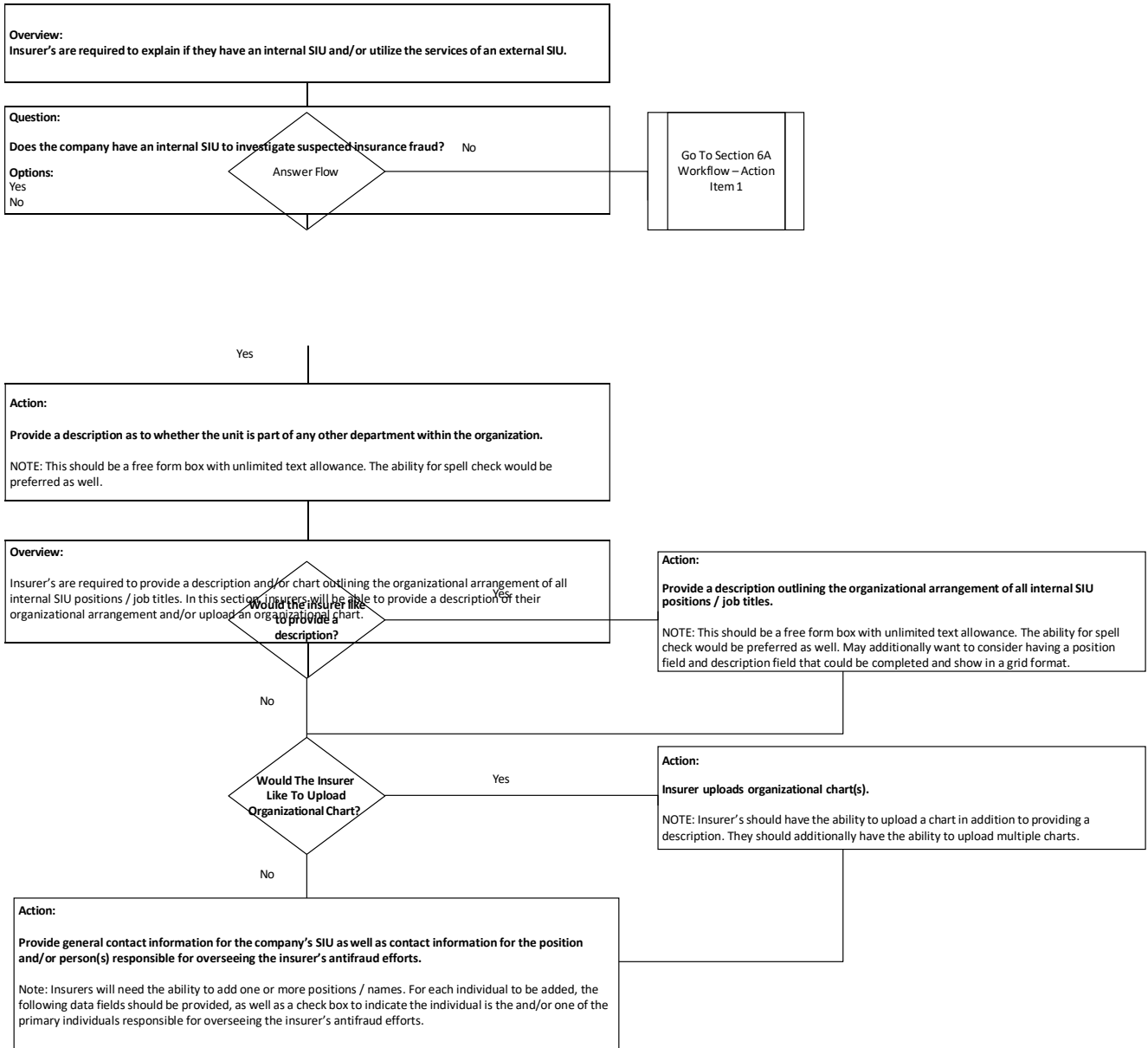
What criteria is used to report suspicious transactions and/or claims of insurance fraud for investigation to the insurer’s SIU?

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Go To Workflow For
Section 6

Section 6:
SIU Overview

Antifraud Plan Repository
Workflow

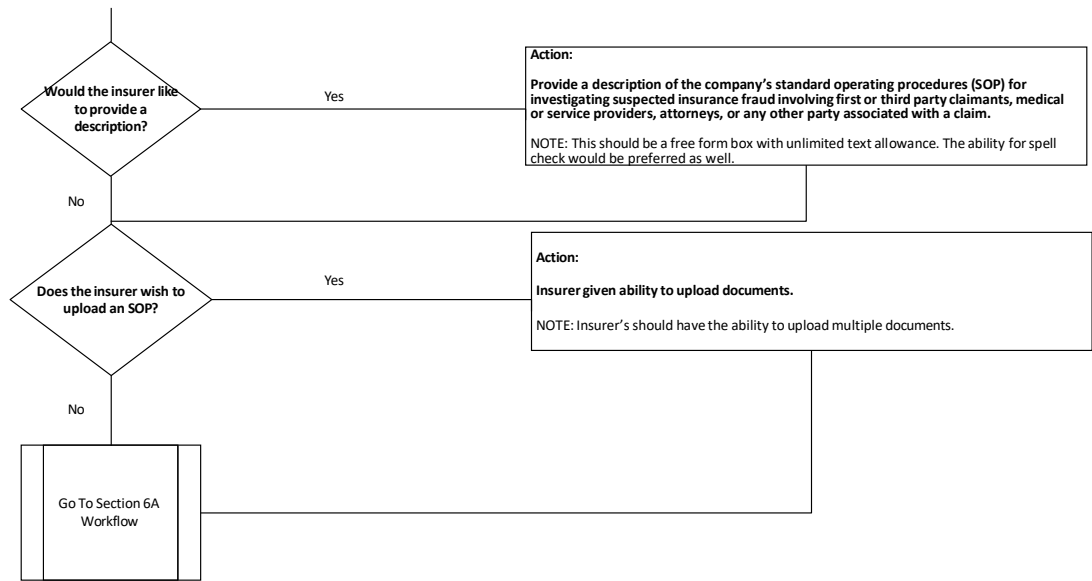


Data Field : Company Contact Title Action: This individual is responsible for overseeing the insurer's antifraud efforts.	Data Field : Company Contact Name	Data Field : Company Contact Phone Number	Data Field : Company Contact Email Address
Data Field : Mailing Address	Data Field : City	Data Field : State	Data Field : Zip Code

Overview:

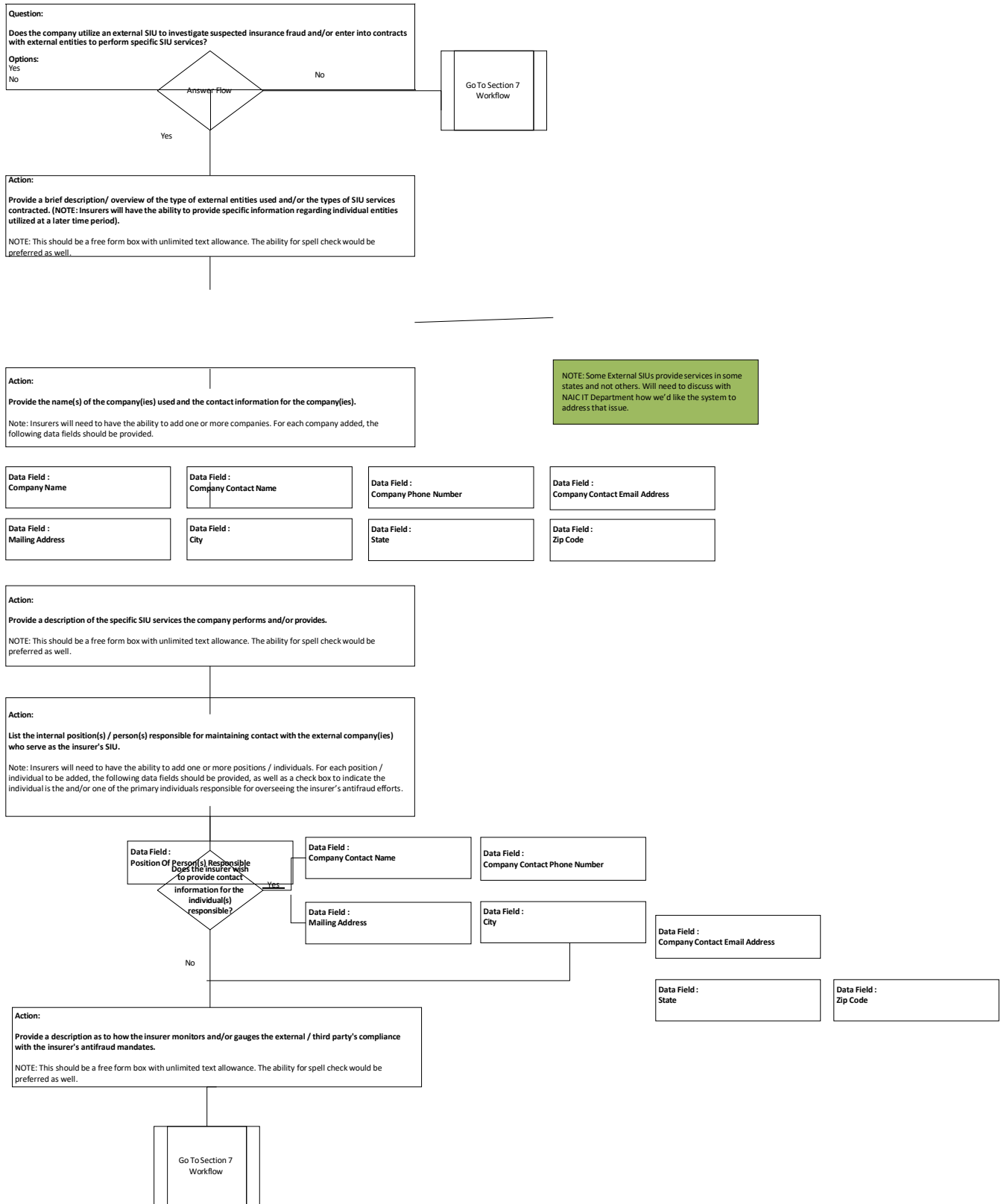
Insurers are to provide a description of the insurer's standard operating procedures (SOP) for investigating suspected insurance fraud involving first or third party claimants, medical or service providers, attorneys, or any other party associated with a claim.

Insurers will be able to provide a description of their SOP and/or upload their SOP for investigating suspected insurance fraud.



Section 6A:
Overview Of External SIU

Antifraud Plan Repository
Workflow



Methods Used To Document Referrals & Investigations

Workflow

Action:
Provide a description of the method(s) used to document SIU referrals received and investigations conducted. When providing a description, the following should be included:

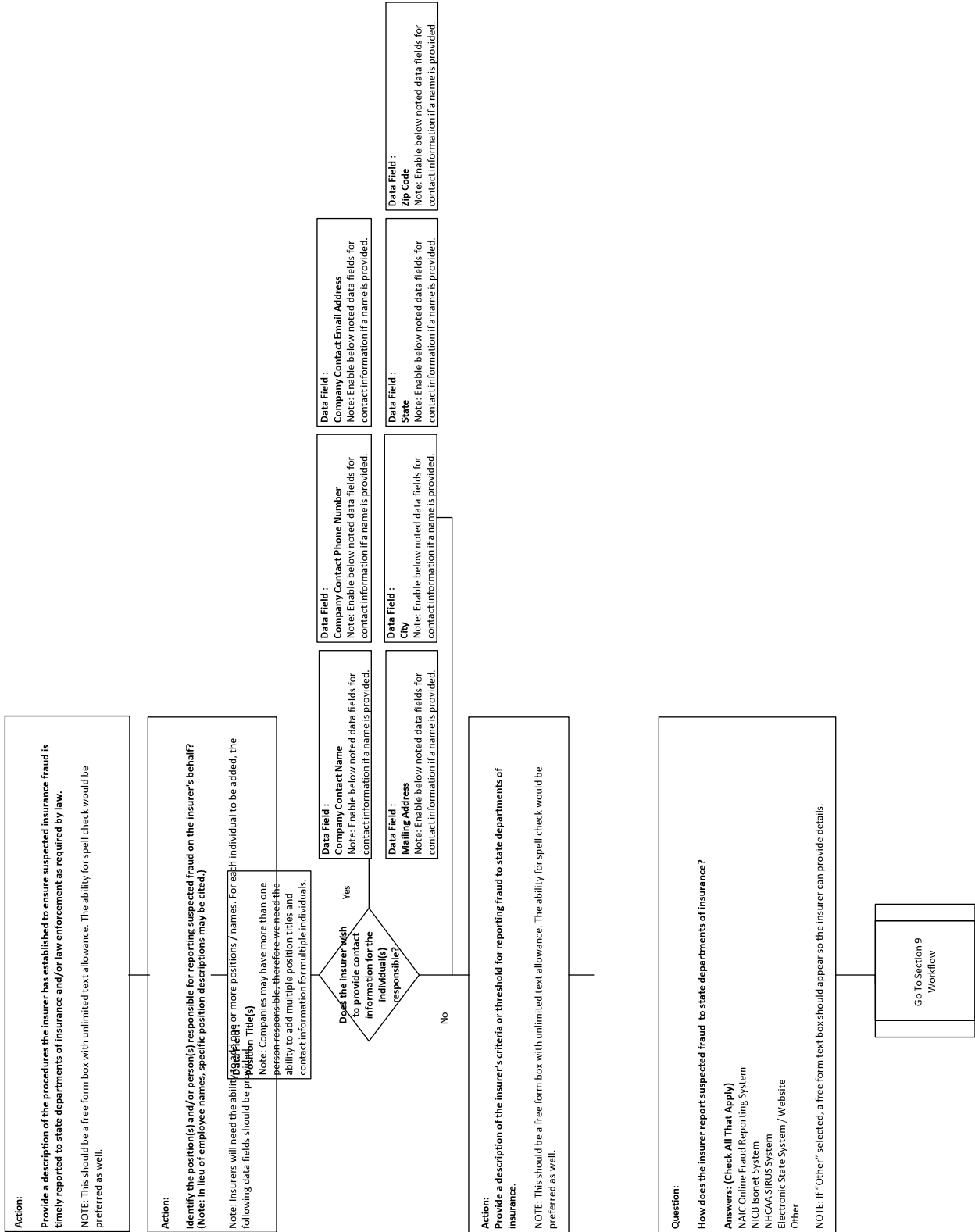
*An overview of any case management system and/or computer program used to memorialize SIU referrals received and investigations conducted.
*An overview regarding the manner in which the insurer tracks SIU / investigative information for compliance purposes (i.e. number of SIU referrals received, number of investigations opened, outcome of investigations conducted, etc.)

NOTE: This should be a free form box with unlimited text allowance. The ability for spell check would be preferred as well.

Go To Section 8
Workflow

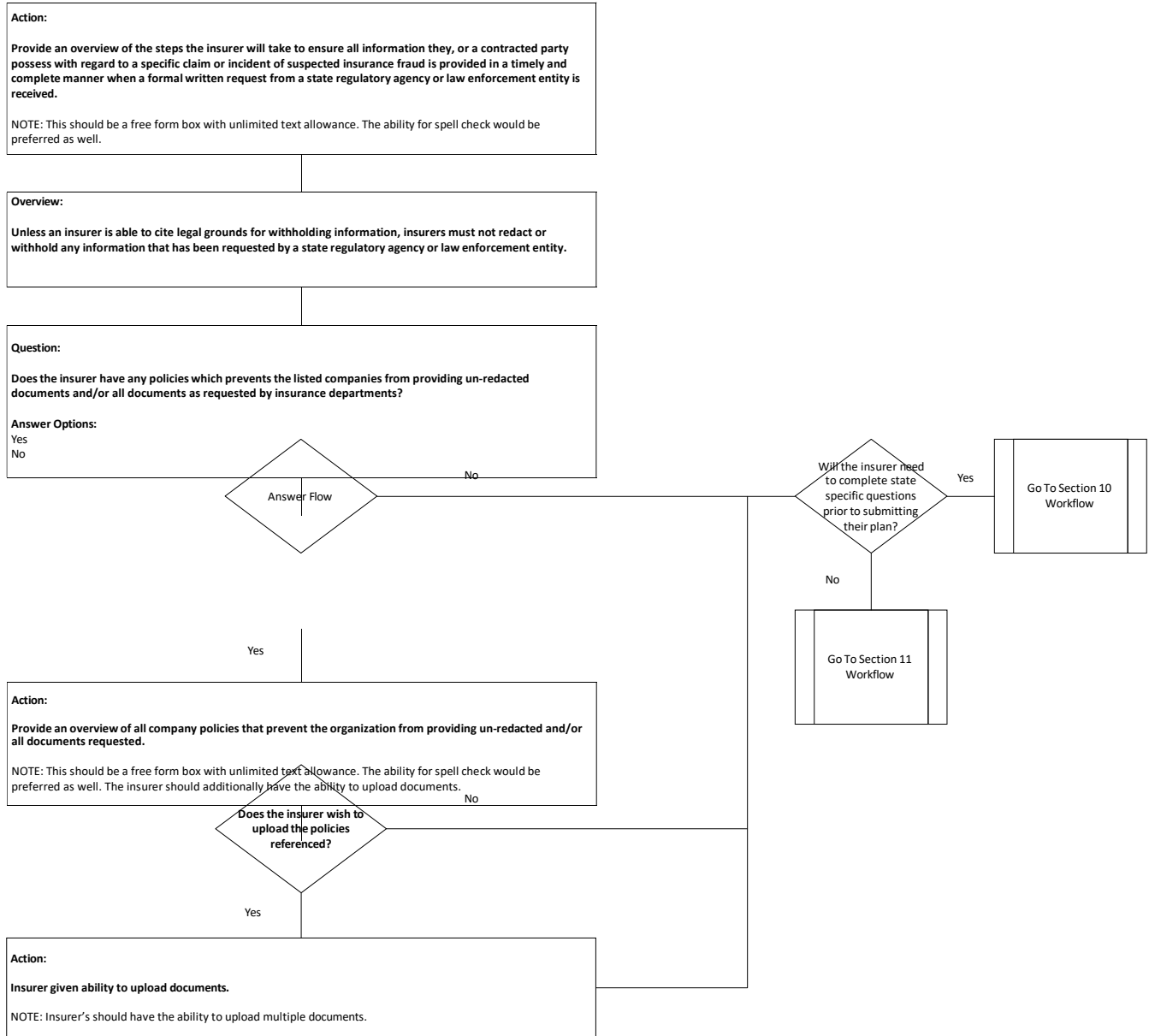
Workflow

Reporting Of Suspected Fraud



Providing Of Records

Workflow



State Specific Questions

Workflow

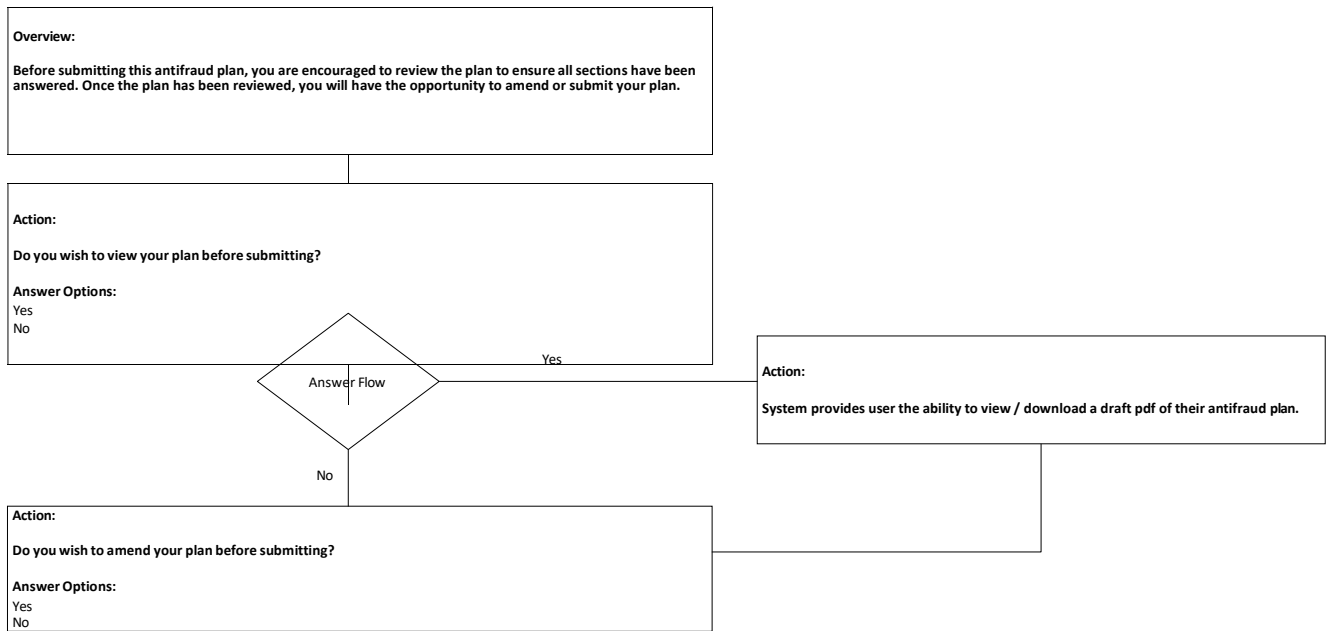
Overview:
The following states require insurers to answer state specific questions. Those states are:
i.e. Florida
Note: System to list those states checked in section 2 that have state specific questions. May wish to consult NIPR for how state specific questions are handled for producer licensing applications.

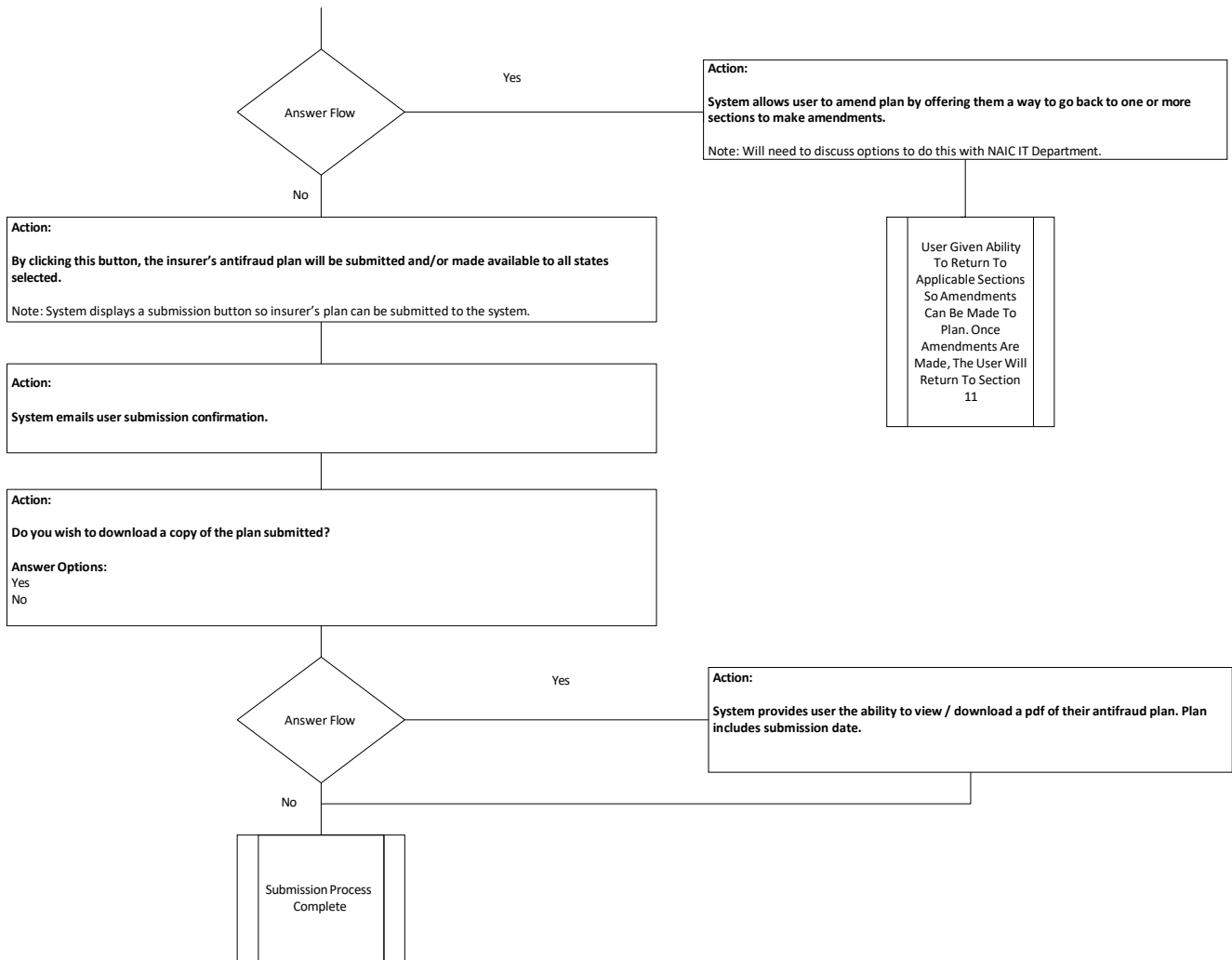
Action:
Insurer completes state specific questions for all applicable states.

Go To Section 11
Workflow

Submission Process

Workflow





Draft: 7/27/22

Market Analysis Procedures (D) Working Group
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 13, 2022

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 13, 2022. The following Working Group members participated: John Haworth, Chair (WA); Rebecca Rebholz, Vice Chair (WI); Tolanda Coker (AZ); Don McKinley (CA); Damion Hughes (CO); Steve DeAngelis (CT); Susan Jennette (DE); Scott Woods (FL); Erica Weyhenmeyer (IL); Tate Flott (KS); Sandra Stumbo (KY); Jeff Zewe (LA); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy N. Schott (ME); Jeff Hayden (MI); Jo LeDuc, Cynthia Amann, and Teresa Kroll (MO); Martin Swanson and Robert McCullough (NE); Erin Porter (NJ); Leatrice Geckler (NM); Larry Wertel (NY); Todd Oberholtzer (OH); Shelly Scott (OK); Matt Gendron (RI); Rachel Moore (SC); Shelley Wiseman (UT); Will Felvey (VA); Karla Nuissl and Mary Block (VT); and Theresa Miller (WV). Also participating was: Shelli Isiminger (TN).

1. Adopted its June 8 Minutes

Mr. Haworth said the Working Group met June 8 and took the following action: 1) adopted the standard ratios for the Travel Insurance Market Conduct Annual Statement (MCAS) and the Short-Term Limited-Duration (STLD) MCAS; 2) considered new lines of business for the MCAS; and 3) considered improvements to the Market Analysis Review System (MARS).

Mr. Schott made a motion, seconded by Mr. Gendron, to adopt the Working Group's June 8 minutes (Attachment Nine-A). The motion passed unanimously.

2. Considered New Lines of Business in the MCAS

Mr. Haworth said suggestions have been made to add Pet Insurance, Title Insurance and business owner's policy (BOP) to the MCAS. He said the Working Group received comments from Rhode Island in support of Pet Insurance as the next line of business. He said Mr. Gendron provided some responses to the questions that need to be addressed per the "Process for Selecting New MCAS Lines of Business."

Mr. Haworth said Ms. Isiminger suggested adding Credit Life Insurance and Credit Disability Insurance to the MCAS. He said Ms. Isiminger also suggested adding data elements on Waiver of Premium (WoP) and Accelerated Death Benefits (ADB) to the Life MCAS blank.

Ms. Isiminger said credit life and credit disability insurance generate large profits for the companies writing, and the products are often marketed to and purchased by consumers least able to afford them. She said consumers often feel pressured to purchase the products even though it would be less expensive for them to shop around for the coverage. She said the lack of regulation leads to questions as to whether the consumers of the product are receiving the coverage they purchased. She noted there was very little, if any, regulation of the products.

Ms. Isiminger said WoP and ADB are either added as part of a life insurance policy or attached as a rider to the policy. She said she has seen WoP added to policies in an amount not sufficient to cover the entire premium. She said ADB coverage can be a very useful product for consumers, and the coverage keeps viatical companies at bay. She said it would be helpful to analyze whether consumers are being treated appropriately when they buy or make claims on WoP and ADB coverages.

Mr. Haworth noted that the request to add WoP and ADB data elements should be referred to the Market Conduct Annual Statement Blanks (D) Working Group.

John Euwema (Consumer Credit Industry Association—CCIA) said the suggestion to add credit insurance coverages to the MCAS was made and rejected by the Working Group in 2017 and 2018. He said nothing has changed in the credit insurance marketplace since then. He questioned why it should be considered again.

Birny Birnbaum (Center for Economic Justice—CEJ) said he supports adding credit life and credit disability insurance to the MCAS and offered his assistance.

Mr. Gendron said there are market conduct problems surrounding pet insurance. He said one issue is that the product is sold by companies that write many other lines of business, and because pet insurance is written as inland marine, there is no way to determine what premium is generated by their pet insurance products or even which companies may even be writing pet insurance without looking at all the form filings. He said pet insurance has grown rapidly in the last five years, especially as more people have purchased pets during the COVID-19 pandemic. Mr. Haworth noted that the only information available on pet insurance comes from the trade associations, and there is no way to verify the information. He said because of the uncertainty regarding the underwriters of the coverage, it is a challenge to identify what company a complaint is directed against.

Acting Superintendent Schott said Maine just passed legislation on pet insurance based on the *Pet Insurance Model Act* (#633). He said it would be very helpful to have pet insurance data.

Mr. Haworth said the Working Group would decide on the next line of business during its next meeting. Mr. Birnbaum said there was no opposition to adding pet insurance, and the suggestion has been exposed since the last Working Group meeting. Ms. LeDuc and Acting Superintendent Schott requested more time to review all proposals and John Fielding (Chubb) asked for additional time to allow the North American Pet Health Insurance Association (NAPHIA) the opportunity to comment.

Mr. Haworth asked for comments to be sent to Randy Helder (NAIC) by Aug. 12.

3. Discussed the Addition of Outstanding MCAS Lines of Business in the MARS

Mr. Haworth said since the last Working Group meeting, one comment was received from Tony Dorschner (SD) stating that South Dakota analysts often use the MARS to analyze companies seeking to expand their Certificate of Authority. He said South Dakota supports adding additional lines of business options to the MARS.

Mr. Haworth said the current lines available in the MARS are Credit, Homeowners, Long-Term Care (LTC), Medicare Supplemental, Workers' Compensation, Group Accident & Health (A&H), Individual A&H, Medical Professional, and Private Passenger Auto (PPA).

Ms. LeDuc said there are lines of business that do not have corresponding lines of business in the financial annual statement. Adding a line of business option in the MARS for those lines would be difficult. Mr. Haworth agreed, but he said state insurance regulators have MCAS data MARS does not have a designated Level 1 line of business available to perform analysis. He said this needs to be addressed.

Mr. Haworth said he will work with Mr. Helder to re-draft the Working Group's Uniform System Enhancement Request (USER) form to forward to the Market Information Systems Research and Development (D) Working Group requesting an expansion of the lines of business options in the MARS and adding the outstanding MCAS data lines.

4. Discussed Other Matters

Mr. Haworth said Maria Ailor (AZ) sent a comment letter to the Working Group in support of adding the Travel Insurance loss ratio to the standard MCAS ratios for Travel Insurance. He said Ms. Ailor noted that the blank collects the total dollar amount of claims (line item 29) and the total direct written premium (line items 44, 45, and 46). He said even though some travel insurance policies are short-duration and others are long-duration, the loss ratio derived from the MCAS data would provide a good average for each state.

Mr. Oberholtzer said the Working Group should consider whether the information would have value for market analysts. He said he does not believe the information would be helpful for analysts in Ohio. Mr. Swanson agreed.

Mr. Birnbaum said this was originally proposed during the June 8 Working Group meeting. He said there is no annual statement line for travel insurance, and the loss ratio cannot be derived. He said the loss ratio is the accepted method for evaluating the value of an insurance product for consumers. He said calculating the loss ratio allows the market analysts to compare loss ratios across companies. Mr. Birnbaum also noted that while the public would only see a statewide loss ratio, the market analysts would have a more granular level of access, allowing for the tracking of loss ratios of time. He said this would be a very valuable ratio for analysts.

Mr. Birnbaum said the CEJ also requested that the volume of direct written premium, the average number of insureds, and the number of claims be presented along with the standard ratios for travel insurance. He said even if some market analysts may not find the information useful, other stakeholders may.

Ms. LeDuc asked what effort this would create for the NAIC to add the additional travel insurance ratio. Mr. Helder said the data elements are being created, and the work on adding the adopted ratios is still in progress, so it should not create difficulties.

Ms. LeDuc said since travel insurance consists of many different types of coverages, it may not make sense to aggregate them into one loss ratio. Mr. Birnbaum said travel insurance is sold as a package of products so the aggregate loss ratio reflects the value of the product.

Mr. Haworth asked for comments to be sent to Mr. Helder by Aug. 12.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

Sharepoint/Member Meetings/D CMTE/2022 Summer National Meeting/MAPWG/0713/0713 MAPWG .docx

Draft: 6/16/22

Market Analysis Procedures (D) Working Group
Virtual Meeting
June 8, 2022

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 8, 2022. The following Working Group members participated: John Haworth, Chair (WA); Rebecca Rebholz, Vice Chair (WI); Crystal Phelps and Russ Galbraith (AR); Maria Ailor (AZ); Don McKinley (CA); Damion Hughes (CO); Kurt Swan (CT); Scott Woods (FL); Erica Weyhenmeyer (IL); Tate Flott (KS); Sandra Stumbo and Lori Cunningham (KY); Jeff Zewe (LA); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy N. Schott (ME); Jeff Hayden (MI); Jo LeDuc and Teresa Kroll (MO); David Dachs (MT); Martin Swanson and Robert McCullough (NE); Edwin Pugsley (NH); Ralph Boeckman and Erin Porter (NJ); Peggy Willard-Ross (NV); Larry Wertel (NY); Todd Oberholtzer and Guy Self (OH); Landon Hubbard (OK); Jeffrey Arnold (PA); Brett Bache and Matt Gendron (RI); Michael Bailes (SC); Shelley Wiseman (UT); Will Felvey (VA); Karla Nuisl and Mary Block (VT); and Theresa Miller (WV).

1. Adopted its March 3 Minutes

The Working Group met March 3 and took the following action: 1) reviewed its 2022 charges; 2) discussed the proposed standard ratios for the Travel and Short-Term Limited-Duration (STLD) Market Conduct Annual Statement (MCAS) blanks; and 3) discussed incorporating the new MCAS lines into the Market Analysis Review System (MARS).

Ms. Weyhenmeyer made a motion, seconded by Ms. Rebholz, to adopt the Working Group's March 3 minutes (see *NAIC Proceedings – Spring 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Three*). The motion passed unanimously.

2. Adopted Standard Ratios for the Travel and STLD MCAS Lines of Business

Mr. Haworth said the proposed standard ratios for the Travel and STLD MCAS blanks were originally exposed prior to the Working Group's Nov. 18, 2021, meeting. He said at that time, the Working Group asked a group of subject matter experts (SMEs) to review and revise them as needed. The draft proposals are now exposed on the Working Group's web page.

Mr. Haworth said there are five proposed ratios for Travel and 11 ratios for STLD. He also noted that the drafting group made a couple suggestions for new data elements. He said the first suggestion is a new element for the Travel MCAS blank of "policies in force during the reporting period" to assist in analyzing complaint trends from year to year and company to company. He said it would enable the Working Group to add a ratio measuring cancellations to policies in force during the period. He said the second data element is recommended for the STLD MCAS blank and is the "dollar amount of claims paid during the reporting period."

Mr. Haworth said the Working Group would focus on adopting the Travel and STLD ratios and consider the new data elements later.

Birny Birnbaum (Center for Economic Justice—CEJ) said the proposed Travel ratio #5 measuring complaints to premium during the period was not useful because of the difference in the average premiums for the different products offered by different insurers. He suggested that the denominator would be more effective if the

denominator was the average of the number of individuals insured at the beginning of the period and the number of individuals insured at the end of the period.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said the drafting group considered Mr. Birnbaum's suggestion, but the group decided it did not work because most policies that are written are in force for time periods under a year. The two data elements suggested by Mr. Birnbaum does not yield an average. Ms. Brown said the lack of a good denominator for this ratio is the reason the drafting group suggested a new data element of "policies in force during the reporting period."

Ms. Ailor asked if there is time available to consider the new information provided or if there is a deadline to be met for adopting the ratios. Teresa Cooper (NAIC) said it is important that these are adopted soon so they can be entered into the system for next year, but an additional month would be possible. Ms. Nuisl agreed with Ms. Ailor that additional time would be helpful. Mr. Oberholtzer said he does not believe Mr. Birnbaum's comments should delay the adoption of the ratios. He said the drafting group spent time reviewing and coming up with the ratios that are proposed. Mr. Galbraith said comments were due in April, and now the Working Group will be delayed in deciding because of written comments received one day before the meeting. He said he would not want to see the Working Group set a precedent that anyone can submit comments long after the deadline for comments.

Ms. Weyhenmeyer suggested removing ratio #5 from consideration and only voting on the first four Travel ratios. Ms. Rebholz agreed with Ms. Weyhenmeyer. She said voting on the first four ratios would make sure some ratios are adopted regardless of any later decisions. Ms. Ailor said she also agrees with the idea, and she asked when new ratios can be introduced. Randy Helder (NAIC) said new ratios or modifications to other ratios still have time to be adopted. However, Ms. Cooper said any new data elements could not be effective until the 2024 data year.

Ms. Weyhenmeyer made a motion, seconded by Ms. Ailor, to adopt the first four Travel ratios (Attachment Nine-A1). The motion passed unanimously.

Ms. Weyhenmeyer made a motion, seconded by Mr. Schott, to adopt the STLD ratios (Attachment Nine-A2). The motions passed unanimously.

3. Discussed the Addition of Outstanding MCAS Lines of Business Data Elements to the MARS

Mr. Haworth said during the last Working Group meeting, the Working Group agreed to submit a Uniform System Enhancement Request (USER) form to the Market Information Systems Research and Development (D) Working Group to prioritize adding the Lender-Placed Insurance and Disability Insurance MCAS data elements to the MARS Level 1 set of questions. However, he noted that all the new MCAS lines of business need to be added to the MARS in time for the first collection of the data. He also said the MARS lines of business options are not broad enough to encompass each of the new lines of business added to the MCAS. For example, the new Travel MCAS would need to be completed under one of the available property/casualty (P/C) lines in the MARS.

Mr. Haworth said the Market Information Systems Research and Development (D) Working Group would like the Market Analysis Procedures (D) Working Group to expand on what should be required for the MARS to adequately meet the analysts' needs.

Mr. Dachs said he has had to use a different line of business in the MARS to do a Level 1 analysis on a line of business that is not an option in the MARS. He said the questions and data are not really on point. He said it would be useful to expand the line of business options in the MARS. Ms. Rebholz agreed that it would be helpful, but she does not know how difficult it would be to add the lines.

Mr. Haworth asked that comments be sent to Mr. Helder by July 11.

4. Considered New Lines of Business for the MCAS

Mr. Haworth said the Working Group needs to consider a new line of business for the MCAS, and he asked that suggestions be sent to Mr. Helder by July 11.

Mr. Birnbaum suggested three possible new lines of business for the MCAS. He said pet insurance has experienced tremendous growth and has doubled in size in the last four years. He said title insurance has \$20 billion in premium, and there is little review of the underwriting and claims handling for title insurance. Some states also allow title insurance policies to contain pre-dispute mandatory arbitration provisions. Finally, Mr. Birnbaum also suggested business owners insurance, which would limit policies under \$5,000 in premium covering small businesses who are similar to personal lines policyholders.

Mr. Gendron agreed with the pet insurance suggestion as a great way to gather information on these companies for analysis. He said pet insurance is reported as inland marine, and it is difficult to get premium volumes. Ms. Moran supported Mr. Gendron. Mr. Haworth said the market is larger than just “pet insurers.” He said there are only a small number of specialized pet insurers, but many companies market pet insurance under different branding. He said this is something to bear in mind if the Working Group moves forward on this.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings

Adopted by the Market Analysis Procedures (D) Working Group, June 8, 2022

DRAFT - MCAS Ratios

Travel

Ratio 1. The number of claims closed without payment compared to the total number of claims closed

$$\left(\frac{[\text{\# of claims closed without payment (20)}]}{[\text{\# of claims closed with payment (19)}] + [\text{\# of claims closed without payment (20)}]} \right)$$

Ratio 2. Percentage of claims unprocessed at the end of the period

$$\left(\frac{\begin{array}{l} \text{claims open at the Beginning of period (17) + claims opened during period (18)} \\ - \text{of claims closed with payment (19) - of claims closed without payment (20)} \end{array}}{\text{\# of claims open at the Beginning of period (17) + \# of claims opened during the period (18)}} \right)$$

Ratio 3. Percentage of claims paid beyond 30 days

$$\left(\frac{[\text{total \# of claims settled beyond 30 days (24+25)}]}{[\text{total \# of claims settled for all durations (23+24+25)}]} \right)$$

Ratio 4. The percentage of lawsuits closed with consideration for the consumer

$$\left(\frac{[\text{\# of lawsuits closed with consideration for consumer (34)}]}{[\text{total \# of lawsuits closed during the period (32)}]} \right)$$

Adopted by the Market Analysis Procedures (D) Working Group, June 8, 2022

DRAFT - MCAS Ratios

STLD

Ratio 1. **The number of claims denied, rejected or returned to the total number of claims paid, denied, rejected or returned**

$$\left(\frac{[\# \text{ of claim denied, rejected or returned (4-3)]}{[\# \text{ of claims pending at beginning of period (4-1) + \# \text{ of claims received (4-2)} - \# \text{ of claims pending at end of period (4-13)}]} \right)$$

Ratio 2. **Pre-existing Condition Denials to Total Denials**

$$\left(\frac{[\# \text{ of claim denied, rejected or returned as subject to pre – existing condition exclusion (4 – 8)]}{[\# \text{ of claims denied, rejected or returned (4 – 3)]} \right)$$

Ratio 3. **Prior Authorizations Denied to the Total Number of Prior Authorizations Received During the Period**

$$\left(\frac{[\text{total } \# \text{ of prior auths denied during the period (3-4)}]}{[\# \text{ of prior auths received during the period (3-1 + 3-3)}]} \right)$$

Ratio 4. **Member Months for Policies/Certificates Renewed/Reissued which had an option to renew/reissue without Underwriting to Total Member Month for Policies/Certificates Renewed/Reissued**

$$\left(\frac{[\# \text{ of member months on policies renewed/reissued without underwriting (2-16)}]}{[\text{total } \# \text{ of member months on total number of policies renewed/reissued during the period (2-15)}]} \right)$$

Ratio 5. **Cancellations During Free Look Period**

$$\left(\frac{[\# \text{ of policies/certificates cancelled during free look period (2-20)}]}{[\text{total } \# \text{ of policies issued during the period (2-6 all STLDI columns)}]} \right)$$

Ratio 6. **Claims Appeals per Claims Denied, Rejected, and Returned**

Adopted by the Market Analysis Procedures (D) Working Group, June 8, 2022

DRAFT - MCAS Ratios

$$\left(\frac{[\# \text{ of claims appeals pending at beginning (4-18) + \# of claims appeals received (4-19)]}{[\# \text{ of claim denied, rejected or returned (4-3)]} \right)$$

Ratio 7. Claims Appeals In which the Company Claims Decision is Overturned

$$\left(\frac{[\text{Number of Claim Decision Appeals Resulting in Decisions Overturned or Modified during the period (4-21)]}{[\# \text{ of claims appeals pending at beginning (4-18) + \# of claims appeals received (4-19)]} \right)$$

Ratio 8. Number of Complaints received per 1,000 Policies/Certificates In Force During the Period

$$\left(\frac{[\# \text{ of complaints received by company (5-1) + complaints received through DOI (5-2)]}{[(\text{policies/certificates in force at beginning (2-3)+ policies/certificates issued (2-6)]} \right)$$

Ratio 9. Percentage of Lawsuits Closed with Consideration for the Consumer

$$\left(\frac{[\# \text{ of lawsuits closed with consideration for the consumer (5-7)]}{[\# \text{ of lawsuits closed during the period (5-6)]} \right)$$

Ratio 10. Lawsuits to Policies/Certificates In Force During the Period

$$\left(\frac{[\# \text{ of lawsuits opened during the period (5-5)]}{[(\text{policies/certificates in force at beginning (2-3)+ policies/certificates issued (2-6)]} \right)$$

Ratio 11. Renewal/Reissue Applications Denied to Total Renewal/Reissue Applications

$$\left(\frac{[\# \text{ of renewal/reissue applications denied during the period (6-6)]}{[(\# \text{ of renewal/reissue applications received during the period(6-3)]} \right)$$

Draft: 8/3/22

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
July 21, 2022

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 21, 2022. The following Working Group members participated: Erica Weyhenmeyer, Chair (IL); Rebecca Rebholz, Vice Chair (WI); Maria Ailor (AZ); Scott Woods (FL); Heidi Walker (GA); October Nickel (ID); Tate Flott (KS); Lori Cunningham (KY); Dawna Kokosinski (MD); Jeff Hayden (MI); Jennifer Hopper, Jo LeDuc, and Teresa Kroll (MO); Martin Swanson (NE); Guy Self (OH); Jeffrey Arnold (PA); Rachel Moore (SC); Shelli Isiminger (TN); Shelley Wiseman (UT); Melissa Gerachis (VA); and John Haworth (WA). Also participating was: Mary Kay Rodriguez (WI).

1. Adopted its May 26 Minutes

The Working Group met May 26 and took the following action: 1) adopted its April 28 minutes; 2) adopted the life Market Conduct Annual Statement (MCAS) edits for accelerated underwriting (AU); 3) adopted the other health MCAS data call and definitions; 4) adopted edits to the lawsuit definition for the home and auto MCAS; and 5) reviewed its charges and process for submitting requests for edits to the MCAS data call and definitions.

Mr. Swanson made a motion, seconded by Mr. Haworth, to adopt the Working Group's May 26 minutes (Attachment Ten-A). The motion passed unanimously.

2. Heard a Presentation from AHIP and the BCBSA on a Filing Deadline Proposal for the Health MCAS

Samantha Burns (America's Health Insurance Plans—AHIP) stated she and Joseph Zolecki (Blue Cross Blue Shield Association—BCBSA) would be giving a presentation today, representing the health industry interested parties group. She stated the group is comprised of single and multistate licensed health insurers and administrators, representing comprehensive major medical and managed health care carriers of all sizes, across the U.S. Ms. Burns stated AHIP members share the NAIC's goal to deliver health MCAS and request having an annual filing date that is mutually satisfactory for state insurance regulators and health carriers. She stated having a uniform MCAS filing deadline should not outweigh the need for reporting useful and reliable data for the health MCAS.

Ms. Burns stated the health MCAS is fundamentally different from other MCAS lines of business; it is more complex and manual in nature and significantly more voluminous. She stated the request being made in this presentation is that the June 30 filing deadline be maintained as the permanent filing deadline for the health MCAS. She provided some history of the health MCAS and explained that in October 2019, the Working Group approved what was a compromise position to make June 30 the filing deadline for data submission years of 2020, 2021, and 2022, with an industry option to request a reevaluation of the deadline beyond 2022. She stated the filing deadline will revert to April 30 with the 2023 submissions for data year 2022 if the June 30 date is not extended. Ms. Burns stated the health line of business has more data and is less automated. She stated the health line of business has four times as many data elements as homeowners and life, three times as many as long-term care (LTC), and four or more times data stratifications as the other lines of business. She stated health carriers also processed significantly more claims than claims filed for other lines of business.

Mr. Zolecki stated health claims processing requires significant time. He stated one of the key drivers for the health MCAS is the Supplemental Health Care Exhibit (SHCE), which carriers must file by April 1. He stated this report is a baseline carriers use to determine which states and even which carriers require an MCAS report. He stated when a carrier pulls data, the data is broken out by sub-stratification, and that is a complex process because it goes across all the carriers' memberships and systems, which is why carriers typically use the account stratification from the SHCE as a starting point for the MCAS. Mr. Zolecki stated data is brought in from multiple data sources and that those processes vary by company. He explained that external data processing is a factor to consider because some of the more extensively regulated and restricted products, such as behavioral health, are disproportionately complex and time-consuming compared to other MCAS lines of business. He stated behavioral health data is often held externally, which requires initial data retrieval from external sources, data matching to existing members, and policies on carriers' internal databases, which is followed by multiple iterations of testing and validation to ensure overall data accuracy and completeness.

Mr. Zolecki stated the health line is further unique and complex due to the timing of other mandatory state and federal reporting requirements, which enhances the challenges with an April 30 deadline. He provided examples of the prescription drug data collection report, which is required by the federal Consolidated Appropriations Act, Section 204, which is due June 1, and the mandatory federal and state rate and filings that many health carriers are subject to for the federal Affordable Care Act (ACA), which further stress the carriers' resources and systems. He stated the electronic data transaction sets are significantly larger for health, which is a direct reflection of the complexity of health care as a business. Mr. Zolecki stated a lot of progress toward automating has been made, but he added that full automation is likely not possible anytime soon. He stated that each year, issuers review their business and the inputs to determine what should be considered in the annual filing, and that much of that work begins in the first quarter of the year in order to be fully inclusive. He stated extensive validation of the data is required and that extensive logic testing is performed. He stated the detailed validation is extremely time-consuming and necessary in order to produce the most accurate and complete health MCAS reporting. Mr. Zolecki stated the uploading process can be time-consuming because of file size limitations for larger carriers, and he added that the health MCAS is a statistical report, not a financial report. He stated health carriers have continued to receive requests from state insurance regulators to compare or correlate health MCAS information or scorecard ratios to financial annual statement information. He stated having additional education and training in this area would be beneficial for everyone.

Ms. Burns stated that given the vast amount of data that is required to produce the health MCAS, the June 30 deadline increases the accuracy and avoids false identification outliers that cause unnecessary and additional work for both carriers and state insurance regulators. She stated considering that market conduct exams are more targeted reviews initiated by outlier MCAS ratios, having a June 30 date to have more reliable data would be preferable and would likely decrease extension requests.

Mr. Haworth stated he thinks it would be best to proceed with the current plan to have the 2023 health MCAS deadline coincide with April 30 as that is the date that was previously discussed by the Market Regulation and Consumer Affairs (D) Committee, and it makes it a lot easier for national market analysis through other Working Groups to have it earlier in the year. He stated when data is received in June, verification goes through September. He stated they are finding companies that file their financial annual statements incorrectly and saying they offer products they do not even have, which causes issues when MCAS reviews start taking place.

Mr. Swanson stated that the health line of business is different and that the data accumulated for the health plans does take longer for it to be done right since there is so much more of it. He stated he is agreeable with keeping the June 30 deadline.

Ms. LeDuc stated the timespan between the reporting of all the other MCAS lines of business being April 30 and the health line of business being June 30 complicates things when they are trying to plan their activities for the upcoming year because they do not have the whole picture and are unable to determine how to best use their resources. She stated she would like to see an earlier date than June 30 but could see the concerns with April 30 being the deadline for the health MCAS.

Ms. Weyhenmeyer stated because there are differing opinions on this issue being presented, a comment period will be opened and that a vote will take place. She stated Working Group members should be prepared for a roll vote on this matter. Ms. Ailor asked when a decision needs to be made, and Ms. Cooper stated it needs to be made before data call letters are sent out, which is done in December, but preferably sooner.

Mr. Zolecki stated having a decision as soon as possible would be beneficial for companies. Ms. Weyhenmeyer stated the Working Group's next meeting is scheduled for Aug. 24 and that the comment period will be opened now through Aug. 19. She said a vote will take place at the next meeting regarding the health MCAS deadline. Mr. Flott asked if the slide deck shared by Mr. Zolecki and Ms. Burns could be shared, and Ms. Cooper stated the slides would be posted for review.

3. Reviewed the Travel Data Element Addition Proposed by the Market Analysis Procedures (D) Working Group

Ms. Weyhenmeyer stated the Market Analysis Procedures (D) Working Group is charged with creating standard ratios for each of the MCAS lines of business. She stated while discussing ratios for the travel line of business, the Working Group found that it would be desirable to have the "policies in force during the reporting period" added to the travel underwriting activity section of reporting within the travel MCAS blank.

Mr. Helder stated the proposal is that a data element be added for "policies in force during the reporting period." He stated the reason for this proposal is to be able to develop ratios for cancellations and complaints. He stated because of the way travel insurance is written, it is difficult to get a good number for policies unless the data element for "policies in force during the reporting period" is used as the denominator in a ratio.

Ms. Weyhenmeyer stated this data element would be added to the travel MCAS reporting in the 2024 data year reported in 2025 if adopted.

Ms. LeDuc stated that what is being collected for policy counts currently is the number in force at the beginning of the period and the number in force at the end of the period. She stated there are policies purchased during the period that are not captured in the start or the end time frame, which leaves a gap and hampers the ability to formulate some ratios. She stated travel insurance policies are unique in that someone could purchase a policy today, travel tomorrow, and then the coverage ends. She stated other than the premium written, that policy may not be reflected in the statement unless there happened to be a claim filed.

Duke de Haas (Allianz Global Assistance) asked for clarification and if the data element being sought was the total number of policies written or the total number of policies in force as of a certain date. Mr. Helder stated the travel MCAS already has data elements for policies in force at the beginning and end of the period, but that policies that may begin in February and end in February are not being captured because they began and ended during the reporting period. He stated it is the policy count in force during the reporting period that is being sought.

Ms. Weyhenmeyer stated a comment period will be opened now through Aug. 19, and a vote will take place during the Working Group's next meeting on Aug. 24 regarding whether to add this data element to the travel MCAS.

4. Reviewed the STLDI Data Element Addition Proposed by the Market Analysis Procedures (D) Working Group

Ms. Weyhenmeyer stated the Market Analysis Procedures (D) Working Group is proposing the addition of a data element for “dollar amount of claims paid during the reporting period” within the claims section of the short-term, limited-duration insurance (STLDI) MCAS blank.

Mr. Helder stated for STLDI, there is no way for analysts to get the dollar amount of claims off the financial annual statement and that if the data element for “dollar amount of claims paid during the reporting period” was added to the MCAS, the ability to calculate loss ratios for the companies would be available.

Ms. Weyhenmeyer stated this data element would be added to the STLDI MCAS reporting in the 2024 data year reported in 2025 if adopted. She stated a comment period will be opened now through Aug. 19, and a vote will take place during the Working Group’s next meeting on Aug. 24 regarding whether to add this data element to the STLDI MCAS.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/Market Regulation - Home/D Working Groups/MCAS Blanks WG/2022/WG Mtg 0721/MCAS Blanks WG Minutes July 21

Draft: 6/10/22

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
May 26, 2022

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met May 26, 2022. The following Working Group members participated: Erica Weyhenmeyer, Chair (IL); Rebecca Rebholz, Vice Chair (WI); Crystal Phelps (AR); Maria Ailor (AZ); Scott Woods (FL); Paula Shamburger (GA); Tate Flott (KS); Ron Kreiter (KY); Dawna Kokosinski (MD); Jeff Hayden (MI); Jennifer Hopper, Jo LeDuc, and Teresa Kroll (MO); Robert McCullough (NE); Hermoliva Abejar (NV); Guy Self (OH); Rachel Moore (SC); Tony Dorschner (SD); Joy Little and Rhonda Bowling-Black (TN); Shelley Wiseman (UT); Melissa Gerachis (VA); Jason Carr (WA); and Letha Tate (WV). Also participating was: Mary Kay Rodriguez (WI).

1. Adopted its April 28 Minutes

The Working Group met April 28 and took the following action: 1) adopted its March 17 minutes; 2) received an update on the life Market Conduct Annual Statement (MCAS) draft edits for accelerated underwriting (AU); 3) received an update on the Other Health Drafting Group; 4) discussed possible edits to the lawsuit definition for all MCAS lines of business that contain lawsuit reporting; and 5) adopted the proposed lawsuit definitions and placement of the lawsuit data elements for the homeowners and private passenger auto (PPA) MCAS.

Mr. Flott made a motion, seconded by Ms. Rebholz, to adopt the Working Group's April 28 minutes (Attachment Ten-A1). The motion passed unanimously.

2. Adopted the Life MCAS Edits for AU

Ms. Weyhenmeyer stated that the draft data call and definitions for the life MCAS edits on AU was in the meeting materials with edits shown in red. She stated that following adoption of the definition of AU by the Accelerated Underwriting (A) Working Group, the subject matter expert (SME) group reconvened to discuss the definition to be proposed for MCAS reporting. She stated that for MCAS reporting purposes, the SME group decided that only a subset of the policies fits the full AU definition. She stated that Attachment Two, page 12 of the meeting materials shows the new proposed definition of AU followed by a reference to the Accelerated Underwriting (A) Working Group definition of AU to show continuity between the working groups.

Ms. Weyhenmeyer stated that the MCAS AU definition is as follows: "For this MCAS, data should be reported as Accelerated Underwriting when artificial intelligence and/or machine learning which utilizes, in whole or in part, Other Non-medical Third-party Data and/or FCRA Compliant Non-medical Third-party Data in the underwriting of life insurance; including when used in combination with Application Data or Medical Data." She stated that following the AU definition, there are definitions of "Application data," "Medical data," "FCRA Compliant non-medical third-party data," and "Other non-medical third-party data"; and those definitions are needed for understanding within the interrogatories. She stated that the proposed MCAS AU interrogatories are shown on pages 6 and 7 of the meeting materials, and a few edits were made to them to clarify and allow for cleaner responses that will be better for analysis purposes.

Birny Birnbaum (Center for Economic Justice—CEJ) stated that the CEJ supports this proposal and asked the Working Group to adopt it.

Mr. Kreiter made a motion, seconded by Ms. Rebholz, to adopt the AU MCAS for Life Insurance (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Seven*). The motion passed unanimously.

3. Adopted the Other Health MCAS Data Call and Definitions

Ms. Rodriguez stated that the Other Health Drafting Group stated that comments were received from Missouri, and those comments and responses were posted on the Working Group's web page on May 11. She stated that those comments resulted in some revisions to the draft.

Rikki Pelta (American Council of Life Insurers—ACLI) stated that she has questions regarding Schedule 2 about terminations and cancellations. She asked if question 2-9 (Number of policy/certificate terminations and cancellations initiated by the policyholder/certificate holder) is the total sum of everyone who went out of force initiated by the policyholder and then broken out in questions 2-13 through 2-15. Ms. Rodriguez stated that question 2-14 (Number of covered lives on policies/certificates cancelled by the company due to non-payment of premium during the period) would not be included in question 2-9 since it is cancelled by the company, and question 2-15 (Number of policies/certificates cancelled by the company for any reason other than non-payment of premium during the period) would also not be included in question 2-9 since it is cancelled by the company. She stated that question 2-13 (Number of policy/certificate terminations and cancellations due to non-payment of premium) would also not be included since it relates to non-payment and would not be considered as initiated by the policyholder. Ms. Pelta asked where it would be reported when an insured dies. Ms. Rodriguez stated that she believes that would be considered as initiated by the policyholder or beneficiary. Ms. Pelta stated that question 2-5 (Number of new policy/certificate applications/enrollments received during the period) appears to be the same as question 5-2 (Number of applications/enrollments received during the period) in Schedule 5. Ms. Rodriguez confirmed that they are the same, and she recommended omitting the question in Schedule 5 and renumbering those questions in Schedule 5.

Samantha Burns (America's Health Insurance Plans—AHIP) stated that AHIP's membership is very broad, and it has several supplemental carriers that have been participating in the Other Health Drafting Group. She stated that AHIP also has major medical carriers that offer some of the products covered under the Other Health draft, and it has not had as much time to review the draft as its supplemental carriers have. She asked if AHIP could have another week or so to discuss the draft and submit questions. Teresa Cooper (NAIC) stated that for 2023 data to be reported in 2024, this would need to be adopted by the Working Group by June 1. Then, it would go to the Market Regulation and Consumer Affairs (D) Committee for its consideration, and it would need to be adopted by Aug. 1. Ms. Weyhenmeyer stated that the draft would likely be posted for at least one month before the Committee would vote on anything. Ms. Burns stated that she does not anticipate any substantive concerns, and she believes AHIP just needs a little more time to see if it has clarifying questions that need to be answered. Ms. Cooper stated that if this draft is adopted today, input could be provided for clarification in a frequently asked questions (FAQ) document, and Ms. Burns agreed with this suggestion. Ms. Burns asked what month in 2024 the deadline would be for the Other Health MCAS. Ms. Rodriguez stated that for new lines of business in the past, additional time has been provided, but the deadline had not been decided on yet. Ms. Pelta asked that additional time be provided than the normal deadline, especially for the first year of reporting. She recommended May or June. Ms. Burns recommended a June deadline. Ms. Ailor confirmed that additional time has been given in the past. Ms. Rodriguez stated that the short-term limited-duration (STLD) MCAS has a June 30 deadline for next year.

Ms. Hopper stated that the Products page has a variety of questions that say individual, association, and employer group, but there is nothing on the Products page that would be non-employer group products that are not issued in the association market. She believes this leaves out a big component of the Other Health market, and she asked

why that is. Ms. Rodriguez asked what is missing. Ms. Hopper stated non-employer groups that are not issued through an association, such as credit unions and banks that offer these types of coverages appear to be missing. She stated that there are a lot of other groups that do not fall into any of the buckets that are defined in the Other Health MCAS blank. Ms. Rodriguez stated that she reviewed the minutes in 2017 and 2018 when discussions for this blank began, and the reason this blank was requested is because companies were packaging different products to make it look like federal Affordable Care Act (ACA) plans and data need to be gathered to check on these plans. She stated that the products included in this draft were the ones most packaged. Ms. Hopper asked why if the goal is about understanding the association group market, and not about employer group coverage or even individual coverage, then this not just an association group data call. Ms. Rodriguez stated that some companies refer to products as individual, and some companies refer to products as group. She stated that if it appears that employer group should not be included in this blank, removing it can be considered. Ms. Hopper stated that she wants to make sure certain products have not been unintentionally omitted. Ms. Rodriguez confirmed that only the products identified in this blank need to be reported on.

Ms. Hopper stated that she provided comments to add “during the reporting period” to the end of questions 2-9, 2-13, and 2-16, and she wants to know if that comment has been considered. Ms. Rodriguez stated that the premise is that all questions are for the reporting period, but if adding that clarification to those questions would be helpful, it could be done. Ms. Hopper stated that for consistency, she believes it would be helpful since other questions have that language. Ms. Cooper stated that she would make those edits to questions 2-9, 2-13, and 2-16. Ms. Hopper stated that question 3-4 (Number of denied, rejected, or returned as non-covered or beyond benefit limitation) may be clearer if it reads “Number of denied, rejected, or returned as non-covered or maximum benefit exceeded” or something similar. Ms. Rodriguez stated that either sounds good, and the Working Group could provide feedback on that suggestion. Ms. Cooper stated that clarification on that could also be added to the FAQ document.

Ms. Hopper stated that on page 6 under “report by residency,” she noticed that the report by residency language is very different than in the Health MCAS. She stated that the language in the Health MCAS ties back to the NAIC’s *Annual Statement Instructions* for the supplemental health care exhibit, but this does not appear to. She stated that this could be complicated since the Other Health MCAS omits groups that would fall under the same premium and enrollment information as part of the annual statement. She stated that state insurance regulators frequently find it helpful to validate the MCAS by tying it back to components of the annual statement. Ms. Rodriguez asked if this could be tabled and addressed in future discussions for the FAQ document. Mr. Birnbaum stated that while it is useful to have MCAS data sort of reconcile to financial statement data, in some cases it is not possible (e.g., travel insurance since there is no travel insurance line). He stated that this issue should not be seen as an impediment to adopting the Other Health MCAS blank. Ms. Rebholz stated that the report by residency language in this blank matches the STLD blank’s language. She stated that she believes when the definition was being prepared, having the information made available through the blank was part of what was considered since the information is not available through any other source.

Ms. Hopper stated that in Schedule 1, as part of the definition, it says association/trust, and that same phrase is used in question 1-6, but everything else just says associations for those questions. She asked if trust information is also supposed to be provided or if it is just limited to associations for those questions. Ms. Rodriguez stated that she believes these questions are also similar to what is on the STLD blank. She asked if for consistency purposes, “/trust” should be added to the questions asking for information about associations, and Ms. Hopper stated that that would make sense. Ms. Hopper stated that in questions 1-17 through 1-20, adding wording for a trust would not apply, and Ms. Rodriguez stated that that would be explained.

Ms. Cooper clarified that the edits to be made before proceeding with a motion include omitting question 5-2 since it is a duplicate of question 2-5, proposing a first-year deadline of June 30 and second year deadline of April

30, adding “during the period” to the end of questions 2-9, 2-13, and 2-16, and adding “/trust” where applicable after associations. Ms. Pelta stated that she believes changing the wording in question 3-4 to “maximum benefit exceeded” in the blank instead of adding it to the FAQ document is more appropriate.

Ms. Gerachis made a motion, seconded by Mr. Flott, to adopt the Other Health MCAS draft reflecting the edits summarized (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Four*). Ms. Cooper asked if the motion includes changing the wording in question 3-4 to “maximum benefit exceeded” as suggested, and Ms. Gerachis confirmed that it does. The motion passed unanimously.

4. Adopted Edits to the Lawsuit Definition for the Home and Auto MCAS

Ms. Weyhenmeyer stated that during its last meeting, the Working Group adopted updates to the lawsuit reporting for home and auto, along with an updated definition, but there are some outstanding questions to address. She stated that there is a bullet that reads: “If one lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies, count the action as three lawsuits.” Questions regarding this bullet were introduced with a letter from Lisa Brown (American Property Casualty Insurance Association—APCIA).

Ms. Weyhenmeyer stated that Ms. Brown and Mr. Birnbaum indicated that the bullet should not be included in the MCAS lawsuit definition for home and auto because one lawsuit would be counted as multiple lawsuits if more than one policy from a single insurer is involved when the intent is to get a count of actual lawsuits. She stated that Ms. LeDuc also had a question about when the bullet was added to the home and auto lawsuit definition. Ms. Cooper did some research and found that the bullet in question is included in the lawsuit definition for Life, Annuity, Long-Term Care (LTC), Lender-Placed Insurance (LPI), Disability Income, and Private Flood; and while updating the home and auto lawsuit definition, it was included in the draft for consistency purposes. Ms. Weyhenmeyer stated that the bullet in question has not been included in the home and auto lawsuit definition in the past. She stated that previously, when Ms. Cooper said it was included for all lines other than Health, she was reviewing all lines other than home and auto because the Working Group was editing the definition for home and auto.

The proposal from the SME group is to remove the bullet in question from the home and auto MCAS lawsuit definitions and review the bullet in the context of the other MCAS lines of business to determine whether it is appropriate.

Mr. Birnbaum stated that including the bullet distorts the count of lawsuits and conflicts with the instructions for class action lawsuits. He stated that the CEJ supports removing the bullet and revisiting it in the other MCAS blanks.

Ms. LeDuc made a motion, seconded by Ms. Phelps, to remove the bullet from the home and auto MCAS lawsuit definition and review the language in the other MCAS lines of business. The motion passed unanimously.

5. Reviewed its Charges and Process for Submitting Requests for Edits to the MCAS Data Call and Definitions

Ms. Weyhenmeyer stated that Attachment Five in the meeting materials lists the Working Group charges. She stated that the Working Group is charged with reviewing the data call and definitions for lines of business that have been in effect for longer than three years, which would include: Life, Annuity, Home, PPA, LTC, Health, LPI, and Home and Auto. The Working Group is also charged with developing MCAS blanks for newly approved MCAS lines of business. Ms. Weyhenmeyer stated that the Market Analysis Procedures (D) Working Group has not

approved any new MCAS lines of business at this time, so the current focus will be on reviewing existing MCAS lines of business.

Ms. Weyhenmeyer stated that all state insurance regulators and interested parties can submit requests or suggestions via the Proposal Submission Form. She stated that a copy of this form is in Attachment Five of the meeting materials, and the form is also located in a fillable format on the Working Group web page under the Documents tab. She stated that if anyone has issues submitting a proposal, they should contact Ms. Cooper for assistance with filling out the form.

6. Discussed Other Matters

Ms. Weyhenmeyer stated that a letter was received by Joe Zolecki (Blue Cross Blue Shield Association—BCBSA) and the health industry interested parties regarding the filing deadline for the Health MCAS.

Mr. Zolecki stated that he has been working with Ms. Burns for the last few years, and this matter came up previously when the Health MCAS was new. He stated that there was a robust discussion about the filing date being changed from April 30 to June 30, and then moving back to April 30 in 2023. He stated that the Working Group agreed to reevaluate this, and he asked that this be discussed in more detail soon. Ms. Weyhenmeyer stated that it could be discussed during the Working Group's next meeting scheduled for June 23 or the July meeting if more time is needed.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/Market Regulation - Home/D Working Groups/MCAS Blanks WG/2022/WG Mtg 0526/MCAS Blanks May 26 Minutes

Draft: 5/16/22

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
April 28, 2022

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 28, 2022. The following Working Group members participated: Erica Weyhenmeyer, Chair (IL); Rebecca Rebholz, Vice Chair (WI); Alex May (FL); Tate Flott (KS); Ron Kreiter (KY); Dawna Kokosinski (MD); Jeff Hayden (MI); Jennifer Hopper (MO); Leatrice Geckler (NM); Guy Self (OH); Jeffrey Arnold (PA); Michael Bailes and Rachel Moore (SC); Tony Dorschner (SD); Shelli Isiminger (TN); Shelley Wiseman (UT); Melissa Gerachis (VA); and Letha Tate (WV). Also participating were: Shane Quinlan (NC); and Mary Kay Rodriguez (WI).

1. Adopted its March 17 Minutes

The Working Group met March 17 and took the following action: 1) adopted its Nov. 22, 2021, minutes; 2) received an update on the life Market Conduct Annual Statement (MCAS) draft edits for accelerated underwriting (AU); 3) received an update on the Other Health Drafting Group; 4) adopted the proposal for digital claims interrogatories for the homeowners and private passenger auto (PPA) lines of business; 5) discussed the proposed lawsuit definitions and placement of the lawsuit data elements for the homeowners and PPA MCAS; and 6) received guidance regarding the new number of lawsuits closed with consideration for the consumer data element for the homeowners and PPA MCAS lines of business.

Ms. Rebholz made a motion, seconded by Ms. Isiminger, to adopt the Working Group's March 17 minutes (see *NAIC Proceedings – Spring 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Four*). The motion passed unanimously.

2. Received an Update on the Life MCAS Draft Edits for AU

Ms. Weyhenmeyer stated the AU subject matter expert (SME) group met on April 13 to begin discussing the definition of AU now that the Accelerated Underwriting (A) Working Group has adopted a definition. She stated the Accelerated Underwriting (A) Working Group's adopted definition does not fit the needs of MCAS reporting, so work will need to be done with the definition. Ms. Weyhenmeyer stated since the April 13 meeting, the American Council of Life Insurers (ACLI) has submitted a draft definition that will be discussed further during the next SME call, which is scheduled for May 2.

Birny Birnbaum (Center for Economic Justice—CEJ) stated that deadlines to be aware of are June 1 for this Working Group and Aug. 1 for the Market Regulation and Consumer Affairs (D) Committee, so this Working Group would need to get something out by June 1 in order for 2023 data to be reported in 2024. Ms. Weyhenmeyer stated the SME group is planning on meeting twice in May in an effort to meet these deadlines.

3. Received an Update on the Other Health Draft Group

Randy Helder (NAIC) stated the Other Health Drafting Group posted the other health MCAS draft in early April under exposure drafts on the MCAS web page for review. He stated it is similar to other data call and definitions in terms of the scope, but he said that some of the interrogatories are devoted to gathering information on how products are marketed and the relationships of the company with the marketers. He stated there are also questions regarding how the products are administered, such as whether the company contracts with third-party

administrators (TPAs) and the identification of the TPAs used. Mr. Helder stated there are questions regarding whether the company distributes products through independent agents, captive agents, and employees. He said there are also questions regarding whether fees are included in the reported premium, and if not, what fees are charged to policyholders and certificate holders. He stated the products being covered are: accident only, accidental death and dismemberment, specified disease -limited benefit/critical illness, hospital/other indemnity, and hospital/surgical/medical expense. Mr. Helder stated the blank is intended to collect information on products that are purchased directly by individuals, purchased through an association for individuals, or through an employer group. He stated there are sections regarding policy/certificate administration and claims administration that are similar to other MCAS blanks. Mr. Helder stated there is a data element for the aggregate dollar amount of paid claims during the period because there was some discussion about developing a loss ratio based on that which could not otherwise be obtained. He stated there are also sections for consumer complaints and lawsuits, as well as marketing and sales. He stated the participation requirement is \$50,000 of health insurance premium and that a report by residency requirement is also outlined in the blank. Mr. Helder stated the definitions are similar to other MCAS blanks.

Rikki Pelta (American Council of Life Insurers—ACLI) stated it would be helpful to know how the loss ratios are being calculated and advised that this blank will require significant updates to administrative systems that collect this data by companies. She stated even if the due date is longer, companies will still have to have their systems updated by the end of this year, which is a big task.

Mr. Quinlan stated North Carolina does not have jurisdiction over policies issued in other states and expressed concern regarding reporting by residency. Ms. Rodriguez stated there are several states in the same situation and that one of the focuses of this blank is to see how consumers are finding products and being serviced, regardless of where the situs state is.

Ms. Hopper stated that on the report by residency requirement, it mentions forms issued to discretionary groups, associations, or trusts, but it does not mention other group coverage types, such as employer groups or multiple employer trusts. He stated that typically those are broken out separately. Ms. Rodriguez stated the focus was more on associations because many states felt that other health products sold through associations needed to be scrutinized more than employer group products. Ms. Hopper asked for clarification on the question related to the issuer and association's contractual relationship. She also asked why the System for Electronic Rates & Forms Filing (SERFF) filing number was being requested and why identifying the basis for not filing in a particular state was being asked. Ms. Rodriguez stated that she and Mr. Helder would review all of her questions and comments with SME group. Mr. Helder stated those responses would be posted to the MCAS blanks web page and shared prior to the next Working Group meeting.

Ms. Weyhenmeyer stated any comments related to the Other Health Draft should be submitted to Teresa Cooper (NAIC) no later than May 13.

4. Discussed Possible Edits to the Lawsuit Definition for all MCAS Lines of Business That Contain Lawsuit Reporting

Ms. Weyhenmeyer stated an SME group met to discuss edits to the home and auto MCAS definition of lawsuit to include non-claim-related suits. She stated while reviewing comments from the American Property Casualty Insurance Association (APCIA), it was found that all MCAS lawsuit definitions include a bullet that reads: "If one lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies, count the action as three lawsuits." She

stated the APCA requested that this language be clarified to account for instances where there are multiple policies involved that are issued by different insurers.

Lisa Brown (APCIA) stated the way the current bullet is written implies that a single reporting company might be responsible for reporting on another company's policies. She stated Mr. Birnbaum made a good point during an SME group meeting when he asked why a single lawsuit that touches multiple policies would be counted more than once, when what is being counted is lawsuits and not policies. She stated that if the data to be collected will continue to be lawsuits that account for multiple policies, then the language should state: "If a lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits." She then stated in hindsight, counting a single lawsuit multiple times may not be appropriate. Mr. Birnbaum stated it really seems inappropriate to count a single lawsuit against more than one policy as more than one lawsuit, as it increases the actual number of lawsuits. He expressed concern about how a company would count lawsuits this way as it could require their manual involvement. Ms. Weyhenmeyer asked if this is the way the lawsuit language reads in the other blanks except for health, and Ms. Cooper confirmed that is correct.

Ms. Rebholz stated the APCA's proposed language seems to provide clarification and that more time may be needed to review this further. Ms. Brown will send the proposed language to Ms. Cooper for the SME group to review further and bring back to the Working Group for consideration. Ms. Weyhenmeyer asked if a vote to change the lawsuit language in all of the MCAS blanks if needed and where it applies could be done in one vote, and Ms. Cooper stated it could as long as the motion was clearly outlined in that way. Ms. LeDuc stated she reviewed the 2019 Homeowners Data Call and Definitions and that she is not seeing the definition outlined there this way. She said that it may be helpful to look into the history for clarification. Ms. Cooper stated she would review this information.

5. Adopted the Proposed Lawsuit Definitions and Placement of Lawsuit Data Elements for the Homeowners and Auto MCAS

Ms. Weyhenmeyer stated the Working Group needs to discuss the Homeowner and Auto lawsuit reporting and definition edits in more depth. She stated the documentation for this discussion was in the meeting materials as Attachments Three and Four. She stated the homeowner and auto SME group first presented its lawsuit reporting and definition proposal to the Working Group in November 2021, and that the proposal simplifies the lawsuit reporting and its definition as much as possible. She stated the SME group proposed the following: 1) removal of the lawsuit data elements from the claims reporting section; 2) creation of a new reporting section for the lawsuit data elements; 3) reporting the lawsuit data elements by claims coverage type as has been done in the past; 4) adding reporting for "non-claim related lawsuits"; and 4) updating the definition of lawsuits to accommodate the new reporting structure. The SME group also proposed the addition of an interrogatory to capture comments for the newly added lawsuit section.

Ms. Weyhenmeyer stated during the Working Group's March 17 meeting, comments were heard from Lisa Brown (APCIA). She stated that as a result of Ms. Brown's comments, it was decided to reconvene the SME group to address the submitted comments. The SME group met on April 12 and April 20. Ms. Weyhenmeyer stated that one of the APCA's comments indicated concern that the word "agent" should be defined in the bullet that reads: "Include only lawsuits brought by an applicant for insurance, a policyholder or claimant as a plaintiff against the reporting insurer or its agent as a defendant." She stated as a result of this comment, the SME group proposes that "or its agent" be removed from the bullet item in question. She stated another one of the APCA's comments indicated concern about interpleader actions. The proposed definition provides for the exclusion of "arbitrations, mediation, appraisal, or any other form of dispute resolution not brought in a court of law." The APCA asked for the exclusion to be amended to exclude homeowners and private passenger appraisal matters filed in a court of law and interpleader actions filed by an insurance company. Ms. Weyhenmeyer stated that after discussion, the

SME group proposes that the exclusion bullets be updated to ensure interpleader actions are excluded from reporting. Mr. Birnbaum stated that the CEJ supports the proposed changes.

Ms. Rebholz made a motion, seconded by Ms. Johnson, to adopt the proposed lawsuit definition and placement of lawsuit data elements in the homeowners (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Five*) and auto (*see NAIC Proceedings – Summer 2022, Executive (EX) Committee and Plenary, Attachment Six*) MCAS. Ms. Brown asked if the motion includes adopting counting multiple policies as multiple lawsuits, and Ms. Weyhenmeyer stated it did not; it was only regarding the edits to remove “or its agent” and to edit the exclusion bullets to ensure interpleader actions are excluded from reporting. Ms. Cooper clarified it also includes breaking out the lawsuit reporting to include the other than claims-related lawsuits and updating the definition as shown in the meeting materials, but not to the bullet discussed in the previous agenda item, which will be considered at a later date. The motion passed unanimously.

6. Discussed Other Matters

Ms. Weyhenmeyer stated some state-specific concerns had been raised that may need some clarification in the frequently asked questions (FAQ) document. She stated contact was made with state insurance regulators in Pennsylvania and Michigan regarding the concerns raised. The Pennsylvania state insurance regulator said companies could reach out and ask questions as needed regarding their writ of summons reporting. The Michigan state insurance regulator said they would draft language to be provided in the FAQ to address lawsuits filed by a medical provider for payment under personal injury protection (PIP) coverage.

Ms. Brown stated that in Pennsylvania, the writ of summons is just a notice and does not indicate a cause of action. She asked how companies will know whether to count it as a claim or non-claim if they do not know what the potential suit is about. Ms. Cooper some additional conversation on this topic will take place to see if additional clarifying language would be helpful.

Ms. Brown stated she wanted the state insurance regulators to understand that the lawsuit definition edits would require some heavy programming and process changes to pull out the non-claims-related lawsuits, especially for the larger insurers. Mr. Birnbaum stated the guidelines are set up so that companies have five months to prepare to collect information after approved by the Market Regulation and Consumer Affairs (D) Committee and then start reporting it two years after that approval. He stated the MCAS is a critical part of market analysis and market regulation and that when there are changes, companies should take it just as seriously as changes to the annual financial statement. Ms. Pelta stated her earlier comments regarding timeline concerns were related to the other health MCAS since some of the interrogatories and data elements have not been traditionally collected in other lines of business.

Ms. Weyhenmeyer stated she, Mr. Helder, and Ms. LeDuc gave a presentation at the Insurance Regulatory Examiners Society (IRES) foundation regarding changes to the homeowners and auto MCAS blanks for digital claims. She stated some clarifying questions came up that will be discussed in more detail with the Working Group at a later meeting. Ms. LeDuc asked Ms. Brown to start asking companies what questions they have regarding what constitutes a digital claim versus a hybrid claim so that those questions can be addressed.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/Market Regulation - Home/D Working Groups/MCAS Blanks WG/2022/WG Mtg 0428/MCAS Blanks WG Minutes 0428

Draft: 7/21/22

Market Regulation Certification (D) Working Group
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 13, 2022

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 13, 2022. The following Working Group members participated: Russell Toal, Chair (NM); John Haworth, Vice Chair (WA); Lori K. Wing-Heier represented by Sarah Bailey (AK); Doug Ommen represented by Kim Cross (IA); Erica Weyhenmeyer (IL); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Martin Swanson and Robert McCullough (NE); Marlene Caride represented by Ralph Boeckman (NJ); Judith L. French represented by Don Layson (OH); Glen Mulready represented by Shelly Scott (OK); Don Beatty and Katie Johnson (VA); and Kevin Gaffney represented by Mary Block and Nick Marineau (VT). Also participating was: Pam O'Connell (CA).

1. Adopted its June 1 Minutes

Superintendent Toal said the Working Group met June 1. During this meeting, the Working Group took the following action: 1) adopted the Voluntary Market Regulation Certification Program scoring matrix; 2) reviewed the certification program implementation plan; and 3) reviewed the pilot state suggestions to the certification program.

Mr. Haworth made a motion, seconded by Ms. Weyhenmeyer, to adopt the Working Group's June 1 minutes (Attachment Eleven-A). The motion passed unanimously.

2. Reviewed the Certification Program Implementation Plan

Superintendent Toal said the implementation plan provides for a three-year self-certification period in which any jurisdiction may use the guidelines and checklists to measure its compliance to the certification requirements. He said that during the self-certification period, recommendations for changes and improvements to the requirements would be received and considered.

Superintendent Toal said that after three years, any jurisdiction could choose to continue to self-certify, or it could apply to be fully certified. He said a Market Regulation and Certification Committee would be formed to review each jurisdiction seeking full certification. He said a review team would be formed to review applications and report to the Committee, and re-evaluations would be done every five years.

Superintendent Toal said fully certified jurisdictions may withdraw at any time and continue to self-certify. He said any self-certified jurisdiction would be considered provisionally certified.

Superintendent Toal noted that during the last Working Group meeting on June 1, Mr. Haworth addressed the process for peer review, the timing for moving from self-certification to full certification, and whether the use of contractors in the certification process should be allowed. Superintendent Toal noted that in their comments to the Working Group, two states proposed the Working Group re-evaluate the implementation plan in its entirety and then re-draft a plan for adoption. He said that was a good idea. He said some of what is currently in the original implementation plan can be retained, but the Working Group should draft a plan that it determines is the best way to implement and administer the certification program.

Superintendent Toal asked for comments on the implementation plan to be sent to Randy Helder (NAIC) by July 29.

3. Reviewed Pilot State Suggested Revisions to the Certification Program

Superintendent Toal said the Working Group received three sets of comments. He said all the comments were helpful and will improve the certification program. He said his plan for the certification requirements is to ask a smaller group of state insurance regulators to meet a couple times in between each monthly Working Group meeting to review the recommendations on each requirement and report back to the Working Group on their progress. He said having a small group work on the certification requirements will also allow the Working Group time to work on the implementation plan.

Mr. Beatty said that requirement 2 requires jurisdictions to use the most current version of the NAIC *Market Regulation Handbook*, but there is no checklist question to affirm this. He suggested adding such a question. He said checklist question 3i asks about the staffing policies and procedures, and he said he is unsure how that relates to identifying market conduct issues. Regarding requirement 4, Mr. Beatty asked how a jurisdiction can support a claim that it encourages professional development. He also suggested that checklist item 4d should reference examiners in charge (EICs) to avoid confusion. Finally, Mr. Beatty said requirement 11 should provide the opportunity for a jurisdiction to indicate whether any of the companies chosen in the Market Actions (D) Working Group National Analysis Program wrote business in the jurisdiction since that would affect whether they participated.

Ms. O'Connell said her comments focused on correcting inconsistencies between the adopted scoring matrix and the certification program guidelines and checklist. She said she would be happy to work with the small group to discuss and incorporate appropriate suggestions.

Ms. LeDuc said her comments generally agreed with the comments of Ms. O'Connell. Ms. LeDuc said her comments noted some inconsistencies in the language used through the certification program requirement, guidelines and checklist, and identified areas that needed clarification. Her comments also pointed out some concerns with the requirements such as the blanket statement requiring the use of the most recent version of the NAIC *Market Regulation Handbook* rather than allowing for case-specific usage, especially for the application of standards to exams initiated prior to a new version. Ms. LeDuc volunteered to be on the small group to discuss the suggestions for revisions and make recommendations to the Working Group.

Mr. Swanson said hiring, training, and retaining employees is getting more difficult for departments of insurance (DOIs). He said that as the Working Group moves forward with the certification program, it needs to take into account the staffing difficulties. Superintendent Toal said that was a valid point and that most DOIs are experiencing the same hiring and retention issues. He said the Working Group needs to temper any unrealistic expectations of what a DOI can do and how quickly.

Superintendent Toal asked for volunteers to be on the drafting group for the requirements. Ms. LeDuc, Ms. O'Connell, Ms. Biehn, and Mr. Haworth volunteered.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.

Sharepoint/Member Meetings/D CMTE/2022 Summer National Meeting/MRCWG/0713/0713 MRCWG .docx

Draft: 6/15/22

Market Regulation Certification (D) Working Group
Virtual Meeting
June 1, 2022

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 1, 2022. The following Working Group members participated: Russell Toal, Chair (NM); John Haworth, Vice Chair (WA); Lori K. Wing-Heier represented by Sarah Bailey (AK); Alan McClain represented by Crystal Phelps (AR); Erica Weyhenmeyer (IL); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Chris Nicolopoulos represented by Edwin Pugsley (NH); Marlene Caride represented by Ralph Boeckman (NJ); Judith L. French represented by Todd Oberholtzer (OH); Andrew R. Stolfi represented by Brian Fordham (OR); Don Beatty, Katie Johnson, and Andrea Baytop (VA); Kevin Gaffney represented by Mary Block (VT); and Bill Cole (WY).

1. Adopted its March 22 Minutes

The Working Group met March 22 and took the following action: 1) reviewed the progress of the Voluntary Market Regulation Certification Program and discussed the charge to complete the revisions by the Fall National Meeting; and 2) reviewed the scoring matrix for the Market Regulation Certification Program.

Mr. Beatty made a motion, seconded by Mr. Cole, to adopt the Working Group's March 22 minutes (*see NAIC Proceedings – Spring 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Two*). The motion passed unanimously.

2. Adopted the Certification Program Scoring Matrix

Superintendent Toal said that during the Working Group's Mar. 22 meeting, Mr. Haworth reviewed the draft of a scoring matrix to be used when evaluating whether a jurisdiction would be certified. He noted that the matrix was posted on the Working Group's web page under exposure drafts.

Superintendent Toal said the goal for the Working Group is to deliver a revised Certification Program to the Market Regulation and Consumer Affairs (D) Committee by the Fall National Meeting. That will require the Working Group to adopt three documents: 1) the scoring matrix; 2) the revisions to the Voluntary Market Regulation Certification Program; and 3) the implementation plan. All three documents are attached to the agenda. He said that because the scoring matrix is complete and was discussed in detail during the Working Group's Mar. 22 meeting, it would be considered for adoption during this meeting.

Mr. Haworth reviewed the scoring matrix. He said the Certification Program questions that are coded red must be met for the jurisdiction to be certified. If any of the red questions are not met, the jurisdiction cannot be certified regardless of its responses to the remaining questions. He said the yellow questions are primary goals and are scored according to whether the jurisdiction meets the goal. The green questions are not scored since they request additional information supportive of the yellow primary goals.

Ms. Baytop asked if questions 3d and 3e are answered affirmatively, would a jurisdiction receive 25 for both—meaning they use both state examiners and contract examiners. Mr. Haworth noted that the instructions read that if the jurisdiction can answer affirmatively to either having state examiners or using contract examiners, it would satisfy both questions, so the jurisdiction would only receive one score for both questions. Ms. Baytop asked if the same logic applied to questions 6b and 6c. Mr. Haworth said question 6b asks if the jurisdiction notified

other jurisdictions of potential collaborative actions, and if they received a positive response, did they make a referral to the Market Actions (D) Working Group. Mr. Haworth said if the jurisdiction did not have this type of situation arise, it would satisfy the requirement by having a policy in place.

Ms. LeDuc noted that question 6b requires notification by meeting, bulletin board, or other communications. She said there is a retention period for bulletin board posts, and the record of the notification would disappear if done via bulletin board. Randy Helder (NAIC) said the retention period for bulletin board posts is one year, but the recipient of emails from the bulletin board can save them for as long as needed. Ms. LeDuc and Mr. Gendron both said that the bulletin board postings are not always received, and that could affect a jurisdiction's ability to document compliance with question 6b. Superintendent Toal said that was a valid concern and is an operational issue that Mr. Helder will take back to the NAIC.

Mr. Haworth made a motion, seconded by Mr. Beatty, to adopt the Certification Program scoring matrix (Attachment Eleven-A1). The motion passed unanimously.

3. Reviewed the Market Regulation Certification Implementation Plan

Mr. Haworth said the implementation plan was reviewed with an eye towards updating it, putting some state insurance regulator concerns at ease. He noted that during the three-year self-certification period, any jurisdiction could request a peer review of seasoned state insurance regulators. Mr. Haworth suggested it would be good to put together a list of state insurance regulators who have agreed to perform requested peer reviews. He also noted there should be a communication plan between the requesting jurisdiction and the peer group of state insurance regulators. He said the posted implementation has his and Hermoliva Abejar's (NV) comments in the margin and should help to begin the discussion.

Superintendent Toal asked that comments on the implementation plan be sent to Mr. Helder by June 30.

4. Reviewed the Pilot Program Suggested Revisions to the Certification Program

Superintendent Toal said there are two versions of the suggested revisions of the pilot states to the Market Regulation Certification Program posted on the Working Group's web page. One is a portable document format (PDF) version, which is a little difficult to read because in the conversion of the redlined document to PDF, the color is removed. He said Mr. Helder also posted the Word document with the redline in the Exposure Documents of the Working Group.

Superintendent Toal asked all Working Group members, interested state insurance regulators, and interested parties to review the program and suggestions and provide comments to Mr. Helder by June 30.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.

Sharepoint/Teams/Marketregulationteam/Working Groups/MR Certification WG/D WG 2022/0601/

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 1				
1a	Does the department have the general authority to collect and analyze information whenever it is deemed necessary?			
1b	Is the department's authority broad enough to cover these market regulation activities?			
1c	If the department has authority specific to any of these itemized activities, please provide the citation:			
Requirement 2				
2a	Does the department have authority by statute, rule or other authority to utilize the Market Regulation Handbook or its predecessor/successor?			
2b	When conducting examinations or continuum activities, does the department incorporate applicable Market Regulation Handbook review standards and related materials to the extent they are consistent with state laws?			
2c	Does the department have examination-specific policies and procedures in addition to those guidelines set forth in the Market Regulation Handbook or its predecessor/successor? If Yes:			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
2c1	Is the jurisdiction able to demonstrate that it has followed its own established policies and procedures in adopting any process that deviates from the Market Regulation Handbook, including review and concurrence by a department's legal staff member?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 3				
3a	Does the department have analysts on staff or under contract whose responsibility is to conduct market analysis of insurers doing business in the state?			
3b	If the department utilizes contract analysts, please describe in a separate attachment the manner and extent of utilization in the department's recent activities.			
3c	Indicate below the number of contract and staff analysts, and supervisors for each of the last three years.			
3d	Does the department have examiners on staff whose responsibility is to examine and/or conduct continuum actions of insurance companies as indicated by the department's market analysis or as prescribed by state laws?	Read 3d and 3e together. Satisfaction of one satisfies both.		
3e	Does the department utilize contract examiners to examine and/or conduct continuum actions of insurance companies as indicated by the department's market analysis or as prescribed by state laws?	Read 3d and 3e together. Satisfaction of one satisfies both.		
3f	If the department utilizes contractual examiners, please describe in a separate attachment the manner and extent of utilization in the department's recent activities			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
3g	<p>Indicate below the number of full-time market examiners, including supervisory personnel on the department's staff and/or the number of individual contract examiners used compared to the last three years. For contract examiners convert the number of contract hours to a full-time equivalent employee position. Also list your jurisdiction's premium volume for any and all examinations or actions written in the most recently completed year.</p>			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
3h	As a separate attachment, provide a list of market examiners that includes the following: name; professional designation(s); title; years employed by the department (include functional area); type of college degree; and prior regulatory or insurance experience. Also indicate those market conduct examiners that are contractual and whether each is full-time with the department			
3i	Does the department have established staffing policies and procedures, subject to periodic review and updates, for identifying and addressing market conduct issues through the use of market analysis and market conduct continuum activities, including examinations?			
3j	If the answer to item 3i. is "Yes," what quantitative and subjective measurements are available to evaluate the department's achievement of such policies and procedures?			
3k	Has the department performed any targeted exams or continuum actions in the prior two years?			
3l	If the answer to item 3k. is "Yes," please provide a list of such exams or market continuum actions and the scope of the exams/actions.			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
3m	If the answer to item 3k. is "No," does the department have the onstaff resources or the ability to contract additional resources to perform targeted exams/actions, if deemed necessary?			
3n	Does the department have the authority to hire contractors as specialists to perform market regulation?			
3o	If the department has authority to hire contractors, does it have either a statewide or departmental established process it follows for selecting contractors for market regulation purposes? Briefly explain			
3p	Does the department oversee and manage contractors [should this say "if the department has authority to hire contractors, does it oversee and manage those contractors?]			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
3q	Does the department have the appropriate staff to oversee and manage contractors? [see comment in 3p]			
3r	Based on the review of staff resources, please provide an explanation of any significant changes in resources and/or workload over the three-year period covered in the data above.			
Requirement 4				
4a	Does the department have a policy or procedure in place on necessary credentials or minimum educational and experience requirements for selecting and hiring staff and contractors?		Allows for unions*. Continue to discuss	
4b	Does the department have a staff development program that encourages and financially supports educational and training pursuits, including training, courses, webinars and certifications offered by the NAIC?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
4c	Does the department determine the composition of members of an examination team?			
4d	Is the Examiner in charge making progress towards completion of noted designations?		and competency of an exam	
4e	Does the department recognize licenses and other highly technical credentials of actuaries, cybersecurity experts, certified public accountants, information technology (IT) experts and other professionals and specialists as qualified to perform certain market regulation activities?		Do they have the authority to use specialists. Utility versus recognition	
4f	Does the department maintain written procedure manuals to demonstrate a succession plan?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 5				
5a	Does the jurisdiction have laws, regulations or case law that specify how the confidentiality of market conduct examination workpapers is to be handled?			
5b	Has the jurisdiction entered into the Multi-State InformationSharing Agreement with other jurisdictions and the NAIC?			
5c	Does the jurisdiction have written policies and procedures and has communicated such policies and procedures to employees relating to the protection of confidential information which includes PII and PHI, handling of public records requests and requirements for confidentiality agreements when it becomes necessary to share confidential information with other federal and international regulatory or law enforcement agencies, not otherwise covered by the multi-state agreement?			
5d Requirement 6	Does the jurisdiction have a records retention schedule which outlines plans for secure storage and timeline for destruction of work papers?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
6a	<p>Has the department adopted the Market Regulation Handbook and the Market Actions (D) Working Group Policies and Procedures or are the department's policies and procedures consistent with those in the Market Regulation Handbook and the Market Actions (D) Working Group Policies and Procedures?</p>			
6b	<p>If the department identified a potential collaborative action, did the department notify all CADs—via meeting, bulletin board or other communication—of the activities identified that may have the potential for collaboration?</p>		<p>What if state never had one of these situations? ===== Moli: If the state can show that they have a procedure in place that complies with the MRH for when this event happens, I think they should meet the criteria.</p>	

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
6c	If the department received a positive response to its inquiries to other CADs regarding a potential collaborative action, did the department refer the action to Market Actions (D) Working Group using the reporting procedures outlined in the Market Actions (D) Working Group Policies and Procedures, including completing the Request for Review form and submitting the form to the designated NAIC support staff?		What if state never had one of these situations do they get full points by default? Moli: Same as above: if the state can show that they have a procedure in place that complies with the MRH for when this event happens, they should meet the criteria Do they get points if they don't try to get a positive response?	
6d	If the response to item 6a., item 6b., item 6c. or item 6d. is "No," please provide a brief explanation			Provide examples to support. May have situations that do not go to MAWG as an RFR
6e	Does the department have written procedures for reviewing and evaluating its participation in potential collaborative actions brought to its attention, either through the Market Actions (D) Working Group or by another department?			
6f	If the department declined to participate in a collaborative action, has the department provided a response to the Market Actions (D) Working Group regarding its decision?			
6g	If the response to item 6e. or item 6f. is "No," please provide a brief explanation.			Was Paul informed somehow
Requirement 7				

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
7a	Does the department require eligible companies to file the MCAS with the NAIC?			
7b	Does the department require that the MCAS be prepared in accordance with the NAIC MCAS user guides and instructions?			
7c	Does the department require such companies to file the MCAS in an electronic format acceptable to the NAIC?			
7d	Does the department utilize the data obtained from the MCAS for market analysis? (Examples of utilization include, but are not limited to, such activities as performing baseline or Level 1 analysis.)			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 8				
8a	Does the department enter or transmit data at least quarterly into the CDS?			
8b	Does the department enter or transmit data at least quarterly into RIRS?			
8c	Does the department enter continuum actions into the appropriate NAIC database (MATS/RIRS) when initiated and the resulting applicable final status reports or updates (if applicable) at least quarterly?			
8d	Did the department initiate an examination of a regulated entity during the most current certification period?			
8e	If the answer to item 8d. is "Yes," was the examination entered into MATS at least 45 days before the start of the examination or at least 60 days before the start of the on-site examination as set forth in the Market Regulation Handbook? (Note: The start of the examination is the date the department began work on the examination materials received from the examined entity.)			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
8f	If the answer to item 8a., item 8b., item 8c., item 8d. or item 8e. is "No," please provide an explanation.			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 9				
9a	Does the department participate in or monitor the Market Analysis Procedures (D) Working Group as a working group member or interested regulator either by conference calls or by attending meetings?			
9b	Does the department participate in or monitor the Market Conduct Examination Standards (D) Working Group as a working group member or interested regulator either by conference calls or by attending meetings?			
9c	Who in the department, by functional title, participates in or monitors the Market Analysis Procedures (D) Working Group?			
9d	Who in the department, by functional title, participates in or monitors the Market Conduct Examination Standards (D) Working Group?			
9e	List any other market conduct or market analysis-related working groups and/or task forces that your department participates in or monitors.			
Requirement 10				
10a	Has the department appointed a CAD?			
10b	Has the department appointed a CAD alternate?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
10c	Does the CAD and/or CAD alternate attend at least 50% of all meetings and conference calls of the Market Actions (D) Working Group?			
10d	Does the Market Actions (D) Working Group member, CAD and/or CAD alternate actively monitor the bulletin board discussions?			
Requirement 11				
11a	Does your state participate in the review of national analysis data on an annual basis?			
11b	Who in the department, by functional title, participates in the annual national analysis project?			
11c	Does your state participate in one national analysis team at least every other year? Has the department established procedures to ensure participation on a national analysis team at least every other year?			
11d	Who in the department, by functional title, participates on a national analysis team at least every other year?			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Requirement 12 12a	Has the department established procedures for the market analysis chief (MAC), or appropriate designee, to communicate interdepartmentally with the appropriate staff, either through written channels or by sufficient demonstration of action (such as regularly scheduled department head meetings, department managers' meetings, or information requests to other areas of the department?			
12b	Does the MAC, or appropriate designee provide the appropriate interdepartmental staff with market concerns such as, but not limited to, financial data, consumer complaints, policy termination activity, producer misconduct or use of noncompliant forms or rates, related to the following functional areas: i. Consumer Services ii. Enforcement iii. Legal iv. Forms and Filing v. Financial vi. Market Analysis vii. Market Conduct			

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
12c	On a quarterly basis, does the MAC, or appropriate designee, solicit information from the above functional areas regarding adverse patterns on, but not limited to, financial data, consumer complaints, policy termination activity, producer misconduct, or use of noncompliant forms or rates?	Yes		

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
Certification Score Total				
Total Points Possible				
Score				
Pass/NoPass				
Points needed to pass		0		

Question	Text	Mandatory Condition Met	(Primary)	(Secondary)
		<p>12</p> <p>THIS SCORE SHOULD BE THE TOTAL OF MANDATORY ITEMS IDENTIFIED IN THE CHART ABOVE -- its not necessary to assign a score value for meeting expectations</p>	<p>38</p> <p>The PRIMARY GOALS should be given a scorable point basis that is weighted by the total of primary goals inside each REQUIREMENT; this would include the requirements needed of any secondary goals == this would achieve the 100% assigned overall points to each REQUIREMENT;</p>	<p>19</p> <p>Secondary goals that are "working toward" meeting the requirements of the Red Mandatory or Yellow Primary goals should be partial point values that equal up to 75% of the total score value that is assessed for the primary goals in this REQUIREMENT AREA. (All other green tagged secondary goals are designed to be supportive of requirements to meet red and yellow -- so those would not be given a partial score value at all when used to support only).</p>

Draft: 8/4/22

Market Conduct Examination Guidelines (D) Working Group
Virtual Meeting
July 14, 2022

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 14, 2022. The following Working Group members participated: Damion Hughes, Chair, Eleanor Coe, and Dennis Newman (CO); Erica Weyhenmeyer, Vice Chair (IL); Chris Erwin, Donna Lambert, Gwen McClendon, and Crystal Phelps (AR); Maria Ailor and Tolanda Coker (AZ); Steve DeAngelis (CT); Susan Jennette and Frank Pyle (DE); Paula Shamburger (GA); Lori Cunningham and Ron Kreiter (KY); Rebecca Butler and Mary Lou Moran (MA); Maybeth Moses (MN); Cynthia Amann, Camille Anderson-Weddle, Jennifer Hopper, Teresa Kroll, Jo LeDuc, and Win Nickens (MO); Tracy Biehn (NC); Maureen Belanger, Sarah Cahn, and Edwin Pugsley (NH); Erin Porter (NJ); Myra L. Morris (NM); Sylvia Lawson and Elvis Soto (NY); Rodney Beetch (OH); Kevin Foor, Rebecca Ross and Shelly Scott (OK); Sandra Emanuel and Ana K. Pace (OR); Penny Callihan, Gary Jones, Lindsy Swartz, and Paul Towsen (PA); Brett Bache and Segun Daramola (RI); Matthew Tarpley (TX); Kelly Christensen, Heidi Clausen, Ryan Jubber, Tracy Klausmeier, and Shelley Wiseman (UT); Julie Fairbanks, Brant Lyons, and Joy Morton (VA); Mary Block, Nick Marineau, Karla Nuissl, and Marcia Violette (VT); Barb Jones, Jeanette Plitt, and Kim Tocco (WA); Barbara Belling, Diane Dambach, Darcy Paskey, Rebecca Rebholz, and Mary Kay Rodriguez (WI); and Desiree Mauller (WV).

1. Adopted its June 9 Minutes

The Working Group met June 9 and took the following action: 1) adopted its April 21 minutes; 2) discussed a new Chapter 24B—Conducting the Mental Health Parity and Addiction Equity Act (MHPAEA) Related Examination of the *Market Regulation Handbook* (Handbook). The chapter was updated to align more closely with federal guidance on compliance analysis requirements for non-quantitative treatment limitations (NQTLs). The Working Group received numerous comments on the draft Chapter 24B from state insurance regulators and interested parties; 3) discussed revisions to Chapter 23—Conducting the Life and Annuity Examination of the Handbook, which correspond with the February 2020 revisions adopted by the NAIC to the *Suitability in Annuity Transactions Model Regulation* (#275); 4) received numerous comments on the draft Chapter 23 from state insurance regulators and interested parties; and 5) discussed revisions to Chapter 20—General Examination Standards of the Handbook regarding the *Insurance Holding Company System Regulatory Act* (#440).

Ms. Plitt made a motion, seconded by Ms Amann, to adopt the Working Group's June 9 minutes (Attachment Twelve-A). The motion passed unanimously.

2. Adopted Revisions to the July 6 Draft Chapter 20 of the Handbook

Mr. Hughes said the draft Chapter 20 was first circulated on Oct. 27, 2021, and the Working Group began discussing the draft at its Nov. 4, 2021, meeting. He said the revisions in the draft, which relate to Model #440, were proposed by Mr. Kreiter. The Working Group continued discussion of the Oct. 27, 2021, draft at its March 10, April 21, and June 9 meetings.

Mr. Hughes said Chapter 20 was revised and distributed on July 6 to the Working Group members, interested state insurance regulators, and interested parties. He said all the revisions in the Oct. 27, 2021, draft chapter were removed, except for in Marketing and Sales Examination Standard 1, where a reference to Model #440 was

retained, and a reference to Section 8G of the model was incorporated there. Mr. Hughes said he had proposed making these revisions at the Working Group's June 9 meeting.

Mr. Kreiter made a motion, seconded by Ms. Phelps, to adopt the July 6 draft Chapter 20 of the Handbook (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Three*). The motion passed unanimously.

3. Adopted Draft Revisions to the July 6 Draft Chapter 1 of the Handbook

Mr. Hughes said he proposed revisions to Chapter 1—Introduction of the Handbook at the Working Group's June 9 meeting. The draft Chapter 1, which was distributed on July 6 to Working Group members, interested state insurance regulators, and interested parties, contained Mr. Hughes' proposed revisions in the subsection titled Financial Analysis in Section B—Resources within State Insurance Departments, where the following language was added, "Additionally, market regulators are encouraged to coordinate with a company's domestic financial regulator to obtain information related the company's group capital calculations, liquidity stress test results, corporate governance, and Own Risk and Solvency Assessment (ORSA)."

Ms. Plitt said while the language "it is encouraged" is very appropriate to incorporate in the chapter, numerous state departments of insurance (DOIs) already incorporate this type of coordination across various divisions of the DOI. She said she believes this coordination is a requirement of the NAIC financial accreditation program/process.

Joseph E. Zolecki (Blue Cross Blue Shield Association—BCBSA) thanked Mr. Hughes for incorporating the new language into Chapter 1 for the Working Group's consideration. He said the language will result in better coordination among market regulators and financial regulators, which will lead to avoiding redundancies in state insurance regulators' review of regulated entities. Charles Feinen (State Farm) said he agrees with Mr. Zolecki's comments.

Mr. Kreiter made a motion, seconded by Ms. Jennette, to adopt the July 6 draft Chapter 1 of the Handbook (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Two*). The motion passed unanimously.

4. Adopted an Updated Chapter 24B, July 11 Draft of the Handbook

Ms. Weyhenmeyer, vice chair of the Working Group and chair of the MHPAEA (B) Working Group, said Chapter 24B was updated to be more robust and more consistent with federal guidance on the issue of compliance analysis requirements for NQTLs. She said the draft chapter was first distributed to Working Group members, interested state insurance regulators, and interested parties on April 19, and numerous comments from state insurance regulators and interested parties were received on the draft chapter in late May 2022, which were presented and discussed at the Working Group's June 9 meeting.

Ms. Weyhenmeyer said since the last Working Group meeting on June 9, a subject matter expert (SME) group worked to address the comments presented by state insurance regulators and interested parties at that meeting, and a revised Chapter 24B exposure draft was distributed to the Working Group, interested state insurance regulators, and interested parties on July 11. She said the draft was initially distributed to those individuals on July 6; however, there were some changes she noted that needed to be made to the draft, and the draft chapter was re-distributed to the Working Group, interested state insurance regulators, and interested parties on July 11.

Ms. Weyhenmeyer said the draft was initially discussed and developed in regulator-only meetings of the MHPAEA (B) Working Group prior to exposure at the Market Conduct Examination Guidelines (D) Working Group. Those meetings also included federal representatives of the Tri-Departments.

Ms. Amann said she likes the incorporation of the “Forward” section in the chapter—this Forward section is found in other examination standards chapters of the Handbook as well—as it is a good reminder that Chapter 24B is to outline federal guidance and considerations regarding the MHPAEA, while allowing states to use their state-specific statutes, rules, and regulations regarding the MHPAEA.

Ms. Callihan said upon review of the chapter on the day prior to the July 14 meeting, Pennsylvania noted some additional substantive language changes and suggestions that could be made to the chapter to allow for better consistency with the Consolidated Appropriations Act, and Pennsylvania also noted a correction to a couple of statutory citation errors and a couple of typographical errors in the draft chapter. She said Pennsylvania submitted the comments to the Working Group’s chair/vice chair a half hour prior to the Working Group’s July 14 meeting. Ms. Weyhenmeyer said the correction to the statutory citations and the typographical (spelling) errors can be addressed today because they are editorial (non-substantive) changes, and the substantive changes—i.e., additional language proposed by Pennsylvania—can be incorporated into the chapter later.

Meghan Stringer (America’s Health Insurance Plans—AHIP) said she is appreciative that most of the additional comments AHIP submitted regarding the draft were incorporated into the chapter. She said AHIP still has areas of concern, including: 1) supporting documentation required under the applicable statute should satisfy Examination Standard 5; 2) in Examination Standard 5, AHIP does not agree with the request for all communications listed in that examination standard; and 3) AHIP would still want to review the impact of the scope of review being expanded to contractual arrangement between health carriers and vendors in Examination Standard 7. She said there will be additional federal rulemaking that is scheduled to occur in a few months’ time regarding the MHPAEA, and she suggested that the Working Group postpone the adoption of the draft chapter until such time that federal regulators release the additional guidance. Mr. Zolecki said he agrees with Ms. Stringer’s comments regarding delaying the adoption of Chapter 24B.

Birny Birnbaum (Center for Economic Justice—CEJ) said the issue of delaying adoption of the MHPAEA chapter, while waiting for future federal guidance on MHPAEA, results in no current MHPAEA guidance available to state insurance regulators, which limits their ability to effectively conduct the analysis of NQTLs, which is of concern to insurance consumers.

Pamela Greenberg (Association for Behavioral Health and Wellness—ABHW) said if the Working Group is considering the chapter for adoption at the meeting, the chapter could be updated at a future date to reflect the forthcoming federal guidance to allow for consistency with the guidance.

Tim Clement (American Psychiatric Association—APA) said while forthcoming federal guidance may slightly change or add clarity to MHPAEA statutory requirements, delaying the adoption of the updated MHPAEA chapter currently before the Working Group means the current MHPAEA chapter, which is inconsistent with statutory requirements regarding the MHPAEA, remains in place.

Ms. Rebholz made a motion, seconded by Mr. Kreiter, to adopt the July 11 exposure draft of Chapter 24B of the Handbook (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Five*), as revised during the meeting, which includes the incorporation of the following editorial corrections: 1) inserting a (3) in the reference citations in the Expected Plan Payments and Plan Payments subsections of the section titled “Classifications of benefits used for applying parity rules” and the correction of

spelling errors in that same section. The adopted Chapter 24B will replace the Chapter 24B that is currently in the Handbook. The motion passed unanimously.

5. Discussed Other Matters

Mr. Hughes said an updated exposure draft of a revised Chapter 23 is forthcoming for the Working Group's review and consideration at its next meeting. The revisions to Chapter 23 correspond with the February 2020 revisions adopted by the NAIC to Model #275 and take into consideration some of the comments and changes proposed by state insurance regulators and interested parties at the June 9 meeting. Mr. Hughes said new standardized data requests (SDRs) will also be distributed for consideration at that meeting.

Mr. Hughes said the Working Group will continue to work on its assigned charges, in addition to the current exposure draft before the Working Group. NAIC staff will send out a notice of the next Working Group meeting, which is scheduled for Sept. 8.

Having no further business, the Market Conduct Examination Guidelines (D) Working Group adjourned.

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Draft: 6/16/22

Market Conduct Examination Guidelines (D) Working Group
Virtual Meeting
June 9, 2022

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 9, 2022. The following Working Group members participated: Damion Hughes, Chair, Eleanor Coe, and Neil A. Derr (CO); Erica Weyhenmeyer, Vice Chair (IL); Chris Erwin and Teri Ann Mecca (AR); Kurt Swan (CT); Susan Jennette (DE); Paula Shamburger (GA); Jared Kirby and Daniel Mathis (IA); Lori Cunningham and Ron Kreiter (KY); Mary Lou Moran (MA); Airic Boyce and Jeff Hayden (MI); Paul Hanson (MN) Cynthia Amann, Jennifer Hopper, Teresa Kroll, and Win Nickens (MO); Teresa Knowles (NC); Sarah Cahn and Edwin Pugsley (NH); Ralph Boeckman and Erin Porter (NJ); Paige Duhamel and Leatrice Geckler (NM); Hermoliva Abejar (NV); Sylvia Lawson (NY); Rodney Beetch (OH); Landon Hubbard (OK); Scott D. Martin and Tashia Sizemore (OR); Paul Towsen (PA); Brett Bache and Matt Gendron (RI); Matthew Tarpley (TX); Andrea Baytop, Julie Fairbanks, Melissa Gerachis, Brant Lyons, and Bryan Wachter (VA); Mary Block and Isabelle Turpin Keiser (VT); Jane Beyer, John Haworth, and Jeanette Plitt (WA); and Barbara Belling, Diane Dambach, Darcy Paskey, Mark Prodoehl, Rebecca Rebholz, Mary Kay Rodriguez, and Jody Ullman (WI).

1. Heard Opening Remarks

Mr. Hughes welcomed Maria Ailor (AZ) and Mr. Hayden to the Working Group.

2. Adopted its April 21 Minutes

The Working Group met April 21 and took the following action: 1) adopted revisions to the April 19 draft Chapter 21—Conducting the Property and Casualty Examination of the *Market Regulation Handbook* (Handbook). The revisions relate to the *Real Property Lender-Placed Insurance Model Act* (#631); 2) discussed revisions to Chapter 24B—Conducting the MHPAEA Related Examination of the Handbook to update the chapter to align more closely with federal guidance on compliance analysis requirements for non-quantitative treatment limits (NQTLs); 3) discussed revisions to Chapter 23—Conducting the Life and Annuity Examination of the Handbook, which correspond with the February 2020 revisions adopted by the NAIC to the *Suitability in Annuity Transactions Model Regulation* (#275); and 4) discussed revisions to Chapter 20—General Examination Standards of the Handbook regarding the *Insurance Holding Company System Regulatory Act* (#440).

Mr. Kreiter made a motion, seconded by Mr. Haworth, to adopt the Working Group's April 21 minutes (Attachment Twelve-A1). The motion passed unanimously.

3. Discussed Draft Revisions to the Oct. 27, 2021, Draft Chapter 20 of the Handbook

Mr. Hughes said the draft Chapter 20—General Examination Standards was first circulated on Oct. 27, 2021, and the Working Group began discussing the draft at its Nov. 4, 2021, meeting. He said the revisions in the draft, which relate to the *Insurance Holding Company System Regulatory Act* (#440) were proposed by Mr. Kreiter. The Working Group discussed the draft at its March 10 and April 21 meetings. Mr. Hughes said no revisions were agreed upon at the April 21 meeting, and the comment due date was subsequently extended. Comments were received from the American Council of Life Insurers (ACLI) on May 18. Mr. Hughes said the ACLI's May 18 comments were very similar to the ACLI's comments of December 17, 2021.

Gabrielle Griffith (ACLI) said the word “determine” in the Review Procedures and Criteria section of Operations/Management Standard 1 is of concern; she suggested that the Working Group change “determine” to instead read “review or discuss with the domestic should there be an issue with ORSA, LST or GCC-related information.” She also recommended that the references to the group capital calculation (GCC) and liquidity stress test (LST) be removed from Marketing and Sales Standard 1; alternatively, she said the references could instead be made more generic to apply to all prohibited marketing activity for any of the model references listed in Marketing and Sales Standard 1.

Mr. Hughes proposed removing all redlined revisions in the Oct. 27, 2021, exposure draft of Chapter 20, except for the reference to the name of the model in the NAIC Model References section of Marketing and Sales Standard 1. He suggested adding “(Section 8G)” after the model reference since that is the section in Model #440 that sets forth the prohibition of insurers’ use of the GCC and the LST in advertising. He said a revised Chapter 20 containing these changes would be circulated ahead of the next meeting.

Mr. Hughes proposed that language be added to the subsection titled “Financial Analysis” in Section B “Resources Within State Insurance Departments” of Chapter 1—Introduction of the Handbook, stating that the market regulator has the option to review the GCC and the LST. Ms. Amann suggested that wording should be added to that section regarding the need for market regulators to coordinate with the domestic regulator. Mr. Hughes said proposed revisions to Chapter 1 would be distributed prior to the next meeting.

Joe Zolecki (Blue Cross Blue Shield Association—BCBSA) and Ms. Griffith said they would welcome language regarding the coordination of market and financial regulators.

4. Discussed Draft Revisions to the April 19 Draft Chapter 23 of the Handbook

Mr. Hughes said the exposure draft of a revised Chapter 23—Conducting the Life and Annuity Examination was circulated to the Working Group, interested state insurance regulators, and interested parties on April 19. He said Brian Werbeloff (RI), Mr. Swan, Frank Pyle (DE), and other state insurance regulators on their respective teams collaborated to produce the draft for the Working Group’s review and consideration. The revisions to the chapter correspond with the February 2020 revisions adopted by the NAIC to the *Suitability in Annuity Transactions Model Regulation* (#275).

Mr. Hughes said comments were received from Virginia on May 25, Missouri on May 27, and the Insured Retirement Institute (IRI) on May 27.

Ms. Gerachis suggested making changes to the Supplemental Checklists for Marketing and Sales Standards 12, 16, and 17 in the exposure draft:

Supplemental Checklist for Marketing and Sales Standard #12: Change “Ensure the insurer’s and applicable producer’s system of annuity suitability supervision and training include:” to “Ensure the insurer’s and applicable producer’s system of annuity suitability supervision and training include from Model #275.” Also, change the first requirement from “A producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider” to “A producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider to comply with Section 7 of this regulation.”

Supplemental Checklist for Marketing and Sales Standard #16: Change the fourth bullet point in the first requirement, “Communicate the basis or basis of the recommendation” to “Communicate the basis or bases of the recommendation.”

Supplemental Checklist for Marketing and Sales Standard #17: To be consistent with Checklist K, change “Ensure the insurer’s and applicable producer’s system of annuity suitability supervision include:” to “Ensure the insurer’s and applicable producer’s system of annuity suitability supervision include from Model #275:” Also, change the first requirement from “The producer has disclosed a description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction.” to “The producer has disclosed to the consumer, on a form substantially similar to Appendix A, a description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction.”

Ms. Hopper presented a high-level overview of some of the comments submitted by Jo LeDuc (MO). Ms. Hopper:

- Asked whether the newly developed checklists will be moved to the end of exposure draft so they appear together with the checklists that are already in Chapter 23.
- Suggested that ambiguity in the Marketing and Sales Standard 10 should be corrected where the words “additional review” are duplicated within the same sentence.
- Requested clarification of the requirement, “shall establish and maintain reasonable procedures to identify and eliminate any sales contests...” in Supplemental Checklist K.
- Requested clarification of the references to “regulation” in Supplemental Checklist L.
- Requested that Marketing and Sales Standard 16 not be phrased in the negative.
- Requested that the word “agency” in Marketing and Sales Standard 16 be changed to “business entity producer.”
- Requested clarification on what requirements are being referenced with, “The requirements apply to the particular annuity...” and “The requirements do not mean...” in Marketing and Sales Standard 16.
- Requested clarification on the references to “Paragraph 1,” “Paragraph 2,” and “Subsection” in Marketing and Sales Standard 16.
- Asked that additional clarification be added to Marketing and Sales Standard 17 regarding what items a producer needs to disclose.

Sarah Wood (IRI) suggested revisions to Marketing and Sales Standards 9 and 10. She suggested that the current Review Procedures and Criteria:

Verify that the insurer has adequate procedures in place for monitoring that sales are made in compliance with Financial Industry Regulatory Authority (FINRA) requirements pertaining to suitability and supervision of annuity transactions. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions shall satisfy the requirements under this regulation. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection shall limit the insurance commissioner’s ability to enforce (including investigate) the provisions of this regulation.

Note: Noncompliance with FINRA requirements means that the broker-dealer transaction is subject to compliance with the suitability requirements of the applicable state’s statutes, rules and regulations.

be changed to the following:

Verify that the insurer has adequate procedures in place for monitoring that sales are made in compliance with comparable standards as defined in Section 6(E)(5) of Model #275. Sales made in compliance with comparable standards shall satisfy the requirements under this regulation. This subsection applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

Note: Noncompliance with comparable standards means that the recommendation or sale is subject to compliance with the suitability requirements of the applicable state's statutes, rules and regulations.

Mr. Gendron said he would agree with many of the proposed changes presented by Virginia, Missouri, and the IRI. He said regarding the IRI's reference to "comparable standards," it would be his preference to list the comparable standards so the examiner guidance can be more thoroughly outlined in the chapter. He said he and the other subject matter experts (SMEs) who prepared the initial exposure draft will develop a revised exposure draft of Chapter 23 for discussion at an upcoming Working Group meeting.

Birny Birnbaum (Center for Economic Justice—CEJ) said the Working Group should monitor the Annuity Suitability (A) Working Group's current work on a Safe Harbor Provision Frequently Asked Questions (FAQ) document.

5. Discussed Draft Revisions to the April 19 Draft Chapter 24B of the Handbook

Ms. Weyhenmeyer, vice chair of the Working Group and chair of the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group, said Chapter 24B—Conducting the MHPAEA-Related Examination was updated to more closely align with federal guidance on the issue of compliance analysis requirements for NQTLs. The revised chapter exposure draft was circulated to the Market Conduct Examination Guidelines (D) Working Group, interested state insurance regulators, and interested parties on April 19.

Ms. Weyhenmeyer said the exposure draft was prepared under the guidance of the MHPAEA (B) Working Group since its members have expertise in this area. She said the draft will replace Chapter 24B in the Handbook upon adoption by the Market Conduct Examination Guidelines (D) Working Group, the Market Regulation and Consumer Affairs (D) Committee, and the Executive (EX) Committee and Plenary.

Ms. Weyhenmeyer said comments were received from Wisconsin on May 25, Missouri on May 27, Virginia on May 27, America's Health Insurance Plans (AHIP) on May 27, the Association for Behavioral Health and Wellness (ABHW) on May 27, and the BCBSA on May 27. She asked all parties submitting comments to provide a high-level summary of their comments.

Ms. Belling said the purpose of Wisconsin's comments is to reword the review procedures and criteria sections in the exposure draft to be more consistent with review procedures and criteria sections in other chapters in the Handbook. The Wisconsin proposed changes switch the focus of the review procedures and criteria to what examiners should review, rather than on the requirements for health carriers. Wisconsin also added revisions to the review procedures and criteria sections of the exam standards in the chapter.

Ms. LeDuc submitted comments on the exposure draft, some of which were presented by Ms. Hopper:

- Clarification needs to be added to the chapter that the MHPAEA does not apply to all types of health insurance products.
- There are instances in the chapter where there is a lengthy list of documents to review, which do not necessarily align with the review procedures and criteria, and there is no information provided in the review procedures and criteria to instruct examiners why they need to review the documents.
- To shorten Standard 1 and remove some of the language from the standard itself into the Review Procedures and Criteria section of Standard 1.
- Standard 6 is lengthy and Missouri suggests that it be broken up into four separate examination standards.
- Standards 6 and 7 should cite back to other standards from relevant chapters, such as Chapter 20 Operations/Management Standard 6 and Chapter 24 Utilization Review Standards 1, 2, and 5.

Ms. Fairbanks presented comments submitted by Virginia. She said Virginia comments were essentially similar to those of Wisconsin, and the Virginia comments were addressed by the proposed changes to the exposure draft submitted by Wisconsin.

Meghan Stringer (AHIP) presented the AHIP comments. She said the legal requirements of the new draft are generally consistent with the MHPAEA, with a few exceptions. She said some of the documents that are requested in several of the exam standards fall outside of what is required under federal MHPAEA guidance (e.g., in Standard 5, there is a very large volume of documents requested), which is directly contrary to federal guidance that directs carriers to avoid the production of a large volume of documents without a clear explanation of how each document is relevant to the comparative analysis to which it is attached. She said the submission of the comparative analysis alone should satisfy Standard 5, and she recommended that the additional documents can be flagged as documents that might be needed when additional information is necessary.

Ms. Stringer recommended that the Handbook include allowable sub-classifications to make state insurance regulators aware of them and the parity rules that then apply. Regarding Standard 7, she said it is standard for health carriers to require within their contracts that vendors and third-party service providers be compliant with relevant laws, which makes Standard 7 unnecessary. She said the requirement in Standard 7 to provide all written communication between the health carrier and the third-party service provider would be cumbersome (e.g., thousands of emails and random communications not relevant to the issue of compliance). She suggested that additional language pertaining to resource documentation be incorporated into Standard 7 instead to provide an explanation for how third-party service providers and health carriers can coordinate to achieve MHPAEA compliance.

Pamela Greenberg (ABHW) submitted comments, some of which were presented by Maeghan Gilmore (ABHW). Ms. Gilmore said one of the ABHW's main objectives regarding MHPAEA implementation is to have uniformity among state insurance regulators at both the federal and state level, which benefits consumers, health care providers, employers, health carriers, and state insurance regulators. She said the proposed documents to be submitted for review in the exposure draft go well beyond the current U.S. Department of Labor (DOL) Self-Compliance Tool and Consolidated Appropriations Act (CAA) requirements, and she asked that any unnecessary or contrary items be removed from the exposure draft. She said a proposed rule/report is anticipated to be released later this year by the DOL, the U.S. Department of Health and Human Services (HHS), and the U.S. Department of the Treasury (Treasury Department), collectively known as the Tri-Departments, and she asked that the NAIC wait to finalize the proposed updates to the exposure draft until that time so the reporting template and DOL Self-Compliance Tool can be in complete alignment with federal MHPAEA guidance.

Randi Chapman (BCBSA) presented the BCBSA comments. She said she agrees with AHIP's comments on Standard 7 regarding health carriers and vendors/third-party service providers, as outlined by Ms. Stringer. She said the proposed documents to be submitted in the exposure draft go beyond federal guidance. She suggested that the exposure draft instead be aligned with the federal standards for required documents and any additional documentation be provided at the request of state insurance regulators. She suggested that Standard 5 be changed to identify a subset of NQTLs so state insurance regulators can have a more targeted approach. She said the Tri-Departments will set forth additional guidance on MHPAEA compliance and a second report to the U.S. Congress (Congress) this year, and she requested that the NAIC delay finalizing this exposure draft until that time so the guidance in the exposure draft can better align with federal MHPAEA guidance.

Ms. Beyer, the vice chair of the MHPAEA (B) Working Group, said the Working Group should not delay implementation of this exposure draft. Ms. Weyhenmeyer said the draft was discussed and developed in regulator-only meetings of the MHPAEA (B) Working Group prior to exposure at the Market Conduct Examination Guidelines (D) Working Group. Those meetings also included federal representatives of the Tri-Departments, and the federal regulators involved did not raise any objections regarding the documentation requested in the exposure draft. Ms. Weyhenmeyer reminded the Working Group that the whole Handbook is a guide, and the intent of this exposure draft of Chapter 24B is to outline federal guidance and considerations regarding the MHPAEA, while allowing states to use their state-specific statutes, rules, and regulations regarding the MHPAEA.

Ms. Weyhenmeyer said a revised Chapter 24B exposure draft will be developed and circulated for discussion at the next Working Group meeting.

6. Discussed Other Matters

The Working Group will continue to work on its assigned charges, in addition to the current exposure drafts before the Working Group. NAIC staff will send out a notice of the next Working Group meeting, which is scheduled for July 14.

Having no further business, the Market Conduct Examination Guidelines (D) Working Group adjourned.

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Draft: 5/10/22

Market Conduct Examination Guidelines (D) Working Group
Virtual Meeting
April 21, 2022

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 21, 2022. The following Working Group members participated: Damion Hughes, Chair, and Eleanor Coe and Neil A. Derr (CO); Erica Weyhenmeyer, Vice Chair (IL); Chris Erwin, Teri Ann Mecca, and Crystal Phelps (AR); Sarah Borunda (AZ); Kurt Swan (CT); Sharon Shipp (DC); Susan Jennette and Frank Pyle (DE); Elizabeth Nunes and Paula Shamburger (GA); Lori Cunningham and Ron Kreiter (KY); Mary Lou Moran (MA); Jeff Hayden (MI); Cynthia Amann, Jennifer Hopper, Jo LeDuc, and Win Nickens (MO); Tracy Biehn and Teresa Knowles (NC); Maureen Belanger and Edwin Pugsley (NH); Ralph Boeckman and Erin Porter (NJ); Leatrice Geckler (NM); Hermoliva Abejar (NV); Sylvia Lawson (NY); Rodney Beetch (OH); Landon Hubbart (OK); Ana K. Pace (OR); Paul Towsen (PA); Brett Bache, Jack Broccoli, Segun Daramola, Matt Gendron, and Brian Werbeloff (RI); Matthew Tarpley (TX); Kelly Christensen, Tracy Klausmeier, Tanji J. Northrup, and Shelley Wiseman (UT); Andrea Baytop, Julie Fairbanks, Will Felvey, Joy Morton, and Bryan Wachter (VA); Mary Block, Isabelle Turpin Keiser, and Karla Nussl (VT); Jeanette Plitt (WA); and Barbara Belling, Diane Dambach, Darcy Paskey, Mark Prodoehl, Rebecca Rebholz, and Jody Ullman (WI).

1. Adopted Revisions to the April 19 Draft Chapter 21 of the *Market Regulation Handbook*

Mr. Hughes said the Working Group began discussing the draft Chapter 21—Conducting the Property and Casualty Examination of the *Market Regulation Handbook*, initially circulated on Oct. 27, 2021, at its Nov. 4, 2021, meeting. He said Ms. Shipp reviewed the *Real Property Lender-Placed Insurance Model Act* (#631) and recommended revisions to various areas of the chapter for the Working Group’s consideration. He said since the last Working Group meeting on March 10, the industry trade associations’ edits were incorporated into the April 19 draft, shown in yellow highlight, as Patrice Garnette (DC) had indicated on the March 10 call that all the revisions proposed by the industry trade associations—i.e., comments dated Nov. 11, 2021, and sent to the NAIC on Nov. 23, 2021—were acceptable. Mr. Hughes said Ms. Garnette also revised the language of the examination standard in Marketing and Sales Examination Standard 8 to revert to the language that existed prior to all the District of Columbia’s proposed revisions.

Mr. Gendron made a motion, seconded by Ms. Weyhenmeyer, to adopt the April 19 draft Chapter 21 of the *Market Regulation Handbook* (see *NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Four*). The motion passed unanimously.

2. Discussed Draft Revisions to the April 19 Draft Chapter 24B of the *Market Regulation Handbook*

Mr. Hughes said Chapter 24B—Conducting the MHPAEA-Related Examination was updated to align with federal guidance more closely on the issue of compliance analysis requirements for non-quantitative treatment limitations (NQTLs). He said he mentioned at the March 10 Working Group meeting that the draft chapter would be forthcoming, to be distributed to the Working Group after the Spring National Meeting. The revised chapter exposure draft was circulated to the Working Group, interested state insurance regulators, and interested parties on April 19.

Ms. Weyhenmeyer, vice chair of the Working Group and chair of the Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group, said the Market Conduct Examination Guidelines (D) Working Group had been

asked to review and update the chapter. The April 19 exposure draft was developed under the guidance of the MHPAEA (B) Working Group, as that is where the subject matter experts (SMEs) in this area reside. Ms. Weyhenmeyer said the exposure draft is before the Market Conduct Examination Guidelines (D) Working Group for review and comment, so the guidance therein can be organized and further developed in a market conduct examination-related context. The comment due date on the draft is May 20.

Ms. Dambach said the exposure draft should be modified to contain language as shown in other *Market Regulation Handbook* chapters (e.g., the ACA-related chapter). The exposure draft, as currently written, contains the language, "... the health carrier shall ..." Ms. Dambach said the language should be changed to read, "... the market conduct examiner should verify that ..." She said she will submit comments regarding this language change.

In response to Kris Hathaway's (America's Health Insurance Plans—AHIP) inquiry during the Working Group meeting asking for a redlined version of the draft, Ms. Weyhenmeyer said the exposure draft will completely replace the current Chapter 24B in the *Market Regulation Handbook*; therefore, there is no redlined version of the current Chapter 24B to provide. Mr. Hughes said the initial comment period on the exposure draft is for 30 days; the comment due date on the draft is May 20. Petra Wallace (NAIC) asked state insurance regulators and interested parties to email her a request for a Word version of the chapter for the purpose of providing comments/suggested edits in Microsoft Word track changes format.

3. Discussed Draft Revisions to the April 19 Draft Chapter 23 of the *Market Regulation Handbook*

Mr. Hughes said the exposure draft of a revised Chapter 23—Conducting the Life and Annuity Examination was circulated to the Working Group, interested state insurance regulators and interested parties on April 19. He said Mr. Werbeloff, Mr. Swan, Mr. Pyle, and other state insurance regulators on their respective teams collaborated to produce the draft for the Working Group's review and consideration. The revisions to the chapter correspond with the February 2020 revisions adopted by the NAIC to the *Suitability in Annuity Transactions Model Regulation* (#275).

Mr. Werbeloff said in 2010, the NAIC introduced Model #275, which outlined an insurance producer's responsibilities when recommending an annuity to a client. In 2020, the NAIC updated Model #275 to require an insurance producer to work in his/her client's best interests. The then Nebraska Department of Insurance Director Bruce R. Ramage reviewed the updated Model #275 in early 2020 to determine what changes may need to be made to the *Market Regulation Handbook*, and he created an initial redlined draft of Chapter 23. Mr. Werbeloff said the group of state insurance regulator SMEs previously mentioned expanded upon that draft by reinserting relevant examination standards that were not present in the former Director Ramage's draft. The SMEs also developed additional Marketing and Sales examination standards and accompanying checklists to the chapter.

Additional proposed changes not directly found in Model #275 were added, including: 1) a note that examiners should ensure a company is reviewing all transactions that have been flagged for internal review, rather than just using sampling techniques; and 2) a note that internal suitability reviews should consider all internal transactions for a customer, even if those transactions occur in multiple jurisdictions. Additional minor changes to the chapter include the removal of references to the *Disclosure for Small Face Amount Life Insurance Policies Model Act* (#605), due to only five states having adopted that model, and the removal of the *Suitability of Sales of Life Insurance and Annuities* white paper, due to the white paper not being currently publicly accessible on the NAIC web page.

Mr. Hughes said the comment due date on the draft is May 20. Ms. Wallace asked state insurance regulators and interested parties to email her a request for a Word version of the chapter for the purpose of providing comments/suggested edits in Microsoft Word track changes format.

4. Discussed Draft Revisions to the Oct. 27, 2021, Draft Chapter 20 of the *Market Regulation Handbook*

Mr. Hughes said the draft Chapter 20—General Examination Standards was first circulated on Oct. 27, 2021, and the Working Group began discussing the draft at its Nov. 4, 2021, meeting. He said the draft was provided by Mr. Kreiter for the Working Group’s consideration. Mr. Kreiter reviewed the *Insurance Holding Company System Regulatory Act* (#440) in 2021 and recommended corresponding revisions to the chapter. Since the March 10 Working Group meeting, comments were received on the draft from Nevada on April 14 and AHIP/Blue Cross Blue Shield Association (BCBSA) on April 15. These comments were circulated to the Working Group, interested state insurance regulators, and interested parties on April 19.

Ms. Abejar presented Nevada’s comments dated April 14, and she indicated that she reviewed Operations/Management Standard 1 and Marketing and Sales Standard 1. Her April 14 comments reflected new language shown in pink and deleted language shown in gray. In Operations/Management Standard 1, she recommended deleting the sentence, “Determine if the NAIC liquidity Stress Test Framework needs to be utilized for a specified data year,” and replacing it with, “Determine if there any liquidity issues by reviewing the latest Insurer Profile Summary or Group Profile Summary from the domicile state’s assigned financial analyst.”

Ms. Abejar said the reason for the change is because if there are any liquidity issues present, they would have been identified by a domicile state’s assigned financial analyst, so the change in language is needed to avoid the duplication of effort; i.e., there is no need for a market conduct examiner to re-do what financial examiners or financial analysts have already performed.

In Operations/Management Standard 1, Ms. Abejar recommended deleting the language:

Determine if there is a holding company system in place. And if so, whether there should be a group capital calculation request from the U.S. Federal Reserve or whether a lead state commissioner should require a group capital calculation for U.S. operations of any non-U.S. based insurance holding company system.

She then recommended replacing it with:

Determine if there are any contagion risks that could affect the examined company’s market conduct associated with how the holding company system is set up by reviewing the latest Group Profile Summary issued by assigned financial analyst of the financial lead state and the latest financial examination report and management letter. If a group capital calculation was not initiated or completed by the financial lead state to determine potential risk to policyholders; specially for holding company systems with member companies outside of U.S., consult your state assigned financial analyst if requesting a group capital calculation to the Commissioner of the financial lead state is appropriate.

The reason for the change is because a holding company system is not something that is formally instituted all the time; therefore, the language should be removed. Determining the relationships between the entities within a holding company system, whether the holding company system formally instituted or not, is a more relevant examiner review procedure, but that should form part of a larger mission, which is to determine if there are any contagion risks within the holding company system that could affect the examined company’s market conduct. The group capital calculation (GCC) is intended to provide additional analytical information to the financial lead state for use in assessing group risks and capital adequacy to complement the current holding company analysis in the U.S. It includes information on potential risks to policyholders emanating from outside an insurance

company, as well as the location and sources of capital within a group. The calculation of which and determination of when to perform a GCC is part of the responsibilities of an insurance financial regulator, not a market examiner.

In Operations/Management Standard 1, Ms. Abejar also recommended the deletion of:

Determine if the confidentiality of any group capital contribution or group capital ratio is maintained and if the confidentiality of the liquid stress test results and supporting disclosure are maintained which includes any Federal Reserve Board filings and information.

The reason for the change is the group capital ratio and any GCC is to be kept confidential by state insurance regulators. The question as to whether the insurers who own the information can keep this information confidential is a matter of law within the state of domicile or the state the insurer is doing business with. If an insurer is displaying in their marketing materials, on their website, or elsewhere, a false or misleading misrepresentation of its financial condition, that issue is technically covered by financial regulation examiners. In this instance, Ms. Abejar said it is easier for a market examiner to get the opinion of financial examiners regarding this issue, rather than market examiners performing a review procedure that is not part of their designated expertise.

In Marketing and Sales Standard 1, Ms. Abejar recommended the deletion of two review procedures:

For the review of group capital calculation, resulting group capital ratio and liquidity stress test:

Review the making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business because it would be misleading and is therefore prohibited; and

Review if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and if the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Ms. Abejar recommended replacing the language of the two deleted procedures with:

In reviewing the capital calculation, resulting group capital ratio, and liquidity stress test performed by the assigned financial analyst of the financial lead state, note the risks identified by the assigned financial analyst and determine if the risks are directly or indirectly affecting policyholders and whether risk mitigations in place are also documented by the assigned financial analysts. If they are directly affecting

policyholders of a company within the holding company system that is currently under market conduct examination, determine if the risk is imminent. If it is, determine the extent of injury to the policyholders. If the documented risk mitigations do not resolve the market conduct risks, request additional information from the company being examined.

Note that most financial risks have an equivalent market conduct risk that may or may not be obvious to the assigned financial analyst, therefore, request a copy of the Group Insurer Profile and not just a confirmation from the assigned financial analyst that there are no market conduct risks.

The purpose of the change is to direct the market examiner as to where to look, which document to look for, and whom to contact, since market conduct examiners do not perform the referenced financial calculations, these are performed by financial examiners/analysts.

Joe Zolecki (BCBSA) presented the AHIP/BCBSA comments dated April 15. He said the review of insurer GCCs, the Own Risk and Solvency Assessment (ORSA), etc. is performed by financial regulators as part of the risk focused approach. He said he would agree with the revisions proposed by Ms. Abejar, and he supports financial regulators reaching out at any time to market conduct regulators for information and vice versa. This collaboration between financial and market regulators avoids creating a siloed approach, and the result of this collaboration between financial and market conduct examiners is a more effective and comprehensive regulatory review of insurers.

Mr. Zolecki asked the Working Group to consider including references from various sections (e.g., where noted in the portable document format (PDF) excerpts from the *Financial Analysis Handbook* pages provided in the AHIP/BCBSA April 15 comments), where appropriate, in the *Market Regulation Handbook*, not necessarily in Chapter 20. He said he will submit formal comments containing the specific suggested changes to be incorporated from the *Financial Analysis Handbook* into the *Market Regulation Handbook*.

Ms. LeDuc, Ms. Geckler, Ms. Plitt, and Mr. Swan recommended an extension of the comment due date so the draft can be discussed at the next call along with the additional comments to be received. Mr. Hughes said the comment due date will be extended for that purpose, and he is hopeful that the Chapter 20 exposure draft will be able to be adopted at the next scheduled Working Group meeting.

5. Discussed Other Matters

The Working Group will continue to work on its assigned charges, in addition to the current exposure drafts before the Working Group. NAIC staff will send out a notice of the next scheduled Working Group call, which is tentatively scheduled for June 9.

Having no further business, the Market Conduct Examination Guidelines (D) Working Group adjourned.

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Draft: 7/27/22

Speed to Market (D) Working Group
Virtual Meeting
July 12, 2022

The Speed to Market (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 12, 2022. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Sian Ng-Ashcraft (AK); Erick Wright (AL); Jimmy Harris (AR); Frank Pyle (DE); Julie Rachford (IL); Brenda Johnson and Craig VanAalst (KS); Tammy Lohmann (MN); Camille Anderson-Weddle and Jo LeDuc (MO); Ted Hamby, Tracy Biehn, and Timothy Johnson (NC); Chris Aufenthie (ND); Cuc Nguyen (OK); Sharalyn Taylor (TX); Tracy Klausmeier (UT); Gail Jones (WA); and Barry Haney and Mary Kay Rodriguez (WI). Also participating was: Danie Capps (WY).

1. Adopted its April 20 Minutes

The Working Group met April 20 and took the following action: 1) adopted its Nov. 16, 2021, minutes; 2) received an update on the status of the System for Electronic Rates & Forms Filing (SERFF) Modernization Project; 3) received an update on edits to the *Product Filing Review Handbook* (Handbook); and 4) discussed the annual review of the product coding matrix (PCM) and uniform transmittal document (UTD) suggestions.

Ms. Rachford made a motion, seconded by Mr. Wright, to adopt the Working Group's April 20 minutes (Attachment Thirteen-A). The motion passed unanimously.

2. Discussed and Considered Suggestions Received on the PCM and UTD

Ms. Motter stated that the first suggestion to discuss is regarding the property/casualty (P/C) PCM. She stated that a suggestion was received to add a sub-type of insurance (TOI) under the inland marine TOI to allow for the filing of personal lines cyber insurance. The reason for this suggestion is that this is a new product, and customers have been asking about it. Ms. Motter stated that when these suggestions are being evaluated, ideas and thoughts are brought to everyone's attention for consideration. She stated that there was recently a sub-TOI for cyber liability products added that is lined up with the annual statement instructions, where it advises companies to put any standalone comprehensive cyber liability coverages under TOI 17, but if it is an endorsement attached to the policy, there is a note similar to the lines of business in the annual statement to report those premiums and losses. For example, she stated that if a cyber liability endorsement was being added to an existing homeowners product, the endorsement would be filed with the homeowners product. She stated that a consideration to keep in mind is how many states would implement this suggested change, as it is not helpful from a speed to market standpoint to add additional TOIs that will not be adopted by a majority of jurisdictions. She asked if anyone on the call has been filing personal lines standalone cyber insurance products, and there were no responses. She asked that if anyone has an issue with following the annual statement instructions and the current PCM, they should place such products if they come into existence under TOI 17 for now and reevaluate them in the future if needed.

Theresa Boyce (ACE Group) stated that she believes TOI 17 would only be used for standalone, and if it is just an endorsement to another line of business, then the ACE Group would not need to use TOI 17. Ms. Motter confirmed that as correct and stated that she has not heard anyone express concerns about getting any personal lines standalone products filed. She stated that cyber coverage on a personal basis thus far has been an endorsement and gone under the proper TOI to the policy it is attached to. She stated that if state insurance regulators and industry representatives are not seeing standalone personal lines cyber insurance products at this time, creating a TOI for it may not be helpful, as it may not be utilized. Ms. Rachford asked if it would be possible to get more

information from the person that made this suggestion. Ms. Motter stated that if the need arises, this suggestion could be brought up again, but this consideration is time sensitive, as it would have to be decided on prior to the national meeting in order to receive filings for it next year.

Ms. Rachford made a motion, seconded by Ms. Klausmeier, to not consider the creation of an additional TOI to the P/C PCM for personal lines cyber and to table it for future discussion as needed. The motion passed unanimously.

Ms. Motter stated that the next suggestion to discuss is regarding the life and health UTD. A suggestion was made to update the form actions list on the form schedule to include “withdrawn” in addition to initial, revised, and other. She stated that this would bring it in line with what is already present on the P/C side, where a form can be indicated as new, revised, withdrawn, or other, which includes a freeform text box. This suggestion also included a request to have a date of when this will take over or be inactivated. Ms. Motter stated that on the P/C side, when new, withdrawn, or replaced, the date trigger is the requested effective date that is indicated on the entire filing submission. She stated that it is unclear in the suggestion if the requester is expecting to have a different date other than the requested effective date, and a possible solution would be asking filers to use the other box to enter that different date in the text field box. She asked that if the requester is on the call, and they are not. She asked if anyone has concerns with aligning the life and health UTD with the P/C document and allowing the choice of withdrawn in addition to initial, revised, and other. No concerns were expressed. Ms. Motter asked if anyone has concerns with the suggestion that if the requester is expecting the ability to indicate a date other than the requested effective date, that it be provided in the other text field box. No concerns were expressed.

Mr. VanAalst made a motion, seconded by Ms. Lohmann, to amend the life and health UTD to include an option for withdrawn, without an additional date field. The motion passed unanimously.

Ms. Motter stated that the next suggestion to discuss is adding a TOI for multi-line health other in the life and health PCM. She stated that her understanding is this is unique to just a few jurisdictions, as only a few states have a separate instance for health and a separate instance for life filing submissions. She stated that because of this, these states can only use a multi-line health other in their health instance, and they do not have that available in their life instance. The reason provided for the suggestion is that the TOI would be used for health insurance coverages that are considered excepted benefits, such as hospital indemnity, accident only, etc. and would assist with such SERFF filing searches. The other reason given is that the addition of this TOI would be for states that have life and health as separate instances because TOI ML02 cannot be used for both. Ms. Motter stated that the additional thoughts provided for consideration are that this concern will be resolved with the SERFF modernization, and it only affects a handful of jurisdictions. She stated that the recommendation is to continue use of the H21 TOI health other until the SERFF modernization is in place. She stated that perhaps using additional benefit fields, labels, and filing descriptions might help locate these types of filings in the interim. Ms. Jones stated that if this will be resolved in the SERFF modernization, a new TOI does not seem necessary at this time.

Ms. Nguyen made a motion, seconded by Ms. Lohmann, to not add a TOI for multi-line health other. The motion passed unanimously.

Ms. Motter stated that the next suggestion to discuss is adding a sub-TOI in the life and health PCM under TOI NA01 network access provider contract for a provider contract incentive-based program with the description, “A written contract between a carrier, accountable care organization (or similar entity), provider, or group of providers that establishes an incentive-based program.” A reason was not provided for this suggestion. Ms. Motter asked if these are currently accepted under NA01.004 other and if a filing label could be utilized to differentiate these types of filings. Ms. Jones stated that Washington’s network oversight person, Jennifer Kreidler, recommended not accepting this suggestion because: 1) incentive-based programs are not a unique type of

provider contract, but a type of reimbursement that is already captured in sub-TOIs that have been previously adopted, including NAO1.000 and NAO1.003; and 2) accountable care organizations, per the description request, are federally regulated programs, and states have no jurisdiction over such programs; therefore, Washington does not require submission of them unless incorporated into a commercial marketplace or Medicaid plan. She stated that if adopted, Washington would not turn on this code.

Ms. Lohmann made a motion, seconded by Mr. Wright, to not implement the suggestion to add a sub-TOI for provider contract incentive-based programs. The motion passed unanimously.

Ms. Motter stated that the next suggestion to discuss is adding sub-TOIs in the life and health PCM for long term care (LTC) to account for limited long-term care insurance (LTCI) filings to align with the *Limited Long-Term Care Insurance Model Act* (#642) and the *Limited Long-Term Care Insurance Model Regulation* (#643). The reason provided for this suggestion is that it would accurately identify the appropriate TOI reflective of the coverage. The requester noted that some jurisdictions have allowed these filings under H13, and a request was made to consider adding or referencing limited LTC in this description, but it was decided that this could cause confusion, as the product is a type of LTC and should be within that TOI description. Ms. Motter stated that questions to consider are how many states would implement these sub-TOIs, where filings for this are currently being received, how many policies are being filed as a standalone product, and how this is different from those items filed under H13 short-term care group and individual. She stated that potentially adding another sub-TOI to H13 for other or implementing additional benefit flags for the sub-TOI may be better than adding another sub-TOI under LTC. She stated that her recollection when this was previously discussed is that because there is a difference between LTC and short-term care, the desire is not to include sub-TOIs for short-term care under the LTC and to leave them under H13. Ms. Jones stated that this was discussed in Washington, and it does not see the need to add a new sub-TOI, as these products appear to meet the definition of short-term care. She stated that Washington would support the addition of a sub-TOI under H13, and she added that limited LTC is not allowed under Washington's current regulations. Ms. Motter asked if adding 13.004 for short-term care other under TOI H13G would be a possible solution. Ms. Jones confirmed this since that would not fall under LTC. Mr. VanAalst stated that Kansas would not adopt this since it made changes to its Long-Term Care Partnership Program to account for these types of filings, but if a change were made, Kansas agrees with Washington that it would make the most sense to add a sub-TOI under H13. Ms. Motter stated that under H13, there are sub-TOIs for home health care, which could incorporate the first suggestion and sub-TOIs for nursing home and adult day care. She stated that there is not a sub-TOI for other for short-term care, and she asked if there is an interest in adding a sub-TOI to H13G and H13I of 13.004 other to incorporate additional filings. Ms. Jones asked if the request is to add sub-TOIs under LTC, and Ms. Motter confirmed this but said this would be a possible alternative solution if needed. Ms. Motter stated that adding these sub-TOIs under H13 for other should only be considered if the Working Group feels the need. No comments were expressed indicating a need to add these additional sub-TOIs under H13G and H13I.

Mr. VanAalst made a motion, seconded by Ms. Lohmann, to not amend the life and health PCM to include additional sub-TOIs for LTC. The motion passed unanimously.

Ms. Motter summarized that effective Jan. 1, 2023, the Working Group has decided that the only change from the suggestions made this year is to amend the life and health UTD to include an option for withdrawn as a status option and that no changes to the PCM would be implemented.

3. Discussed Other Matters

Ms. Jones asked if the requesters for these suggestions are invited to these calls so they can participate in these discussions and answer questions. Ms. Motter stated that NAIC staff have historically reached out to them with

the call information. Brandy Woltkamp (NAIC) confirmed this and stated that a couple of the requesters are Working Group members and are aware of this call.

Ms. Nichols stated that details for the next call would be shared once it has been scheduled.

Having no further business, the Speed to Market (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/S2M WG/July 12 Call/S2M WG Minutes July 12

Draft: 4/28/22

Speed to Market (D) Working Group
Virtual Meeting
April 20, 2022

The Speed to Market (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 20, 2022. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Jimmy Gunn represented by Erick Wright (AL); Jimmy Harris represented by Becky Harrington (AR); Frank Pyle (DE); Julie Rachford (IL); Tammy Lohmann (MN); Camille Anderson-Weddle and Jo LeDuc (MO); Ted Hamby (NC); Cuc Nguyen (OK); Mark Worman (TX); Tanji J. Northrup (UT); and Lichiou Lee (WA). Also participating was: Danie Capps (WY).

1. Adopted its Nov. 16, 2021, Minutes

The Working Group met Nov. 16, 2021, and took the following action: 1) adopted its June 30 and June 29, 2021, minutes; 2) adopted the *Regulatory Review of Predictive Models* white paper edits to the *Product Filing Review Handbook* (Handbook); and 3) discussed the Product Requirements Locator (PRL) contacts.

Ms. Northrup made a motion, seconded by Ms. Motter, to adopt the Working Group's Nov. 16, 2021, minutes (see *NAIC Proceedings – Fall 2021, Innovation and Technology (EX) Task Force, Attachment Two*). The motion passed unanimously.

2. Heard an Update on SERFF

Joy E. Morrison (NAIC) stated that there will be a report provided at each Working Group meeting regarding the status of the System for Electronic Rates & Forms Filing (SERFF) Modernization Project. Bridget Kieras (NAIC) discussed the key capabilities that will be delivered with the SERFF Modernization Project. The first capability discussed was user managed customization, which will provide more customization of the system for all users. This improvement will include everything from expanded user preferences to the implementation of state business rules that guide the process of making filings, which should help with compliance. The next two capabilities discussed were: 1) filing preparation and submittal; and 2) consistent and efficient filing review. Ms. Kieras stated that more state business rules will be built up front to ensure the industry filings are very compliant, which should reduce intake objections and post-submission updates. The next capability discussed was communication and collaboration tools. Ms. Kieras stated that tools and functions are being worked on for industry and state users to communicate better with each other. The next capability discussed was Application Programming Interface (API) integration with business partners and NAIC products. Ms. Kieras stated that the existing web services that are used by states, companies, and vendors will be built out, and better integration with NAIC systems is being looked at as well. The last two capabilities discussed were: 1) workload management; and 2) robust search and reporting. Ms. Kieras stated that a lot of tools are being worked on to enhance and improve searches and exports.

Ms. Kieras discussed the business objectives being considered for the SERFF Modernization Project. She stated that the business objectives are to: 1) deliver incremental value; 2) minimize production disruption; 3) ensure preservation of existing data; 4) support integration partners; 5) build staff capabilities; 6) practice good financial stewardship; 7) design for ease of use; and 8) provide a seamless user experience. She explained the timeline and phases of the SERFF Modernization Project. There are seven phases that began in March 2022 and are planned to go through December 2024. Ms. Kieras stated that the work is focused on improving the search capabilities and rebuilding the core platform. The tool will be tested through the Interstate Insurance Product Regulation

Commission (Compact) first since it is the smallest group of users, but there will be outreach to companies and states not involved in the Compact to ensure the system is being built in a way that will work for the Life, Property/Casualty (P/C), Health, and Plan Management modules.

Ms. Kieras stated that some of the things being done right now are building out the infrastructure, as all the new tools need to be installed, and servers and development environments need to be put in place. She stated that the NAIC is also working on login and landing pages, including the implementation of the single sign-on (SSO), as well as putting in instances, companies, and contacts that will be used on filings. She stated that the NAIC is beginning module development for state business rules related to filing fees, and it plans on introducing the calculation of filing fees. The NAIC is also building a module for states to map licensing lines of business to their SERFF type of insurance (TOI) so a more thorough licensing check can be done before filing is submitted. She stated that the NAIC is also rebuilding the filing rules module, which will be vastly streamlined and updated and leverage the product coding matrix (PCM) in a way that will reduce a lot of manual entry and provide better reporting.

Ms. Kieras stated that focus groups would be created to get input on the Portable Document Format (PDF) Pipeline, including when and why it is used. She stated that the NAIC suspects that there are some uses that could be better served by improved tools. She stated that the NAIC will also be seeking input on a synonym list. She stated that the NAIC would like to improve the search feature so when a keyword is entered, the system returns results for a synonym that may be relevant. She provided an example of a drone and an unmanned aircraft.

Ms. Kieras stated that an update on the SERFF Modernization Project will be given at each Working Group meeting, and she invited anyone that is not on the SERFF Product Steering Committee (PSC) to join and attend meetings if they are interested.

3. Received an Update on Edits to the Handbook

Ms. Nichols reminded everyone that reviewing updates of the Handbook is underway, and this is one of the Working Group's charges. She stated that some of the updates are technical edits that are just corrections and only a matter of correcting outdated information, updating current uniform resource locators (URLs), making formatting edits, etc. She stated that these types of technical changes will not need to go through the Working Group for adoption, as they are not content related; however, the areas that need substantive or nontechnical content edits will be considered by the Working Group.

Petra Wallace (NAIC) said that the last publication of the Handbook was in 2016 and she is in the process of reviewing the Handbook for technical (non-substantive) edits. She stated there is an NAIC style guide that needs to be followed and a lot of what she is doing is cleaning up the publication to be compliant with the NAIC style guide and provided examples of this. She stated that once the updates are completed, the Handbook will be republished, with the updated NAIC logo, and the publication will not be available as a hard copy, it will instead be available in an electronic version. Ms. Wallace stated she has reached out to SERFF and the Compact staff to get updated information concerning various areas in the Handbook that contain inaccurate information. Ms. LeDuc asked if a track changes Word version of the technical updates Ms. Wallace is performing will be provided to the Working Group. Ms. Nichols stated since the technical edits are non-substantive, the plan is not to bring those back to the Working Group in a track changes format since adoption is not required for technical edits, however content-related and substantive changes will be brought to the Working Group for review and consideration.

Ms. Nichols asked that Working Group members willing to volunteer to review some of the substantive content in Chapter Two—The Filing Process, Chapter Four—The Basics of Life and Annuity Regulation, Chapter Five—The

Basics of Health Rate Regulation, Chapter Six—The Federal Affordable Care Act (ACA) and Plan Management, and Chapter Seven—Policy Form Filings let Leana Massey (NAIC) know. She stated that these reviews would be done behind the scenes and later brought to the Working Group for discussion and consideration. She stated that the goal for completion of this review is to have it ready to present at the Fall National Meeting in December. Ms. Motter stated that when volunteers worked on Handbook updates in the past, it involved reaching out to peers and staff that were subject matter experts (SMEs) in certain areas, so staff members should be asked if assistance is needed with these efforts.

4. Discussed the Annual Review of the PCM and UTD Suggestions

Ms. Motter stated that now is the time of year when suggestions or changes to the PCM and Uniform Transmittal Document (UTD) are solicited. She stated that an alert regarding this was sent in SERFF, and any suggestions are requested by May 31. The suggestions will then be compiled, and it will be determined how many calls to schedule to discuss and consider the suggestions. Ms. Motter stated that these discussions sometimes lead to suggestions on how to better create a solution with a filing label rather than a new TOI when only one state will use a potential new TOI for example or verbiage is changed where needed. She stated that the Working Group calls to discuss the suggestions will take place in June to allow enough time to present the information at the Fall National Meeting for possible implementation in January 2023.

5. Discussed Other Matters

Ms. Nichols stated that during the Spring National Meeting, the decision was made to move the Working Group from the Innovation, Cybersecurity, and Technology (H) Committee to the Market Regulation and Consumer Affairs (D) Committee. She stated that this would not affect any of the work to be done by the Working Group. She stated that the SERFF Advisory Board was also disbanded during the Spring National Meeting, and the Working Group charges will be updated to reflect this.

Having no further business, the Speed to Market (D) Working Group adjourned.

SharePoint/Market Regulation - Home/D Working Groups/Speed to Market/2022/April 20 Call

ANTIFRAUD (D) TASK FORCE

Antifraud (D) Task Force June 30, 2022, Minutes..... 8-145

Draft: 10/3/22

Antifraud (D) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
June 30, 2022

The Antifraud (D) Task Force conducted an e-vote that concluded June 30, 2022. The following Task Force members participated: Trinidad Navarro, Chair (DE); John F. King, Vice Chair, represented by Martin Sullivan (GA); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain represented by Crystal Phelps (AR); Evan G. Daniels represented by Paul Hill (AZ); Ricardo Lara represented by George Mueller (CA); Michael Conway represented by Damion Hughes (CO); Andrew N. Mais represented by Kurt Swan (CT); Karima M. Woods represented by Brian Bressman (DC); David Altmaier represented by Simon Blank (FL); Vicki Schmidt represented by John Eichkorn (KS); Sharon P. Clark represented by Juan Garrett (KY); James J. Donelon represented by Matthew Stewart (LA); Kathleen A. Birrane represented by Jeff Gross and Steve Wright (MD); Anita G. Fox represented by Michele Riddering and Randall Gregg (MI); Grace Arnold represented by Paul Hanson (MN); Chlora Lindley-Myers (MO); Mike Chaney represented by Sharon Womack (MS); Mike Causey represented by Angela Hatchet and Tracy Biehn (NC); Eric Dunning and Martin Swanson (NE); Chris Nicolopoulos represented by Heather Silverstein (NH); Russel Toal represented by Devin Chapman (NM); Judith French represented by Michelle Rafeld (OH); Glen Mulready represented by Rick Wagnon (OK); Jon Pike represented by Armand Glick (UT); Scott A. White represented by James Young (VA); and Kevin Gaffney represented by Isabelle Turpin Keiser (VT).

1. Adopted the Antifraud Plan Repository Workflow Recommendation

Commissioner Navarro said the purpose of today's call is to review the NAIC Antifraud Plan Repository workflow recommendation provided from the Antifraud Technology (D) Working Group. He said the Working Group's charge was to "Review and provide recommendations for the development of an Antifraud Plan Repository to be used by insurers to create and store an electronic fraud plan for distribution among the states/jurisdictions." He said the Working Group used the newly updated *Antifraud Plan Guideline* (#1690) to create the recommendation and workflow document. He said the draft workflow document was exposed for comment by the Task Force; however, no comments have been received to date.

Ms. Rafeld said the Working Group finalized the revisions of the Antifraud Plan Repository option in 2020. The Antifraud Plan Repository possibility was introduced to the Task Force following an industry representative explanation of how cumbersome it is to stay in compliance with all state law requirements and the fact that insurance companies have had to manually create antifraud plans and submit into the states. Ms. Rafeld said to assist with the industry concerns and promote uniformity, the Task Force determined that it would be beneficial to create an NAIC Antifraud Plan Repository. A charge was given to the Working Group to create a recommendation. Ms. Rafeld said the Working Group used the revised Model #1690, which included the key elements insurance companies needed to consider for developing an antifraud plan. Ms. Rafeld finalized the Working Group's charge and provided a recommendation for the creation of an Antifraud Plan Repository. She said the Working Group created a workflow document to assist with finalizing this charge. She said it was adopted by the Working Group in May and presented to the Task Force for review.

Mr. Blank made a motion, seconded by Ms. Rafeld, to adopt the Antifraud Plan Repository workflow document (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Eight*). The motion passed unanimously.

Having no further business, the Antifraud (D) Task Force adjourned.

[AFTF 6.30.22 Minutes](#)

MARKET INFORMATION SYSTEMS (D) TASK FORCE

Market Information Systems (D) Task Force June 16, 2022, Minutes..... 8-147

Draft: 6/28/22

Market Information Systems (D) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
June 16, 2022

The Market Information Systems (D) Task Force met June 16, 2022. The following Task Force members participated: Michael Conway, Chair (CO); Dana Popish Severinghaus, Vice Chair (IL); Evan G. Daniels represented by Maria Ailor (AZ); Ricardo Lara represented by Pam O’Connell (CA); Andrew N. Mais represented by Kurt Swan (CT); Vicki Schmidt represented by Tate Flott (KS); Sharon P. Clark represented by Ron Kreiter (KY); James J. Donelon represented by Jeff Zewe (LA); Chlora Lindley-Myers represented by Jo LeDuc and Brent Kabler (MO); Marlene Caride represented by Ralph Boeckman (NJ); Judith L. French represented by Rodney Beetch (OH); Cassie Brown represented by Rachel Cloyd (TX); Nathan Houdek represented by Rebecca Rebholz (WI); and Allan L. McVey represented by Jeannie Tincher (WV). Also participating was: Erica Weyhenmeyer (IL).

1. Adopted its Spring National Meeting Minutes

The Task Force met March 25 and took the following action: 1) considered the Market Information Systems Research and Development (D) Working Group’s report on incorporating artificial intelligence (AI) abilities in the NAIC market information systems (MIS); and 2) adopted the MIS Data Analysis Metrics and Recommendations for 2020.

Mr. Flott made a motion, seconded by Director Severinghaus, to adopt the Task Force’s March 25 minutes (*see NAIC Proceedings – Spring 2022, Market Information Systems (D) Task Force*). The motion passed unanimously.

2. Adopted AI Recommendations

Commissioner Conway said the five recommendations in the report are broken down between the first two, which address making improvements to the current MIS data, and the final three, which address moving forward with incorporating AI in the MIS. He said state insurance regulators have supported industry use of AI because of its benefits; if state insurance regulators are comfortable with industry use of AI, they should move forward with determining the best ways to use AI for insurance regulation as well. He said he supports moving forward with all five recommendations in the report.

Ms. O’Connell agreed and said state insurance regulators should be working hard to keep pace with industry. Commissioner Conway also expressed concern that if state insurance regulators do not move forward collaboratively with exploring AI through the NAIC, they risk a lack of uniformity and consistency as larger states pursue AI and smaller states without the resources do not. He noted that Texas is using AI in reviewing form filings.

Ms. Cloyd confirmed that Texas uses machine learning (ML)/AI techniques in reviewing property/casualty (P/C) form filings. She said Texas is not opposed to AI, but its biggest concern is the unknown time, money, and resource cost if the Task Force commits to all five of the recommendations. She suggested adopting only the first two recommendations and then getting feedback on whether the NAIC systems are capable of effectively using some type of AI. If so, a proof of concept could be developed.

Mr. Kabler said he does not think the cost of incorporating AI in the MIS would necessarily be that expensive. He said there are plenty of modules in the marketplace. For example, he said SAS has software that will perform many sophisticated analytical techniques. He said if it becomes too expensive, the Task Force could pull back or readjust its ambitions. Commissioner Conway suggested an amendment to recommendations 4 and 5 to assess the cost prior to incorporating AI.

Birny Birnbaum (Center for Economic Justice—CEJ) said the MIS is still working within a 20th century regulatory framework regarding the use and analysis of data. He said the recommendations do not move the framework much further along. He said recommendation 5 should be the highest priority. He noted that industry has aggressively used AI and predictive models for 30 years; they did so without any cost-benefit analysis because the benefits were obvious. He said the application of advanced analytics to more granular data will dramatically improve the ability of state insurance regulators to address issues in a timely and effective manner. He said AI requires granular data, and the current summary data in the MIS is not useful for AI. He said AI analytics is not very expensive once you have the data; it just requires the right skillset. He said he was not aware of any cost-benefit analysis being done on any NAIC data collection initiative. He noted that AI techniques would reduce costs for state insurance regulators because the collection of granular data reduces the need for other collection activities, and state insurance regulators would spend less time identifying issues. He said the qualitative benefits outweigh any potential costs.

Andrew Pauley (National Association of Mutual Insurance Companies—NAMIC) said if the Task Force adopts the recommendations, there will be pressure to move quickly on them; yet, the state insurance regulators are still looking into the industry usage of AI and establishing guardrails for industry. He said the report itself noted that incorporating AI would result in pursuing false positives that will not only be costly for the state insurance regulators and industry but could also result in missing real issues. He also cautioned that the accumulation of granular data will result in confidentiality and cybersecurity concerns. He said the accumulation of transactional data without proper guardrails is a concern. He said these types of concerns require a cost-benefit analysis. Commissioner Conway noted that Colorado passed a law to regulate insurers' use of big data algorithms, which was fought aggressively by NAMIC. He said he could not accept NAMIC now saying that state insurance regulators should not use AI due to not having guardrails in place. He asked Mr. Pauley how AI has benefited industry. Mr. Pauley said industry and state insurance regulators have two different datasets. He said the industry has benefited consumers through timely responses, matching rates to risk, claims triaging, and combatting fraud. However, the incorporation of AI to regulate industry has not yet been shown to be superior to the current analytical tools. Mr. Pauley said the five recommendations are too broad and do not have discernible goals; the ramifications of adopting them should be considered. He said AI is evolving quickly, and the broad recommendations may be obsolete in a year, so he recommended a more deliberate step-by-step approach.

Commissioner Conway said the possibility of false positives is not concerning. Any new process would have false positives, and this would improve as market analysts learn more. He said one of the benefits of ML is that the tools would improve as time goes on and more data and results are input.

Director Severinghaus said the conversation is getting into the details, and she suggested that the Task Force first decide whether to adopt the recommendations and then develop the details and scope after the recommendations are adopted. Commissioner Conway agreed. Ms. Weyhenmeyer suggested adopting the recommendations as they are and asking the Market Information Systems Research and Development (D) Working Group to come up with recommendations for implementation. Commissioner Conway agreed and said he would like to adopt the recommendations and ask the Working Group to put together a work plan that includes an analysis of costs for recommendations 4 and 5.

Ms. Cloyd said she believes it is possible that some Task Force members may be in favor of the first two recommendations but not the last three recommendations. By splitting the vote, the Task Force could at least adopt a portion of the recommendations.

Commissioner Conway said he does not believe adopting recommendations 1 and 2 on their own would fulfill the charge to develop recommendations for the incorporation of AI into the MIS.

Mr. Birnbaum said state insurance regulators lag behind all financial service regulators in the use of AI for analysis. He said by voting only for the first two recommendations, the Task Force would be saying it is okay with that.

Ms. Cloyd made a motion, seconded by Ms. LeDuc, to first vote on recommendations 1 and 2 and then vote on recommendations 3 through 5. A roll call vote was taken. Texas voted in favor of the motion. Arizona, California, Connecticut, Illinois, Kansas, Kentucky, Louisiana, Missouri, New Jersey, Ohio, Wisconsin, and West Virginia voted against the motion. The motion failed 12 to 1. After the vote, the chair voted no.

Director Severinghaus made a motion, seconded by Ms. LeDuc, to adopt all five recommendations (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Six*). The motion passed with Texas dissenting.

3. Received an Update on MIS Projects and USER Forms

Chris Witt (NAIC) said the Market Conduct Annual Statement (MCAS) data collection due date was April 30, and the Health line of business is still due June 30.

Mr. Witt said Uniform System Enhancement Request (USER) Form 10071 is to enhance iSite+ reports using visualization and adding data analytics, and USER Form 10047 is to add data by group code. He said the group code data is only accessible in the Tableau dashboards. He said USER Form 10055 is to provide ad hoc data access to state insurance regulators. He said this is being provided through a tool called Snowflake, and the NAIC Information Technology (IT) Department is working with several states to open access to data.

Mr. Witt said the next large project is separating the MCAS and Financial Data Repository (FDR) systems. He said now that the MCAS has grown so much, it is requiring much more maintenance. The separation will allow the FDR to be modernized, and it will be easier to add new lines of business and features to the MCAS system.

Having no further business, the Market Information Systems (D) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/D Cmte/2022 Summer National Meeting/MISTF/June

PRODUCER LICENSING (D) TASK FORCE

Producer Licensing (D) Task Force May 5, 2022, Minutes 8-151
2022 Revised Charges (Attachment One) 8-155

Draft: 10/3/22

Producer Licensing (D) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
May 5, 2022

The Producer Licensing (D) Task Force met May 5, 2022. The following Task Force members participated: Larry D. Deiter, Chair (SD); Sharon P. Clark, Vice Chair (KY); Lori K. Wing-Heier represented by Kayla Erickson (AK); Jim L. Ridling represented by Jimmy Gunn (AL); Alan McClain represented by Peggy Dunlap (AR); Ricardo Lara represented by Charlene Ferguson (CA); Andrew N. Mais represented by Jill Marocchini and Kurt Swan (CT); Trinidad Navarro represented by Frank Pyle and Susan Jennette, and Robin David (DE); David Altmaier represented by Matt Guy and Matt Tamplin (FL); Doug Ommen represented by Jackie Russo (IA); Vicki Schmidt represented by Monica Richmeier (KS); James J. Donelon represented by Lorie Gasior (LA); Kathleen A. Birrane represented by Mary Kwei (MD); Anita G. Fox represented by Michele Riddering (MI); Chlora Lindley-Myers represented by Carrie Couch and Jo LeDuc (MO); Mike Chaney represented by Vanessa Miller (MS); Troy Downing represented by Mary Arnold (MT); Jon Godfread represented by Chris Aufenthie and John Arnold (ND); Eric Dunning (NE); Chris Nicolopoulos represented by Joan LaCourse and Christie Rice (NH); Marline Caride represented by Joe McDougal (NJ); Barbara D. Richardson represented by Jacob Roberts (NV); Judith L. French represented by Tynesia Dorsey (OH); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Carter Lawrence represented by Kim Biggs (TN); Cassie Brown represented by Randall Evans (TX); Jon Pike represented by Heidi Petermann (UT); Scott A. White represented by Mike Beavers and Richard Tozer (VA); Michael S. Pieciak represented by Mary Block (VT); Mike Kreidler represented by Jeff Baughman and Todd Dixon (WA); Nathan Houdek represented by Rebecca Rebholz (WI); Allan L. McVey represented by Greg Elam and Robert Grishaber (WV); Jeff Rude represented by Bryan Stevens (WY). Also participating were: Michael Conway represented by Steven Giampaolo (CO); and Barbara D. Richardson represented by Jacob Roberts (NV).

1. Adopted its 2021 Fall National Meeting Minutes

Mr. Boughman made a motion, seconded by Ms. Dunlap, to adopt the Task Force’s Nov. 29, 2021, minutes (*see NAIC Proceedings – Fall 2021, Producer Licensing (D) Task Force*). The motion passed unanimously.

2. Adopted its 2022 Revised Charges

Director Deiter said the next item is to consider the appointment of a new Adjuster Licensing (D) Working Group, which requires some minor edits to the Producer Licensing Task Force charges. He said the proposed revisions move the existing charge of the Task Force to a new Adjuster Licensing (D) Working Group. This charge is to “monitor state implementation of adjuster licensing and reciprocity and update, as necessary the NAIC adjuster licensing standards.” Director Deiter said adjuster licensing uniformity and reciprocity were being discussed prior to the COVID-19 pandemic but have not been discussed due to other priorities during the pandemic.

Director Deiter said the focus of this new Working Group would be on the licensing standards for independent adjusters, which 34 jurisdictions license. He said the following states do not license independent adjusters: Colorado, the District of Columbia, Illinois, Iowa, Kansas, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, and Wisconsin. Director Deiter said the new Working Group would research ways to leverage electronic efficiencies to improve reciprocal adjuster licensing; explore effective options to reduce the number of variations in lines of authority that are not part of the independent adjuster guidelines; and, where necessary, open the independent adjuster guidelines for review and amendment. Prior to consideration by the Task Force, Director Deiter said he asked Rachel Chester (RI) to chair the new Working Group and is deferring to Ms. Chester on the selection of a vice chair.

Mr. Stevens made a motion, seconded by Commissioner Clark, to adopt the revised charges (Attachment One) and appoint a new Adjuster Licensing (D) Working Group. The motion passed unanimously.

3. Adopted Guidelines for Amending the NAIC Uniform Applications

Director Deiter said the Guideline for Amending the Uniform Licensing Application was circulated with the notice for this meeting. He said there were technical edits made to the draft discussed during the Task Force's Nov. 29, 2021, meeting. Director Deiter said substantive edits were made to subpoint 6 to clarify that NAIC staff for the Producer Licensing (D) Task Force will coordinate with the National Insurance Producer Registry (NIPR) and all states, which will include back-office system support vendors, during the next 45-day period to provide a time and cost estimate for the Task Force to review. The time frame of this coordination was extended from 30 days to 45 days. The Market Regulation and Consumer Affairs (D) Committee should consider the adoption of any revisions by Oct. 15 rather than Oct. 1. The Producer Licensing Uniformity (D) Working Group and the Producer Licensing (D) Task Force should still adopt any changes to the uniform applications by the close of the Summer National Meeting.

Ms. Ferguson questioned how the Producer Licensing (D) Task Force would address the proposed edits from 2018. Director Deiter said those proposed edits would be considered within the Guideline being considered today. Mr. Mullen explained that the Market Regulation and Consumer (D) Committee, the Executive (EX) Committee, and NAIC Plenary will need to adopt the Guideline, and he said he believes their consideration and adoption could occur by the close of the Summer National Meeting. To proceed with some initial work, Director Deiter requested Mr. Mullen to begin outreach to jurisdictions that requested the proposed amendments in 2018 to assess whether the amendments are still necessary.

Mr. Tozer made a motion, second by Ms. Ferguson, to adopt the Guideline for Amending the Uniform Licensing Applications (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Seven*). The motion passed unanimously.

4. Received a Report from the NIPR Board of Directors

Director Deiter said he serves as the president of the 2022 NIPR Board of Directors. He said NIPR began offering the processing of appointments and terminations for Massachusetts. With the addition of Massachusetts, NIPR is now processing appointments and terminations for all states. Massachusetts is now offering the full array of NIPR's online licensing services to all its producers, public adjusters, and auto damage appraisers, as well as several other license types. Director Deiter said NIPR continues to implement the Contact Change Request (CCR) application for business entities. To date, NIPR has 31 states in production and has processed more than 20,000 transactions on behalf of those states. The CCR application provides an additional electronic solution for the states and industry streamlining the licensing process. Director Deiter said NIPR continues to have another successful year, with revenues 5.8% over budget through the end of March.

5. Discussed the Status of the Draft NAIC Pet Insurance Model Act

Director Deiter said Commissioner Clark and he met with the leadership of the Property & Casualty (C) Committee and the Pet Insurance (C) Working Group regarding next steps regarding the provisions of the model act addressing producer licensing and training requirements. Director Deiter said the Pet Insurance (C) Working Group and the Property and Casualty Insurance (C) Committee would be taking the lead on making some minor edits to the draft model law and finalizing the model law for future consideration by the NAIC Members. Director Deiter encouraged any Task Force members or interested parties following this issue to engage directly with the Pet Insurance (C) Working Group and the Property and Casualty Insurance (C) Committee.

6. Discussed Other Matters

Director Deiter said NAIC staff have been working with representatives at Prudential to clarify industry's request and potential next steps regarding simplification of the 1033 waiver process. John Feeney (Prudential) said Prudential wants to enhance access to the 1033 waiver process and create more uniformity among states on how individuals obtain access to 1033 waiver forms. Mr. Feeney said the goal is to simplify the 1033 waiver process and not to have states issue more 1033 waivers or lower the standards for review.

Mr. Tozer said Virginia incorporates the review of 1033 waivers into its licensing process and does not require the submission of a separate form. He said many applicants are not aware of the need to request a waiver and suggested eliminating the use of a separate form.

Director Deiter said he understands Prudential has discussed this issue with Connecticut, Missouri, Pennsylvania, and Virginia and requested Mr. Mullen to coordinate with Prudential and a small group of regulator subject matter experts (SMEs) to develop some suggested next steps or proposal for the Producer Licensing (D) Task Force to review during its next meeting. Director Deiter said the Producer Licensing (D) Task Force will coordinate with the Antifraud (D) Task Force since the Antifraud (D) Task Force was responsible for the development of the *NAIC's Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994*.

Director Deiter said the American Council of Life Insurers (ACLI) and National Association of Insurance and Financial Advisors (NAIFA) submitted a comment letter focusing on the 1033 waiver process, eliminating mandatory pre-licensing education, the process that exam vendors use to set exam difficulty and pass rates of different demographic groups, and encouraging the use of online examinations. In addition, Director Deiter said Financial Security for All (Finseca) submitted a comment letter focusing on eliminating mandatory pre-licensing education, eliminating any cultural bias in exams, and encouraging states to award continuing education (CE) credit for a producer's mentoring in the first five years of licensure.

David Leifer (ACLI) said the ACLI comments are not focused on changing the underlying standards states use to license individuals and are focused on exam accessibility and availability. The ACLI encourages further discussion on changes to the 1033 waiver process, the continuing use of online examinations, the elimination of mandatory pre-licensing education, and offering of examinations in languages other than English.

Mr. Leifer said the elimination of unnecessary licensing barriers can benefit underserved communities and lead to greater diversity in the insurance marketplace. Mr. Leifer said the ACLI supports further discussion of these issues with the Producer Licensing (D) Task Force and suggested the NAIC *State Licensing Handbook* could be reviewed and updated to include best practices on the issues raised in the ACLI letter.

Melissa Bova (Finseca) said Finseca would like to work with the Producer Licensing (D) Task Force to address the low retention rate of insurance producers, which is 14% after the first five years of licensure. Ms. Bova said Finseca has seen a higher retention rate in companies that have mentoring and training programs for newly licensed producers.

Commissioner Clark questioned what parameters are being suggested for the state insurance departments to award CE credits for mentoring during the first five years of licensure. Commissioner Clark said there would need to be more discussion, including who could be qualified to be a mentor. Ms. Bova said Finseca would welcome the opportunity to work with the Producer Licensing (D) Task Force on the issues outlined in the comment letter.

Mr. Tozer said he would like to have further discussions about states receiving producer applications with errors or misstatements completed by authorized third-party submitters. Mr. Tozer suggested the development of best practices and a national solution to these issues. Ms. Ferguson agreed with Mr. Tozer and suggested the NAIC

uniform applications could possibly be amended to help address this issue. Director Deiter recognized states have different views on this issue and agreed this could be a topic for discussion during a future meeting.

Having no further business, the Producer Licensing (D) Task Force adjourned.

[ProdLic Min 5.5.22](#)

Draft: 3/12/22

Adopted by the Executive (EX) Committee and Plenary, XX, 2022

Adopted by the Market Regulation and Consumer Affairs (D) Committee, XX, 2022

Adopted by the Producer Licensing (D) Task Force, May 5, 2022

2022 Proposed Revised Charges

PRODUCER LICENSING (D) TASK FORCE

The mission of the Producer Licensing (D) Task Force is to: 1) develop and implement uniform standards, interpretations, and treatment of producer and adjuster licensees and licensing terminology; 2) monitor and respond to developments related to licensing reciprocity; 3) coordinate with industry and consumer groups regarding priorities for licensing reforms; and 4) provide direction based on NAIC membership initiatives to the National Insurance Producer Registry (NIPR) Board of Directors regarding the development and implementation of uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology.

Ongoing Support of NAIC Programs, Products or Services

1. The **Producer Licensing (D) Task Force** will:
 - A. Work closely with NIPR to encourage the full utilization of NIPR products and services by all the states and producers, and encourage accurate and timely reporting of state administrative actions to the NAIC's Regulatory Information Retrieval System (RIRS) to ensure that this data is properly reflected in the State Producer Licensing Database (SPLD) and the Producer Database (PDB).
 - B. Facilitate roundtable discussions, as needed, with the state producer licensing directors for the exchange of views, opinions, and ideas on producer licensing activities in the states and at the NAIC.
 - C. Discuss, as necessary, state perspectives regarding the regulation and benefit of the activities of the federal Affordable Care Act (ACA), established enrollment assisters (including navigators and non-navigator assisters and certified application counselors), and the activities of producers in assisting individuals and businesses purchasing in the health insurance marketplaces. Coordinate with the Health Insurance and Managed Care (B) Committee and the Antifraud (D) Task Force, as necessary.
 - D. Monitor the activities of the National Association of Registered Agents and Brokers (NARAB) in the development and enforcement of the NARAB membership rules, including the criteria for successfully passing a background check.
 - E. Coordinate through NAIC staff to provide guidance to NIPR on producer licensing-related electronic initiatives. Hear a report from NIPR at each national meeting.
 - F. Coordinate with the Market Information Systems (D) Task Force and the Antifraud (D) Task Force to evaluate and make recommendations regarding the entry, retention, and use of data in the NAIC's Market Information Systems (MIS).
 - G. Coordinate with the Special (EX) Committee on Race and Insurance on referrals affecting insurance producers.
 - H. Discuss how criminal convictions may affect producer licensing applicants and review the NAIC's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994* to create a more simplified and consistent approach in how states review 1033 waiver requests.
2. The **Producer Licensing Uniformity (D) Working Group** will:
 - A. Work closely with state producer licensing directors and exam vendors to ensure that: 1) the states achieve full compliance with the standards in order to achieve greater uniformity; and 2) the exams test the qualifications for an entry-level position as a producer.
 - B. Provide oversight and ongoing updates, as needed, to the *State Licensing Handbook*.
 - C. Monitor and assess the state implementation of the Uniform Licensing Standards (ULS) and update the standards, as needed.
 - D. Review and update, as needed, the NAIC's uniform producer licensing applications and uniform appointment form. Provide any recommended updates to the Producer Licensing (D) Task Force by the NAIC Summer National Meeting.

3. The **Uniform Education (D) Working Group** will:
 - A. Update, as needed, the reciprocity guidelines, the uniform application forms for continuing education (CE) providers, and the process for state review and approval of instructors and courses. Provide any recommended updates to the Producer Licensing (D) Task Force by the 2022 Fall National Meeting.
 - B. Coordinate with NAIC parent committees, task forces, and/or working groups to review and provide recommendations, as necessary, on prelicensing education and CE requirements that are included in NAIC model acts, regulations, and/or standards.

4. The **Adjuster Licensing (D) Working Group** will:
 - A. Monitor state implementation of adjuster licensing and reciprocity; update, as necessary, the NAIC adjuster licensing standards.

NAIC Support Staff: Tim Mullen/Greg Welker

FINANCIAL CONDITION (E) COMMITTEE

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Draft: 8/16/22

Financial Condition (E) Committee
Portland, Oregon
August 12, 2022

The Financial Condition (E) Committee met in Portland, OR, Aug. 12, 2022. The following Committee members participated: Scott A. White, Chair (VA); Elizabeth Kelleher Dwyer, Vice Chair (RI); Michael Conway represented by Rolf Kaumann (CO); David Altmaier (FL); Doug Ommen (IA); Timothy N. Schott and Vanessa Sullivan (ME); Grace Arnold represented by Kathleen Orth (MN); Chlora Lindley-Myers and John Rehagen (MO); Mike Chaney represented by David Browning (MS); Marlene Caride (NJ); Adrienne A. Harris represented by Bob Kasinow (NY); Michael Wise (SC); Cassie Brown represented by Jamie Walker (TX); Nathan Houdek and Amy Malm (WI); and Jeff Rude (WY). Also participating was: Dale Bruggeman (OH).

1. Adopted its July 21, May 20, and Spring National Meeting Minutes

The Committee met July 21 and took the following action: 1) adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act (#540)*; 2) adopted a document entitled of *Regulatory Considerations Applicable to (But Not Exclusive to) Private Equity (PE) Insurers*; and 3) adopted the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation (GCC)*. During its May 20 e-vote, the Committee adopted a memorandum of support for certain work performed related to various workstreams created because of the low interest rate environment and ongoing pressure from certain assets.

Commissioner Caride made a motion, seconded by Commissioner Ommen, to adopt the Committee's July 21 (Attachment One), May 20 (Attachment Two), and April 5 (*see NAIC Proceedings – Spring 2022, Financial Condition (E) Committee*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

Commissioner White stated that the Committee usually takes one motion to adopt the Committee's task force and working group reports that are considered technical, noncontroversial, and not significant by NAIC standards; i.e., they do not include model laws, model regulations, model guidelines, or items considered to be controversial. He reminded Committee members that subsequent to the Committee's adoption of its votes, all the technical items included within the reports adopted will be sent to the NAIC members for review shortly after the conclusion of the Summer National Meeting as part of the Financial Condition (E) Committee Technical Changes report. Pursuant to the Technical Changes report process previously adopted by the NAIC Plenary, the members will have 10 days to comment. Otherwise, the technical changes will be considered adopted by the NAIC and effective immediately. With respect to the task force and working group reports, Commissioner White asked the Committee: 1) whether there were any items that should be discussed further before being considered for adoption and sent to the Members for consideration as part of the Financial Condition (E) Committee Technical Changes report; and 2) whether there were other issues not up for adoption that are currently being considered by task forces or working groups reporting to this Committee that require further discussion. The response to both questions was no.

In addition to presenting the reports for adoption, Commissioner White also noted that the Financial Analysis (E) Working Group met July 22, July 6, June 29, and June 15 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss letter responses and financial results. Additionally, the Valuation Analysis (E) Working Group met Aug. 9, March 23, and Feb. 8 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss valuation items related to specific companies

Commissioner Caride made a motion, seconded by Ms. Malm, to adopt the following task force and working group reports: Accounting Practices and Procedures (E) Task Force; Capital Adequacy (E) Task Force; Examination Oversight (E) Task Force; Financial Stability (E) Task Force; Receivership and Insolvency (E) Task Force; Reinsurance (E) Task Force; Valuation of Securities (E) Task Force; Group Capital Calculation (E) Working Group (Attachment Three); Group Solvency Issues (E) Working Group (Attachment Four); Mutual Recognition of Jurisdictions (E) Working Group (Attachment Five); and National Treatment and Coordination (E) Working Group (Attachment Six). The motion passed.

3. Adopted Agenda Item 2021-21 and Blanks Proposal 2021-22BWG

Mr. Bruggeman said that included in the materials were agenda item 2021-21: Related Party Reporting, which adds reporting codes to identify related party transactions in several investment schedules, from the Statutory Accounting Principles (E) Working Group and blanks proposal 2021-22BWG from the Blanks (E) Working Group. Both proposals were previously summarized to the Committee during its July 21 meeting. They had now been unanimously adopted by the Accounting Practices and Procedures (E) Task Force and were ready for the Committee's consideration.

Ms. Walker made a motion, seconded by Mr. Kaumann, to adopt agenda item 2021-21: Related Party Reporting and blanks proposal 2021-22BWG (Attachment Seven). The motion passed.

4. Heard a Presentation from the Federal Reserve on their Supervisory Framework

Matt Walker (Federal Reserve Board—FRB) provided a summary of some of the updates the FRB has made recently to its supervisory framework (Attachment Eight) as it relates to insurance groups. The summary included discussion of how the revised framework recognizes differences with the banking industry and more specifically the role of state insurance regulators and the role of the FRB in such situations where a depository institution is also included within the holding company structure. In particular, the new guidance emphasizes the importance of collaborating with state insurance regulators and describes how FRB supervisory teams do this. The summary also discussed how the guidance distinguishes between complex groups and non-complex groups and how the guidance for each differs. Finally, the update describes how supervisory teams coordinate with state insurance regulators in order to minimize supervisory burden without sacrificing effective oversight.

Having no further business, the Financial Condition (E) Committee adjourned.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/2022-2-Summer/081222 E Minutes.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/2022-2-Summer/081222%20E%20Minutes.docx)

Draft: 7/28/22

Financial Condition (E) Committee
Virtual Meeting
July 21, 2022

The Financial Condition (E) Committee met July 21, 2022. The following Committee members participated: Scott A. White, Chair (VA); Elizabeth Kelleher Dwyer, Vice Chair (RI); Doug Ommen represented by Kevin Clark (IA); Timothy N. Schott represented by Robert Wake (ME); Grace Arnold represented by Kathleen Orth (MN); Chlora Lindley-Myers and John Rehagen (MO); Mike Chaney represented by David Browning (MS); Marlene Caride (NJ); Adrienne A. Harris represented by Bob Kasinow (NY); Michael Wise represented by Daniel Morris (SC); Cassie Brown represented by Jamie Walker (TX); Nathan Houdek represented by Amy Malm (WI); and Jeff Rude (WY). Also participating were: James J. Donelon (LA); and Dale Bruggeman (OH).

1. Heard Opening Comments

Commissioner White highlighted the last agenda items related to the bond proposal project as a project that has been extensive and in existence for some time. He noted that the Statutory Accounting Principles (E) Working Group has made considerable progress, and he is pleased with that given that it is related to the elevated asset risk topic resulting from lower interest rates, which has been a priority of the Committee.

2. Adopted a Request for NAIC Model Law Development

Commissioner White noted that this model law request was from the Receivership and Insolvency (E) Task Force, but it was related to the work Superintendent Dwyer has been leading at the Restructuring Mechanisms (E) Working Group, and he asked for a summary of the model law request. Commissioner Donelon summarized the model law request before the Committee by noting that on June 2, the Task Force adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Guaranty Insurance Association Model Act* (#540). This model law request was originally proposed by the Working Group, who is charged with reviewing state laws regarding insurance business transfers (IBTs) and corporate divisions (CDs). Commissioner Donelon described that one area that was identified where model laws need to be amended is regarding how policyholders retain guaranty fund coverage after such transactions. He noted that the Receivership Law (E) Working Group and the Task Force sought input from state insurance regulators and industry, including the National Conference of Insurance Guaranty Funds (NCIGF) and the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA). The model law request seeks to make amendments to address possible technical gaps that may exist in states that have adopted Model #540 within certain definitions to ensure there is guaranty fund coverage after the IBTs and CD transaction. Commissioner Donelon noted that the model law request was exposed by the Task Force for a 30-day public comment period. He noted that there was no opposition at either the Working Group or the Task Force to amend Model #540. He indicated that there was discussion on whether similar amendments are needed for the Life and Health Insurance Guaranty Association Model Act (#520), but it was decided that Model #520 does not require amendment.

Director Lindley-Myers made a motion, seconded by Commissioner Caride, to adopt the Request for NAIC Model Law Development (Attachment One-A). The motion passed unanimously.

3. Adopted Regulatory Considerations Applicable to (But Not Exclusive to) PE Insurers

Commissioner White noted that this item received a great deal of attention, including from Senator Sherrod Brown (D-OH), and he asked for a summary of the work. Commissioner Caride summarized the work leading to

consideration of adoption of the proposed document, which includes the “Regulatory Considerations Applicable to (But Not Exclusive to) Private Equity (PE) Insurers.” She reminded the Committee that the Financial Stability (E) Task Force previously charged the Macroprudential (E) Working Group with coordinating all NAIC efforts related to PE ownership of insurers. She noted that the Working Group quickly put together a list of 13 considerations state insurance regulators need to address after being charged with such work, noting that some NAIC committee groups were already working on issues related to some of the considerations. These considerations include activities frequently attributed to PE firms, but the Working Group members clearly specified that the list of 13 considerations is not limited to any specific ownership structure, PE or otherwise.

Commissioner Caride stated that once the list of 13 considerations was adopted by the Task Force, the Working Group proposed ways to address each consideration, including referrals to various NAIC committee groups with current related work or at least with charges encompassing the work involved. The document was titled the “Proposed Regulator Responses to the List of MWG Considerations,” and it was released for a 45-day public comment period. Commissioner Caride indicated that five comment letters were received by the June 13 deadline from Risk & Regulatory Consulting LLC; the American Council of Life Insurers (ACLI); the American Investment Council (AIC); UNITE HERE, a labor union for the hospitality industry; and Northwestern Mutual. She stated that from the five comment letters, the Working Group identified the items specifically affecting one or more of the 13 considerations. These were inserted into the exposed document along with state insurance regulators’ suggestions for how to respond to the comments, resulting in a new document. She noted that only key comments from the five comment letters are included in the new document. For example, the state insurance regulators appreciated the general comments of support but did not include them in the new document. Similarly, some high-level comments were excluded because the Working Group members did not see them as viable or actionable. On June 27, the Task Force held a joint meeting with the Working Group. The primary purpose of this joint meeting was to address comments received on the “Proposed Regulator Responses to the List of MWG Considerations” and consider adoption of a finalized plan for addressing the “List of MWG Considerations.” During the meeting, each of the five entities were offered the opportunity to speak to their comment letters. Additionally, during the meeting, each specific comment included in the new document was presented one at a time, and all parties were offered the chance to provide any concerns, suggestions, etc. While some comments were provided, none included concerns with moving forward with the current concepts or suggested any language changes. After reviewing all the comments inserted into the new document, a final opportunity to express any concerns with the overall document and its content was offered. There were no comments. The Working Group and the Task Force both adopted the new document unanimously. Commissioner Caride noted that upon adoption of the new document, NAIC staff finalized the language as the “Plan for List of MWG Consideration.”

Director Lindley-Myers made a motion, seconded by Mr. Kasinow, to adopt the “Plan for List of MWG Considerations” (Attachment One-B). The motion passed unanimously.

4. Adopted the *List of Jurisdictions that Recognize and Accept the Group Capital Calculation*

Commissioner White noted that this item is timely, as there are several states that made the group capital calculation (GCC) effective for year-end 2022, and this list being presented provides a pathway for some non-U.S. groups to obtain an exemption for that filing, and he asked Mr. Wake to summarize it. Mr. Wake said on June 29, the Mutual Recognition of Jurisdictions (E) Working Group met and adopted the draft *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*. He reminded the Committee that on Dec. 9, 2020, the Executive (EX) Committee and Plenary adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450), which establish the GCC framework. The Working Group was directed to create the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*, which was adopted by the Executive (EX) Committee and Plenary on Dec. 16, 2021. Included in the *Process for Evaluating Jurisdictions that Recognize and*

Accept the Group Capital Calculation is a requirement for the Working Group to evaluate non-U.S. jurisdictions in accordance with the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*, which would then be included on the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*, which is to be published through the NAIC committee process.

Mr. Wake noted that the draft *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation* includes the five reciprocal jurisdictions, which are the European Union (EU) and United Kingdom (UK) through their covered agreements, the following separately approved by the Working Group: Bermuda, Japan, and Switzerland. He also described that Section 4L(2)(e) of Model #440 directs a lead state commissioner to require the GCC for U.S. operations of any non-U.S.-based insurance holding company system based in a Recognize and Accept Jurisdiction if after any necessary consultation with other supervisors or officials, the commissioner deems such a subgroup calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 provides that to assist with such a determination, the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation* will also identify whether a listed jurisdiction requires a group capital filing for any U.S.-based insurance group's operations in that jurisdiction. He noted that the Working Group believes that the best source of this information will come from industry, as they will have direct exposure to the practices in these jurisdictions. He noted that the Working Group has asked the industry to provide any information related to this topic to their lead state insurance regulators, Jake Stultz (NAIC), and Dan Schelp (NAIC), who will bring this information to the Working Group to assess.

Mr. Wake made a motion, seconded by Commissioner Caride, to adopt the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation* (Attachment One-C). The motion passed unanimously.

5. Received an Update on Related Party Disclosures

Commissioner White noted the last two items both originated at the Statutory Accounting Principles (E) Working Group, and he asked Mr. Bruggeman, chair of the Working Group, to summarize the two products and their status. Mr. Bruggeman summarized an update to the Committee (Attachment One-D) on related party disclosures. The update included a statement that both the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group recently unanimously adopted new disclosures for related party reporting on the detail investment schedules. Specifically, the Statutory Accounting Principles (E) Working Group adopted clarifying language within *Statement of Statutory Accounting Principles (SSAP) No. 25—Affiliates and Other Related Parties* to better link Model #440 and Model #450 with the definitions of "Affiliate" and "Control." Mr. Bruggeman noted that the changes were done in conjunction with recent recommendations from the Macroprudential (E) Working Group regarding the risk of certain investments that involve related parties. The submission of the adopted statutory accounting and blanks revisions is planned to come before the Accounting Practices and Procedures (E) Task Force and the Committee at the Summer National Meeting.

Mr. Bruggeman provided a summary of the revisions and key discussion elements with the intent of understanding the information in advance of being asked to consider action. He noted that the primary goal of the adopted changes is to incorporate new reporting requirements for investment transactions to provide more transparency into the involvement of related parties. The intent is to provide information to state insurance regulators on whether an investment involves: 1) actual credit exposure to related parties; or 2) whether an investment involves a related party in the origination, servicing, or some other involvement with the investment. He noted that the revisions will affect all insurance reporting entities and will be effective Dec. 31. He stated that they affect all investment schedules except for Schedule A: Real Estate and will require the identification of related party involvement, for every investment, including investments captured on the affiliate reporting line. Note that an affiliate is a related party relationship for which there is control, either direct or indirect. Mr. Bruggeman stated

that there are six different codes that insurers will use to identify the type of related party involvement, or there is no related party relationship. The code is required for all investments to prevent “null” answers in which there is ambiguity on whether a response indicates no related party relationship or an inadvertent omission in reporting. Mr. Bruggeman noted that it is his experience that databases work better when they do not have to account for null fields. He noted that in addition to those new reporting codes, the Statutory Accounting Principles (E) Working Group adopted clarifications to make it clear that the existing affiliate definition applies to all types of entities and investment structures, including securitizations. He also noted that the current definition of “control” from Model #440 is already explicit that control can exist through arrangements besides voting interests. He stated that the clarifications add specificity around the application of this existing guidance to other types of non-voting entities. For example, securitization entities are typically controlled through non-voting arrangements. In addition, to the extent that such control is held by the reporting entity or its affiliates, then the securitization entity and any investments in it would be deemed affiliated.

Mr. Bruggeman summarized that most industry comments received on the disclosure part of the proposal pertained to the classification of investments as “affiliated.” Although the definition and guidance for “control” and “affiliate” distinction have not changed, the discussion highlighted that those differing interpretations seem to exist when an investment should be reported as affiliated. He also noted that the key discussion elements were noted in the memorandum at the bottom of page 2 and the top of page 3, but it is anticipated that the clarifying guidance should improve application, with an increase in reporting of affiliated investments by some insurers, and the new reporting codes will identify the nature of the related party relationship.

6. Received an Update on the Bond Proposal Project

Mr. Bruggeman summarized an update to the Committee (Attachment One-E) on the bond proposal project. He noted that during the Spring National Meeting, he provided the background and history of this project and therefore would not repeat that type of information, but he instead provided a high-level overview of the two categories for bond classification, issuer obligations (IOs), and asset-backed securities (ABS). The over-layering principle is that a bond is a creditor relationship in substance. The next level is an IO where repayment is primarily supported by the general creditworthiness of an operating entity, such as U.S. Treasuries or corporate debt. The other side is an ABS, which has the primary purpose of raising debt capital backed by collateral that provides cash flows to service the debt. Whether the collateral is a financial or non-financial asset, it must have substantive credit enhancement or put the investor in a different economic position than holding the collateral directly, usually done via overcollateralization. He noted that if the collateral is a non-financial asset, the guidance requires meaningful cash flows to service the debt; although, the guidance includes a practical expedient.

Mr. Bruggeman summarized the progress on the project by noting that state insurance regulators and key industry representatives have been working on this project as a top priority to improve accounting and reporting and ensure that regulators have transparency to the investment risks held by insurers. At this time, the key state insurance regulator and industry individuals involved in the project believe that the main principles are set. Mr. Bruggeman noted that during a Statutory Accounting Principles (E) Working Group call on July 18, a representative from the main interested party group reiterated comments that state insurance regulators and industry are aligned with key concepts. As a result, NAIC staff were asked to prepare documents for changes to *SSAP No. 26R—Bonds* and *SSAP No. 43R—Loan-Backed and Structured Securities* so those can hopefully be exposed during the Summer National Meeting. He noted that this is a key next step, as the statutory guidance reflects the authoritative literature for investment classification and accounting concepts. Also from the July 18 call, the Working Group exposed documents until Oct. 7, proposing significant revisions to the reporting of bond investments to improve the granularity of investment reporting. This is a significant change from the current reporting approach, but it will provide valuable information to state insurance regulators on the actual investments held by insurers.

Mr. Bruggeman highlighted key aspects of this exposure. He noted that the bond detail list schedule, known as Schedule D Part 1, is proposed to be expanded from one to two separate schedules. He noted that Schedule D Part 1 Section 1 will include issuer obligations, and Schedule D Part 1 Section 2 will include ABS. The sum of the two schedules will still roll up to the Bonds line on the Assets page. He stated that rather than classifying all bonds into one of four generic reporting groups, new reporting groups have been proposed to separate investments based on underlying characteristics. To provide examples, instead of classifying all ABS as either residential mortgage-backed securities (RMBS), commercial mortgage-backed securities (CMBS), or other ABS, reporting lines are proposed to identify collateralized loan obligations (CLOs), equity-backed ABS, and lease-backed ABS. He noted that with the separation of the schedules, different data columns can be designed based on the broad investment classification. A review of the reporting instructions has been completed, and several revisions are proposed to streamline reporting, eliminate elements not applicable to certain securities, and propose new columns to capture desired information. Mr. Bruggeman stated that the revisions should result in an improvement to state insurance regulators on provided information and eliminate inconsistency or uncertainty for industry in compliance.

Mr. Bruggeman noted that with the steady progress by the Working Group and the exposure of statutory accounting revisions, one of the key questions received pertains to the effective date and transition. He noted that based on time parameters for incorporating blanks reporting changes, the earliest the guidance could be effective would be Jan. 1, 2024. This would require that the reporting revisions be adopted by the Blanks (E) Working Group by May 2023. Mr. Bruggeman noted that as that deadline is quickly approaching, it is likely that revisions will be effective Jan. 1, 2025. For transition, it should be important to note that investments that do not qualify as bonds after the guidance is adopted will not be permitted to be reported as bonds under statutory accounting principles. There is no grandfathering planned for investments to continue to be reported as bonds that do not comply. This approach is necessary to ensure consistency with reporting across reporting entities. Although grandfathering guidance is not expected, some practical transition assessments will be considered. For example, it is recognized that historical “time of acquisition” assessments may not be feasible for existing investments; therefore, reasonable accommodations are anticipated to prevent undue hardship for reporting entities in complying with the guidance. Mr. Bruggeman summarized that he is pleased to share the progress on this key project and encourage Committee members, as well as all state insurance regulators and interested parties, to actively follow this project as we move forward with key statutory accounting and reporting revisions.

Having no further business, the Financial Condition (E) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Spring National Meeting/Committee Meetings/FINANCIAL CONDITION (E) Committee/4-5-22 E min.docx

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force to complete the drafting. Referred by the Restructuring Mechanisms (E) Working Group.

2. NAIC staff support contact information:

Jane Koenigsman
jkoenigsman@naic.org
816-783-8145

Dan Daveline
ddaveline@naic.org
816-783-8134

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

- ***Property and Casualty Insurance Guaranty Association Model Act (#540)***

In 2019, the Financial Condition (E) Committee formed the Restructuring Mechanisms (E) Working Group who was charged with the following:

1. Evaluate and prepare a white paper that:
 - a. Addresses the perceived need for restructuring statutes and the issues those statutes are designed to remedy. Also, consider alternatives that insurers are currently employing to achieve similar results.
 - b. Summarizes the existing state restructuring statutes.
 - c. Addresses the legal issues posed by an order of a court (or approval by an insurance department) in one state affecting the policyholders of other states.
 - d. Considers the impact that a restructuring might have on guaranty associations and policyholders that had guaranty fund protection prior to the restructuring.
 - e. Identifies and addresses the legal issues associated with restructuring using a protected cell.

Background for Proposed Change

This proposed change is being precipitated by discussions within the NAICs Restructuring Mechanisms (E) Working Group initiative, which is focused on documenting in the form of a White Paper, the various issues related to insurance business transfers (IBT) and corporate division (CD) transactions. The number of states adopting laws that permit either of these transactions is still relatively low; however, one of the most significant issues that has been discussed during the meetings of the Working Group is the need for policyholders subject to such transactions to retain guaranty fund coverage. Representatives of the National Conference of Insurance Guaranty Funds (NCIGF) have suggested that an amendment to a state's guaranty fund act, or other related law, is necessary to address this issue. They have specifically suggested that the NAIC update the Property and Casualty Insurance Guaranty Association Model Act, and they have developed specific language to address this issue. An amendment will better enable those states that have incorporated #540 into their laws to update their laws for this important issue, to ensure policyholders in all states

retain their coverage. Because guaranty association coverage follows the state of licensure rather than the state of domicile, adequately addressing these concerns is necessary regardless of the type of transfer and regardless of how few states adopt changes to their laws to allow IBT and CD transactions.

Scope of the Proposed Revisions to Model 540

The scope of the request is limited to addressing the issue of continuity of guaranty fund coverage when a policy is transferred from one insurer to another. The request is therefore to the specific proposal to revise the definition of “Covered Claim” within #540, or other language determined to be appropriate to address the need for continuity of protection. The following is the additional language (underlined language) that has been proposed to be added to Section 5, Definitions, within #540.

H. “Covered claim” means the following:

- (a) The claimant or insured is a resident of this State at the time of the insured event, provided that for entities other than an individual, the residence of a claimant, insured or policyholder is the State in which its principal place of business is located at the time of the insured event; or
- (b) The claim is a first party claim for damage to property with a permanent location in this State.
- (c) Notwithstanding any other provision in this Act, an insurance policy issued by a member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of another insurer, pursuant to a state statute providing for the division of an insurance company or the statutory assumption or transfer of designated policies and under which there is no remaining obligation to the transferring entity (commonly known as “Division” or “Insurance Business Transfer” statutes), shall be considered to have been issued by a member insurer which is an Insolvent Insurer for the purposes of this Act in the event that the insurer to which the policy has been allocated, transferred, assumed or otherwise made the sole responsibility of is placed in liquidation.
- (d) An insurance policy that was issued by a non-member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of a member insurer under a state statute described in subsection (a) shall not be considered to have been issued by a member insurer for the purposes of this Act.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

This proposed change is needed to ensure policyholders in all states retain their guaranty fund coverage, which is necessary regardless of how few states adopted changes to their laws to allow IBT and CD transactions.

It should be noted that with respect to guaranty fund coverage for life and health insurance, the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is suggesting a different approach to address the same issue in the life and health context. NOLHGA’s proposal centers around the need for such transaction to require the assuming or resulting insurer to be licensed in all states where the issuing insurer was licensed or ever was licensed to retain the needed coverage for policyholders.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: See previous discussion.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple and because they have the potential to reduce expenses incurred by receivership estates, we believe such changes will be widely supported by all parties.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

Not referenced in Accreditation Standards.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.

Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers

A summary of currently identified regulatory considerations follows with no consideration of priority or importance (green underlined font indicates current or completed work by another NAIC committee group). Most of these considerations are not limited to PE owned insurers and are applicable to any insurers demonstrating the respective activities. A summary of the regulatory process has been added to this document since it is being used by individuals less familiar with the state insurance regulatory system, and the results of regulator discussions on how to move forward have been added to specific considerations in blue font. **The proposed regulator responses are exposed for a 45-day comment period.**

State insurance regulators monitor the solvency of each legal entity insurer, including assessing risks from the broader holding company when an insurer is part of a group, making use of routinely required disclosures, both public, such as the statutory financial statements, and confidential, such as the Risk-Based Capital (RBC) supplemental filing and Holding Company form filings. Regulators also use many analysis and examination tools and procedures for each insurer and/or insurance group. Regulatory responses to the analysis and examination work depend upon the results of those reviews. One specific area of solvency monitoring work focuses on potential acquisitions of a US legal entity insurer, involving a Form A filing. In 2013, guidance was added to the NAIC Financial Analysis Handbook for Form A reviews when a private equity owner was involved, although these considerations are not limited to PE acquisitions. The guidance provides examples of stipulations, both limited time and continuing, regulators could use when approving the acquisition to address solvency concerns, as well as for use in ongoing solvency monitoring. Examples follow:

Limited Time Stipulations:

- Requiring RBC to be maintained at a specified amount above company action level/trend test level. Because capital serves as a buffer that insurers use to absorb unexpected losses and financial shocks, this would better protect policyholders.
- Requiring quarterly RBC reports rather than annual reports as otherwise required by state law.
- Prohibiting any dividends, even ordinary.
- Requiring a capital maintenance agreement or prefunded trust account.
- Enhancing the scrutiny of operations, dividends, investments, and reinsurance by requiring material changes in plans of operation to be filed with the commissioner (including revised projections), which, at a minimum, would include affiliated/related party investments, dividends, or reinsurance transactions to be approved prior to such change.
- Requiring a plan to be submitted by the group that allows all affiliated agreements and affiliated investments to be reviewed, despite being below any materiality thresholds otherwise required by state law. A review of agreements between the insurer and affiliated entities may be particularly helpful to verify there are no cost-sharing agreements that are abusive to policyholder funds assessment.

Continuing Stipulations:

- Requiring prior commissioner approval of material arms-length, non-affiliated reinsurance treaties or risk-sharing agreements.
- Requiring notification within 30 days of any change in directors, executive officers or managers, or individuals in similar capacities of controlling entities, and biographical affidavits and such other information as shall reasonably be required by the commissioner.

- Requiring filing of additional information regarding the corporate structure, controlling individuals, and other operations of the company.
- Requiring the filing of any offering memoranda, private placement memoranda, any investor disclosure statements or any other investor solicitation materials that were used related to the acquisition of control or the funding of such acquisition.
- Requiring disclosure of equity holders (both economic and voting) in all intermediate holding companies from the insurance company up to the ultimate controlling person or individual but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of audit reports/financial statements of each equity holder of all intermediate holding companies but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of personal financial statements for each controlling person or entity of the insurance company and the intermediate holding companies up to the ultimate controlling person or company. Controlling person could include for example, a person who has a management agreement with an intermediate holding company.

Among many other concepts, regulators are considering the need for any additional stipulations, if there are some stipulations that should be required instead of used subjectively, and use of some stipulations beyond the Form A acquisition process (e.g., for insurers acquired in the past).

RRC Comments “In a Form A transaction” (7 bullet points) – Suggest including these in the referrals to the NAIC Group Solvency Issues (E) Working Group and the NAIC Risk-Focused Surveillance (E) Working Group for consideration when addressing Consideration numbers 1, 2, 4 and 5.

1. Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated/related party agreements impacting the insurer’s risks may be structured to avoid disclosure (for example, by not including the insurer as a party to the agreement).

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Items discussed:
 - Instead of requiring for all Form A acquisitions to provide additional disclosures, structure an optional disclosure requirement that can be used when unresolved regulatory concerns exist with the acquisition. For example:
 - Disclosures to allow regulators to assess the goal of the potential owner in acquiring the insurer, how the potential owner will be paid and in what amounts, and the ability of the potential owner to provide capital support as needed.
 - Copies of disclosures provided to the potential owner’s investors.
 - Provide training as needed to states with less experience reviewing complex Form A transactions and refer those states to more experienced states for live help.

- These options include highlighting the need to use external expertise for complex transactions, especially to understand non-U.S. affiliations and when assessing multiple complex Form A applications, and at the expense of the Form A applicant.

AIC Comment (recommended 2 items) – Suggest including this recommendation in the referral to the NAIC Group Solvency Issues (E) Working Group for its work on Consideration #1.

- Recommendation: The Working Group should assess, among other items: (i) the need to provide regulatory certainty *vis a vis* when and on what basis additional disclosures could be required; and (ii) whether the additional disclosures would extend approval timelines. We believe such items are critical to insurers being able to access the capital markets effectively and efficiently.
2. Control is presumed to exist where ownership is $\geq 10\%$, but control and conflict of interest considerations may exist with less than 10% ownership. For example, a party may exercise a controlling influence over an insurer through Board and management representation or contractual arrangements, including non-customary minority shareholder rights or covenants, investment management agreement (IMA) provisions such as onerous or costly IMA termination provisions, or excessive control or discretion given over the investment strategy and its implementation. Asset-management services may need to be distinguished from ownership when assessing and considering controls and conflicts.

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Regulators recognized the integral connection of the first two considerations. Items discussed:
 - An emphasis on training and providing detailed examples to address the complexity and creativity involved in some of these Form A agreements and holding company structures.
 - It is not practical to get copies of operating agreements from every entity in a group to assess control impacts to the insurers. Consider ways of better targeting the pertinent agreements to assess, including a potential list of questions about less than 10% owners for use when considering Form A applications and/or ongoing analysis.
 - Consider if Form B (Insurance Holding Company System Annual Registration Statement) disclosure requirements should be modified to address these considerations.

AIC Comment (2 primary concerns) – Suggest asking the AIC to follow the work of the NAIC Group Solvency Issues (E) Working Group on Consideration #2 and make comments on specific recommendations if needed.

- Concerns: The 10% presumption of control needs to remain; and contractual terms contained in service agreements that are negotiated on an arm's length basis are not sufficient to convey the power to direct or cause the direction of an insurer, so long as they are subject to the ultimate supervision and control by the insurer.
3. The material terms of the IMA and whether they are arm's length or include conflicts of interest — including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and

the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.

Regulator discussion results:

- Refer this item to the NAIC Risk-Focused Surveillance (E) Working Group. Regulators recognized similar dynamics to the first two considerations, but this Working Group was selected because it is already currently focused on a project involving affiliated agreements and Form D filings. Items discussed:
 - o Consider training and examples, such as unique termination clauses and use of sub-advisors with the potential for additive fees, and strategies to address these.
 - This included addressing pushback on obtaining sub-advisor agreements as Form D disclosures and some optional disclosures for the Form A.
 - o Given the increasing prevalence of bespoke agreements, does it make sense to tie this work in to the work of the NAIC Valuation of Securities (E) Task Force and/or the NAIC Securities Valuation Office? If yes, how best to do so?
 - o Surplus Notes and appropriate interest rates given their special regulatory treatment, including whether floating rates are appropriate; follow any Statutory Accounting Principles (E) Working Group projects related to this topic and provide comments needed.

RRC Comments “With respect to an Investment Management Agreement (IMA” (3 bullet points) - Suggest including these in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for Consideration #3.

AIC Comments on “Conflict of Interest, Fees, Termination” (3 individual comments) – Suggest including these comments in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for its work on Consideration #3.

4. Owners of insurers, regardless of type and structure, may be focused on short-term results which may not be in alignment with the long-term nature of liabilities in life products. For example, investment management fees, when not fair and reasonable, paid to an affiliate of the owner of an insurer may effectively act as a form of unauthorized dividend in addition to reducing the insurer’s overall investment returns. Similarly, owners of insurers may not be willing to transfer capital to a troubled insurer.
 - a. Life Actuarial (A) Task Force (LATF) work addresses this – helping to ensure the long-term life liabilities (reserves) and future fees to be paid out of the insurer are supported by appropriately modeled assets.

Regulator discussion results:

- In addition to LATF’s work, refer this item to the NAIC Risk-Focused Surveillance (E) Working Group, as it is already looking at some of this work related to affiliated agreements and fees. Items discussed:
 - o Capital maintenance agreements, suggesting guidance for the appropriate entities to provide them and considering ways to make them stronger.

5. Operational, governance and market conduct practices being impacted by the different priorities and level of insurance experience possessed by entrants into the insurance market without prior insurance experience, including, but not limited to, PE owners. For example, a reliance on TPAs due to the acquiring firm's lack of expertise may not be sufficient to administer the business. Such practices could lead to lapse, early surrender, and/or exchanges of contracts with in-the-money guarantees and other important policyholder coverage and benefits.
 - a. The NAIC Financial Analysis Handbook includes guidance specific to Form A consideration and post approval analysis processes regarding PE owners of insurers (developed previously by the Private Equity Issues (E) Working Group).

Regulator discussion results:

- Regulators considered referring this consideration to the NAIC Risk-Focused Surveillance (E) Working Group but opted to keep developing more specific suggestions for now. Items discussed:
 - o Consider optional Form A disclosures and guidance for less experienced states; review EU conduct of business language and consider if similar concepts would help target the optional use.
 - o Consider more detailed guidance for financial examinations.
 - o Besides just inexperience, the consideration also includes intentional actions that ignore known concerns to achieve owner's results; might need to consider Market Conduct group(s).
6. No uniform or widely accepted definition of PE and challenges in maintaining a complete list of insurers' material relationships with PE firms. (UCAA (National Treatment WG) dealt with some items related to PE.) This definition may not be required as the considerations included in this document are applicable across insurance ownership types.

Regulator discussion results:

- Regulators do not believe a PE definition is needed, as the considerations are activity based and apply beyond PE owners.
7. The lack of identification of related party-originated investments (including structured securities). This may create potential conflicts of interests and excessive and/or hidden fees in the portfolio structure, as assets created and managed by affiliates may include fees at different levels of the value chain. For example, a CLO which is managed or structured by a related party.
 - a. An agenda item and blanks proposal are being re-exposed by SAPWG. Desire for 2022 year-end reporting to include disclosures identifying related-party issuance/acquisition.

Regulator discussion results:

- Regulators are comfortable the SAPWG's work is sufficient as a first step since it involves code disclosures to identify various related party issues. They also recognize that existing and/or referred work at the Risk-Focused Surveillance (E) Working Group may address some items in this consideration. Once regulators work with these SAPWG disclosures and other regulatory enhancement, further regulatory guidance may be considered as needed.

8. Though the blanks include affiliated investment disclosures, it is not easy to identify underlying affiliated investments and/or collateral within structured security investments. Additionally, transactions may be excluded from affiliated reporting due to nuanced technicalities. Regulatory disclosures may be required to identify underlying related party investments and/or collateral within structured security investments. This would include, for example, loans in a CLO issued by a corporation owned by a related party.
- a. An agenda item and blanks proposal are being re-exposed by SAPWG. The concept being used for investment schedule disclosures is the use of code indicators to identify the role of the related party in the investment, e.g., a code to identify direct credit exposure as well as codes for relationships in securitizations or similar investments.

Regulator discussion results:

- Like the previous consideration, regulators are looking forward to using these code disclosures to help target areas for further review. However, specific to CLO/structured security considerations, regulators support a referral to the Examination Oversight (E) Task Force. Specific items discussed include:
 - o Since investors in CLOs obtain monthly collateral reports, regulators should consider asking for such reports when concerns exist regarding a company's potential exposure to affiliated entities within their CLO holdings.
 - o Regulators would like to have more information regarding the underlying portfolio companies affiliated with a CLO manager to help quantify potential exposure between affiliates and related parties.
 - o Regulators request NAIC staff to consider their ability to provide tools and/or reports to help regulators target CLOs/structured securities to consider more closely.

RRC Comments on "collateralized loan obligations (CLOs)" (2 bullets) – Suggest including these in the referrals to the NAIC Examination Oversight (E) Task Force and the NAIC Risk-Focused Surveillance (E) Working Group for Consideration numbers 7, 8 and 9, but also sending to the NAIC Statutory Accounting Principles (E) Working Group for its existing work related to these Considerations.

9. Broader considerations exist around asset manager affiliates (not just PE owners) and disclaimers of affiliation avoiding current affiliate investment disclosures. A new Schedule Y, Pt 3, has been adopted and is in effect for year-end 2021. This schedule will identify all entities with greater than 10% ownership – regardless of any disclaimer of affiliation - and whether there is a disclaimer of control/disclaimer of affiliation. It will also identify the ultimate controlling party.
- a. Additionally, SAPWG is developing a proposal to revamp Schedule D reporting, with primary concepts to use principles to determine what reflects a qualifying bond and to identify different types of investments more clearly. For example, D1 may include issuer credits and traditional ABS, while a sub-schedule of D1 could be used for additional disclosures for equity-based issues, balloon payment issues, etc. This is a much longer-term project, 2024 or beyond.

Regulator discussion results:

- Regulators recognize the new Schedule Y, Part 3, will give them more insights for owners of greater than 10%, but it does not provide insights for owners of less than 10%. However, regulators also

recognize that existing and/or referral work of the Risk-Focused Surveillance (E) Working Group may help with some of this dynamic. Additionally, since the SAPWG 2022 code project and its longer-term Schedule D revamp project will help provide further disclosures that will assist with this consideration, regulators are comfortable waiting to see if further regulatory guidance is needed after using the resulting disclosures and other enhancements from these projects.

- Specific to owners of less than 10%, regulators discussed the April 19, 2022, Insurance Circular Letter No. 5 (2022) sent by the New York Department of Financial Services to all New York domiciled insurers and other interested parties. This letter highlights that avoiding the levels deemed presumption of control, e.g., greater than 10% ownership, does not create a safe harbor from a control determination and the related regulatory requirements. The circular letter was distributed to all MWG members and interested regulators.

10. The material increases in privately structured securities (both by affiliated and non-affiliated asset managers), which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. (The NAIC Capital Markets Bureau continues to monitor this and issue regular reports, but much of the work is complex and time-intensive with a lot of manual research required. The NAIC Securities Valuation Office will begin receiving private rating rationale reports in 2022; these will offer some transparency into these private securities.)
 - a. LATF's exposed AG includes disclosure requirements for these risks as well as how the insurer is modeling the risks.
 - b. SVO staff have proposed to VOSTF a blanks proposal to add market data fields (e.g., market yields) for private securities. If VOSTF approves, a referral will be made to the Blanks WG.

Regulator discussion results:

- Regulators focused on the need to assess whether the risks of these investments are adequately included in insurers' results and whether the insurer has the appropriate governance and controls for these investments. Regulators discussed the potential need for analysis and examination guidance on these qualifications.
- To assist regulators in identifying concerns in these investments, regulators expressed support for the VOSTF proposal to obtain market yields to allow a comparison with the NAIC Designation. Once such data is available, regulators ask NAIC staff to develop a tool or report to automate this type of initial screening. Also, regulators again recognized the SAPWG Schedule D revamp work will help in identifying other items for initial screening.
- The regulators discussed LATF's exposed AG, noting the Actuarial Memorandum disclosures that would be required for these privately structured securities along with the actuarial review work, and recognizing how those would be useful for analysts and examiners when reviewing these investments. Additionally, the Valuation and Analysis (E) Working Group would be able to serve as a resource for some of these insights for states without in house actuaries.
- As a result of the above discussions, regulators agreed to a referral to the Examination Oversight (E) Task Force to address the disclosures that will be available from LATF's exposed AG. They agreed to wait for any further work or referral until they have an opportunity to work with the results of the VOSTF proposal and the SAPWG Schedule D revamp project.

RRC Comments on “privately structured securities” (2 bullets, 1 with 2 sub-bullets) – Suggest including these in the referral to the NAIC Examination Oversight (E) Task Force for Consideration #10 but also sending to the NAIC Valuation of Securities (E) Task Force for its existing work related to this Consideration.

AIC Comment on “Privately Structured Securities” (6 bullets) – Suggest asking the AIC to follow the work of the NAIC Examination Oversight (E) Task Force and the NAIC Valuation of Securities (E) Task Force and provide comments on specific recommendations if needed.

RRC Comment on the work by the NAIC Life Actuarial (A) Task Force (LATF) – Suggest adopting this recommendation as an addition to the Regulatory Discussion results and sending the referral.

- Recommendation: Since reserves are not intended to capture tail risk, refer this item to the NAIC RBC Investment Risk and Evaluation (E) Working Group and monitor the Working Group’s progress.

11. The level of reliance on rating agency ratings and their appropriateness for regulatory purposes (e.g., accuracy, consistency, comparability, applicability, interchangeability, and transparency).
 - a. VOSTF has previously addressed and will continue to address this issue. A small ad hoc group is forming (key representatives from NAIC staff, regulators, and industry) to develop a framework for assessing rating agency reviews. This will be a multi-year project, will include discussions with rating agencies, and will include the inconsistent meanings of ratings and terms.

Regulator discussion results:

- Regulators agreed to monitor the work of the ad hoc group in lieu of any specific recommendations at this time. Recognizing this will likely be a multi-year project, regulators reserve the right to raise specific concerns that may arise as the various NAIC committee groups work to address this list of considerations.

12. The trend of life insurers in pension risk transfer (PRT) business and supporting such business with the more complex investments outlined above. (Enhanced reporting in 2021 Separate Accounts blank will specifically identify assets backing PRT liabilities.) Considerations have also been raised regarding the RBC treatment of PRT business.
 - a. LATF has exposed an Actuarial Guideline to achieve a primary goal of ensuring claims-paying ability even if the complex assets (often private equity-related) did not perform as the company expects, and a secondary goal to require stress testing and best practices related to valuation of non-publicly traded assets (note – LATF’s considerations are not limited to PRT). Comment period for the 2nd exposure draft ends on May 2.

Regulator discussion results:

- Regulators focused on the need to have disclosures on the risks to the General Account from the Separate Account PRT business – for guarantees but also reporting/tracking when the Separate Account is not able to support its own liabilities. Regulators noted the need to address the differences between buy in PRT transactions and buy out.
- Regulators are comfortable LATF is addressing the reserve considerations. To address the disclosure considerations, regulators support sending a referral to the Statutory Accounting Principles (E) Working Group since regulators suggested it be an item in the Notes to

Financial Statements. (Regulators noted it might help to discuss such disclosure concepts with LATF's Valuation Manual 22 (A) Working Group.)

- While the exposed AG is not limited to PRT, and general disclosures may be helpful, regulators recognized additional and/or more specific disclosures may be needed for PRT business.

- b. Review applicability of Department of Labor protections resulting for pension beneficiaries in a PRT transaction.

Regulator discussion results:

- Regulators discussed concerns regarding potential differences between the pension benefit and the group annuity benefit in the PRT transaction.
- Regulators directed NAIC staff to further research this item for the MWG to address in the near future, including potential discussions with Department of Labor representatives.

- c. Review state guaranty associations' coverage for group annuity certificate holders (pension beneficiaries) in receivership compared to Pension Benefit Guaranty Corporation (PBGC) protection.

- i. NOLHGA provided 2016 study of state guaranty fund system vs. PBGC.

Regulator discussion results:

- Regulators recognized the difficulty in comparing the state guaranty system to the Pension Benefit Guarantee Corporation, as detailed in the NOLHGA study. However, they agreed policyholders should appreciate the benefit of having solvency regulators actively monitoring and working with the insurance companies in an attempt to prevent the need for any guaranty fund usage, as standard corporations holding pension liabilities have significantly less regulatory oversight.
- Regulators found the NOLHGA study responsive to this consideration, thus they suggested no further action.

- d. "Considerations have also been raised regarding the RBC treatment of PRT business."

Regulator discussion results:

- Regulators recognized the work of the Longevity Risk Transfer (LRT) Subgroup of the Life Risk-Based Capital (E) Working Group covers PRT business. A new LRT charge was included in the 2021 Life Risk-Based Capital (LRBC) formula. Regulators agreed the results of this new charge should be monitored.
- While regulators agreed to follow the work of the LRT Subgroup, they suggested no further action at this time.

13. Insurers' use of offshore reinsurers (including captives) and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk, and introduce complexities into the group structure.

- a. LATF's exposed AG was modified to require the company to provide commentary on reinsurance collectability and counterparty risk in the asset adequacy analysis memorandum.

The original concept of requiring life insurers to model the business itself even if it uses these mechanisms to share/transfer risk was deferred to allow time to consider and address concerns over potential violations with EU/UK covered agreements and the 2019 revisions to NAIC Models 785 and 786.

Regulator discussion results:

- Regulators held candid conversations about the need to understand why insurers are using these types of offshore reinsurers. If there are problems in the U.S. regulatory system that are driving insurers to utilize offshore reinsurers (e.g., “excess” reserves), we should know of those problems so we can consider if there are appropriate changes to make.
- If there are other drivers, per the common theme in the regulators’ review of this list of considerations, there isn’t a presumption that the use of these transactions is categorically bad. Rather, there is a need to understand the economic realities of the transactions so the regulators can effectively perform their solvency monitoring responsibilities.
 - o Regulators discussed the potential concept of additional Holding Company Act requirements if these are affiliated reinsurers, disclosing the insurer benefits (reserves, capital, etc.).
- Regulators deferred specifying action on this item at this time, instead noting the desire to have meetings with industry representatives using these transactions and regulators from some of the offshore jurisdictions to gain more insights.

Northwestern Mutual Comment (2 cautions) – Suggest including these cautions as part of the MWG’s future discussions and work for this Consideration.

- Caution: Reinsurance transactions can and often do serve a valuable function by reallocating risk. However, offshore reinsurance can also result in lower total reserves and capital, reduced state regulatory oversight, and diminished stakeholder transparency from what would be required by the statutory accounting and risk-based capital requirements the NAIC has established to protect policyholders in the United States.
- Caution: Without progress and action on the item pertaining to offshore reinsurance, the Working Group’s progress on other MWG Considerations could further incentivize even more utilization of offshore reinsurance transactions and undercut the NAIC’s efforts to close other solvency regulatory gaps domestically. In the long run, a system that encourages companies to transfer business to a related offshore entity in order to alter their reserves and capital from uniform standards diminishes the strength of reserve and capital regulation in the United States. If capital standards are deemed to be too conservative in the US, they should be addressed transparently and uniformly through the NAIC and not through the alternate means of offshore reinsurance.

• **Additional regulator discussion result:**

- Similar to the result of discussions for the 13th consideration, regulators expressed a desire to meet with various industry representatives to discuss the incentives behind private equity ownership of insurers and conversely the concerns other industry members may have with such ownership. Regulators believe the insights from these conversations will benefit their ability to monitor and, when necessary, contribute to the work occurring in the various NAIC committee groups regarding these considerations.



NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation

Reciprocal Jurisdictions (Model #440, Section 4L(2)(c)

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
Member States of the European Union	Respective Member State Supervisory Authorities	January 1, 2022	
United Kingdom (UK)	Prudential Regulation Authority of the Bank of England (PRA)	January 1, 2022	
Bermuda	Bermuda Monetary Authority (BMA)	January 1, 2022	
Japan	Financial Services Agency (FSA)	January 1, 2022	
Switzerland	Financial Market Supervisory Authority (FINMA)	January 1, 2022	

Recognize and Accept Jurisdictions (Model #440, Section 4L(2)(d)

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
None currently			

Group Capital Calculation. On December 9, 2020, the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implement the Group Capital Calculation (GCC) filing requirements for insurance groups at the level of the ultimate controlling person for the purposes of evaluating solvency at the group level. The revisions specifically provide that the requirement to file the NAIC's GCC applies to U.S.-based groups, while a group headquartered outside the U.S. is exempt from the GCC (subject to limited exceptions detailed in the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*) if its groupwide supervisor "recognizes and accepts" the GCC for U.S. groups doing business in that jurisdiction.

List of Jurisdictions that Recognize and Accept the GCC. The Mutual Recognition of Jurisdictions (E) Working Group will evaluate non-U.S. jurisdictions in accordance with the "Recognize and Accept" Process. A list of "Recognize and Accept" Jurisdictions is published through the NAIC committee process. Sections 21D and 21E of Model #450 provide a general framework for how the process to identify "Recognize and Accept" Jurisdictions will work and specifically contemplates the development of a list of such jurisdictions through the NAIC Committee Process.

NAIC Listing Process. Section 4L(2) of Model #440 provides two ways a non-U.S. jurisdiction may meet the standards for its insurance groups to be exempt from the GCC:

- (a) If the jurisdiction has been determined to be a Reciprocal Jurisdiction for purposes of credit for reinsurance, which includes a requirement that the jurisdiction "recognizes the U.S. state regulatory approach to group supervision and group capital" (Model #440, Section 4L(2)(c)); or
- (b) If the jurisdiction has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

Evaluation of Reciprocal Jurisdictions. Under Section 4L(2)(c) of Model #440, Reciprocal Jurisdictions that recognize the U.S. state regulatory approach to group supervision and group capital are exempt from the GCC. Because a "recognize and accept" evaluation by the Mutual Recognition of Jurisdictions (E) Working Group is already part of the Reciprocal Jurisdiction review process, all Reciprocal Jurisdictions designated by the NAIC through that review process are also automatically designated as "Recognize and Accept" Jurisdictions. Likewise, in view of the terms of the EU and UK Covered Agreements, all EU Member States and the UK are automatically designated "Recognize and Accept" Jurisdictions. If there is a material change to the terms of the U.S.-EU or U.S.-UK Covered Agreement, or if the United States enters into a new covered agreement with one or more non-U.S. jurisdictions, the Mutual Recognition of Jurisdictions (E) Working Group will consider, and will consult with FIO and USTR regarding, whether and how the applicability of the procedures in this document may apply.

Prudential Oversight and Solvency Monitoring. Section 4L(2)(e) of Model #440 directs a lead state commissioner to require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system based in a “Recognize and Accept” Jurisdiction if, after any necessary consultation with other supervisors or officials, the commissioner deems such a “subgroup” calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 provides that to assist with such a determination, the “Recognize and Accept” List will also identify whether a listed jurisdiction requires a group capital filing for any U.S. based insurance group’s operations in that jurisdiction. The NAIC will identify such jurisdictions on the “Recognize and Accept” List, and may include an explanatory note in cases where a simple “Yes” or “No” response does not adequately describe the jurisdiction’s requirements. States may rely on this List when making determinations under Section 4L(2)(e) of Model #440.

The specific details of the GCC Recognize and Accept process can be found in the [Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation.](#)



MEMORANDUM

TO: Financial Condition (E) Committee
 FROM: Statutory Accounting Principles (E) Working Group
 DATE: July 21, 2022
 RE: Related Party Reporting

This memorandum intends to provide information to the Financial Condition (E) Committee on recent adoptions by the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group regarding the identification of related party involvement with investments. This is preliminary communication to the Committee, as the revisions will impact all insurance reporting entities and the discussion included affiliate identification. Submission of the statutory and blanks revisions for adoption consideration to the Accounting Practices and Procedures (E) Task Force and Financial Condition (E) Committee will occur at the Summer National Meeting. The intent is to provide information on the action as well as key discussion elements to allow Committee members to receive this information prior to considering action during the Summer National Meeting.

In conjunction with recent recommendations from the Macroprudential (E) Working Group regarding the risk of certain investments that involve related parties, in May 2022, the Statutory Accounting Principles (E) Working Group adopted its agenda item *2021-21: Related Party Reporting*.

The primary goal of this agenda item was to incorporate new reporting requirements for investment transactions with related parties in order to provide more transparency into the nature of the involvement of related parties. For example, it allows regulators to understand whether the investment involves credit exposure to related parties or whether the investment involves a related party in the origination or servicing of the investment. This reporting applies to all investments involving related parties, regardless of whether they meet the definition of an affiliate per Model #440.

With an effective date of Dec. 31, 2022, schedules: B – Mortgage Loans, D – Long-Term Bonds, DB – Derivatives, BA – Other Long-Term Invested Assets, DA – Short-Term Investments, E2 – Cash Equivalents, and DL – Securities Lending Collateral Assets will require the identification of related party involvement for every investment.

Investments Involving Related Parties:

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control / affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a **direct credit exposure**.

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2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies **involving a relationship with a related party** as sponsor, originator, manager, servicer, or other similar influential role **and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.**
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies **involving a relationship with a related party** as sponsor, originator, manager, servicer, or other similar influential role and **for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.**
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

[Commentary – While feedback from interested parties indicated that most investments do not involve a related party, the Statutory Accounting Principles (E) Working Group communicated support to make the related party identification field **mandatory**, thus a “blank” indication will not be permitted. This eliminates ambiguity on whether an investment does not have a related party involvement or whether the component of the investment schedule was inadvertently not completed.]

In addition to the new reporting granularity, the agenda item also adopted clarifications to SSAP No. 25 and *SSAP No. 43R—Loan-Backed and Structured Securities* to make clear that the existing affiliate definition applies to all types of entities, including securitizations. Existing guidance already made clear that control may exist through arrangements other than voting interests, such as in the case of a limited partnership where control is typically held by the general partner. The adopted clarifications simply add specificity around the application of this existing guidance to other types of non-voting entities. For example, securitization entities are typically controlled through non-voting arrangements. To the extent that such control is held by the reporting entity or its affiliates, then the securitization entity and any investments in it would be deemed affiliated.

While both the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group have adopted the revisions, with a Dec. 31, 2022, effective date, consideration by the Accounting Practices and Procedures (E) Task Force and the Financial Condition (E) Committee will occur during the Summer National Meeting. Although industry comments were submitted and considered by the Statutory Accounting Principles (E) Working Group on the proposed statutory accounting changes, the statutory revisions and support for the reporting revisions were unanimously adopted with limited changes from the exposure. No industry comments were presented at the Blanks (E) Working Group, and the reporting revisions were also adopted unanimously by that Group.

Key discussion elements in response to comments considered at the Statutory Accounting Principles (E) Working Group are summarized below.

- **There are no revisions that changes the current definition of an affiliate or reporting on the affiliate reporting line.** Although industry comments suggested that the statutory additions require a “look through” exercise that did not exist, existing statutory guidance and the holding company act already state that control includes “possession, directly or **indirectly**, of the power to direct or cause the direction of the management and policies of the investee” and that “control shall be presumed to exist if a reporting entity **and its affiliates** directly or **indirectly**, own, control, hold the power to vote, or hold proxies **representing 10% or more** of the voting interest of the entity”. The added statutory guidance did not change this existing guidance, and therefore should not introduce any new burden or requirement on

reporting entities.

- Although industry comments on what should be captured on the affiliate reporting line were submitted, that discussion was beyond the scope of the current statutory revisions and the new reporting codes to identify the involvement of related parties with investments. **The new electronic columns to capture related party relationships is applicable to all reporting lines regardless of affiliate determination.**
- **Information within submitted industry comments indicating that affiliation determination under the holding company act is based solely on the voting rights of an equity holder were incorrect under existing guidance.** The definition of an affiliate and control per the Holding Company Act (Model 440) and SSAP No. 25 are consistent and detailed below. An affiliate is determined through control, and control can occur through other means besides ownership of voting securities. **Although ownership of 10% of voting securities results in a presumption of control, voting securities are clearly not the sole basis for determining control.** For many types of entities, control is not typically held through voting securities which has long been recognized under both GAAP and statutory accounting principles. As has always been the case, determination of the affiliation of an investment is based on an evaluation of control of the investee, whether through voting interests or other means. The adopted statutory revisions do not change this guidance in any way.
- Verbal comments received during the call also indicated even when an entity has been appropriately identified as an affiliate (and reported on Schedule Y), that some reporting entities may not be reporting debt investments issued by those affiliates as affiliated investments. While Working Group members stated that this is not an appropriate application of the reporting guidance, it directed staff to evaluate any further clarifications or examples that may be warranted to make clear that all investments in affiliates (including debt investments) should be reported as affiliated, and/or to provide more specificity on how to evaluate whether non-voting arrangements result in control.

Excerpts from the Holding Company Act as well as SSAP No. 25 are provided to further detail the existing guidance regarding determination of control.

Excerpt from Holding Company Act:

A. "Affiliate." An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

C. "Control." The term "control" (including the terms "controlling," "controlled by" and "under common control with") **means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise,** unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Excerpt from SSAP No. 25—Affiliates and Other Related Parties

5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint

ventures, and limited liability companies as defined in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Those entities are accounted for under the guidance provided in *SSAP No. 48*, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.

6. **Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise.** Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

In summary, this memorandum intends to provide preliminary information to the Financial Condition (E) Committee on revisions to improve reporting of investments that involve related parties. Questions on the adopted revisions or discussions that occurred can be directed to Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group or Kevin Clark, Vice-Chair of the Statutory Accounting Principles (E) Working Group. Submission of the adopted statutory accounting and blanks revisions for adoption consideration will be presented to the Accounting Practices and Procedures (E) Task Force and the Financial Condition (E) Committee during the Summer National Meeting.



MEMORANDUM

TO: Financial Condition (E) Committee
 FROM: Statutory Accounting Principles (E) Working Group
 DATE: July 21, 2022
 RE: Principles Based Bond Definition

This memo has been prepared to update the Committee on the SAPWG agenda item #2019-21, commonly referred to as the Principles Based Bond Definition Project, which will result in principally defining investments permitted to be reported on *Schedule D-1: Long-Term Bonds*. The Statutory Accounting Principles (E) Working Group, and key industry representatives, have been working dedicatedly on this project since 2020. Significant progress has been achieved, and the Working Group anticipates having adopted guidance in effect for year-end 2024 or year-end 2025. The project is robust and will include significant revisions to the existing guidance for bond reporting as well as significant revisions to the reporting of bond investments on Schedule D-1.

History / Reason to Change

Several factors have led to increased innovation in insurers' investment portfolios. This includes the low-interest rate environment that has increased pressure to seek higher yields, as well as increasing partnerships between insurers and asset originators that has enabled insurers access to more innovative asset types and structures. Often, these innovative asset structures involve the securitization of an increasing variety of collateral, which transforms the underlying collateral into a bond. Although there are benefits from increased yields, the evolution has created challenges for regulators to understand the risks, and underlying sources of cash flows, involved in bond portfolios.

The current statutory accounting bond definition allows any security that represents a creditor relationship to qualify for bond reporting as a bond or loan-backed or structured security. The current focus is on legal form, rather than substance. As a result, the opportunity exists to report any asset as a bond by acquiring it through a special purpose vehicle (SPV) as a debt instrument from the SPV. The insurer may or may not be in a different economic position as if they held the underlying assets directly. In addition to the opportunity, there is also an RBC incentive to classify otherwise non-qualifying assets as bonds. Underlying assets may be inadmissible or may receive worse RBC charges (equities) if held directly on the insurer's balance sheet. Regulators currently have little transparency into whether assets classified as bonds incorporate risks that do not reflect traditional bond risk.

The intent of this project is to establish principle-based guidance for determining bonds, with a focus of substance over form, in such a manner so that the framework will be more "futureproof." In other words, that the principles established will be able to work for an increasingly innovative market and will provide regulators and other financial statement users with the transparency to understanding the risks present in an insurer's investment portfolio.

Proposed Principles-based Bond Definition

Under the proposed definition, a bond shall be defined as any security representing a creditor relationship, whereby there is a fixed schedule for one or more future payments, and which qualifies as either an issuer credit obligation or an asset backed security. Although this definition may seem like existing guidance, the proposed definition is

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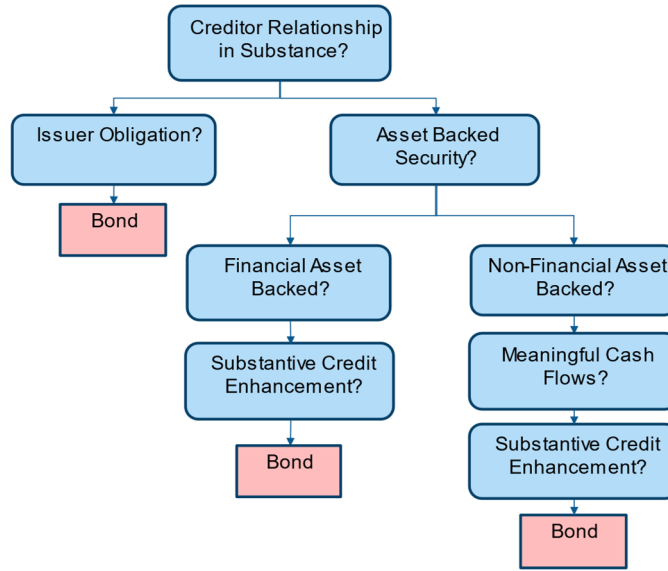
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explicit that the investment shall represent a creditor relationship in substance, not just legal form. Furthermore, it specifies that investments with equity-like characteristics or that represent ownership interests in substance, are not bonds.

Application of the bond definition is described below, however, may best be visualized in the following simplified flowchart. This simplified visual collapses certain steps in the decision for simplicity but showcases the overarching concepts of the principles-based bond definition.

Bond Principles Flowchart



Issuer Obligations or Asset Backed Securities:

Bonds are either issuer obligations or asset-backed securities. Investments that do not fit within either category or that are not named as specific non-bond inclusions shall not be reported as bonds. (Examples of non-bond named inclusions would include certificates of deposit and SVO-Identified Bond ETFs which have historically been reported on Schedule D-1.)

- **Issuer Obligation:** A bond will be classified as an **issuer obligation** if the investment represents an instrument where the repayment is primarily supported by the general creditworthiness of an operating entity (an entity with underlying operations), and the note is an obligation that has direct or indirect recourse to the operating entity. (Examples of Issuer Obligations include U.S. Treasuries, corporate debt, or securities where repayment is supported by an underlying contractual obligation of an operating entity.)

- **Asset Backed Security:** A bond will be classified as an **asset backed security (ABS)**, if the instruments are issued by entities that have a primary purpose of raising debt capital backed by collateral (financial assets or non-financial assets) that provides cashflows to service debt. All ABS are required to have substantive credit enhancement.
 - **Substantive Credit Enhancement:** All ABS securities (regardless of backed by financial or non-financial assets) must result in the holder being in a different economic position than had they held the underlying collateral directly. If the holder would be in the same economic position if they held the underlying collateral directly, the investment is not an ABS and not a bond. Rather, the characteristics are more aligned with that of the collateral itself. This requirement will ensure RBC arbitrage will be curtailed as

the security must explicitly possess bond-like risks. In order to support that an insurer is in a different economic position, there must be substantive credit enhancement, through overcollateralization / subordination or other form of guarantee or recourse, to support that the underlying collateral risks have been recharacterized to bond risk. In essence, in a securitization, there must be a level of subordination that is expected to absorb losses **before** the debt instrument being evaluated would be expected to absorb losses.

There are additional assessments required for ABS based on whether the ABS is backed by financial or non-financial assets:

- **Financial assets** are cash, evidence of an ownership interest in an entity, or a contract that conveys a right to receive cash or another financial instrument or exchange other financial instruments on potentially favorable terms. Loans or receivable-backed securities (RMBS, CMBS, CLOs, etc.) are financial asset-backed as the collateral represents rights to payment without any further performance obligation of any other party.
- **Non-financial assets** reflect collateral assets that are expected to generate a meaningful source of cash flows for repayment of the bond through use, licensing, leasing, servicing or management fees, or other similar cash flow generation. When a performance obligation exists, the assets represent non-financial assets, or a means through which non-financial assets produce cash flows once the performance obligation has been satisfied. Examples include cash flows from leases, royalties, licensing, etc.

Meaningful Cashflow Determination for Non-Financial Collateral backed ABS:

Non-financial assets backing ABS must be expected to generate meaningful cash flows to service the debt, other than through the sale or refinancing of assets. However, reliance on cash flows from the sale or refinancing of does not preclude an ABS from being classified as a bond as long as the meaningful cash flow requirement is met. The bond definition includes a practical expedient so if less than 50% of contractual principle and interest relies on refinance or sale of the collateral assets, then it qualifies as producing meaningful cash flows. The intent of the meaningful cash flow requirement is so that the nature of the non-financial assets must lend itself to the production of fixed income-like cash flows in order to meet the definition of a bond. Reliance on the residual value of non-cash producing assets to either sell or refinance to service the debt, is reflective of valuation or equity risk of the underlying assets, not bond risk.

Current Status and Next Steps

As initially noted, the Statutory Accounting Principles (E) Working Group, and key industry representatives, have been working dedicatedly on this project since 2020. Significant progress has been achieved with the development and exposure of the Principles-Based Bond Definition and an Issue Paper documenting discussion and rationale. The most recent exposure ended May 6 and a conference call is scheduled July 18 to consider comments received. Although additional comments will continue to be considered as the principles are incorporated into the SSAPs, key individuals involved in the project believe that the main principles are substantially set. The following actions are expected July 18, as part of the call, or shortly thereafter at the Summer National Meeting:

- Exposure of proposed reporting concepts to significantly revise Schedule D-1 to improve the granularity of investment reporting and improve the transparency to regulators of the investments held by reporting entities. The proposed concepts include adding a new schedule to separately capture issuer credit obligations and asset-backed securities, with several new reporting lines to separate investments based on underlying characteristics. (Exposure consideration occurred July 18.)
- Exposure of statutory accounting revisions to reflect the principles-based bond definition in SSAP No. 26R and SSAP No. 43R. These SSAPs are proposed to be significantly revised so that investments that qualify as issuer credit obligations are captured in SSAP No. 26R and investments that qualify as asset-

backed securities are captured in SSAP No. 43R. (The existing SSAPs will be renamed accordingly.)
(This exposure is anticipated at the Summer National Meeting.)

- Re-exposure of the principles-based bond definition and issue paper to reflect any revisions directed from the July 18 conference call. (This exposure is anticipated at the Summer National Meeting.)

Additional revisions to statutory accounting to provide accounting and reporting guidance for items that no longer qualify for Schedule D-1 reporting are anticipated to be assessed in early fall with exposure later in 2022.

Potential Effective Date: A key question often received is when the guidance will be effective. The earliest the guidance could be effective (with both accounting and reporting revisions in place) would be Jan. 1, 2024. This would require that the reporting revisions are adopted in May 2023. As that deadline is quickly approaching, it is likely that the revisions will be effective Jan. 1, 2025.

Questions on the principles-based bond definition and related reporting revisions can be directed to Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group or Kevin Clark, Vice-Chair of the Statutory Accounting Principles (E) Working Group.

Draft: 5/23/22

Financial Condition (E) Committee
E-Vote
May 20, 2022

The Financial Condition (E) Committee conducted an e-vote that concluded May 20, 2022. The following Committee members participated: Scott A. White, Chair (VA); Michael Conway (CO); Doug Ommen represented by Carrie Mears (IA); Timothy N. Schott represented by Vanessa Sullivan (ME); Grace Arnold represented by Kathleen Orth (MN); Adrienne A. Harris represented by My Chi To (NY); Cassie Brown represented by Jamie Walker (TX); Nathan Houdek represented by Amy Malm (WI); and Jeff Rude (WY).

1. Adopted a Draft Memorandum of Support

The Committee considered adoption of a draft memorandum (Attachment Two-A) of support for certain work performed related to various workstreams created because of the low interest rate environment and ongoing pressure from certain assets as a result. A majority of the Committee voted in favor of adopting that draft memorandum. The motion passed.

Having no further business, the Financial Condition (E) Committee adjourned.



MEMORANDUM

TO: Interested Parties of the Financial Condition (E) Committee

FROM: Financial Condition (E) Committee

DATE: May 23, 2022

RE: Memorandum of Support

Since the great financial crisis, interest rates have generally been in a downward trend for nearly 15 years, resulting in reduced spreads for life insurers and otherwise putting pressure on many members of the industry that depend upon longer-dated, lower risk debt instruments. In addition, recent inflationary pressures and increasing uncertainty resulting from the Russia/Ukraine crisis are exacerbating other challenges for the industry. Members of the Committee remain particularly concerned that macro-economic trends are likely to continue to drive an increase in asset risk for at least some members of the industry.

This memorandum is being issued by the Committee to express its support for several current, interrelated initiatives focused on asset risk or spread risk within the task forces and working groups of the Committee as well as other related work within the task forces and working groups of other Committees, including the Life Insurance and Annuities (A) Committee. The Committee recognizes the range of risk management practices within the industry and the critical importance of maintaining a fair and competitive marketplace by establishing standards if necessary to address issues that could translate into material risks if not properly and timely considered within the NAIC solvency framework.

Although the Committee has not yet reviewed specific proposals from these various groups, it is aware of the underlying objectives of many of the proposals under discussion, including, without limitation:

- A more risk-sensitive Life Risk Based Capital (RBC) charge for certain structured securities and other asset-backed securities that carry a greater tail risk;
- Clarification of investments permitted to be reported on Schedule D-1: Long-Term Bonds, particularly focused on improved transparent accounting and RBC reporting for certain loan-backed and structured securities to capture the more risk-sensitive features of these types of assets;
- Consideration of changes to the current policies of the Valuation of Securities (E) Task Force as they pertain to possible use of or reduction of reliance on rating agencies, where deemed appropriate, and possible use of other risk identifiers such as market data;
- A modified economic scenario generator that more appropriately captures the low interest rates experienced during the past few years; and
- Consideration of certain “high-yielding” assets within the annual asset adequacy analysis testing.

The Committee is grateful to all the States and staff members that are currently participating in the important work of these groups and welcomes the input of industry and other stakeholders in the development of proposals. Although this work is ongoing, the Committee encourages all States and the Securities Valuation Office (SVO) to continue to take all appropriate actions under existing rules and standards.

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Draft: 5/2/22

Group Capital Calculation (E) Working Group
Virtual Meeting
May 2, 2022

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met May 2, 2022. The following Working Group members participated: John Rehagen, Chair (MO); Kathy Belfi, Vice Chair (CT); Kim Hudson (CA); Philip Barlow (DC); Ray Spudeck (FL); Susan Berry (IL); Carrie Mears (IA); Susan Berry (IL); Roy Eft (IN); Chris Joyce (MA); Judy Weaver (MI); Lindsey Crawford (NE); David Wolf (NJ); Bob Kasinow (NY); Jackie Obusek (NH); Dale Bruggeman and Tim Biler (OH); Melissa Greiner (PA); Trey Hancock (TN); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. Discussed Comments Received on the Exposed 2022 GCC

Mr. Rehagen reminded participants of the call that the 2022 Group Capital Calculation (GCC) template and instructions were exposed for public comment. He noted the Working Group received one comment from the American Council of Life Insurers (ACLI). He stated NAIC staff received an additional change after the materials were distributed for the call that in short, he considers editorial, as the changes simply prevent the preparer from double counting the operational risk charge within the GCC when they are including amounts for each of the U.S. insurers in their group. Mr. Rehagen noted that editorial changes were made to the GCC instructions on Inventory C Col 2 in paragraph 64 and the table at the bottom of page 32.

Mr. Rehagen noted that with respect to the ACLI's first comment, they suggest revisit the NAIC staff proposal made back in Nov 2021, which was an increase and then reversal of the debt allowance under certain circumstances. He reminded working group members that the industry was split on that issue, and for that reason the Working Group voted against including such a flexible capital allowance in the instructions. Mr. Rehagen noted the ACLI is now proposing instead a 3-year reversal and directed the Working Group to the language in the revised instructions that would implement that proposal change. Kristin Abbott (ACLI) stated their responsiveness to their comments and supported the staff draft of proposed changes to address their comments. Mr. Rehagen stated his concern was that the proposal would add complexity in certain situations. He stated that currently interest rates have started increasing but that it's very possible we could then turn to another recession over the next couple of years and rates will be forced down again. The increase and reversal of the debt allowance driven by changes in interest rates would potentially cause some whiplash/volatility in the GCC ratio and that caused Mr. Rehagen some concern.

Mr. Rehagen noted with respect to the ACLI's second comment, they suggest a change in how to calculate gross revenues for entities without regulatory capital requirements such as asset managers. He noted with respect to this comment, which is the difference in calculations between the aggregation method and the GCC. He noted that he personally would prefer not to veer away from the aggregation method. Ms. Belfi stated she thought it was important to stay as close to the aggregation method as possible. She stated how the Working Group had already deviated from the aggregation method where they felt it made sense and noted how NAIC staff could likely comment on that, but she feared too much more deviation. Mr. Spudeck and Mr. Hudson both agreed with Ms. Belfi. Mr. Rehagen asked for clarification from NAIC staff on what that means for the proposal changes from the ACLI. Dan Daveline (NAIC) stated they had drafted language to address the ACLI comments and it's up to the Working Group to decide whether they support those changes, but that it appears both changes proposed by the ACLI are being rejected by the Working Group. Martin Mair (Met Life) reminded the Working Group that the reason they were proposing to modify the GCC debt limit was to address a concern regarding procyclicality and so the debt limit becomes more binding during those times of stress and the GCC would automatically decrease

during those periods of stress without a change. He said the ACLI proposal was to get back to the core issue and put back that needed flexibility. Mr. Rehagen stated he thought what was being suggested by the ACLI on the debt issue could be further studied, but that there is currently a need to finalize the 2022 instructions and template for use but could be addressed in the future. Ms. Belfi agreed with Mr. Rehagen and suggested keeping the instructions as is without the change and see how things develop. Hearing no other comments in favor of making the changes, Mr. Rehagen stated he would accept a motion to adopt the 2022 GCC Instructions and template with the editorial change previously noted during the call related to operational risk, but without the changes proposed by the ACLI.

Ms. Belfi made a motion to adopt the 2022 GCC Instructions and template as described by Mr. Rehagen (Attachment Three-A). The motion was seconded by Mr. Hudson and unanimously adopted.

2. Discussed Other Matters

Mr. Rehagen stated with the 2022 GCC Instructions and Template adopted, he wanted NAIC staff to indicate when they planned to have training available to the industry. Mr. Daveline responded NAIC staff intended to have industry training by the end of July, before the GCC is effective for the first time in August for one state but noted the regulator training would be later closer to when it is filed with most states.

Having no further business, the Group Capital Calculation (E) Working Group adjourned.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/FINANCIAL CONDITION \(E\) COMMITTEE/Group Capital Calculation \(E\) WG/GCC 5-2 Meeting Minutes.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/2022%20NAIC%20Meetings/Spring%20National%20Meeting/Committee%20Meetings/FINANCIAL%20CONDITION%20(E)%20COMMITTEE/Group%20Capital%20Calculation%20(E)%20WG/GCC%205-2%20Meeting%20Minutes.docx)



GROUP CAPITAL CALCULATION

2022 INSTRUCTIONS



The NAIC is the authoritative source for insurance industry information. Our expert solutions support the efforts of regulators, insurers, and researchers by providing detailed and comprehensive insurance information. The NAIC offers a wide range of publications in the following categories:

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I. Background

1. In 2015, the ComFrame Development and Analysis (G) Working Group held discussions regarding developing a group capital calculation (GCC) tool. The discussions revealed that developing a GCC was a natural extension of work state insurance regulators had already begun, in part driven by lessons learned from the 2008 financial crisis which include better understanding the risks to insurance groups and their policyholders. While insurance regulators currently have authorities to obtain information regarding the capital positions of non-insurance affiliates, they do not have a consistent analytical framework for evaluating such information. The GCC is designed to address this shortcoming and will serve as an additional financial metric that will assist regulators in identifying risks that may emanate from a holding company system.
2. More specifically, the GCC and related reporting provides more transparency to insurance regulators regarding the insurance group and makes risks more identifiable and more easily quantified. In this regard, the tool assists regulators in holistically understanding the financial condition of non-insurance entities, how capital is distributed across an entire group, and whether and to what degree insurance companies may be supporting the operations of non-insurance entities, potentially adversely impacting the insurance company's financial condition or policyholders. This calculation provides an additional analytical view to regulators so they can begin working with a group to resolve any concerns in a manner that will ensure that policyholders of the insurers in the group will be protected. The GCC is an additional reporting requirement but with important confidentiality protections built into the legal authority. State insurance regulators already have broad authority to take action when an insurer is financially distressed, and the GCC is designed to provide Lead State Regulators with further insights to allow them to reach informed conclusions on the financial condition of the group and the need for further information or discussion.
3. State insurance regulators currently perform group analysis on all U.S. insurance groups, including assessing the risks and financial position of the insurance holding company system based on currently available information; however, they do not have the benefit of a consolidated statutory accounting system and financial statements to assist them in these efforts. It was noted prior to development that a consistent method of calculating group capital for typical group risks would provide a useful tool for state financial regulators to utilize in their group assessment work. It was also noted that a GCC could serve as a baseline quantitative measure to be used by regulators in to compliment the view of group-specific risks and stresses provided by the Own Risk and Solvency Assessment (ORSA) Summary Report filings and in Form F filings that may not be captured in legal entity filings.
4. During several open meetings and exposure periods, the ComFrame Development and Analysis (G) Working Group considered a discussion draft which included three high-level methodologies for the GCC: a risk-based capital (RBC) aggregation approach; a statutory accounting principles (SAP) consolidated approach; and a generally accepted accounting principles (GAAP) consolidated approach. On Sept. 11, 2015, Working Group members unanimously approved a motion to move forward with developing a recommendation for a GCC and directed an appropriate high-level methodology for the recommendation.

5. At a ComFrame Development and Analysis (G) Working Group meeting held Sept. 24, 2015, pros and cons for each methodology were discussed, and a consensus quickly developed in support of using an RBC aggregation approach if a GCC were to be developed. The Executive (EX) Committee and Plenary ultimately adopted the following charge for the Financial Condition (E) Committee:

“Construct a U.S. group capital calculation using an RBC aggregation methodology; liaise as necessary with the ComFrame Development and Analysis (G) Working Group on international capital developments and consider group capital developments by the Federal Reserve Board, both of which may help inform the construction of a U.S. group capital calculation.”

6. The RBC aggregation approach is intended to build on existing legal entity capital requirements where they exist rather than developing replacement/additional standards. In selecting this approach, it was recognized as satisfying regulatory needs while at the same time having the advantages of being less burdensome and costly to regulators and industry and respecting other jurisdictions’ existing capital regimes. To capture the risks associated with the entire group, including the insurance holding company, RBC calculations would need to be developed in those instances where no RBC calculations currently exist.
7. In early 2016, the Financial Condition (E) Committee appointed the Group Capital Calculation (E) Working Group, which began to address its charge and various details of the items suggested by the ComFrame Development and Analysis (G) Working Group. The instructions included herein represent the data, factors, and approaches that the Working Group believed were appropriate for achieving such an objective. The GCC instructions and template are intended to be modified, improved, and maintained by the NAIC in the future as are the *Accounting Practices and Procedures Manual*, the *Annual Statement Instructions* and the *Risk-Based Capital Formula and Instructions*. This includes, but is not limited to, future disclosure of additional items developed or referred to by other NAIC committees, task forces and/or working groups.
8. In December 2020, amendments to NAIC Model Law (#440) and Model Regulation (#450) were adopted to provide States with legislative language to fully implement the GCC as an annual filing. The Model specifies what groups are exempted from the GCC filing requirement and the circumstance under which a limited filing may be submitted. For such information reference should be made not to these instructions, rather to the models and, more specifically, to how they are implemented into laws and regulations of a Lead State.

II. Definitions

9. **Affiliate**: As defined in the NAIC Model Insurance Holding Company System Regulatory Act in Model #440, an “affiliate” of, or person “affiliated” with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. The Model #440 defines “Control” (including the terms “controlling,” “controlled by” and “under common control with”) as the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. Model #440 provides that the presumption may be rebutted by showing that control does not exist in fact. The commissioner may determine, after furnishing

all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect. Any entities that would otherwise qualify as Schedule BA affiliates as described above but are owned by other entities (e.g., foreign insurers or other types of Parent entity) should be treated in the same way.

10. **Broader Group:** The entire set of legal entities that are controlled by the Ultimate Controlling Person of insurers within a corporate group. When considering the use of this term, all entities included in the Broader Group should be included in Schedule 1 and the Inventory, but only those that are denoted as “included” in Schedule 1 will be considered in the actual GCC.
11. **Control:** As used in the Model #440, the term “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K of Model #440 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
12. **Cross-Support Mechanism:** A cross-support mechanism is an agreement or transaction that creates a financial interdependence. Depending on the nature of the transaction and the specific circumstances, these mechanisms may pose material risk. These may include corporate guarantees, capital maintenance agreements (regulatory or ratings based), letters of credit, intercompany indebtedness, bond repurchase agreements, securities lending or other agreements or transactions that create a financial interdependence or link between entities in the group.
13. **Entity Not Subject to A Regulatory Capital Requirement:** This is a financial entity other than an entity that is subject to a specified regulatory capital requirement.
14. **Financial Entity:** A non-insurance entity that engages in or facilitates financial intermediary operations (e.g., accepting deposits, granting of credits, or making loans, managing, or holding investments, etc.). Such entities may or may not be subject to specified regulatory capital requirements of other sectoral supervisory authorities. For purposes of the GCC, entities that are not regulated by an insurance or banking authority [e.g., the U.S. Securities and Exchange Commission (SEC) or the Financial Industry Regulatory Authority (FINRA)] will be considered as not subject to a specified regulatory capital requirement.

The primary examples of financial entities are commercial banks, intermediation banks, investment banks, saving banks, credit unions, savings and loan institutions, swap dealers, and the portion of special purpose and collective investment entities (e.g., investment companies, private funds, commodity pools, and mutual funds) that represents the Broader Group’s aggregate ownership in such entities, whether or not any member of the Broader Group is involved in that entity’s management responsibilities (e.g., via investment advisory or broker-dealer duties) for those entities.

For purposes of this definition, a subsidiary of an insurance company whose predominant purpose is to manage or hold investments or act as a broker-dealer for those investments on behalf of the insurance company and its affiliated insurance (greater than 90% of all such investment subsidiaries' assets under management or held are owned by or for the benefit of these insurance affiliates) should NOT be considered a Financial Entity. In the case where an insurer sets up multiple subsidiaries for this purpose, the 90% may be measured in the aggregate for all such entities. Similarly, in the case of collective investment pools (e.g., private funds, commodity pools, and mutual funds) the 90% may be measured individually, or in the aggregate for each subtype (e.g., private funds, commodity pools, and mutual funds).

In addition, other financial entities without a regulatory capital requirement include those which are predominantly engaged in activities that depending on the nature of the transaction and the specific circumstances, could create financial risks through the offering of products or transactions outside the group such as a mortgage, other credit offering or a derivative.

15. **Insurance Group:** For purposes of the GCC, a group that is comprised of two or more entities of which at least one is an insurer, and which includes all insurers in the Broader Group. Another (non-insurance) entity may exercise significant influence on the insurer(s); i.e., a holding company or a mutual holding company; in other cases, such as mutual insurance companies, the mutual insurer itself may be the Ultimate Controlling Person. The exercise of significant influence is determined based on criteria such as (direct or indirect) participation, influence and/or other contractual obligations; interconnectedness; risk exposure; risk concentration; risk transfer; and/or intragroup agreements, transactions and exposures.

An Insurance Group may include entities that facilitate, finance or service the group's insurance operation, such as holding companies, branches, non-regulated entities, and other regulated financial institutions. An Insurance Group is thus comprised of the head of the Insurance Group and all entities under its direct or indirect control and includes all members of the Broader Group that exercise significant influence on the insurance entities and/or facilitate, finance or service the insurance operations.

An Insurance Group could be headed by:

- An insurance legal entity;
- A holding company; or
- A mutual holding company.

An Insurance Group may be:

- A subset/part of bank-led or securities-led financial conglomerate; or
- A subset of a wider group.

An Insurance Group is thus comprised of the head of the Insurance Group and all entities under its direct or indirect control.

16. **Insurance Subgroup/U.S. Operations:** Refers to all U.S. insurers within a Broader Group where the groupwide supervisor is in a non-U.S. jurisdiction. It includes all the directly and indirectly held subsidiaries of those U.S. insurers. For purposes of subgroup reporting, capital instruments, loans, reinsurance, guarantees would only include those that exist within the U.S. insurers. Amounts included for the U.S. insurers shall include all amounts contained within the financial statements of those entities included in the subgroup reporting, whether those amounts are directly attributable or allocated to a company in the subgroup from an affiliate outside of the U.S. insurers and its direct or indirect subsidiaries.

17. **Lead State Regulator:** As defined in the Financial Analysis Handbook; i.e., generally considered to be the one state that “takes the lead” with respect to conducting and coordinating groupwide supervision within the U.S. solvency The determination of a lead state is affected by the following factors: (i) The state with the insurer/affiliate with largest direct written premiums (ii) Domiciliary state/country of top-tiered insurance company in an insurance holding company system (iii) Physical location of the main corporate offices or largest operational offices of the group (iv) Knowledge in distinct areas of various business attributes and structures (v) Affiliated arrangements or reinsurance agreements (vi) Lead state must be accredited by the NAIC.
18. **Group-wide supervisor:** The regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under Section 7.1 to have sufficient significant contacts.
19. **Internationally active insurance group:** An insurance holding company system that (1) includes an insurer registered under Section 4; and (2) meets the following criteria: (a) premiums written in at least three countries, (b) the percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system’s total gross written premiums, and (c) based on a three year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000).”
20. **Limited Group Capital Filing:** Refers to a GCC filing that includes sufficient data or information to complete the “Input 4 Analytics” tab and the “Summary 3 – Analytics” tab of the GCC template. This includes Schedule 1 of the template and may include limited data from other input tabs as deemed necessary for purposes of the analytics.
21. **Material Risk:** Risk emanating from a non-insurance/non-financial entity not owned by an insurer in the Insurance Group or is part of the Broader Group that is of a magnitude that could adversely impact the financial stability of the group as a whole, that the ability of insurers within a group to pay policyholder claims or make other policy related payments (e.g., policy loan requests or annuity distributions) may be impacted.

To determine whether an entity within the Broader Group poses material risks to the Insurance Group, the totality of the facts and circumstances must be considered. The determination of whether risk posed by an entity is material requires analysis of various aspects pertaining to the subject entity. A determination that a non-insurance/non-financial entity does not pose material risk allows the filer to request exclusion of that entity from the calculation of the GCC ratio in the “Inventory” tab. Several items as listed below should be considered in making such a determination, to the extent they apply.

Caution is necessary, however. The fact that one or more of these items may apply does not necessarily indicate risk to the Insurance Group is, or is not, material. The group should be able to support its determination of material risk if requested by the Lead State Regulator. This should not be used as a checklist or as a scorecard. Rather, the list is intended to illuminate relevant facts and circumstances about a subject entity, the risk it poses, how the Insurance Group might be exposed to that risk and means to mitigate that risk.

Primary Considerations:

- Past experience (i.e., the extent to which risk from the entity has impacted the Insurance Group over prior years/cycles).

- The degree to which capital management across the Broader Group has historically relied on funding by the Insurance Group to cover losses of the subject entity.
- The existence of intragroup cross-support mechanisms (as defined below) between the entity and the Insurance Group.
- The means by which risk can be transmitted; i.e., the existence of sufficient capital within the entity itself to absorb losses under stress and/or if adequate capital is designated elsewhere in the Broader Group for that purpose.
- The degree of risk correlation or diversification between the subject entity and the Insurance Group (e.g., where risks of one or more entities outside the Insurance Group are potentially offset (or exacerbated) by risks of other entities) and whether the corporate structure or agreements allow for the benefits of such diversification to protect the Insurance Group.
- The existence and relative strength or effectiveness of structural safeguards that could minimize the transmission of risk to the Insurance Group (e.g., whether the corporate shell can be broken).

Other Considerations (*if primary considerations suggest exclusion may be reasonable, these can be used to further support exclusions*):

- The location of the entity in relation to the Insurance Group within the Broader Group's corporate structure and how direct or indirect the linkage, if any, to the Insurance Group may be.
- The activities of the entity and the degree of losses that the entity could pose to the group under the current economic environment or economic outlook

The guidance above recognizes that there are diverse structures and business models of insurers that make it impracticable to apply a one-size-fits-all checklist that would work for materiality determinations across all groups. Strict or formulaic quantitative measures based on size of the entity, or its operations of a non-insurance affiliate are an insufficient proxy for materiality of risk to the insurance operations. The GCC Instructions thus consider the unique circumstances of the relevant entity and group and uses an interactive process whereby the group brings forward its suggestions as to entities that should be excluded from the scope of application for a discussion with the lead state, ultimately culminating in an agreement on the scope of application. The guidance in this section helps to facilitate that process and discussion with criteria for cross-support mechanisms that can potentially transmit material risk, as defined, to the Insurance Group as well as safeguards that can mitigate such risk or its transfer.

22. **Person:** As used in Model #440, a “person” is an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.
23. **Reciprocal Jurisdiction:** As defined in the *Credit for Reinsurance Model Law* (#785).
24. **Scope of Application:** Refers to the entities that meet the criteria listed herein for inclusion in the GCC ratio. The application of material risk criteria may result in the Scope of Application being the same as, or a subset of, the entities controlled by the Ultimate Controlling Person of the insurer(s).

NOTE: U.S. branches of foreign insurers should be listed as separate entities when they are subject to capital requirements imposed by a U.S. insurance regulator, otherwise in as much as they are already included in a reporting legal entity, they are already in the scope of application and there is no need for any additional reporting.

25. **Ultimate Controlling Person:** As used in the *Insurance Holding Company System Regulatory Act* (#440). This is the entity that exercises control directly or indirectly over all entities within the Broader Group.

III. Determining the Scope of Application

A. Groups Exempted from the GCC

26. Refer to changes to Model #440 for guidance on groups that are exempted from filing a GCC. Instead, instructions are provided to ensure Lead State Regulators receive the information necessary to evaluate the Scope of Application.

B. Scope of Application – Legal Entity Inventory

27. When considering the scope of application, preparers of the GCC must first understand the information to be included in Schedule 1 of the template. When developing an initial inventory of all potential entities, the preparers of the GCC shall complete Schedule 1, which, except in the case of an Insurance Subgroup (as defined in Section II), requests data for all of the entities within the Broader Group that are directly or indirectly owned by the Ultimate Controlling Person (including the Ultimate controlling Person) that are listed in the insurer's most recent Schedule Y or in relevant Holding Company Filings. GCC preparers should provide basic information about each entity in Schedule 1, including its total assets, and total revenue and net income for this specific year identified. Additionally, the initial filing will require some further information for the prior year (e.g., prior year equity or surplus to policyholders). The primary purpose of the Schedule 1 is to: 1) assist the lead state in making an assessment on the entities within the group that should be included in the Scope of Application; and 2) provide the lead state with valuation information to better understand the group. This valuable information produces various ratios and other financial metrics that will be used in the analysis of the GCC and the group by the lead state for their holding company analysis.

With regard to Schedule A and Schedule BA affiliates, for purposes of the data input on the Schedule 1 and Inventory tabs, only include Schedule A and Schedule BA affiliates which are insurers or other financial entities reported as, or owned indirectly through, Schedule A or Schedule BA affiliates. All other Schedule A and Schedule BA investments will remain as investments of a Parent insurer will be reported as part of the value and capital calculation of the Parent insurer. A full list of Schedule A and BA entities shall be reported in the Input 6 - Questions tab. Any insurer or financial entities that would otherwise qualify as Schedule BA affiliates if owned by a U.S. insurer, but which are owned by other entities (e.g., foreign insurers or other type of Parent entity) should be reported in the Schedule 1 and Inventory tabs.

28. To assist the Lead State Regulator in assessing the Scope of Application, the Schedule 1 and the "Inventory" tab of the template will be completed by each preparer to provide information and certain financial data on all the entities in the group. Each preparer will also use the include/exclude column in Schedule 1 to request its own set of entities to be excluded from the calculation after applying criteria for material risk (as defined in Section II). The requests for exclusion will be described by the preparer in the template and evaluated by the Lead State Regulator. A second column will be used by the regulator to reflect entities that the regulator agrees should be excluded.

29. Although all entities must be listed in Schedule 1 and in the “Inventory” tab, the preparer is allowed to group data for certain financial entities not subject to a regulatory capital requirement and certain non-insurance and non-financial entities. Thus, while the Schedule 1 would include the full combined financial results/key financial information (for all entities directly or indirectly owned by the Ultimate Controlling Person, such data may be reported based on major groupings of entities to maximize its usefulness, reduce the number of numeric entries, and allow the Lead State Regulator to better understand the group, its structure, and trends at the sub-group as well as group level. Criteria for grouping are further described in Section V, paragraph 57. Prior to completing the GCC annually, the Insurance Group should determine if the proposed grouping is satisfactory to the lead state or if there are certain non-insurance and non-financial entities (such entities are required to be broken out and reported separately) that should be broken out and reported separately.

C. General Process for Determining the Scope of Application

30. The starting point for “Scope of Application” (i.e., for purposes of the GCC specifically) is the entire group except in the case of an Insurance Subgroup (as defined in Section II). However, in the case of groups with material diverse non-insurance/non-financial activities isolated from the financial/Insurance Group and without cross-support mechanisms as defined in Section II, the preparer may request a narrower scope starting at the entity that controls all insurance and financial entities within the group [i.e., comprise a subset of, the entities controlled by the Ultimate Controlling Person of the insurer(s) (Broader Group)]. However, the adjustments as to the Scope of Application suggested by the preparer in consultation and in agreement with the Lead State Regulator should include consideration of guidance in paragraph 31 (“Identify and Include all Financial Entities”) the totality of the facts and circumstances, as described in paragraph 21 (“Definition of material risk”). The rationale and criteria applied in allowing the reduced scope should be documented and made available to non-lead states if requested. The decision on reduced scope should be revisited when changes in the group structure or activities occur.

The fundamental reason for state insurance regulation is to protect American insurance consumers. Therefore, the objective of the GCC is to assess quantitatively the collective risks to, and capital of, the entities within the Scope of Application. This assessment should consider risks that originate within the Insurance Group along with risks that emanate from outside the Insurance Group but within the Broader Group. The overall purpose of this assessment is to better understand the risks that could adversely impact the ability of the entities within the Scope of Application to pay policyholder claims consistent with the primary focus of insurance regulators.

D. Guiding Principles and Steps to Determine the Scope of Application

31. For most groups, the Scope of Application is initially determined by the preparer in a series of steps, listed here and then further explained as necessary in the text that follows:
- Develop a full inventory of potential entities using the Inventory of the Group template (Schedule 1). This should correspond to Annual Statement Schedule Y, Part 1A
 - Denote in Schedule 1 for each non-financial entity whether it is to be “included in or excluded from” the Scope of Application” using the criteria in the “Identify Risks from the Broader Group” subsection below.
 - All non-financial entities, whether to be included in or excluded from the Scope of Application are to be reported in the “Inventory” tab of the template. Information to be provided for excluded entities will be limited to Schedule 1B and the corresponding

columns in the Inventory tab. See paragraph 57 for additional information on treatment of non-insurance/non-financial subsidiaries of U.S. RBC filers or such subsidiaries owned by other financial entities with regulatory capital requirements for which the non-insurance/non-financial entity is included in the capital charges for the Parent entity.

- Non-financial entities may qualify for grouping on this Inventory tab as described elsewhere in these instructions.

E. Steps for Determining the Scope of Application

32. Identify and list all entities in the Insurance Group or Insurance Subgroup (where required).

Include all entities that meet the definition of an affiliate in Section II, above and that fit the criteria identified in the definition of the Insurance Group or Insurance Subgroup (if applicable), in Section II, above except as modified in paragraph 34 (Identify Risks from the Broader Group), below. All insurance entities and entities owned directly or indirectly by the insurance entities in the group shall be included in the Scope of Application and reported in the Schedule 1 and Inventory of the Group template. Other non-insurance/nonfinancial entities within the Insurance Group may be designated as “exclude” as described in paragraph 30.

33. Identify and include all Financial Entities.

Financial Entities (as defined in Section II) within the Inventory of the Group template shall be included in (i.e., may not be designated as “excluded from”) the Scope of Application, regardless of where they reside within the Broader Group.

As learned from the 2008 financial crisis, U.S. insurers were not materially impacted by their larger group issues; however, materiality of either equity or revenue of an entity might not be an adequate determinant of potential for risk transmission within the group. Furthermore, risks embedded in financial entities are not often mitigated by the activities of the insurers in the group and may amplify their (the insurers’) risks.

Any discretion in evaluating the ultimate risk generated by a defined financial entity that is not subject to a regulatory capital requirement should be applied via review of the material risk definitions/principles included in paragraph 21 to set the level of risk as low, medium or high and **not** to exclude such entities from the calculation. The rationale should be documented, and all data required in Schedule 1 must be provided for the entity for purposes of analysis and trending.

34. Identify Risks from the Broader Group

An Insurance Group or Insurance Subgroup may be a subset of a Broader Group, such as a larger diversified conglomerate with insurance legal entities, financial entities, and non-financial entities. In considering the risks to which the Insurance Group or Insurance subgroup is exposed, it is important to take account of those material risks (as defined in Section II) to the Insurance Group from the Broader Group within which the Insurance Group operates. All non-insurance/non-financial entities included within the Insurance Group or Insurance Subgroup that pose material risk to the insurers in the group should be included within (i.e., may not be designated as “excluded from”) the Scope of the Application. Similarly, all non-financial entities within the Broader Group but outside the Insurance Group that pose material risks to the Insurance Group should be included within (i.e., may not be designated as “excluded from”) the Scope of Application; non-material non-insurance/non-financial entities within the Broader Group or within the Insurance Group (as both terms are defined in Section II) other

than those entities owned by entities subject to a specified regulatory capital requirement should be reported as “excluded.” However, no such entities outside an Insurance Subgroup (as defined in Section II) should be included in the GCC. When determining which non-financial entities from the Broader Group to include in the Scope of Application, the preparer must include any entity that could adversely impact the ability of the entities within the Scope of Application to pay policyholder claims or provide services to policyholders consistent with the primary focus of insurance regulators.

35. Review of Submission

The Lead State Regulator should review the inventory of entities provided in the Group template to determine if there are entities excluded by the preparer using the criteria above that the Lead State Regulator agrees do not pose material risk (as defined herein) to its insurance operations. Additional information may be requested by the Lead State Regulator to facilitate this analysis. For entities where the Lead State Regulator agrees with the request to exclude, the GCC may exclude the data for such entities. Ultimately, the decision to include or exclude entities from the GCC will occur based on the Lead State Regulator’s knowledge of the group and related information or filings available to the Lead State and whether they believe an applicable entity would not adversely impact the entities within the Scope of Application to pay policyholder claims.

The template’s Summary 2 - Top Level tab includes a calculation to reflect the impact of excluded entities requested, but not approved for exclusion by the lead state. (See instructions for Summary 2 herein).

36. The preparer, together with the Lead State Regulator, would use the above steps, which includes considering the Lead State Regulator’s understanding of the group, including inputs such as Form F, ORSA and other information from other involved regulators, to determine the reasonableness of the suggested Scope of Application.

37. Updating the Scope of Application

The Scope of Application could be re-assessed by the preparer and the Lead State Regulator each successive annual filing of the GCC provided there has been substantial changes in corporate structure or other material changes from the previous year’s filing. Any updates should be driven by the assessment of material risk and changes in group structure as they impact the exclusion or inclusion of entities within the Scope of Application based on material risk considerations.

IV. General Instructions

38. The GCC template consists of a number of tabs (sections) within one workbook. Input amounts must be in USD \$000s. The following provides general instructions on each of these tabs.
39. **Attestation:** This tab is intended to work similar to the annual financial statement and RBC attestations, which are both intended to give the regulator greater comfort that the company has completed in accordance with its (these) instructions. It will also indicate whether the group consists of predominantly life, P/C, or health insurers and whether the submission is a full or limited group capital filing.
40. **Input 1 – Schedule 1:** This tab is intended to provide a full inventory of the group, including the designation by the filer of any non-financial entities to be included in, or excluded from, the Scope of Application and include sufficient data or information on each affiliated entity (see Schedule A and Schedule BA exception as described in paragraph 27) within the group so

as to allow for analyzing multiple options for scope, grouping and sensitivity criteria, as well as, allowing the Lead State Regulator to decide as to whether the entities to be included in the scope of application or excluded from the scope of application meet the aforementioned criteria. This tab is also used to maximize the value of the calculation by including various information on the entities in the group that allow the lead state to better understand the group, the risks of the group, capital allocation, and overall strengths and weaknesses of the group.

41. Except as noted, equity method investments reported in the Section 1B in the Inventory tab that are accounted for based on *Statement of Statutory Accounting Principles (SSAP) No. 48—Joint Ventures, Partnerships and Limited Liability Companies* are not required to be de-stacked (separately listed) in Schedule 1; i.e., their value would be included in amounts reported by the Parent insurer within the calculation. The basis for this approach is predicated on the purpose of the entire GCC, which is to produce an expected level of capital and a corresponding level of available capital that are derived by aggregating the amounts reported of capital of the individual entities under the GCC methodology. The available capital for such joint ventures, partnerships and limited liability companies is already considered in Schedule 1 by its inclusion in its Parent’s financial statements and can be excluded from an inventory (not separately listed) because the Parent also already receives a corresponding capital charge within its RBC.

NOTE: Data for this tab is required for a Limited Group Capital filing.

42. **Input 2 – Inventory:** This tab is intended to be used by the consolidated group to provide information on the value and capital calculation for all the entities in the group before any de-stacking of the entities. While some of this information is designed to “pull” information from Schedule 1, other cells (blue cells) require input from the group. This tab will then apply the adjustments for investment in subsidiary other than where an exception is described in these instructions and adjust for intragroup arrangements. This tab is set up to subtract those adjustments from capital and therefore should be entered as: 1) a positive figure if the adjustment currently has a positive impact on the available capital or the capital calculation; or 2) a negative figure if the adjustment currently has a negative impact on the available capital or the capital calculation. It will also be used to add relevant insurance or other financial entities included as equity investments in Schedule A and Schedule BA and to aggregate the resulting adjusted values for use in the actual GCC.

NOTE: For a Limited Group Capital filing, data should be presented in the summarized format below in lieu of completing the full “Inventory” tab.

Limited Group Capital Filing Only: Input 2 – Inv Limited: Manually enter data in Adjusted Carrying Value (Inventory B, Column 8) and Adjusted Capital Calculation (Inventory C, Column 8) to report a single aggregated value for each entity category in the group. This will require that eliminations and adjustments normally found in a “full” Inventory B, Column 2 through Column 7 and Inventory C, Column 2 through Column 7 to be addressed offline.

43. **Input 3 – Capital Instruments:** This tab is intended to be used to gather necessary information to that will be used to calculate an allowance for additional available capital based on the concept of structural subordination applied to senior or other subordinated debt issued by a holding company that is within the scope of application of the GCC filing. It will also provide information on all debt issued by entities within the scope of application.

NOTE: Data for this tab is NOT required for a Limited Group Capital filing.

44. **Input 4 – Analytics:** In recognizing a primary purpose of the GCC is to enhance groupwide financial analysis, this tab includes or draws from entity-category-level inputs reported in the tab or elsewhere in the GCC template to be used in GCC analytics. Separate guidance for Lead

State Regulators to reference in analyzing the data provided in the GCC template (reference applicable location of the guidance; e.g., *Financial Analysis Handbook*).

NOTE: Data for this tab is required for a Limited Group Capital filing.

45. **Input 5 – Sensitivity Analysis:** This tab includes inputs and/or describes informational sensitivity analysis for other than XXX/AXXX captives, permitted and prescribed practices and other Regulator discretion. The inputs are intended to simply be a disclosure, similar to the disclosure required under Note 1 of the statutory financial statements. The analysis will be applied in the “Summary 2” tab.

NOTE: Data for this tab is NOT required for a Limited Group Capital filing.

46. **Input 6 – Questions:** This tab will provide space for participants to describe or explain certain entries in other tabs. Examples include the materiality method applied to exclude entities in Schedule 1 and narrative on adjustments for intragroup debt and adjustments to available capital or capital calculations that are included in the “other adjustment” column in the “Inventory” tab.

NOTE: Data for this tab is NOT required for a Limited Group Capital filing.

47. **Calc 1 – Scaling (Ins):** This tab list countries predetermined by NAIC and provides the necessary factors for scaling available and required capital from non-US insurers to be used in in sensitivity analysis to a comparable basis relative to the U.S. RBC figures. It also allows for set scaling options (which vary by insurance segment such as life, P/C, and health).

NOTE: This tab is NOT required for a Limited Group Capital filing.

48. **Calc 2 – Scaling (Non-Ins):** This tab is used to determine calculated capital for non- insurance entities.

NOTE: This tab is NOT required for a Limited Group Capital filing.

49. **Summary 1 – Entity Level:** This tab provides a summary of aggregated available capital and calculated capital for each entity category before the application of capital instruments.

NOTE: This tab is NOT required for a Limited Group Capital filing.

50. **Summary 2 – Top Level:** This tab calculates various informational GCC ratios resulting from applying “on top” and entity level adjustments to adjusted carrying value and adjusted calculated capital. This “what if” scenario analysis will not be part of the GCC ratio.

NOTE: This tab is NOT required for a Limited Group Capital filing.

51. **Summary 3 – Analytics:** Provides a summary of various GCC analytics.

NOTE: This tab is required for a Limited Group Capital filing.

52. **Summary 4 – Grouping Alternatives:** This tab currently calculates and displays a selected grouping option for organizing the structure of the group consistent with the way that the entities are managed.

NOTE: This tab is NOT required for a Limited Group Capital filing.

53. All cells in the template are color-coded based on the chart below. Inputs should only be made in blue cells. Do not add/delete rows, columns or cells or change the structure of the template in any way. If there appears to be an error in the formulas in the template, contact the NAIC.

The following set of colors is used to identify cells:	Colors used
Parameters	
Input cells	
Data from other worksheets	
Local calculations	
Results propagated	

V. Detailed Instructions

Input 1 – Schedule 1

54. Schedule 1A indicates the version of the template being prepared.
55. More detailed information on each legal entity should be reported in Schedule 1B through Schedule 1D. The order of the entries in Schedule 1 should match that in the “Inventory” tab. The first entity listed should be the ultimate controlling party.
56. U.S. branches of foreign insurers should be listed as separate entities when they are subject to capital requirements imposed by a U.S. insurance regulator. They should be reported under the appropriate entity category in **[Sch 1B Col 6]**.
57. Entries are required for every entity within the scope of the group. However, while recognizing that Lead State Regulator retains the discretion to ask for greater detail, the following simplifications **may** be applied as long as information for every entity is listed in Schedule 1B:
- A single numerical entry for like Financial Entities would be allowed at the intermediate holding company level, assuming that the like entities are owned by a common Parent that does not own other entity types, all use the same accounting rules (e.g., all GAAP), and are at least consistent with the way the group manages their business. The entity at which the total data is provided must be assigned an “Entity Category” in Schedule 1 that corresponds to the instructed carrying value and capital calculation for which the entry is made (e.g., an entity that would otherwise be categorized as a non-operating holding company but holds asset managers would be categorized as an asset manager). Entries for the remaining individual entities in the grouping will be reported in Schedule 1B only as “included.”
 - In addition, a single numerical entry would be allowed for all “included” non-insurance/non-financial entities at the intermediate holding company level assuming that the intermediate holding company owns only non-insurance/non-financial entities (i.e., does not own other entity types), all use the same accounting rules (e.g., all GAAP), and are at least consistent with the way the group manages their business. This would include any positive residual value of the holding company itself. Entries for all individual

entities in the grouping will be reported in Schedule 1B only as “included.”, but no stand-alone values for each entity would be required.

- Values for, non-insurance/non-financial subsidiaries of U.S. RBC filers or such subsidiaries owned by other financial entities with regulatory capital requirements for which the non-insurance/non-financial entity is included in the capital charges for the Parent entity may remain with their Parent insurers and will not be de-stacked. Entries for these individual entities in the grouping will be reported individually in Schedule 1B Columns 1 and 2 only as “included.” along with other required entries in Schedule 1B, but no stand-alone values for each entity would be required in Schedules 1C or 1D. These should be reported as “included” in Schedule 1.
- Mutual Insurance Groups may use the Total Adjusted Capital and amount of required capital from the top-level Insurer’s RBC Report at 200% x ACL RBC further adjusted to de-stack foreign insurers and other financial entities owned directly or indirectly (on a look-through basis) via RBC filing subsidiaries. Such foreign insurance subsidiaries or other financial subsidiaries shall be reported at the carrying values and capital calculations as described later herein.
- Data for U.S. Branches of Foreign insurers may be omitted from Schedule 1 if they are otherwise included in the entries, values, and capital requirements of a foreign insurer in the group.

NOTE: These simplifications will be treated in a similar manner in Input 2 – Inventory.

58. Any financial entity owned by a Parent insurer and listed in Schedule A or Schedule BA, and any insurance or financial entity that is owned indirectly through a Schedule BA affiliate should be listed in Schedule 1 and in the Inventory and assigned the appropriated identifying information. (See also the instructions for Part B of the Inventory). These entities will be de-stacked from the values for the Parent insurer. The same treatment for these entities will be afforded when they are owned by a foreign insurer or other non-insurance entities.
59. Schedule 1B contains descriptions of each entity. Make selections from the drop-down menu where available.
- **[Sch 1B Col 1] Include/Exclude (Company)** – This column is to select entities where a request is made for exclusion. The filer will indicate which non-insurance/non-financial entities not owned directly or indirectly by an insurer should be excluded from the GCC as not posing material risk to the group.
 - **[Sch 1B Col 2] Include/Exclude (Supervisor)** – Column to be filled in by supervisor. These are entities where the Supervisor agrees with the filer’s assessment of material risk and these entities will be excluded from the GCC and may be included in a sensitivity analysis later in the template.

NOTE: This column may also be completed by the filer after advance consultation with the Lead State Regulator.

- **[Sch 1B Col 3] Include/Exclude (Selected)** – Formula to determine treatment of data for later sensitivity analysis. If supervisor has made a determination of include/exclude in the prior column, that will be used. If not, the company’s selection will be used.

- **[Sch 1B Col 4] Entity Grouping** – Column denotes whether this is an insurance or non-insurance/non-financial entity and is also automatically populated based on the entry in Column 8.
- **[Sch 1B Col 5] Entity Identifier** – Provide a unique string for each entity. This will be used as a cross-reference to other parts of the template. If possible, use a standardized entity code such as NAIC Company Code (CoCode) or Insurance Services Office (ISO) Legal Entity Identifier. CoCode should be entered as text and not number (e.g., if CoCode is 01234, then the entry should be “01234” and not “1234”). If there is a different code that is more appropriate (such as a code used for internal purposes), please use that instead. If no code is available, then input a unique string or number in each row in whatever manner is convenient (e.g., A, B, C, D, ... or 1, 2, 3, 4...). Do not leave it blank.
- **[Sch 1B Col 6] Entity Identifier Type** – Enter the type of code that was entered in the “Entity Identifier” column. Choices include “NAIC Company Code,” “ISO Legal Entity Identifier,” “Reporting Entity Defined” and “Other.”
- **[Sch 1B Col 7] Entity Name** – Provide the name of the legal entity.
- **[Sch 1B Col 8] Entity Category** – Select the entity category that applies to the entity from the following choices (all U.S. life captives shall select the option for “RBC Filing Captive,” complete the calculation using the life RBC formula in accordance with instructions below regarding “Additional clarification on capital requirements where a U.S. formula (RBC) is not required,” regardless of whether the company is required by their captive state to complete the RBC formula. Insurers or financial entities that are de-stacked from an insurer’s Schedule A or Schedule BA should be assigned the corresponding insurer or financial entity category:

RBC Filing U.S. Insurer (Life)	UK Solvency II – Life	Colombia
RBC Filing U.S. Insurer (P/C)	UK Solvency II – Composite	Indonesia
RBC Filing U.S. Insurer (Health)	Australia – All	Thailand
RBC Filing U.S. Insurer (Other)	Switzerland – Life	Barbados
U.S. Mortgage Guaranty Insurers	Switzerland – Non-Life	Regime A (Participant Defined)
U.S. Title Insurers	Hong Kong – Life	Regime B (Participant Defined)
Other Non-RBC Filing U.S. Insurers	Hong Kong – Non-Life	Regime C (Participant Defined)
RBC filing (U.S. Captive)	Singapore – All	Regime D (Participant Defined)
Canada – Life	Chinese Taipei – All	New Zealand
Canadian – P/C	South Africa – Life	Bank (Basel III)
Bermuda – Other	South Africa – Composite	Bank (Other)
Bermuda – Commercial Insurers	South Africa – Non-Life	Financial Entity with a Regulatory Capital Requirement
Japan – Life	Mexico	Asset Manager/Registered Investment Advisor – High Risk
Japan – Non-Life	China	Asset Manager/Registered Investment Advisor – Medium Risk
Japan – Health*	South Korea	Other Financial Entity without a Regulatory Capital Requirement – High Risk
Solvency II – Life	Malaysia	Other Financial Entity without a Regulatory Capital Requirement – Medium Risk
Solvency II – Composite	Chile	Other Financial Entity without a Regulatory Capital Requirement – Low Risk
Solvency II – Non-Life	India	Other Non-Ins/Non-Fin with Material Risk
Solvency II – Non-Life	Brazil	Other Non-Ins/Non-Fin without Material Risk
UK Solvency II – Non-Life	Argentina	Non-Operating Holding Co.

* If the GCC group’s Japanese insurer health business (referred to as “Third Sector”) is greater than 60% of total life business (referred to as “First Sector”) and health business combined, as reflected by annualized premium for the year reported, then that group may elect to use the Japan health scalar set rather than the life scalar set.

NOTE: All U.S. captives are required to complete the applicable RBC formula template. In addition, any insurer, other than U.S. captive, that submits an RBC filing to either the state of domicile or the NAIC will be considered an RBC filer.

- **[Sch 1B Col 9] Alternative Grouping** – This is an optional input field. This field should be used if you wish to show similar entities aggregated into a single line in Summary 4-Alternative Grouping. Exhibit. For example, if you have a dozen small dental HMO businesses, you may wish to show them as a single line called “Dental HMOs,” as opposed to listing each entity separately. This is a level of granularity below “Entity Category” but above individual entities. No entity should be put in the same “Alternative Grouping” as its Parent. It is acceptable to put only one entity in a grouping. If any entries are left blank then, in Column 17, the “Entity Name” will be selected as the grouping. This will not impact the order of the entities for which data is entered in Schedule 1 or the “Inventory” tab.
- **[Sch 1B Col 10] Parent Identifier** – Provide the Entity Identifier of the immediate Parent legal entity for each entity, as applicable. If there are multiple Parents, select the Parent entity with the largest ownership percentage. Only include one entry. For the top holding company, enter “N/A.”
- **[Sch 1B Col 11] Parent Name** – This will be populated by a formula, so input is not required.
- **[Sch 1B Col 12] % Owned by Parent** – Enter the percentage of the entity that is owned by the Parent identified earlier in the worksheet. Percentages of ownership should be based on the percentage of voting class securities (unless ownership is maintained other than by control of voting securities) consistent with what is reported pursuant to state holding company regulation filings (Form B or equivalent).
- **[Sch 1B Col 13] % Owned within Group Structure** – Enter the percentage of the entity that is owned in the aggregate by any affiliate within the Group.
- **[Sch 1B Col 14] State/Country of Domicile** – Enter state of domicile for U.S. insurance entities and country of domicile for all other entities. (Use references that are consistent with those used on Schedule Y, where available.)
- **[Sch 1B Col 15] Zero Valued and Not Admitted Entities – Report for U.S. Insurers Only.** Select the treatment of the entity from the following options: “Zero Valued for RBC” or “Nonadmitted for Accounting and RBC (Direct or Indirect).”

Zero Valued for RBC are affiliated insurance and financial entities that are otherwise reported in the RBC filer’s annual financial statement at their accounting value (i.e., per SAP) but are reported at zero value and zero capital requirements for RBC purposes. Examples include non-Canadian foreign insurers directly owned by U.S. life RBC filers. The carrying value and capital calculation specified in these instructions for the specific insurance or financial entity type should be reported in Inventory B, Column 2 and Inventory C, Column 2, respectively.

NOTE: Do not report zero values in Column 2 of Inventory B and Inventory C for these affiliates. Only RBC filing entities with this type of affiliate will report in this column.

Nonadmitted for Accounting and RBC (Direct or Indirect) are insurance or other financial affiliates that are owned directly or indirectly by an RBC filer via a downstream non-financial entity or holding companies that are reported at zero value per SAP and are also reported at zero value and zero capital requirements for RBC purposes. Examples include U.S. insurers indirectly owned by a U.S. RBC filer through a nonadmitted holding company that has not been subject to an independent audit. The carrying values and capital calculations specified herein associated with the specific insurance or financial

indirectly owned entity type should be reported Inventory B, Column 2 and Inventory C, Column 2, respectively.

NOTE: Do not report zero values in Column 2 of Inventory B and Inventory C for these affiliates. Only RBC filing entities with this type of affiliate will report in this column. The excess value in the nonadmitted Parent entity may be reported at zero value.

No entry is required in this column for any nonadmitted directly or indirectly owned non-insurance/non-financial subsidiary. Report zero for these affiliates in Column 2 of Inventory B and Inventory C.

- **[Sch 1B Col 16] Is Affiliate on Schedule A or Schedule BA an Insurer or Other Financial Entity?** – Column is meant to identify an entity with an insurer or financial entity identifier in Column 8 that is reported on Schedule A or Schedule BA but is being de-stacked and also reported on the Inventory tab. Provide a “Y” response where that is applicable. Otherwise leave it blank.
- **[Sch 1B Col 17] Selected Alternative Grouping** – This will be populated by a formula, so input is not required. If there are any blank entries in Column 9 (Alternative Grouping), this column will set them equal to the name of the entity.

60. Schedule 1C contains financials for each entity:

- **[Sch 1C Col 1] Basis of Accounting** – Enter basis of accounting used for the entity’s financial reporting.
- **[Sch 1C Col 2 and Col 3] Gross and Net Written Premium** – Report for all U.S. and non-U.S. insurers. Use applicable entity annual financial statement data source for U.S. insurers (life, P/C, and health). Use equivalent local source for non-U.S. insurers or company records when available.
- **[Sch 1C Col 4] Reinsurance Assumed from Affiliates** – Report for all U.S. and non-U.S. insurers. Use applicable entity annual financial statement data source for U.S. insurers (assumed premiums from P/C Schedule F, Part 1 and life and health Schedule S, Part 1, Section 1, and Section 2). Use equivalent local source for non-U.S. insurers or company records when available.
- **[Sch 1C Col 5] Reinsurance Ceded to Affiliates** – Report for all U.S. and non-U.S. insurers. Use applicable entity annual financial statement data source for U.S. insurers (assumed premiums from P/C Schedule F, Part 3 and life and health Schedule S, Part 3, Section 1, and Section 2). Use equivalent local source for non-U.S. insurers or company records when available.
- **[Sch 1C Col 6] Book Assets** – This should be valued based on the applicable basis of accounting reported under the entity’s local regime and represents the total assets as reported in the basic financial statements before eliminations (because that is presumed to be less burdensome on the insurance holding company). Other financial data should similarly be prepared using financial data before eliminations. However, insurance holding companies are allowed to present such figures after eliminations if they do so for all figures and consistently for all years.
- **[Sch 1C Col 7] Book Liabilities** – This should be valued based on the applicable basis of accounting reported under the entity’s local regime and represents the total liabilities as reported in the basic financial statements.

- **[Sch 1C Col 8] Gross Paid-in and contributed Capital and Surplus (U.S. Insurers Only)** – For U.S. insurers, report the current year end amounts from annual financial statement Page 3 as follows:
 - a. Life Insurers: lines 29, 30 and 33.
 - b. P/C Insurers: lines 30, 31 and 34.
 - c. Health Insurers: lines 26, 27 and 28.

61. Generally, Schedule 1D will include entries from regulatory filings or entity specific GAAP financial statements as of the reporting date. The amounts reported should be the entity value on a stand-alone (fully de-stacked) or grouped basis (where applicable). This may require use of company records in certain cases. The amounts should be reported at 100% for the entity listed. Any required adjustments for percentage of ownership will be applied later, if necessary, to calculate a capital charge.

- **[Sch 1D Col 1] Prior Year Entity Identifier** – Report the Legal Entity Identifier, NAIC company code or other identifier used for the entity in the prior year GCC filing for the prior calendar year.
- **[Sch 1D Col 2] Prior Year Equity or Capital and Surplus** – Report the value based on net equity reported in the entity stand-alone balance sheet. This will generally be the same as what is reported in the current year column in the prior year GCC filing. Where grouping is permitted, the balance reported may be on a grouped basis.
- **[Sch 1D Col 3] Net Income** – The final reported income figure from the income statement, and therefore is the figure reported after interest, taxes, extraordinary items, etc. For entities with accounting and reporting requirements that specify that dividends paid or received will be part of “net income,” report the dividends received in this column. Report dividends to policyholders here as a reduction to net income if required by local accounting or reporting requirements.
- **[Sch 1D Col 4] Dividends Paid and Received (Net)** – All entity types report the net amount of dividends paid and received in reporting year to/from and affiliate, a Parent shareholder, public shareholders, or policyholders (if not required to be a reduction/increase in net income by local accounting or reporting requirements). Net dividend payments will be reported as a negative value. All entity types that are subject to accounting and reporting requirements that specify that dividends paid or received will be reported as a surplus adjustment, will report dividends received in the reporting year from affiliates in this column.
- **[Sch 1D Col 5] Capital and Surplus Contributions Received from Affiliates** – All entity types. Report the sum of capital contribution (other than via surplus notes) during the reporting year received from any affiliated entity.
- **[Sch 1D Col 6] All Other Changes in Capital and Surplus** – Include totals for all adjustments not listed above. This would include any investment income not already reported in Column 3 or Column 5. Also, report all stock repurchases or redemptions in this column.

NOTE: Greater detail may be made available upon request.

- **[Sch 1D Col 7] Current Year Equity or Capital and Surplus** – Report the value based on net equity reported in the entity stand-alone Balance Sheet for the current year. This will generally be the same as what is reported for the entity in Inventory B, Column 2. Where grouping is permitted, the balance reported may be on a grouped basis.
- **[Sch 1D Col 8] Capital and Surplus Contributions Paid to Affiliates** – All entity types report the total of capital contributions (other than via surplus notes) during the reporting year paid to any affiliated entity.
- **[Sch 1D Col 9] Dividends Declared and Unpaid** – For all applicable entities report the amount of dividends declared or approved but not yet distributed.
- **[Sch 1D Col 10] Dividends Received and Not Retained** – All holding companies, insurers and financial entities with regulatory capital requirements indicate by “Y” or “N” if part or all of dividends received reported in Column 5 have been paid (passed through) to a Parent company, to public shareholders, or used to repurchase or redeem shares of stock.

Input 2 – Inventory

62. Columns in Inventory A are being pulled from Schedule 1:

- [Column 1] Insurance/Non-Insurance
- [Column 2] Entity Identifier
- [Column 3] Entity Identifier Type
- [Column 4] Entity Name
- [Column 5] Entity Category
- [Column 6] Parent Identifier
- [Column 7] Parent Name
- [Column 8] Basis of Accounting

Columns Requiring Input

63. Enter information on adjustments to carrying value. Considerations specific to different types of entities are located at the end of this subsection.

- **[Inv B Col 1] Carrying Value (Immediate Parent Regime)** – This column is included to accommodate participants with either a U.S. or a non-U.S. based Parent company. In general, carrying values utilized should represent: 1) the subsidiary valuation required by the insurance or other sectoral regulator if the Parent is a regulated entity; or 2) in the case where the Parent is not subject to insurance or other sectoral regulatory valuation, then a subsidiary valuation-based U.S. GAAP or other International GAAP as used in the ordinary course of business by the ultimate controlling party in their financial statements. No entry is required for the Ultimate Controlling Person (UCP)

The value in this column will include a zero value for entities not admitted per SAP or other jurisdictional regulatory rules. A single entry for all entities that qualify under the grouping criteria described in Input 1, herein may be made in lieu of individual entries on the line for the affiliate that holds the qualifying entities. This column will include double counting.

The values recorded for all subsidiaries should be the full value of the subsidiary regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the full value of the subsidiary adjusted to reflect total percentage of ownership within the group.

- **[Inv B Col 2] Carrying Value (Local Regime)** – Record the carrying value recognized by the legal entity's jurisdictional insurance or other sectoral supervisor. This will include the value of capital instruments (e.g., U.S. insurer issued surplus notes) that are specifically recognized by statute, regulation or accounting rule and included in the carrying value of the entity. In the case where the entity is not subject to insurance or other sectoral regulatory valuation, the carrying value will be U.S. GAAP equity (including OCI) or other International GAAP as used in the ordinary course of business by the ultimate controlling party in their financial statements. If the group is comprised entirely of U.S.-based entities under a U.S.-based Parent company, the entries in this column will be the same as in Column 1 except in cases where the Parent owns not admitted (or otherwise zero valued financial affiliates that would be reported as not admitted in the Parent Regime column but fully admitted (per SAP valuation) in the Local Regime column). (See instructions for [Sch 1B Col 15].) However, if such an entity has been listed in the [Sch 1B Col 2] **Include/Exclude (Supervisor)** column, indicating that the Lead State

Regulator agrees that the entity does not pose material risk, then a value will be reported here, but the ultimate calculation will show the results without the excluded entity's value. Directly or indirectly owned **non-insurance / non-financial** entities that were not admitted or otherwise carried at a zero value in the Parent Regime, should be reported at zero value in this column. The carrying value for affiliates that are U.S. RBC filers will be the amount reported TAC on entity's RBC report. A change is recommended to allow the carrying value for Canadian insurers to be calculated on a net of reinsurance basis. This column will include double counting. The values recorded for all subsidiaries should be the full value of the subsidiary regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the full value of the subsidiary adjusted to reflect total percentage of ownership within the group. The entry here should generally be the same as the value reported in Inventory B, Column 1, except where TAC for RBC filers differs from their BACV. A single entry for all entities that qualify under the grouping criteria described exceptions described herein under Paragraph 57 in the Input 1 section, above may be made in the line for the affiliate that holds the qualifying entities in lieu of individual entries.

A sensitivity analysis is included to calculate the impact of excluded entities requested but not approved for exclusion by the lead state.

Parent Entity	INVENTORY B – Accounting Valuation to be Used			Parent Entity Line Inv B, Column 3
	Entity	Inv B, Column 1	Inv B, Column 2	
U.S. RBC filer	U.S. RBC filer	BACV Per Statutory Accounting	RBC TAC	BACV Per Statutory Accounting
U.S. RBC filer	Other U.S. Insurer	BACV Per Statutory Accounting	BACV Per Statutory Accounting	BACV Per Statutory Accounting
U.S. RBC filer	Foreign Insurer or Other Regulated w/ Capital Reqmt	BACV Per Statutory Accounting	Per Local Regulatory Accounting	BACV Per Statutory Accounting
U.S. RBC filer	Financial w/o Capital Reqmt	BACV Per Statutory Accounting	BACV Per Statutory Accounting	BACV Per Statutory Accounting
U.S. RBC filer	Non-Financial	BACV Per Statutory Accounting	No entry Required	No entry Required - Do not de-stack
Other U.S. Insurer	U.S. RBC filer	BACV Per Statutory Accounting	RBC TAC	BACV Per Statutory Accounting
Other U.S. Insurer	Any Other Entity Type	BACV Per Statutory Accounting	BACV Per Statutory Accounting	BACV Per Statutory Accounting
Foreign Insurer or Other Regulated w/ Capital Reqmt	U.S. RBC filer	Per Local Regulatory Accounting	RBC TAC	Per Local Regulatory Accounting
Foreign Insurer or Other Regulated w/ Capital Reqmt	Other U.S. Insurer	Per Local Regulatory Accounting	BACV Per Statutory Accounting	Per Local Regulatory Accounting
Foreign Insurer or Other Regulated w/ Capital Reqmt	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per Local Regulatory Accounting	Per Local Regulatory Accounting	Per Local Regulatory Accounting
Foreign Insurer or Other Regulated w/ Capital Reqmt	Financial w/o Capital Reqmt	Per Local Regulatory Accounting	Per risk level factor x 3-year avg revenue	Per Local Regulatory Accounting
Foreign Insurer or Other Regulated w/ Capital Reqmt	Non-Financial	Per Local Regulatory Accounting	No entry Required	No entry Required – Do not de-stack
Financial w/o Capital Reqmt or Non-Financial	U.S. RBC filer	Per Local Public Accounting	RBC TAC	Per Local Public Accounting
Financial w/o Capital Reqmt or Non-Financial	Other U.S. Insurer	Per Local Public Accounting	BACV Per Statutory Accounting	Per Local Public Accounting
Financial w/o Capital Reqmt or Non-Financial	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per Local Public Accounting	Per Local Regulatory Accounting	Per Local Public Accounting
Financial w/o Capital Reqmt or Non-Financial	Financial w/o Capital Reqmt	Per Local Public Accounting*	Per Local Regulatory Accounting*	Per Local Public Accounting
Financial w/o Capital Reqmt or Non-Financial	Non-Financial	Per Local Public Accounting*	Per Local Public Accounting*	Per Local Public Accounting

*Subject to Grouping

In cases where a U.S. life RBC filer owns a foreign insurer and the BACV value reported for the foreign insurer in the Parent U.S. insurers financial statement is adjusted to zero for RBC purposes, then report zero in Inventory B, Column 1 and Column 3 for that foreign insurance entity.

- **[Inv B Col 3] Investment in Subsidiary** – Enter an adjustment to remove the investment carrying value of any directly owned subsidiary(ies) from Parent’s carrying value. This is intended to prevent double counting of available capital when regulated entities are stacked. The carrying value to be removed should be the investment value carried by the Parent from which the entity is being de-stacked (i.e., the value in Column 1 in Inventory B adjusted for ownership percentage). Thus, there will be no adjustment to the Parent’s value in this column for entities that are reported at zero value by the Parent. Where entities are owned partially by entities outside of the group, then the Parent’s percentage of ownership will be calculated based on the value owned within the group.

Generally, for all non-financial affiliates, Schedule A and Schedule BA assets will remain in the value of the Parent insurer and not entered in this column. However, if the Schedule A or Schedule BA asset is an insurance or financial entity as described herein, the value of that entity will be included in this column. For indirectly owned Schedule A or Schedule BA insurance or financial entities, only the value of that entity will be included in this column and the remaining value of the downstream Schedule BA Parent will remain with the Parent insurer. Similarly, the carrying value of U.S. branch of a foreign insurer that is listed in Schedule 1 and in this section should be entered in this column in the row of the foreign insurer if it is already included in the value of the foreign insurer so that the Parent entity may eliminate double counting of that available capital which will now be reported by the stand-alone Branch listed in the inventory.

NOTE: The “Sum of Subsidiaries” column may provide a useful check against this entry, but it will not necessarily be equal.

When utilizing public accounting (e.g., GAAP) equity values that differ from regulatory values (e.g., SAP), it is **the GAAP equity** of the insurers that must be eliminated from the GAAP Parent in this column, not the SAP value (regulator value). This is necessary in order to allow the calculation to appropriately represent SAP available capital of regulated entities and GAAP equity of non-regulated entities. Data on the accounting differences between Parent and Local carrying values will be collected in **[Inventory B, Column 9]** and further detail provided in the “Input 6 - Questions” tab.

NOTE: Values for Schedule A and Schedule BA affiliates that are required to be reported in the “Inventory” tab will be adjusted out of the value reported by the U.S. insurer in this column.

[Inv B Col 4] Intragroup Capital Instruments – This column is automatically calculated from inputs to the “Capital Instruments” tab. It reflects an adjustment to remove carrying value for intragroup financial instruments that that are treated as capital by the issuer and consequently create additional capital within the group upon issuance (most notably U.S. surplus notes). Example for surplus notes: In both intragroup and unaffiliated transactions, treat the assets transferred to the issuer of the surplus note as available capital. If the purchaser is an affiliate, eliminate the investment value from the affiliated purchaser of the surplus note in this column. If the purchaser is an insurer or other regulated entity, eliminate the purchaser’s capital charge (e.g., RBC charge) on the surplus note investment in the corresponding adjustment column for the capital calculation. No adjustments are made for any intragroup capital instrument that is treated as a liability by the issuer.

- **[Inv B Col 5] Reported Intragroup Guarantees, LOCs and Other** – If there is an impact on the available capital / carrying value of an entity that is reported in Column 2, other than an XXX/AXXX captive, enter an adjustment to reflect the notional value weighted for expected utilization for reported intragroup guarantees (including solvency insurance and capital maintenance agreements). Enter the notional value for letters of credit, or other intragroup financial support mechanisms. Explain each intragroup arrangement in the “Input 6 - Questions” tab.
- **[Inv B Col 6] Other Intragroup Assets** – Enter the amounts to adjust for and to remove double-counting of carrying value reported in Column 2 for other intragroup assets, which could include intercompany balances, such as (provide an explanation of each entry in the “Input 6 - Questions” tab):
 - a. Loans, receivables and arrangements to centralize the management of assets or cash;
 - b. Derivative transactions;
 - c. Purchase, sale or lease of assets; and
 - d. Other (describe).
- **[Inv B Col 7] All Other Adjustments** – Include a brief explanation in the “Description of ‘Other Adjustments’” in the “Input 6 - Questions” tab. This column should adjust for externally issued LOCs or other SAP adjustments included in available capital in Column 2 but not otherwise recognized in these instructions. This will not apply to XXX/AXXX captives.
- **[Inv B Col 8] Adjusted Carrying Value** – Stand-alone value of each entity per the calculation to eliminate double-counting. This value includes permitted and prescribed practices.
- **[Inv B Col 9] Accounting Adjustments (e.g., GAAP to SAP)** – Report the total difference for all entities owned by a common parent between the carrying value reported in Column 1 and the value reported in Column 2 for those entities. This column will generally apply to regulated entities where the stand-alone carrying value is based on regulatory accounting (e.g., SAP) while the value reported for that entity by the Parent is carried at a financial accounting (e.g., GAAP) value. Further detail is reported in the “Input 6 - Questions” tab. The total difference in values should be reported in this column on the Parent line.
- **[Inv B Col 10] Gross Revenue 2nd Prior Year (Financial Entities without Regulatory Capital Requirements and Non-financial Entities)** – Report gross revenue (excluding ~~data~~ from subsidiaries and affiliates).
- **[Inv B Col 11] Gross Revenue Prior Year (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities)** – Report gross revenue (excluding ~~data~~ from subsidiaries and affiliates).
- **[Inv B Col 12] Gross Revenue Current Year (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities)** – Report gross revenue (excluding ~~data~~ from subsidiaries and affiliates).
- **[Inv B Col 13] Average Revenue over 3-years (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities)** – This column is populated from data in Column 10, Column 11 and Column 12.

This column will support the capital calculation for asset managers, broker-dealers and other Financial Entities without Regulatory Capital Requirements.

64. “Adjusted Capital Calculation” is reported in a similar manner to the “Adjusted Carrying Value” above. The columns are in the same order, although it is likely that fewer entries will be needed for Column 4 through Column 7. Further guidance is below.
- **[Inv C Col 1] Entity Required Capital (Immediate Parent Regime)** – This column is included to accommodate participants with either a U.S. or a non-U.S. based Parent company. No entry is required for the Ultimate Controlling Person. In general, the entity required capital should represent the capital requirements of the Parent’s insurance or other sectoral regulator:
 - a. For subsidiaries of foreign insurers or other non-U.S. financial entities, the unscaled capital required by the Parent’s regulator of the regulated entity based on the equivalent of a Prescribed Capital Requirement (PCR) level.
 - b. For subsidiaries, including applicable Schedule A and Schedule BA subsidiaries, of U.S. insurance entities that are subject to RBC, except where the subsidiary is also an RBC filer, the entry should be equivalent of what would be required in the Parent’s RBC, adjusted for covariance where applicable (calculated by the preparer) reported at company action level (or two times authorized control level RBC) for that entity. Where the subsidiary is also an RBC filer, then the amount reported will be at company action level RBC (or two times authorized control level RBC) after covariance.
 - c. For subsidiaries of U.S. insurers that do not file RBC, report the actual amount of capital required in the Parent’s capital requirement (if any) for the subsidiary entity.
 - d. In the case where the Parent is not subject to insurance or other sectoral regulatory valuation, then use zero where applicable. This column will include double counting. The values recorded for all subsidiaries should be 100% of the specified capital requirements regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the capital requirements of the subsidiary adjusted to reflect total percentage of ownership within the group. A single entry for all entities that qualify under the grouping criteria described in Section V, herein may be made on the line for the affiliate that holds the qualifying entities in lieu of individual entries.
 - **[Inv C Col 2] Entity Required Capital (Local Regime)** – Enter required capital for each de-stacked entity, as applicable entity description below. For U.S. RBC filing subsidiaries under a U.S. RBC filing Parent the amounts will be the same in both the Parent and Local Regime columns. For some entity types this will result in entries for the entities under a U.S.-based insurance Parent to be different from what U.S. RBC would dictate. In addition, where a U.S. insurer directly or indirectly owns notadmitted (or otherwise zero valued) financial affiliates, those affiliates would be reported with zero value in the Parent Regime column but at the specified regulatory value described below for that financial entity type in this column. However, if such an entity has been listed in **[Sch1B Col 2] Include/Exclude (Supervisor)** column, indicating that the Lead State Regulator agrees that the entity does not pose material risk, then report the capital calculation in accordance with entity instructions in paragraph 65 below, but the

ultimate calculation will show the results without the excluded entity's capital calculation. Directly or indirectly owned non-financial entities that were not admitted or otherwise carried at a zero value in the Parent Regime, should be reported at zero value in this column. The column allows the entity required capital for Canadian insurers to be calculated on a net of reinsurance basis. For non-risk-based regimes (e.g. Barbados-domiciled operating companies) the required capital will be 50% of available capital, although groups are also allowed to utilize an amount that is derived from U.S. RBC (with simplifications allowed) if that is preferred by the group. Note, this 50% factor is an interim factor to be used until a more thorough analysis can be complete. A single entry for all entities that qualify under the grouping criteria described herein under Paragraph 57 in the Input 1 section above may be made in the line for the affiliate that holds the qualifying entities in lieu of individual entries. This column will include double counting. The values recorded for all subsidiaries should be 100% of the capital requirements regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the capital requirements of the subsidiary adjusted to reflect total percentage of ownership within the group.

65. Additional clarification on capital requirements where a formula is required:

- **U.S. RBC filing Insurers:** Report RBC at Company Action Level including operational risk (200% x ACL)
- **Foreign Insurance Entities:** The local capital requirement as specified below for each jurisdiction should be reported by a legal entity at a Prescribed Capital Requirement (PCR) level. This treatment is different than what U.S. RBC would require and recognizes other regulators view of adequate capital for insurers within another jurisdiction. It is more reflective of risk within the group context. A sensitivity analysis will be included in the "Summary 2 - Top Level" tab using the jurisdictional PCR scaled per the Excess Relative Ratio method (see Appendix 1) for insurers in foreign jurisdictions that are subject to scaling.
- **European Union subsidiaries:** Use the Solvency II Solo Solvency Capital Requirement (SCR) as the PCR.
- **U.S. RBC filing subsidiaries:** The RBC Company Action Level including operational risk of each insurer should be reported.
- **Australia subsidiaries:** The PCR is the target capital as set by the insurer/group in accordance with APRA requirements. Effectively, this would be "Target capital under ICAAP." PCR is not a set multiple of MCR.
- **Bermuda subsidiaries:** The Legal Entity PCR in Bermuda for medium and large commercial insurers is called the "Enhanced Capital Requirement" (ECR) and is calibrated to Tail VaR at 99% confidence level over a one-year time horizon.
- **Hong Kong subsidiaries:** Under the current rule-based capital regime, if applied similar to the concept of PCR, the regime's PCR would be 150% of MCR for life insurers and 200% of MCR for non-life insurers.
- **Japan subsidiaries:** The PCR is the solvency margin ratio of 200%.
- **Korea subsidiaries:** The PCR is 100% of risk-based solvency margin ratio.

- **Singapore subsidiaries:** The PCR is 120% of total risk requirement (i.e., capital requirement).
 - **China Taipei subsidiaries:** The PCR is 200% of RBC ratio.
 - **Canada life entities:** The baseline PCR should be stated to be “100% of the LICAT Base Solvency Buffer.” The carrying value should include surplus allowances and eligible deposits.
 - **Canada P/C entities:** The PCR should be the MCT capital requirement at the target level.
 - **South Africa subsidiaries:** The PCR is 100% of the SAM SCR.
 - For any entities that cannot be mapped to the above categories excluding those in non-risk-based regimes, scaling will be at 100%
66. Additional clarification on capital requirements where a U.S. formula (RBC) is not required:
- For those U.S. insurers that do not have an RBC formula, the minimum capital per state law should be used as the basis for what is used for that insurer in the GCC. This may differ from what U.S. RBC would require. It is more reflective of the regulatory view of risk in the group context. The following requirements should be used in other specified situations where an RBC does not exist:
 - **Mortgage Guaranty Insurers:** The minimum capital requirement shall be based on the NAIC’s requirements set forth in the *Mortgage Guaranty Insurance Model Act* (#630).
 - **Financial Guaranty Insurers:** The minimum capital requirement shall be based on the NAIC’s requirements set forth in the *Financial Guaranty Insurance Guideline* (#1626), specifically considering Section 2B (minimum capital requirements) and Section 3 (Contingency, Loss and Unearned Premium Reserves) and the other requirements of that guideline that impact capital (e.g., specific limits).
 - **Title Companies:** The minimum capital requirement shall represent 200% of the required level of reserves carried by the insurance company.
 - **Other Companies:** A selected basis for minimum capital requirements derived from a review of state laws. Where there is a one-off treatment of a certain type of insurer that otherwise would file RBC (e.g., HMOs domiciled in California), the minimum capital required by their respective regulator could be considered in lieu of requiring the entity to complete an RBC blank.
 - **Captives:** U.S. insurers that have captives should complete the applicable RBC formula regardless of whether the captive is required to complete it in their captive state. The amounts input into RBC by the captive shall be based on the actual assets and liabilities utilized in the regulatory reporting used by the captive. Captives used exclusively for self-insurance (either by U.S. life insurers or any other type of insurer) or insurance provided exclusively to its own employees and/or its affiliates, should not complete an RBC calculation and the entire entity should be treated as non-insurers and receive the same charge as a non-regulated entity.
67. Non-insurance financial entities subject to a specified regulatory capital requirement:
- All banks and other depository institutions – The unscaled minimum required by their regulator. For U.S. banks, that is the Office of the Comptroller of the Currency (OCC)

Tier 1 or other applicable capital requirement. This is understood to be consistent with how the Federal Reserve Board would apply its Building Block Approach.

- Any other financial entity that is determined to be subject to a specified regulatory capital requirement will bring that requirement in the GCC at the first level of regulator intervention (if applicable). Application of regulatory capital requirements not specifically described in this paragraph must be approved for use by the lead state prior to their use. Otherwise, the entity will be subject to the capital calculation described in Paragraph 68.
- This differs from what U.S. RBC would require. It recognizes the sectoral regulator's view of risk for a particular financial entity type. It is more reflective of risk in the group context.

68. Non-insurance financial entities NOT subject to a specified regulatory capital requirement:

- All asset managers and registered investment advisors and all other financial entities as defined in Section II: Use the capital calculation specified below based the level of risk assigned to the entity by applying the material risk principles defined in Section II. However, asset managers and investment affiliates (not qualifying to be treated as non-financial entities per paragraph 9) will be reported at either medium or high risk. In certain cases, these entities may be subject to a layer of regulation (e.g., SEC or FINRA) but are not generally subject to a specified capital requirement.

High Risk: 10% x 3-year average revenue

NOTE: A Basel Charge of 15% will be used for the IAIS ICS.

Medium Risk: 5.0% x 3-year average revenue.

Low Risk: 2.5% x 3-year average revenue

NOTE: Medium risk could be used as a starting point while the stratified methodology is further developed.

69. Other non-insurance, non-financial entities with material risk:

- Non-insurance, non-financial entities may not be as risky as financial entities. For non-insurance, non-financial entities not owned by RBC filers or other such entities where there is not a regulatory capital charge for the entity in the capital formula, use an equity charge of 10.5% (post tax) for predominantly life Insurance Groups 9.5% for predominantly P/C Insurance Groups and 3.5% for predominantly health Insurance Groups x BACV. If the entity is not subject to a capital charge or is included in the capital charge of another financial entity, then enter zero in Column 1 and the charge specified in this paragraph in Column 2. These factors are based on average after covariance RBC charges for the respective insurer types and are calibrated at 200% x ACL RBC. This is meant to be consistent with how the entity would be treated if owned by an RBC filer while recognizing that the entity may be excluded from the GCC if it does not pose material risk to the insurers in the group.

Non-insurance/non-financial entities owned by RBC filing insurers (or owned by other entities where a regulatory capital charge applied to the non-insurance/non-financial affiliate) will remain in the Parent's capital charge and reported at that value in Column 1 but will be reported as zero in Column 2. These non-financial entities may not be excluded from the GCC and should be reported under this entity category as "included".

One additional informational capital calculation for all non-financial entities will be applied in the Summary 2 - Top Level tab using current year gross revenue from Inventory B, Column 12 with the calculation occurring and results available in the “Calc 2” tab as follows: 5% of reporting year gross revenue based on a medium level risk for a financial entity.

70. Non-operating holding companies:

- Non-operating holding companies will be treated the same as other non-insurance/non-financial entities with material risk. Unless reported on a grouped basis (see paragraph 57), for purposes of applying the capital calculation, the carrying value of stand-alone positive valued and negative valued non-operating holding companies will be netted. If the net value is zero or less (floored at zero for purposes of applying a charge), the charge applied will be zero. If the filer chooses to designate the non-operating holding company as a non-insurance/non-financial entity without material risk and requests exclusion, then no allowance for debt issued by that holding company may be included in the calculation.

71. Non-insurance, non-financial entities without material risk:

Only entities not owned directly or owned by RBC filing insurers (or by other entities where a regulatory capital charge applied to the non-insurance/non-financial affiliate) should be reported in this category. In general, these entities should be “excluded” from the GCC in Schedule 1B, Column 1, subject to review and decisions to report as “include” by the lead-State regulator in Schedule 1B Column 2.

INVENTORY C – Capital Calculation to be Applied				
Parent Entity	Entity	Entry on Entity's Own Line		Impact on Investment in Subsidiary in Parent's Line
		Inv C, Column 1	Inv C, Column 2	Inv C, Column 3
U.S. RBC filer	U.S. RBC filer	RBC ACL (including op Risk) x 2	RBC ACL (incl. op risk) x 2	RBC ACL (including op Risk) x 2
U.S. RBC filer	Other U.S. Insurer	Affiliate risk RBC	Per GCC Entity Instructions	Affiliate risk RBC
U.S. RBC filer	Foreign Insurer or Other Regulated w/ Capital Reqmt	Affiliate risk RBC	Jurisdictional or Sectoral PCR Level Capital Reqmt	Affiliate risk RBC
U.S. RBC filer	Financial w/o Capital Reqmt	Asset risk RBC	Per risk level factor x 3-year avg revenue	Asset risk RBC
U.S. RBC filer	Non-Financial	Asset risk RBC -Post covariance	No entry Required	No entry Required - Do not de-stack
Other U.S. Insurer	U.S. RBC filer	Zero	RBC ACL (incl. op risk) x 2	Zero
Other U.S. Insurer	Any Other Entity Type	Zero	Per GCC Entity Instructions	Zero
Foreign Insurer or Other Regulated w/ Capital Reqmt	U.S. RBC filer	Per Local Capital Reqmt	RBC ACL (incl. op risk) x 2	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Other U.S. Insurer	Per Local Capital Reqmt	Per GCC Instructions	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per Local Capital Reqmt	Jurisdictional or Sectoral PCR Level Per Local Capital	Foreign Insurer or Other Regulated w/ Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Financial w/o Capital Reqmt	Per Local Capital Reqmt	Per risk level factor x 3-year avg revenue	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Non-Financial	Per Local Capital Reqmt	No entry Required	No entry Required - Do not de-stack
Financial w/o Capital Reqmt or Non-Financial	U.S. RBC filer	Zero	RBC ACL (incl. op risk) x 2	Zero
Financial w/o Capital Reqmt or Non-Financial	Other U.S. Insurer	Zero	Per GCC Entity Instructions	Zero
Financial w/o Capital Reqmt or Non-Financial	Foreign Insurer or Other Regulated w/ Capital Reqmt	Zero	Jurisdictional or Sectoral PCR Level Capital Reqmt	Zero

Financial w/o Capital Reqmt or Non-Financial	Financial w/o Capital Reqmt	Zero	Per risk level factor x 3-year avg revenue*	Zero
Financial w/o Capital Reqmt or Non-Financial	Non-Financial	Zero	Per GCC Instructions*	Zero

Capital Calculation Adjustments

- **[Inv C Col 3] Investment in Subsidiary** – Enter an adjustment to remove the required capital of the directly owned subsidiary(ies) from Parent’s required capital. The capital requirement to be removed should be the capital requirement carried by the Parent from which the entity is being de-stacked (i.e., the value reported in Column 1 in Inventory C adjusted for ownership percentage). Thus, there will be no adjustment to the Parent’s value in this column for entities that are reported at a capital calculation of zero value by the parent. This is intended to prevent double counting required capital when regulated entities are stacked. [Example: When de-stacking an RBC filer from another RBC filer, the amount entered on the Parent line would be the RBC of the subsidiary. When de-stacking financial entities that are subject to diversification in a capital formula (e.g., RBC) the amount entered on the Parent line is the post-diversified capital requirement as calculated by the preparer (which is also the amount to be reported for the de-stacked entity on the entity’s line.

Generally the capital requirements for Schedule A and BA affiliates and other non-financial affiliates will remain in the capital requirements of the Parent insurer and not entered in this column, except that the capital requirements for any financial entity reported in a Parent’s Schedule A and BA, any financial entity indirectly owned through another Schedule A or BA affiliate listed in Schedule 1 and in this section should be entered in this column in the row of the entity that directly or indirectly owns that Schedule A and BA affiliate so that the parent entity may eliminate double counting of that capital requirement capital which will now be reported by the stand-alone Schedule A or BA affiliate listed in in the inventory.

For indirectly owned Schedule A and BA financial entities, only the capital requirements for that entity will be included in this column and the remaining capital requirement of the downstream BA Parent will remain with the Parent insurer. Similarly, the capital requirement for any U.S. Branch of a foreign insurer that is listed in Schedule 1 and in this section should be entered in this column in the row of the foreign insurer if it is already included in the capital requirement of the foreign insurer so that the parent entity may eliminate double counting of that capital requirement which will now be reported by the stand-alone Branch listed in the inventory. The amounts entered in this column for a Parent must correspond to the capital required by the parent entity which is being de-stacked from that Parent.

Capital calculations for Schedule A and Schedule BA indirectly owned financial entities that are owned by Schedule A or Schedule BA assets are reported in the Inventory Tab and will be adjusted out of the value reported by the U.S. insurer in this column (since the non-financial direct parent Schedule A or BA affiliate is not listed in the Inventory Tab.

In the “Input 6 - Questions” tab, a capital requirement should be reported for the value of the indirectly owned insurance of other financial entity based on the insurers Schedule A or Schedule BA charge rather than a charge (which would be zero) attributable to the Schedule A or Schedule BA entity that directly owns the insurance or other financial entity. As indicated earlier, the remaining capital requirement of the entity that directly owns the insurance or other financial entity will remain with the Parent insurer.

- **[Inv C Col 4] Intragroup Capital Instruments** – This column would generally be used if there is potential double-counting of capital requirements (e.g., RBC charges on surplus notes purchased by an affiliated U.S. insurer from a U.S. insurer issuer).
- **[Inv C Col 5] Reported Intragroup Guarantees, LOCs and Other** – This column would generally be used if there is potential double-counting of capital requirements (e.g., RBC charges on guarantees or LOCs).

- **[Inv C Col 6] Other Intragroup Assets** – This column is not intended to be used for required capital but is included in case an entity believes it is necessary from reporting an inaccurate required capital figure.
 - a. Loans, receivables and arrangements to centralize the management of assets or cash.
 - b. Derivative transactions.
 - c. Purchase, sale or lease of assets.
 - d. Other (describe in “Input 6 - Questions” tab).
- **[Inv C Col 7] All Other Adjustments** – Include a brief explanation in the “Description of ‘Other Adjustments’” in the “Input 6 - Questions” tab. Use this column is for adjustments related to required capital that correspond to adjustments in Inventory B, Column 7 and in cases where an entity believes it is necessary to adjust an inaccurate regulatory required capital figure (e.g., the RBC calculation applied as a permitted practice).

NOTE: Consider whether this column should be used rather than Column 2 for zero value entities.

- **[Inv C Col 8] Adjusted Capital Calculation** – Stand-alone capital calculation for each entity per the calculation to eliminate double-counting. This value includes the impact of permitted and prescribed practices.
- Inventory D is for “Reference Calculations Checks.” These are calculations that can serve as checks on the reasonability/consistency of entries.
 - a. **[Inv D Col 1 – 3] Sum of Subsidiaries (Carrying Value)** – This automatically generated column calculates the value of the carrying value of the underlying subsidiaries. It is provided for reference when filling out the “Investment in Subsidiary” column. This sum will often, but not always, be equal to the “Investment in Subsidiary” column.
 - b. **[Inv D Col 4 – 6] Sum of Subsidiaries (Calculated Capital)** – Similar to above but for calculated capital.
 - c. **[Inv D Col 7 – 8] Carrying Value/Adj Calc Cap** – This is a capital ratio on the adjusted and unadjusted figures. Double-check entities with abnormally large/small/negative figures to make sure that adjustments were made correctly.
 - d. **[Inv D Col 9 – 11] Equity & Carrying Value** – This is to compare Equity from Schedule 1 to the Carrying Value in Column L on Inv D.

Input 3 – Capital Instruments

72. Provide all relevant information pertaining to paid-up (i.e., any receivables for non-paid-in amounts would not be included for purposes of calculating the allowance) financial instruments issued by the Group (including senior debt issued by a holding company), except for common or ordinary shares and preferred shares. This worksheet aims to capture all financial instruments such as surplus notes, senior debt, hybrid instruments and other subordinated debt. Where a Reporting Entity’s Group has issued multiple instruments, the Group should not use a single row to report that information; one instrument per row should be reported (multiple instruments issued under the same terms may be combined on a single line). All qualifying debt should be reported as follows.
73. Debt issued by U.S.-led groups:

- Surplus Notes – Report the outstanding value of all surplus notes in Column 8 whether issued to purchasers within or outside the group. The outstanding value of surplus notes issued to entities outside the group and that is already recognized by state insurance regulators and reported 100% as capital in the carrying value of U.S. insurer issuers in “Inventory B” will not be included in the calculation for an additional capital allowance. Surplus notes issued within the group generally result in double-counting and will not be included in the additional capital allowance. (See instructions below.)
- Subordinated Senior Debt and Hybrid Debt Issued (e.g., debt issuances that receive an amount of equity credit from rating agencies) – The outstanding value will be reported in Column 8. Recognition for structurally subordinated debt will be allowed to increase available capital. For purposes of qualifying for recognition as additional capital, both of the following criteria must be met:
 - a. The instrument has a fixed term (a minimum of five years at the date of issue or refinance, including any call options other than making whole provisions¹). However, if the instrument is callable within the first five years from the date of issue it may be considered qualifying debt if any such call is at the option of the issuer only (the instrument is not retractable by the holder) AND it is the intent of management to replace the called instrument in full before or at redemption by a new issuance of the same or higher quality instrument.
 - b. Supervisory review or approval is required for any ordinary* or extraordinary dividend respectively or distribution from any insurance subsidiary to fund the repurchase or redemption of the instrument. Supervisory approval of ordinary dividends is met if the supervisor has in place direct or indirect supervisory controls over distributions, including the ability for the supervisor to limit, defer and/or disallow the payment of any distributions should it find that the insurer is presently, or may potentially become, financially distressed. There shall be no expectation, either implied or through the terms of the instrument, that such approval will be granted without supervisory review.

*The concept of approval for ordinary dividends is for GCC purposes and is met as described in subparagraph b, above. It is not intended to require explicit regulatory approval or in any way alter current provisions of Model #440 or the *Insurance Holding Company System Model Regulation* (#450).

- “Other” Debt – The outstanding value will be reported in Column 12 and will be reported in a manner that is consistent with Senior Subordinated Debt, as described above. Such debt will not be included in the additional capital allowance for the GCC.

¹ NAIC staff have been informed that make whole provisions are a form of a call feature that can be exercised by the issuer at any time; that they nonetheless are most frequently utilized near the end of the term of the instrument, generally in connection with refinancing; and that the cost to the issuer to exercise the make whole provision and associated financial reporting impacts, combined with the very low interest rate environment, make it much less likely that such provisions will be triggered, particularly within five years of issuance. Staff will continue their research, and assuming these observations are confirmed, the referenced criteria will continue to scope out make whole provisions.

74. Please fill in columns in Section 3A as follows for all capital instruments:

- **[Sec 3A Col 1] Name of Issuer** – Name of the company that issued the capital financial

instrument.² Will populate automatically from the “Entity Identifier” column in this subsection.

- **[Sec 3A Col 2] Entity Identifier** – Provide the reference number that was input in Schedule 1.
 - **[Sec 3A Col 3] Type of Financial Instrument** – Select type from the drop-down menu. Selections include Senior Debt, Surplus Notes (or similar), Hybrid Instruments and “Other” Subordinated Debt.
 - **[Sec 3A Col 4] Instrument Identifier** – Provide a unique security identifier (such as CUSIP). ALL debt instruments must include an internal identifier if an external identifier is not available.
 - **[Sec 3A Col 5] Entity Category** – Links automatically to selection made on the “Inventory” tab worksheet.
 - **[Sec 3A Col 6] Year of Issue** – Provide the year in which the financial instrument was issued or refinanced.
 - **[Sec 3A Col 7] Year of Maturity** – Enter the year in which the financial instrument will mature.
 - **[Sec 3A Col 8] Balance as of Reporting Date** – Enter the principal balance outstanding as reported in the general-purpose financial statements of the issuer.
 - **[Sec 3A Col 9] Intragroup Issuance** – Select whether the instrument was issued on an intragroup basis (that is, issued to a related entity within the group). This column will be used to remove “double-counting.” This column is a drop-down menu box with options “Y” and “N.”
 - **[Sec 3A Col 10] Treatment in Inventory B** – Select option that applies:
 - a. **Capital** – This instrument is recognized by the applicable regulator or credited as capital in local regulatory regime and reported as part of the adjusted carrying value of the issuer and was not purchased by an affiliate. This includes the value of qualifying senior and hybrid debt instruments (if recognized as capital) and U.S. surplus notes (or similar local regime instruments) that are issued to entities outside the group and included in the issuing entity’s value in the “Inventory B” tab. The outstanding value of those debt instruments will not be included in the calculation of a proxy allowance for additional capital.
-

- b. **Liability** – This instrument is reflected by the issuer as a liability in the adjusted carrying value in the “Inventory B” tab and was not purchased by an affiliate. This would apply to all qualifying senior and hybrid debt issued to purchasers outside the group that is not recognized as capital by the local regulator and therefore is not included in the issuing entity’s value in the “Inventory B” tab. The value will be included in the calculation of a proxy allowance for additional capital.
- c. **Liability designation** would also apply to all non-qualifying senior and hybrid instruments and all debt categorized as “Other” issued to purchasers outside the group that is not recognized as capital by the local regulator. The value of these instruments will NOT be included in the calculation of a proxy allowance for additional capital.
- d. **Intragroup** – This would apply to all qualifying instruments purchased by an affiliate within the group. The outstanding value of those debt instruments will not be included in the calculation of a proxy allowance for additional capital. If the financial instrument is recognized or credited as part of the issuer’s available capital in Inventory B, then an adjustment for intragroup capital instruments is made in Inventory B, Column 4 and Inventory C adjustments (if necessary to eliminate an associated capital requirement). If the financial instrument is treated as a liability by the issuer, then no intragroup capital instrument adjustment is required in Inventory B or Inventory C.
- e. The outstanding value of all non-qualifying senior and hybrid instruments and financial instruments categorized as “Other Debt” whether issued to purchasers inside or outside the group will not be included in the calculation of a proxy allowance for additional capital and no other adjustments are required in the template. However, in the unlikely event that the instrument is treated as available capital to the issuer in Inventory B, an adjustment in Inventory B, Column 4 to remove the available capital would be required.

For intragroup surplus notes, the adjustment will impact the carrying value and associated capital calculation of the purchasing affiliated entity.

- **[Sec 3A Col 11] Intragroup Purchaser Identifier** – Enter the entity identify for the affiliate entity that purchased the instrument.
- **[Sec 3A Col 12] Description of Other Debt Instruments** – Provide a description of instruments designated as “Other”.
- **[Sec 3A Col 13] Call Provisions Criteria** – Respond “Y” or “N” as to whether the instrument is subject to a call provision (other than a make whole provision) in the first five years AND it is management’s intent to replace the called instrument in full before or at redemption by a new issuance of the same or higher quality instrument. Respond “X” if the instrument has a maturity of greater than five years including any call provisions.
- **[Sec 3A Col 14] Potentially Recognized Instrument** – This is an automatic calculation to determine if this is instrument that has potential to be recognized as additional capital in the GCC and/or in sensitivity analysis. The column will show “Y” if each of the

following is true: 1) it is Senior Debt, Hybrid or Other instrument; 2) the instrument is not intragroup; and 3) the instrument is treated as liability on Inventory B. These are calculated using Column 3, Column 9, and Column 10, respectively.

- **[Sec 3A Col 15] Other Criteria Met**– This is an automatic calculation to determine if instrument qualifies due to criteria beyond those in Column 14. The column will show “Y” if: 1) the instrument has initial maturity of greater than five years including any call provision (i.e., “X” is reported in Column 13); and 2) it meets the “Call provisions criteria” in Column 13 (i.e., “Y” is reported in Column 13).
- **[Sec 3A Col 16] Qualified Debt** – This column is calculated automatically using data from the entries in Column 14 and Column 15. To qualify, an instrument needs a “Y” in both columns. It represents the amount of qualifying debt that will be used in the calculation of an allowance for additional capital under the alternate subordination method and the proxy allowance method. This amount will be carried into Section 3C, Column 1, Line 3.

75. Section 3C will be auto filled, with the exception of Column 1, Line 2.

- **[Sec 3C Col 1, Line 1] Total Paid-In and Contributed Capital and Surplus** – This is the amount reported on Page 3 of the annual financial statement submitted to regulators by a U.S. insurer.
- **[Sec 3C Col 1, Line 2] Alternate Subordination Calculation** – This manual entry is the excess of qualifying debt issued over liquid assets held by the issuing consolidated holding company as reported in the consolidated financial statements. Liquid assets generally include cash, short-term investments (including bonds held by the hold co). In most cases the excess of liquid assets will be made up of the value of all subsidiaries owned by the consolidated hold co. No entry is expected for a mutual group.
- **[Sec 3C Col 1, Line 4] Downstream Estimate** -The total reported under the alternate subordination approach will be compared to the total amount of gross paid-in or contributed capital and surplus reported by the insurance entities within the group as reported in Schedule 1. The greater value will be carried into the calculation for an additional capital allowance.

NOTE: No more than 100% of the total outstanding value of qualified senior and hybrid debt will be allowed into the calculation.

- **[Sec 3C Col 1, Line 5] Proxy Calculation for Additional Capital Allowance** – A calculation will be made in this tab in Section 3B that will apply 30% of available capital plus the value of all qualifying debt to become part of the proxy allowance for additional capital for qualifying senior subordinated. An additional amount of 15% of available capital plus the value of all qualifying debt will be calculated to become part of a proxy allowance for additional capital be for hybrid debt.

Summary Formula: Proxy Amount = (30% x (Available Capital + Qualifying Senior and Hybrid Debt)) + (15% x (Available Capital + Qualifying Senior and Hybrid Debt)).

NOTE: No more than 100% of the total outstanding value of qualified senior and hybrid debt will be allowed into the calculation.

- **[Sec 3C Col 1, Line 6 through Line 8]** – The greater of the proxy calculation or the larger of paid in capital or alternate subordination calculation will be allowed as additional capital in **[Sec 3C Line 6]**. However, an overall limit of no more than 75% of the total adjusted carrying value in Inventory B will be applied in **[Sec 3C Line 7]**. Adjustments to increase available capital will be calculated from data on this page. The summary results of the components of the calculation (paid in capital and surplus, alternate subordination, proxy calculation and limitations) are populated as titled in the calculation columns in this section. The final amount recognized as additional capital is shown in **[Sec 3C Line 8]**.
- The additional capital allowance recognized for capital instruments will be shown as an “on-top” adjustment in the “Summary 1 – Entity Level” tab.

Summary Calculation for Debt Allowed as Additional Capital:

Step 1: Calculate the following amounts:

- a) The greater of Total paid-in capital and surplus of U.S. insurers or the alternative subordination calculation (defined above)
- b) A proxy value (defined above)

Step 2: Take the greater of a) or b) from Step 1, and subject that amount to two limitations:

- First, the total amount to qualify as capital cannot exceed 100% of the total outstanding value of qualified senior and hybrid debt.
- Second, the total amount to qualify as capital cannot exceed 75% of the total adjusted carrying value in Inventory B.

After applying the two limitations in Step 2, the remaining amount is allowed as additional capital.

Input 4 – Analytics

76. The entity type information supporting analytics summarized in Summary 3 – Analytics are pulled into this tab from data or information reported in other tabs in the GCC template. That data is exported into summaries in the “Summary 3 – Analytics” tab. Only 2022 data is currently to be populated. However, it is contemplated that going forward, data for prior years will also be populated by the group such that it will provide the Lead State Regulator with metrics to identify trends over time.

Input 5 – Sensitivity Analysis

77. This tab shows inputs required for **Analysis 3 - Permitted practices, Analysis 4 - Prescribed Practices, Analysis 7 - Captives other than XXX/AXXX and Analysis 8 – Regulatory Discretion** on tab Summary 2. Sensitivity Analysis is intended to provide the Lead State Regulator additional information that helps them better understand the financial condition of the group. Similar to the sensitivity analysis included in the legal entity RBC, it provides the regulator with additional information and allows them to consider “what-if” scenarios to better understand the impact of such items. The results of this analysis will not impact the GCC ratio.

- **[Analysis 3 and Analysis 4]: Permitted and Prescribed Practices** – Report values from annual financial statement Note 1 (excluding those pertaining to XXX/AXXX captives). Values of permitted or prescribed practices that decrease available capital should be reported as negative values:
 - a. Entity identifier
 - b. Value of permitted practice
 - c. Capital Requirement attributable to permitted practice (if any)
 - d. Description of permitted practice
 - e. Value of prescribed practice
 - f. Capital requirement attributable to permitted practice (if any)
 - g. Description of prescribed practice

- **[Analysis 7]: Captives other than XXX/AXXX** – all other U.S. captives shall make an asset adjustment as described below.

Asset Impact

78. For the asset impact, it is ONLY required for the assets included in a captive or an entity not required to follow the statutory accounting guidance in the *Accounting Practices and Procedures Manual*. It is not required for assets for those groups that retain such business in a non-captive traditional insurance company(ies) already required to follow the *Accounting Practices and Procedures Manual*.

NOTE: Variations for state prescribed and permitted practices are captured in the separate sensitivity analysis.

79. The asset impact amount shall be determined based on a valuation that is equivalent to what is required by the *Accounting Practices and Procedures Manual* (SAP). For this purpose, “equivalent” means that, at a minimum the listed adjustments (as follows) be made with the intent of deriving a valuation materially equivalent to what is required by the *Accounting Practices and Procedures Manual*, however, without requiring adjustments that are overly burdensome (e.g., mark-to market bonds used by some captives under U.S. GAAP versus full SAP that considers NAIC designations). To be more specific, the asset impact shall be developed by accumulating the impact on surplus because of an accumulation of all the following in paragraph 80 and paragraph 81 combined.

NOTE: Letters of credit or other financial instruments that operate in a manner like a letter of credit, which are not designated as an asset under either SAP or U.S. GAAP and are required to be adjusted out of the available assets (i.e., the asset reduction is recorded as a negative figure in the template).

80. To achieve the above, accumulate the effect of making the following impact and record as a negative figure in the template, an asset adjustment for all the following explicit assets not allowed to be admitted under SAP:
- Assets *specifically* not allowed under the *Accounting Practices and Procedures Manual* in accordance with paragraph 9 of *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*.
 - *SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due from Agents and Brokers*.
 - *SSAP No. 16R—Electronic Data Processing Equipment and Software*.
 - *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements*.
 - *SSAP No. 20—Nonadmitted Assets*.
 - *SSAP No. 21—Other Admitted Assets* (e.g., collateral loans secured by assets that do not qualify as investments are nonadmitted under SAP).
 - *SSAP No. 29—Prepaid Expenses*.
 - *SSAP No. 105—Working Capital Finance Investments*.
 - Expense costs that are capitalized in accordance with GAAP but are expensed pursuant to statutory accounting as promulgated by the NAIC in the *Accounting Practices and Procedures Manual* (e.g., deferred policy acquisition costs, pre-operating, development and research costs, etc.).
 - Depreciation for certain assets in accordance with the following SSAPs:
 - *SSAP No. 16R—Electronic Data Processing Equipment and Software*.
 - *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements*.
 - *SSAP No. 68—Business Combinations and Goodwill*.
 - The amount of goodwill of the SCA more than 10% of the audited U.S. GAAP equity of the SCA’s last audited financial statements.
 - The amount of the net deferred tax assets (DTAs) of the SCA more than 10% of the audited U.S. GAAP equity of the SCA’s last audited financial statements.
 - Any surplus notes held by the SCA issued by the reporting entity.

81. In addition, record as a negative figure, an asset impact for any assets that are not recognized as an admitted asset under the principles of *SSAP No. 4—Assets and Nonadmitted Assets*, including:
- Letters of credit, or other similar instruments, that operate in a manner like a letter of credit and, therefore, do not meet the definition of “asset” as required under paragraph 2.
 - Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets that are unavailable due to encumbrances or other third-party interests, should not be recognized on the balance sheet and are, therefore, considered nonadmitted.
 - Assets of an insurance entity pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, such assets shall not be recognized as an admitted asset on the balance sheet.
 - **[Analysis 8]: Regulatory Discretion** – This will be a post-submission item completed by the Lead State Regulator. Enter the following information here:
 - a. Entity identifier.
 - b. Amount of adjustment.
 - c. Description of regulatory issue.

NOTE: This column may also be completed by the filer after advance consultation with the Lead State Regulator.

Input 6 – Questions

82. This tab provides space for participants to describe or provide greater detail for specified entries in other tabs (as noted in the instructions for the columns in those tabs) or additional relevant information not captured in the template. Examples include adjustments for intragroup debt, description of permitted practices; and adjustments to available capital or capital calculations that are included in the “other adjustment” column in the “Inventory” tab. Specified items are included in the tab. Other information that the filer believes is relevant should be added freeform in this tab.

Information or Detail for Items Not Captured in the Template

- Intercompany Guarantees – Provide requested information:
 - a. Entity identifier issuing the guarantee.
 - b. Entity identifier of entity or entities that are covered by the guarantee.
 - c. Indicate the notional or fixed value of the guarantee.
 - d. Describe the nature of the guarantee.

- Capital Maintenance Agreements – Provide requested information:
 - a. Entity identifier obligated under the agreement.
 - b. Entity identifier for entity or entities that are covered by the guarantee.
 - c. Indicate the notional or fixed value of the agreement.
 - d. Describe the nature of the agreement.

- Value of intangible assets included in non-insurance Holding Companies – Provide the requested information for all entities designated in the non-operating holding company entity category.
 - a. Entity identifier.
 - b. All goodwill.
 - c. All intangibles related to health care services acquisitions included in local carrying value column in Inventory B. Examples include, but are not limited to, customer relationships (policy retention, long-term health services contracts) and technology/patents/trade names and provider network contracts.
 - d. All other intangible assets included in the local carrying value column in Inventory B.
 - e. Total of line b, line c and line d.*
 - f. A description of each intangible asset included in line d.

* Auto populated.

Further details on amounts reported for specific intangibles other than goodwill may be requested by the Lead State Regulator during review of the GCC template.

Information or Detail for Items Captured in the Template

- Currency Adjustments – Provide requested information only for entities where the amount reported for an entity in Inventory B, Column 2 is different than the amount in Inventory B, Column 1 due to currency conversion. If an entity is reported at zero value in Column 1, but a value is required in Column 2, then enter the information for the conversion rate used in Column 2.
 - a. Entity identifier.
 - b. Currency type reported in Inventory B, Column 1 and Inventory C, Column 1 (foreign currency).
 - c. Conversion rate applied.
 - d. Source of conversion rate applied.

- Intragroup Assets – Description of Adjustments for intragroup assets reported in Inventory B, Column 6 and Inventory C, Column 6. Provide the following information:
 - a. Entity identifier.
 - b. Amount reported in Inventory B, Column 6.
 - c. Description of adjustment.

- Other Adjustments – Description of adjustments reported in Inventory B, Column 7 and Inventory C, Column 7. Provide the following information:
 - a. Entity identifier.
 - b. Amount reported in Inventory B, Column 7.
 - c. Description of adjustment.

- Accounting Adjustments – Provide requested information only for entities where the amount reported for an entity in Inventory B, Column 1 is different than the amount in Inventory B, Column 2 due to differences in accounting basis
 - a. Entity identifier.
 - b. Value reported in Inventory B, Column 1.*
 - c. Value reported in Inventory B, Column 2.*
 - d. Total amount of adjustments related to difference in accounting basis.*
 - e. Nature of adjustment (e.g., GAAP to SAP).

* Auto populated.

- The tab also includes a listing of all Schedule A and Schedule BA affiliates, along with the following information:
 - a. Parent identifier (if available) – This is the same information as is included in Schedule 1 [**Sch 1B Col 3**] as would be entered for non-Schedule A/Schedule BA affiliates.
 - b. Parent Name – Enter the Name of the Parent.
 - c. Is Parent a Schedule A or Schedule BA Asset? – Entities directly owned by Schedule A / BA affiliates are not normally independently reported in Schedule A and Schedule BA. These downstream entities, if financial in nature, must be listed per previous instructions herein. However, entries for downstream non-insurance / non-financial entities may be required for a full reconciliation with Schedule Y
 - d. Financial? (Y/N) – If the entity meets the criteria as being a financial entity, indicate with a “Yes” response. A “No” response is not required for other entities listed. “Yes” entries should correspond to “Yes” entries in Schedule 1 [**Sch 1B Col 16**].
 - e. Carrying Value of Immediate Parent – Report the value listed in Schedule A and Schedule BA of the Parent insurer. For those cases where an indirect financial entity is reported use the value used by the direct Parent.
 - f. Capital Requirement for Immediate Parent – Report the value listed in the RBC report of the Parent insurer (pre-tax where applicable). For those cases where an indirect financial entity is listed, report the value of the capital requirement attributable to the Insurer rather than the direct non-financial Schedule BA Parent. The capital

requirement reported in this column for the immediate Schedule BA Parent should be adjusted to deduct the amount moved to Schedule 1 and Inventory C.

Calc 1 – Scaling (Ins)

83. All entries in this tab are calculation cells populated using data from within the tab or using data from elsewhere in the template. Scaled values for calculated capital will become part of the GCC ratio. The calculated values will be summarized by entity type in the “Summary 1 – Entity Level” tab. The concept of a scalar was first introduced to address the issue of comparability of accounting systems and capital requirements between insurance regulatory jurisdictions. The idea is to scale capital requirements imposed on non-U.S. insurers to be comparable to an RBC-based requirement. Two approaches for scaling related to foreign insurers were presented, and others are being explored and will be reviewed. A decision on the scaling methodology to be adopted into the GCC template will be made at the end of the review. In the interim a scalar of 100% of the jurisdictional PCR will be applied to all jurisdictions where a risk-sensitive capital requirement is in place.
84. Information on the Excess Relative Ratio (ERR) scalar methodology will be collected and applied in the “Summary 2 - Top Level” tab.
- NOTE:** See Appendix 1 for more information and examples on how the ERR scalars are calculated.
85. For jurisdictions without risk-sensitive capital requirements a 50% charge will be applied to adjusted carrying value.

Calc 2 – Scaling (Non-Ins)

86. All entries in this tab are either calculation cells using data from within the tab or using data populated from elsewhere in the template. Calculated capital for all entities except insurers will be reported in this tab. The calculated values will be summarized by entity type in the “Summary 1 – Entity Level” tab.
87. In addition, one informational option for calculated capital for financial entities without an existing regulatory capital requirement and one informational option for calculated capital for non-financial entities will be reported in this tab. Those calculation will not be carried into the “Summary 1 – Entity Level” tab and will not be part of the GCC ratio.
88. Only amounts for entities that the filer and the Lead State Regulator agree should **not** be excluded [Sch 1B Col 2] will be brought into the calculation in this tab and the “Summary 1 – Entity Level” tab. Entities where the Lead State Regulator does not agree with the filer’s request to exclude an entity will be part of the GCC ratio.

Summary 1 – Entity Level

89. Summarized results by entity type for the GCC ratio will be reported in this tab. An on top adjustment for debt allowed as additional capital will be added at the bottom of the table. All informational sensitivity analysis will be reported in Summary 2 and will not impact the GCC ratio.

Summary 2 – Top Level

90. Each sensitivity analysis will be shown on a stand- alone basis. It is expected that each informational sensitivity analysis will run automatically inthe background and the results for each displayed in this tab. The results for the informational sensitivity analysis will not be included in the “Summary 1 - Entity Level” tab.
- **[Analysis 1]: GCC with RBC at 300% of ACL** – No additional data is needed in the tab. The overall GCC ratio will be presented at 300% x ACL level. This calculation will increase the calculated capital for most entity types by a factor of 1.5. However, entities with existing regulatory capital requirements (e.g., foreign insurers and banks) will be reported at the same level specified in these instructions for both the GCC and the sensitivity analysis (i.e., at 100% of the jurisdictional or sectoral PCR requirements).
 - **[Analysis 2]: Excluded non-insurance/non-financial entities without material risk** – No additional data is needed in the tab. The data for entities where exclusion has been requested by the filer and the lead state does not agree (and changes to “include” in Schedule 1B, Column 2) will be populated based on entries in **[Sch 1B Col 3]** and data in Inventory B, Column 2 and Inventory C, Column 2. It will provide the regulator with the impact of excluding entities where the lead-State changes the status from “exclude” to “include” on the GCC ratio.
 - **[Analysis 3 and Analysis 4]:** This information shows the impactof excluding the amount of U.S. permitted and prescribed practices as described in the Preamble of the *Accounting Practices and Procedures Manual* and the sensitivity analysis allows the state to understand the size of the practices related to the overall group capital position and their impact on the GCC ratio.
 - **[Analysis 5]: Foreign Insurer Capital Requirements Scaled** – No additional data is needed in the tab. This information shows the amount of foreign insurer capital calculations scaled by applying scalars using the Excess Relative Ratio approach at a 200% x ACL RBC calibration level and at 300% x ACL for all non-U.S. jurisdictions where scalar data is available (see Appendix 1). The sensitivity analysis allows the state to understand the impact of this specific scaling method on the GCC ratio. This information is populated from the “Scalar” tab.
 - **[Analysis 6]: Alternative Capital Calculation for Non-Financial Entities** – No additional data is needed in the tab. The values reported will represent the alternative revenue-based values for capital calculation that are being captured in the template. The data will be populated from Schedule 1 and Inventory B and the analysis will be applied and reported in the “Calc 2 - Scaling (Non-Ins)” tab.
 - **[Analysis 7]: Captives other than XXX/AXXX** – all other U.S. captives shall make an asset adjustment as described on tab Input 5.
 - **[Analysis 8]: Regulatory Discretion** – This analysis is designed to reflect other regulator adjustments including for transactions other than XXX/AXXX reinsurance where there are differences in regulatory regimes exist and there is a desire to fully reflect U.S. Statutory Accounting treatment or to reflect the lead state’s view of risk posed by financial entities without specified regulatory capital requirements or risk posed by non-insurance/non-financial entities that have been included in the GCC.

Summary 3 – Analytics

91. Summary results for metrics described in the Analytics Guidance and utilizing data collected in

the “Input 4 – Analytics” tab or other tabs in the GCC will be calculated and presented here.

Summary 4 – Grouping Alternative

92. One sample alternative structure for grouping by entity type or jurisdiction in the GCC is displayed based on a suggested method. It can be modified, or other suggestions can be accommodated based on combining data from **Schedule 1 and the Inventory** in defined ways.

This tab is intended to be an additional analytical tool. The tool summarizes the GCC based on how a reporting entity views its organization, and provides regulators that view, to align it with regulatory information, other than what is reported elsewhere in the GCC template, that the reporting entity has submitted such as current filings, communications, etc. In this summary view, entities are organized into like regimes (e.g., RBC filers, foreign insurers, banks, financial, or non-financial entities) and multiple entities may be grouped together, in order to create a view of capital that is easy to review and analyze within each grouping. The intent of this approach is to provide an additional analytical tool designed to enhance dialogue between the Lead State Regulator and the company contemplated by the GCC filing. This view is transparent (no scalars, no adjustments, no de-stacking) so that financial information may be cross checked to other financial submissions such as RBC filings. However, it does contain double counting of available and required capital “(i.e., intra-company investments and transactions are not eliminated) and cannot be used to create a GCC ratio.

93. The results are dependent on how the reporting entity populated. Input 1 – Schedule 1, Column 9 Alternative Grouping. For example, if you have a dozen small dental HMO businesses, you may wish to collapse the results to a single line called “Dental HMOs,” by populating Input 1 – Schedule 1, Column 9 Alternative Grouping for each dental HMO as “Dental HMOs.” Then right-click and select “Refresh” to see the results with the “Dental HMOs” combined.
94. For reference, the data for the Summary 4 – Grouping Alternative is from Calc 1 – Scaling (Ins), which is fed by the inputs made in Input 1 – Schedule 1, Input 2 – Inventory, etc

Appendix 1 – Explanation of Scalars

- 95. The concept of a scalar is to equate the local capital requirement to an adjusted required capital level that is comparable to U.S. levels. The purpose of a scalar is to address the issue of comparability of accounting systems and capital requirements between jurisdictions. The following provides details on how the scalars were calculated by the NAIC, or how they are to be used when the NAIC has not developed a scalar for a country due to lack of public data.

Excess Relative Ratio Approach

- 96. Included below are various steps to be taken in calculating the excess relative ratio approach to developing jurisdiction-specific scalars. In order to numerically demonstrate how this approach could work, hypothetical capital requirements and financial amounts have been developed for Country A. Based on preliminary research that has been performed by NAIC staff, it appears that the level of conservatism built into accounting and capital requirements within a jurisdiction may differ significantly for life insurers and non-life insurers. Therefore, ideally each jurisdiction would have two different scalars based on the type of business. The example below includes information related to life insurers in the U.S. and Country A.

Step 1: Understand the Jurisdiction’s Capital Requirements and Identify the First Intervention Level

- a. The first step in the process is to gain an understanding of the jurisdiction’s capital requirements. This can be done in a variety of ways including reviewing publicly available information on the regulator’s website, reviewing the jurisdiction’s Financial Sector Assessment Program (FSAP) reports and discussions with the regulator.

In Country A, it assumes that the capital requirements for life insurers are based on a capital ratio, which is calculated as follows:

$\text{Capital ratio} = \frac{\text{Total available capital}}{\text{Base required capital (BRC)}}$
--

In the U.S., capital requirements are related to the insurer’s RBC ratio. For purposes of the Relative Ratio Approach, an Anchor RBC ratio is used and calculated as follows:

$\text{Anchor RBC ratio} = \frac{\text{Total adjusted capital}}{100\% \text{ Company Action Level RBC}^*}$
--

* 100% Company Action Level RBC is equal to the Total RBC After Covariance including operational risk, without adjustment or 200% Authorized Control Level RBC.

- b. Similar to legal entity RBC requirements in the U.S., Country A utilizes an early intervention approach by establishing target capital levels above the prescribed minimums that provide an early signal so that intervention will be timely and for there to be a reasonable expectation that actions can successfully address difficulties. Presume that this target capital level is similar to the U.S. Company Action Level (CAL) event, both of which can be considered the first intervention level in which some sort of action—either on the part of the insurer or the regulator—is mandated. A separate sensitivity calculation will be applied in the GCC template using trend test level RBC.

- c. For Country A, the target capital level is presumed to be a capital ratio of 150%. That is, the insurer's ratio of total available capital to its BRC should be above 150% to avoid the first level of regulatory intervention. Again, this is similar to the U.S. CAL event, which is usually represented as an RBC ratio of 200% of Authorized Control Level (ACL) RBC (ignoring the RBC trend test). In the Relative Ratio approach, the Anchor RBC ratio represents the Company Action Level event (or first level of regulatory intervention) as 100% CAL RBC (instead of 200% ACL RBC), because CAL RBC is the reference point that is used to calibrate against other regimes. The Anchor RBC Ratio (Total Adjusted Capital ÷ 100% CAL RBC) tells us how many "multiples of trigger level capital" that the company holds. Conceptualizing the CAL event as 100% CAL RBC allows the consistent definition of local capital ratios that are calibrated against a "multiples of the trigger level" approach, to ensure an "apples-to-apples" comparison.³

Step 2: Obtain Aggregate Industry Financial Data

97. The next step is to obtain aggregate industry financial data, and many jurisdictions include current aggregate industry data on their websites. Included below are the financial amounts for use in this exercise.

U.S. Life Insurers – Aggregate Data
 Total Adjusted Capital = \$495B
 Authorized Control Level RBC = \$51B
 Company Action Level RBC = \$102B

Country A Life Insurers – Aggregate Data
 Total Available Capital = \$83B
 BRC = \$36B

Step 3: Calculate a Jurisdiction's Industry Average Capital Ratio

98. To calculate a jurisdiction's average capital ratio, the aggregate total available capital for the industry would be divided by the minimum or base capital requirement for the industry in computing the applicable capital ratio. In Country A, this would be the BRC. In the U.S., this base or minimum capital requirement is usually seen as the ACL RBC, but because the Relative Ratio Approach is using 100% CAL RBC as a reference point to calibrate other regimes to, the Relative Ratio formula uses 100% CAL RBC as the baseline and the first-intervention level to calculate the Average Capital Ratio and Excess Capital Ratio. As a result, the scaled ratio of a non-U.S. company should inform regulators how many multiples of first-intervention level capital the non-U.S. company holds. Included below is the formula to calculate a jurisdiction's industry average capital ratio:

While it is mathematically equivalent to use 200% ACL RBC as the denominator, the Approach is designed to use the representation of first-intervention level capital levels as the conceptual underpinning of the Relative Ratio Approach, where 100% CAL RBC is the reference point to calibrate against other regimes.

<i>Calculation of U.S. Industry Average Capital Ratio – Life Insurers</i>		
<u>\$495B (Total Adjusted Capital)</u>		
\$102B (CAL RBC)	=	485%

<i>Calculation of Country A Industry Average Capital Ratio – Life Insurers</i>		
<u>\$83B (Total Available Capital)</u>		
\$36B (BRC)	=	231%

Step 4: Calculate a Jurisdiction’s Excess Capital Ratio

99. The next step is to understand the level of capital the industry is holding above the first intervention level. Therefore, to calculate a jurisdiction’s excess capital ratio, one would first need to calculate the amount of the capital ratio carried in excess of the capital ratio required at the first intervention level. This amount would then need to be divided by the capital ratio required at the first intervention level.

<i>General Excess Capital Ratio Formula</i>		
<u>Average Capital Ratio – Capital Ratio at the First Intervention Level</u>		
Capital Ratio at the First Intervention Level		

100. Based on the formula above and information provided in Step 2 and Step 3, included below are how to calculate each jurisdiction’s excess capital ratio.

NOTE: The first intervention level in the U.S. is defined in the Relative Ratio Approach as 100% CAL RBC, while the first intervention level in Country A is a capital ratio of 150%.⁴

<i>Calculation of U.S. Excess Capital Ratio – Life Insurers</i>		
<u>485% (Average Capital Ratio) – 100% (Capital Ratio at the First Intervention Level)</u>		
100% (Capital Ratio at the First Intervention Level)	=	385%

<i>Calculation of Country A Excess Capital Ratio – Life Insurers</i>		
<u>231% (Average Capital Ratio) – 150% (Capital Ratio at the First Intervention Level)</u>		
150% (Capital Ratio at the First Intervention Level)	=	54%

⁴ 100% CAL RBC translates to an ACL RBC level of 200%, but for conceptual purposes, the Relative Ratio Approach refers to the U.S. first intervention level as 100% CAL RBC, as 100% CAL RBC is the reference point to which the Relative Ratio Approach calibrates other regimes. In other words, 100% CAL RBC ensures that the scaled ratio of Country A results in a ratio that determines how many multiples of first-intervention level capital that the company in Country A is holding.

Step 5: Compare a Jurisdiction's Excess Capital Ratio to the U.S. Excess Capital Ratio to Develop the Scalar

101. Based on the information above, the U.S. excess capital is 385%. In other words, life insurers in the U.S. carry approximately 385% more capital than what is needed over the first intervention level. Country A's excess capital ratio is 54%. That is, life insurers in Country A carry approximately 54% more capital than what is needed over the first intervention level.
102. To calculate the scalar, one would divide a jurisdiction's excess capital ratio by the U.S. excess capital ratio. Therefore, the calculation of Country A's scalar for life insurers would be $54\% \div 385\% = 14\%$. Therefore, Country A's scalar for life insurers would be 14%.

Step 6: Apply to the Scalar to the Non-U.S. Insurer's Amounts in the GCC

103. In order to demonstrate how the calculation of the scalar works, it would be best to provide a numerical example. For the purposes of this memo, it assumes that a life insurer in Country A reports required capital of \$341,866 and total available capital of \$1,367,463. (These are the amounts previously used in a hypothetical calculation example that was discussed by the Working Group during its July 20, 2016, conference call.) As noted previously, the above information and calculation suggests that U.S. life insurers carry capital far above the minimum levels, while life insurers in Country A carry capital far closer to the minimum. Therefore, to equate the company's \$341,866 of required capital, we must first calibrate the BRC to the first regulatory intervention level by multiplying it by 150%, or Country A's capital ratio at the first intervention level. The resulting amount of \$512,799 is then multiplied by the scalar of 14% to get a scaled minimum required capital of \$71,792.
104. Further, the above rationale suggests that the available capital might also be overstated (because it does not use the same level of conservatism in the reserves) by the difference between the calibrated required capital of \$512,799 and the required capital after scaling of \$71,792, or \$441,007. Therefore, we should now deduct the \$441,007 from the total available capital of \$1,367,463 for a new total available capital of \$926,456. These two recalculated figures of required capital of \$71,792 and total available capital of \$926,456 is what would be included in the group's capital calculation for this insurer. These figures are further demonstrated below.

*Calculation of Scaled Amounts for GCC*Amounts as Reported by the Insurer in Country A

Total available capital = 1,367,463

Minimum required capital (BRC) = 341,866

Calibration of BRC to 1st Regulatory Intervention Level

341,866 (BRC) * 150% = 512,799

Scaling of Calibrated Minimum Required Capital

512,799 (Calibrated BRC) * 14% (Scalar) = 71,792 (Difference of 441,007)

Scaled Total Available Capital

1,367,463 (Total Available Capital) – 441,007 (Difference in scaled required capital) = 926,456

105. Given these scaled amounts, one can calculate the numerical effect on the company’s relative capital ratio by using the unscaled and scaled amounts included below.

	<i>Unscaled Amounts from Table Above</i>	<i>Scaled Amounts from Table Above</i>
Total Available Capital (TAC)	1,367,463	926,456
<u>Base Required Capital (BRC)</u>	<u>341,866</u>	<u>71,792</u>
Capital Ratio (= TAC ÷ BRC)	400%	1290%

106. Considering the fact that life insurers in Country A hold much lower levels of capital over the first intervention level as compared to U.S. life insurers, the change in the capital ratio from 400% (unscaled) to 1290% (scaled) appears reasonable and consistent with the level of conservatism that we understand is built into the U.S. life RBC formula driven primarily from the conservative reserve valuation.

Note: In the above example, the company has an unscaled ratio (400%) that is above the industry average in Country A (231%) and a scaled ratio (1290%) that is higher than the US life industry average (485%). If the company had an unscaled ratio that was lower than the industry average in Country A, its scaled ratio would be lower than the US life industry average. company with an unscaled ratio equal to its own country’s industry average will have a scaled ratio equal to the anchor RBC ratio.”

Data for industrywide U.S RBC ratios is sourced from the aggregate RBC Statistics maintained by the NAIC. Data for industrywide capital ratios for foreign insurance jurisdictions was derived from publicly available aggregate industry data. If this scalar methodology is retained, then the data will require periodic updating.

Draft: 8/17/22

Group Solvency Issues (E) Working Group
Portland, Oregon
August 11, 2022

The Group Solvency Issues (E) Working Group of the Financial Condition (E) Committee met in Portland, OR, Aug. 11, 2022. The following Working Group members participated: Justin Schrader, Chair (NE); Jamie Walker, Vice Chair (TX); Kim Hudson and Susan Bernard (CA); William Arfanis and Michael Shanahan (CT); Charles Santana (DE); Virginia Christy (FL); Kim Cross and Mike Yanacheak (IA); Susan Berry (IL); Roy Eft (IN); John Turchi (MA); Judy Weaver (MI); Debbie Doggett (MO); David Wolf (NJ); Bob Kasinow (NY); Dale Bruggeman (OH); Melissa Greiner and Matt Milford (PA); Greg Chew (VA); and Amy Malm (WI).

1. Adopted its June 6 Minutes

Mr. Schrader said the Working Group met June 11 to receive an overview of proposed revisions to the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* (ORSA Guidance Manual) and the *Financial Condition Examiners Handbook* to incorporate elements of the International Association of Insurance Supervisors' (IAIS's) Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) deemed appropriate for the U.S. system of solvency regulation. During the meeting, the Working Group agreed to expose the proposed changes for a public comment period ending July 8.

Ms. Walker made a motion, seconded by Ms. Bernard, to adopt the Working Group's June 6 minutes (Attachment Four-A). The motion passed unanimously.

2. Discussed Comments Received on Proposed Revisions to the ORSA Guidance Manual

Mr. Schrader stated that the second agenda item for the meeting today is to discuss the comments received on proposed revisions to the ORSA Guidance Manual. As a result of the recent exposure period, comment letters were received from the American Council of Life Insurers (ACLI), the American Property Casualty Insurance Association (APCIA), the National Association of Mutual Insurance Companies (NAMIC), and the Travelers Companies Inc.

After reviewing the letters, the ORSA Drafting Group, consisting of state insurance regulators from Connecticut, Illinois, Iowa, Missouri, Ohio, and New York met to discuss and address the comments received. Mr. Shanahan provided an overview of the comments received and the drafting group's proposed responses, which were presented in an updated draft of the ORSA Guidance Manual.

Mr. Shanahan stated that comments were primarily received on the nature of ORSA filings for internationally active insurance groups (IAIGs), updated liquidity risk guidance, flexibility for centralized versus decentralized forms of insurer governance, and IAIG recovery plans. He stated that the drafting group incorporated clarifying language into the updated draft to address the comments received in these areas. Mr. Schrader thanked the drafting group for its work in this area.

Mr. Arfanis stated that Connecticut identified one issue since the drafting group met and would like to propose a friendly amendment to address the issue. He stated that language on page 5 of the ORSA Guidance Manual discusses that the acceptance of ORSA reports prepared for a foreign jurisdiction is contingent on whether the foreign requirements are consistent with standards in IAIS Insurance Core Principle (ICP) 16. He stated that Connecticut's concern is that the reference to ICP 16 could result in a situation where the ICP is amended, and the

ORSA Guidance Manual could then be incorporating amendments without an opportunity for state insurance regulators to review. Therefore, Connecticut recommended inserting the wording, “to the extent included in this Manual” after the reference to ICP 16 to address this concern. Other members of the Working Group stated their support for this friendly amendment.

Robert Neill (ACLI) thanked the drafting group for incorporating many of the comments made by interested parties, and he asked state insurance regulators to continue to work with interested parties as the new guidance is being implemented. Mr. Schrader stated that the intention of the Working Group is to closely monitor the implementation and work with interested parties to address any issues or concerns identified.

3. Discussed Comments Received on Proposed Revisions to the *Financial Condition Examiners Handbook*

Mr. Schrader stated that the third agenda item is to discuss the comments received on proposed revisions to the *Financial Condition Examiners Handbook*. As a result of the recent exposure period, comment letters were received from the ACLI, the APCIA, NAMIC, and the Travelers Companies Inc.

After reviewing the letters, the Exam Drafting Group, consisting of state insurance regulators from California, Connecticut, Missouri, and Nebraska met to discuss and address the comments received. Ms. Bernard provided an overview of the comments received and the drafting group’s proposed responses, which were presented in an updated draft of the *Financial Condition Examiners Handbook*.

Ms. Bernard stated that comments were primarily received on guidance related to applying ComFrame considerations to exam repository risks, consistency with other NAIC publications, and guidance associated with the examination of ORSA information. She stated that the drafting group incorporated language and clarifications recommended by interested parties, other than in cases where the recommendations would create conflicts with other NAIC publications. Mr. Schrader thanked the drafting group for its work in this area.

Stephen Broadie (APCIA) stated that interested parties appreciated the work of the drafting group to address their comments, but they identified one area where comments related to references to international standards did not appear to be adequately addressed. He stated that guidance in the introductory section of the *Financial Condition Examiners Handbook* could be interpreted as requiring examiners to review additional IAIS ComFrame guidance before conducting any exam procedures in this area. The sentence in question states, “Information from [IAIS ComFrame] has been utilized in developing this guidance and regulators are encouraged to reference source documents as necessary to gather additional insight.”

Mr. Yanacheak stated that the sentence following the one referenced by Mr. Broadie stating, “IAIS materials are not deemed authoritative and should not be viewed as official NAIC guidance if they are not directly incorporated herein” should make it clear that the reference to IAIS material is meant to provide optional background information. Mr. Bruggeman recommended replacing “are encouraged to” with “may” in the sentence in question to clarify that any review of IAIS ComFrame guidance prior to conducting exam procedures is optional. Other Working Group members stated their support for this friendly amendment.

4. Discussed Comments Received on Proposed Revisions to the *Financial Analysis Handbook*

Mr. Schrader stated that the next agenda item is to discuss comments received on proposed revisions to the *Financial Analysis Handbook*. He stated that revisions to the *Financial Analysis Handbook* were exposed for public comment two different times in 2021 with various recommendations being discussed and addressed by the Working Group. As such, the re-exposure of the *Financial Analysis Handbook* in 2022 was focused on ensuring

consistency with changes made to the ORSA Guidance Manual and the *Financial Condition Examiners Handbook*, as opposed to reviewing all proposed ComFrame revisions again.

As a result of the recent exposure period, comment letters were received from the ACLI, the APCA, NAMIC, and the Travelers Companies Inc. After reviewing the letters, the Analysis Drafting Group, consisting of state insurance regulators from California, Connecticut, Missouri, and Nebraska met to discuss and address the comments received. Bruce Jenson (NAIC) provided an overview of the comments received and the drafting group's proposed responses, which incorporated a clarification to the definition of "Head of the IAIG" and other edits for consistency with changes made to the ORSA Guidance Manual. Mr. Schrader thanked the drafting group for its work in this area.

5. Adopted Revisions to the ORSA Guidance Manual

Ms. Malm made a motion, seconded by Mr. Yanacheak, to adopt the proposed changes to the ORSA Guidance Manual (Attachment Four-B). The motion passed unanimously.

6. Referred Guidance to Respective Working Groups

Ms. Bernard made a motion, seconded by Ms. Doggett, to refer the proposed revisions to the *Financial Condition Examiners Handbook*, including the friendly amendment proposed by Ohio, to the Financial Examiners Handbook (E) Technical Group for consideration of adoption. The motion passed unanimously.

Ms. Bernard made a motion, seconded by Ms. Doggett, to refer the proposed revisions to the *Financial Analysis Handbook* to the Financial Analysis Solvency Tools (E) Working Group for consideration of adoption. The motion passed unanimously.

7. Discussed Other Matters

Mr. Schrader stated that the Working Group recently received a referral from the Macroprudential (E) Working Group on private equity (PE) issues. He stated that the Working Group plans to schedule meetings as needed in the coming months to address the issues raised in the referral.

Having no further business, the Group Solvency Issues (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/

Draft: 6/7/22

Group Solvency Issues (E) Working Group
Virtual Meeting
June 6, 2022

The Group Solvency Issues (E) Working Group of the Financial Condition (E) Committee met June 6, 2022. The following Working Group members participated: Jamie Walker, Vice Chair (TX); Kim Hudson and Susan Bernard (CA); Kathy Belfi (CT); Charles Santana (DE); Virginia Christy (FL); Kim Cross (IA); Cindy Andersen, Susan Berry, and Eric Moser (IL); Roy Eft (IN); Judy Weaver (MI); Lindsay Crawford (NE); Bob Kasinow (NY); Dale Bruggeman and Tim Biler (OH); Melissa Greiner (PA); Doug Stolte (VA); and Amy Malm (WI).

1. Discussed Proposed Revisions to the *Financial Condition Examiners Handbook*

Ms. Walker stated that the first agenda item for the call today is to discuss the work of the Financial Exam Drafting Group in developing proposed revisions to the *Financial Condition Examiners Handbook* to incorporate elements of the International Association of Insurance Supervisors' (IAIS's) Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) deemed appropriate for the U.S. system of solvency regulation. The Financial Exam Drafting Group consists of state insurance regulators from California, Connecticut, Missouri, and Nebraska, which met several times over the last six months to develop proposed revisions. The Financial Exam Drafting Group referenced and utilized work completed by the Financial Analysis Drafting Group in 2021 to guide its efforts, and it focused on those ComFrame considerations most relevant to onsite examination efforts in drafting its *Financial Condition Examiners Handbook* revisions. Ms. Walker thanked the drafting group and NAIC support staff for its efforts in developing proposed revisions for the Working Group to consider.

Bailey Henning (NAIC) provided an overview of the proposed *Financial Condition Examiners Handbook* revisions, and she noted that many of the topics addressed in ComFrame are already covered in the *Financial Condition Examiners Handbook* but may need to be addressed at a different level for internationally active insurance groups (IAIGs). This is because financial examinations traditionally have a legal entity focus, whereas ComFrame is focused on the governance, risk management, and control processes at the Head of the IAIG level. As such, Ms. Henning stated that proposed revisions are incorporated into various sections of the *Financial Condition Examiners Handbook* to indicate topics that the examination team should consider addressing at a different level or perspective—i.e., Ultimate Controlling Person or Head of the IAIG—when conducting IAIG examinations. She stated that the proposed revisions reference and utilize existing guidance developed by the Financial Analysis Drafting Group to promote consistency wherever possible. In addition, she stated that the Financial Exam Drafting Group coordinated with the Own Risk and Solvency Assessment (ORSA) Drafting Group in developing examination guidance for validating information provided in IAIG ORSA Summary Reports to ensure consistency in that area.

Ms. Walker thanked Ms. Henning for the overview, and she stated that the Working Group will discuss the exposure period and process for finalizing the proposed revisions after discussing the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* (ORSA Guidance Manual) revisions.

2. Discussed Proposed Revisions to the ORSA Guidance Manual

Ms. Walker stated that the second agenda item for the call is to discuss the work of the ORSA Drafting Group in developing proposed revisions to the ORSA Guidance Manual to incorporate IAIS ComFrame elements deemed appropriate for the U.S. system of solvency regulation. The ORSA Drafting Group consists of state insurance regulators from Connecticut, Illinois, Iowa, Missouri, Ohio, and New York, which met several times over the last six months to consider revisions to the ORSA Guidance Manual. The ORSA Drafting Group referenced and utilized

the work completed by the Financial Analysis Drafting Group to guide its efforts, including the proposed revisions to Appendix C of the ORSA Review Template included in the *Financial Analysis Handbook*. Ms. Walker thanked the drafting group and NAIC support staff for its efforts in developing proposed revisions for the Working Group to consider.

Elisabetta Russo (NAIC) provided an overview of the proposed changes to the ORSA Guidance Manual, and she noted that most of the additions are only applicable to IAIGs where the U.S. is the groupwide supervisor. However, she stated that three minor updates are being proposed for all ORSA filers based on updated IAIS guidance:

- Clarification that non-insurance operations that present material and relevant risks to the insurer should be included in the scope of the ORSA Summary Report.
- Clarification that the ORSA Summary Report should cover the main goals and objectives of the insurers' business strategy.
- Additional expectations for the insurer to demonstrate its resilience to liquidity stresses, as well as a description of policies and procedures in place to manage liquidity risks.

For IAIG ORSAs, the proposed revisions indicate that one ORSA Summary Report should be provided to the U.S. groupwide supervisor covering all material groupwide insurance operations. In addition, a new Section V—Additional Expectations for Internationally Active Insurance Groups, is proposed to incorporate additional enterprise risk management expectations applicable to IAIG ORSAs, including enhanced liquidity considerations, expectations for integration between legal entity and group risk exposures, economic capital model expectations, and recovery options for severe stress scenarios. Finally, Ms. Russo stated that additional definitions were proposed for the glossary to define IAIG and reverse stress test, as both concepts are now addressed in Section V.

Ms. Belfi stated her support for the proposed revisions, including the minor clarifications being added for all ORSA filers, as well as the additional expectations for IAIG ORSAs. Ms. Walker thanked the ORSA Drafting Group for its efforts, and she stated that she would propose a 30-day public comment period for both sets of revisions. She stated that she would also ask NAIC staff to repost the proposed revisions to the *Financial Analysis Handbook* so they could be reviewed for consistency with the newly proposed revisions to the other publications.

Tom Finnell (America's Health Insurance Plans—AHIP) stated his agreement for exposing the changes to all publications together, but he stated that the volume of revisions could be difficult to review in 30 days. Ms. Walker stated that the only changes to the *Financial Analysis Handbook* from what was previously exposed would be to Appendix C of the ORSA Review Template, which should reduce the time necessary to review. Mr. Finnell asked if the re-exposure of the *Financial Analysis Handbook* would be limited to Appendix C. Ms. Walker stated that this should be the focus of reviewers, but the Working Group would be open to receiving comments on other consistency issues noted during the review. Hearing no other objections, Ms. Walker instructed NAIC staff to expose the proposed revisions to the publications for a 30-day public comment period ending July 8.

3. Received an Update on IAIS Activities

Ms. Walker stated that the IAIS Executive Committee recessed the activities of the IAIS Insurance Groups Working Group for 2022 to allow other IAIS subcommittees to advance the work related to the ComFrame. She stated that there are several other group-related projects ongoing, and NAIC representatives continue to monitor ongoing efforts in this area and will report on major initiatives to the Working Group as needed.

Having no further business, the Group Solvency Issues (E) Working Group adjourned.



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS

NAIC OWN RISK AND SOLVENCY ASSESSMENT (ORSA) GUIDANCE MANUAL

**Maintained by the
Group Solvency Issues (E) Working Group
of the Financial Condition (E) Committee**

As of December 2022

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Date: August 11, 2022

To: Users of the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual*

From: Group Solvency Issues (E) Working Group

This edition of the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* has been revised from the previous edition. The following summarizes the most significant changes since the December 2017 edition:

1. Added various updates throughout the Guidance Manual to incorporate additional elements deemed appropriate by state regulators including additions from International Association of Insurance Supervisors (IAIS) guidance to incorporate:
 - a. Enhancements related to the treatment and disclosure of liquidity and business strategies within the ORSA; and
 - b. Enhancements related to additional considerations relevant to Internationally Active Insurance Groups (IAIGs) as outlined in the Common Framework for the Supervision of IAIGs (ComFrame).

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The requirements outlined in this Manual are based on the requirements of the *Risk Management and Own Risk and Solvency Assessment Model Act* (#505). An insurer using this Manual should refer to the laws adopted by the insurer’s state of domicile when determining its requirements for risk management, its Own Risk and Solvency Assessment (ORSA) and for preparing its ORSA Summary Report.

I. INTRODUCTION

The purpose of this Manual is to provide guidance to an insurer and/or an insurance group of which the insurer is a member (hereinafter referred to as “insurer” or “insurers”) with regard to reporting on its Own Risk and Solvency Assessment (ORSA) [as required by the domestic state’s version of the *Risk Management and Own Risk and Solvency Assessment Model Act* (#505)].

The ORSA, which is a component of an insurer’s enterprise risk management (ERM) framework, is a confidential internal assessment appropriate to the nature, scale and complexity of an insurer conducted by that insurer of the material and relevant risks identified by the insurer associated with an insurer’s current business plan and the sufficiency of capital resources to support those risks. As described below, an insurer that is subject to the ORSA requirements will be expected to:

- (1) Regularly, no less than annually, conduct an ORSA to assess the adequacy of its risk management framework, and current and estimated projected future solvency position;
- (2) Internally document the process and results of the assessment; and
- (3) Provide a confidential high-level ORSA Summary Report annually to the lead state commissioner if the insurer is a member of an insurance group and, upon request, to the domiciliary state regulator.

The ORSA has two primary goals:

1. To foster an effective level of ERM at all insurers, through which each insurer identifies, assesses, monitors, prioritizes and reports on its material and relevant risks identified by the insurer, using techniques that are appropriate to the nature, scale and complexity of the insurer’s risks, in a manner that is adequate to support risk and capital decisions; and
2. To provide a group-level perspective on risk and capital, as a supplement to the existing legal entity view.

An insurer that is subject to the ORSA requirement should consider the guidance provided in this Manual when conducting its ORSA and compiling its ORSA Summary Report. As the process and results are likely to include proprietary and forward-looking information, any ORSA Summary Report submitted to the commissioner shall be confidential by state law.

A. Exemption

An insurer shall be exempt from maintaining a risk management framework, conducting an ORSA and filing an ORSA Summary Report, if:

- a. The individual insurer's annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, is less than \$500 million; and
- b. If the insurer is a member of an insurance group and the insurance group's (all insurance legal entities within the group) annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, is less than \$1 billion.

If the insurer does not qualify for exemption, upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an ORSA Summary Report that contains the information described in this Manual. If the group is an IAIG with a U.S. global group-wide supervisor, a group ORSA Summary Report should be filed, otherwise a single or combination of reports may be used by the insurer to represent the group perspective. For example, the property/casualty insurers within a group could be included in one ORSA Summary Report or combination of reports, and the life insurers within the same group could be included in another ORSA Summary Report or combination of reports, if those groups operate under different ERM frameworks. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the ORSA Summary Report(s) required by this Manual to the lead state commissioner of the insurance group. The lead state is determined by the procedures within the *Financial Analysis Handbook*.

If an insurer qualifies for exemption pursuant to paragraph a., but the insurance group of which the insurer is a member does not qualify for exemption pursuant to paragraph b., then the insurer may supply an ORSA Summary Report in any combination, as long as every insurer within the group is covered by the ORSA Summary Report(s).

If an insurer does not qualify for exemption pursuant to paragraph a., but the insurance group of which it is a member qualifies for exemption under paragraph b., then the only ORSA Summary Report that may be required is the report of that insurer. However, such exemption does not eliminate the requirement for any insurer that is subject to Model #505 to complete Section III – Group Assessment of Risk Capital and Prospective Solvency Assessment.

Notwithstanding the above exemptions, the commissioner may require the insurer to maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report based on unique circumstances including, but not limited to, the type of business written, ownership and organizational structure, federal agency requests, international supervisor requests, regulatory concerns about rapidly growing concentration of risk or risk exposure.

A commissioner also may require the insurer to maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report if the insurer has triggered an RBC company action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer, as determined by the commissioner.

If an insurer that qualifies for an exemption subsequently no longer qualifies for that exemption due to changes in premium, as reflected in the insurer's most recent annual financial statement or in the most recent annual financial statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have one (1) year following the year the threshold is exceeded to comply with the ORSA requirements.

B. Application for Waiver

An insurer that does not qualify for exemption may apply to the commissioner for a waiver from the requirements of the ORSA based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, and volume of business written and material reduction in risk or risk exposures. If the insurer is part of a non-exempted insurance group, the commissioner shall coordinate with the lead state commissioner and the other domiciliary commissioners in considering the request for a waiver.

C. General Guidance

The ORSA should be one element of an insurer's ERM framework. The ORSA and the ORSA Summary Report link the insurer's risk identification, assessment, monitoring, prioritization and reporting processes with capital management and strategic planning. Each insurer's ORSA and ORSA Summary Report will be unique, reflecting the insurer's business, strategic planning and approach to ERM. The commissioner will utilize the ORSA Summary Report to gain a high-level understanding of the insurer's ORSA. The ORSA Summary Report will be supported by the insurer's internal risk-management materials.

To allow the commissioner to achieve a high level understanding of the insurer's ORSA, the ORSA Summary Report should discuss three major areas, which will be referred to as the following sections:

- **Section 1** – Description of the Insurer's Risk Management Framework
- **Section 2** – Insurer's Assessment of Risk Exposure
- **Section 3** – Group Assessment of Risk Capital and Prospective Solvency Assessment

When developing an ORSA Summary Report, the content should be consistent with the ERM information that is reported to senior management and/or the board of directors or appropriate committee. While some of the format, structure and content of the ORSA Summary Report may be tailored for the regulator, the content should be based on the insurer's internal reporting of its ERM information. The ORSA Summary Report itself does not need to be the medium of reporting its ERM to the board of directors or appropriate committee, and the report to the board of directors or appropriate committee may not be at the same level of detail as the ORSA Summary Report.

In order to aid the commissioner's understanding of the information provided in the ORSA Summary Report, it should include certain key information. The ORSA Summary Report should identify the basis(es) of accounting for the report (e.g., generally accepted accounting principles, statutory accounting principles or international financial reporting standards) and the date or time period that the numerical information represents. The ORSA Summary Report should also explain

the scope of the ORSA conducted such that the report identifies which insurer(s) are included in the report. This may be accomplished by including an organizational chart. In subsequent years, the ORSA Summary Report should also include a short summary of material changes to the ORSA from the prior year, including supporting rationale, as well as updates to the sections listed above, if applicable.

The commissioner may develop a deeper understanding of the insurer's ERM framework upon examination or an annual risk-focused update. Additionally, as part of the risk-focused analysis and/or examination process, the commissioner may also request and review confidential supporting materials to supplement his/ her understanding of information contained in the ORSA Summary Report. These materials may include risk management policies or programs, such as the insurer's underwriting, investment, claims, asset-liability management (ALM), reinsurance counterparty and operational risk policies.

This Manual is intended to provide guidance for completing each section of the ORSA Summary Report. The depth and detail of information is likely to be influenced by the nature and complexity of the insurer and should be updated at least annually for the insurer. The insurer is permitted discretion to determine how best to communicate its ERM processes. An insurer may avoid duplicative information and supporting documents by referencing other documents, provided those documents are available to the regulator upon examination or upon request. In order to ensure that the commissioner is receiving the most current information from an insurer, the timing for filing the ORSA Summary Report during the calendar year may vary from insurer to insurer, depending on when an insurer conducts its internal strategic planning process. In any event, the ORSA Summary Report shall be filed once each year, with the insurer apprising the commissioner as to the anticipated time of filing.

The ORSA Summary Report shall include a signature of the insurer's chief risk officer or other executive having responsibility for the oversight of the insurer's ERM process attesting to the best of his/her belief and knowledge that the insurer applies the ERM process described in the ORSA Summary Report and that a copy of the ORSA Summary Report has been provided to the insurer's board of directors or the appropriate committee.

An insurer may comply with the ORSA requirement by providing the most recent report(s)¹ filed by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in this Manual. If a U.S. state insurance commissioner is the global group-wide supervisor of an IAIG, the U.S. state insurance commissioner should receive the ORSA Summary Report covering all material group-wide insurance operations. In addition, the insurer should work with U.S. global group-wide supervisor to identify the scope of the group, whether the group is an IAIG, identify the Head of the IAIG (using the guidance contained in the NAIC's Financial Analysis Handbook) and determine which non-insurance operations (if any) within the group should be included within the scope of the group, and therefore the ORSA Summary Report. However, for all ORSA filers, the non-insurance operations that present material and relevant risks to the insurer should be included in the scope of the ORSA Summary Report.

¹Reports filed to foreign jurisdictions that are a report on an insurer's ORSA shall henceforth for purposes of this Manual be referred to as an "ORSA Summary Report,"

If the U.S. is not the global group-wide supervisor, the insurer may file ORSA Summary Reports encompassing, at a minimum, the U.S. insurance operations, as long as the lead state receives ORSA Summary Reports encompassing the non-U.S. insurance operations from the global group-wide supervisor. If an ORSA Summary Report encompassing the non-U.S. insurance operations is not provided by the global group-wide supervisor, it should be provided by the insurer. If the insurer files an ORSA Summary Report encompassing only the U.S. insurance operations, and in it the insurer states that the U.S. ERM framework is based on the insurers' global ERM framework, then the global ERM framework should be explained either within the U.S. ORSA Summary Report or in an ORSA Summary Report encompassing the non-U.S. insurance operations and be provided to the lead state at a time agreed to by the insurer and the lead state. If the report is in a language other than English, it must be accompanied by a translation into the English language. The commissioner should discuss with the global group-wide supervisor from the relevant foreign jurisdiction(s) the report received to inquire of any concerns and to either confirm that the report was compliant with the foreign jurisdiction's requirements or consistent with the applicable principles outlined in the International Association of Insurance Supervisors (IAIS) Insurance Core Principle (ICP) 16: Enterprise Risk Management (ERM) to the extent included in this Manual, as well as this Manual to determine if additional information is needed. The commissioner will, where possible, avoid creating duplicative regulatory requirements for internationally active insurers.

In analyzing an ORSA Summary Report, the commissioner will expect that the report represents a work product of the ERM framework that include all of the material risks identified by the insurer to which an insurer or insurers (if applicable) is exposed.

The ORSA Summary Report may assist the commissioner in determining the scope, depth and minimum timing of risk-focused analysis and examination procedures. For example, insurers may have varying ERM frameworks, ranging from a business plan to a combination of investment plans and underwriting policies to more complex risk-management processes and sophisticated modeling. Insurers with ERM frameworks appropriate to their risk profile may not require the same scope or depth of review upon examination and analysis as those with less relatively comprehensive ERM frameworks. Therefore, the insurer should consider whether the ORSA Summary Report demonstrates the strengths of its framework, including how it meets the guidelines within this Manual for the relative risk of the insurer.

In addition to the ORSA Summary Report, the insurer should internally document the ORSA results to facilitate a more in-depth review by the commissioner through analysis and examination processes. Such review may depend on several factors, such as the nature and complexity, financial position and/or prioritization of the insurer, as well as external considerations such as the economic environment. These factors may result in the commissioner requesting additional information about the insurer's ERM framework through the financial analysis or examination processes. The information requested may include, but is not limited to, risk management policies and programs, such as the insurer's underwriting, investment, claims, duration or asset-liability management, as well as reinsurance counterparty or operational risk policies.

D. Maintenance Process

The following establishes procedures of the Group Solvency Issues (E) Working Group or its designated subgroup (collectively referred to as “Working Group”) for proposed changes, amendments and/or modifications to the Manual.

1. The Working Group may consider relevant proposals to change the Manual at any conference call, interim or national meeting (“the meeting”) throughout the year as scheduled by the Working Group.
2. If a proposal for suggested changes, amendments and/or modifications is submitted to, or filed with NAIC staff support, it may be considered at the next regularly scheduled meeting of the Working Group.
3. The Working Group publishes a formal submission form and instructions that can be used to submit proposals and is available on the Group’s webpage. However, proposals may also be submitted in an alternate format provided that they are stated in a concise and complete format. In addition, if another NAIC committee, task force or working group is known to have considered this proposal, that committee, task force or working group should provide any relevant information.
4. Any proposal that would change the Manual will be effective January 1 following the NAIC Summer National Meeting (i.e. of the preceding year) in which it was adopted by the Working Group (e.g., a change proposed to be effective January 1, 2018 must be adopted by the Working Group no later than the 2017 Summer National Meeting) and the Fall National Meeting in which it was adopted by the NAIC.
5. Upon receipt of a proposal, the Working Group will review the proposal at the next scheduled meeting and determine whether to consider the proposal for adoption. If the proposal is to be considered by the Working Group it will be exposed for public comment. The public comment period shall be no less than thirty days and may be extended by the Working Group. The Working Group will consider comments received on each proposal at its next meeting and take action to revise, adopt, reject, refer or continue the consideration of the proposal and comments thereto. Proposals under consideration may be deferred by the Working Group until the following scheduled meeting. The Working Group may form an ad hoc group to study the proposal, if needed. The Working Group may also refer proposals to other NAIC committees for technical expertise or review. If a proposal has been referred to another NAIC committee, the proposal will temporarily be removed from the Working Group’s agenda until a response has been received. At that time, it will be added back to the Working Group’s agenda.
6. NAIC staff support will prepare an agenda inclusive of all proposed changes. The agenda and relevant materials shall be sent via e-mail to each member of the Working Group, interested regulators and interested parties and posted to the Working Group’s webpage approximately 5-10 business days prior to the next regularly scheduled meeting during which the proposal would be considered.

7. In rare instances, or where emergency action may be required, suggested changes and amendments can be considered as an exception to the above stated process and timeline based on a two-thirds majority consent of the Working Group members present. Notwithstanding the foregoing, in no event may a proposal be adopted without an exposure for public comment.
8. NAIC staff support will publish the Manual on or about December 15 each year. NAIC staff will post to the Group Solvency Issues (E) Working Group and the NAIC Publications Web sites the current versions and any material subsequent corrections to these publications.

II. SECTION 1 – DESCRIPTION OF THE INSURER’S ENTERPRISE RISK MANAGEMENT FRAMEWORK

An effective ERM framework should, at a minimum, incorporate the following key principles:

- **Risk Culture and Governance** – Governance structure that clearly defines and articulates roles, responsibilities and accountabilities; and a risk culture that supports accountability in risk-based decision-making.
- **Risk Identification and Prioritization** – Risk identification and prioritization process that is key to the organization; responsibility for this activity is clear; the risk management function is responsible for ensuring that the process is appropriate and functioning properly at all organizational levels; key risks of the insurer are identified, prioritized and clearly presented.
- **Risk Appetite, Tolerances and Limits** – A formal risk appetite statement, and associated risk tolerances and limits are foundational elements of risk management for an insurer; understanding of the risk appetite statement ensures alignment with risk strategy by the board of directors.
- **Risk Management and Controls** – Managing risk is an ongoing ERM activity, operating at many levels within the organization.
- **Risk Reporting and Communication** – Provides key constituents with transparency into the risk-management processes and facilitate active, informal decisions on risk-taking and management.

Section 1 of the ORSA Summary Report should provide a high-level summary of the aforementioned ERM framework principles, if present. The ORSA Summary Report should describe the main goals and objectives of the insurers’ business strategy (for all insurance and non-insurance operations in scope) and how the insurer identifies and categorizes relevant and material risks and manages those risks as it executes its business strategy. The ORSA Summary Report should also describe risk-monitoring processes and methods, provide risk appetite statements, and explain the relationship between risk tolerances and the amount and quality of risk capital. The ORSA Summary Report should identify assessment tools (feedback loops) used to monitor and respond to any changes in the insurer’s risk profile due to economic changes, operational changes or changes in business strategy. Finally, the ORSA Summary Report should describe how the insurer incorporates new risk information in order to monitor and respond to changes in its risk profile due to economic and/or operational changes and changes in strategy.

The manner and depth in which the insurer addresses these principles is dependent upon its own risk-management processes. Any strengths or weaknesses noted by the commissioner in evaluating this section of the ORSA Summary Report will have relevance to the commissioner’s ongoing supervision of the insurer, and the commissioner will consider the entirety of the risk management program and its appropriateness for the risks of the insurer.

III. SECTION 2 – INSURER ASSESSMENT OF RISK EXPOSURES

Section 2 of the ORSA Summary Report should provide a high-level summary of the quantitative and/or qualitative assessments of risk exposure in both normal and stressed environments for each material risk category in Section 1. This assessment process should consider a range of outcomes using risk assessment techniques that are appropriate to the nature, scale and complexity of the risks. Examples of relevant material risk categories may include, but are not limited to, credit, market, liquidity, underwriting and operational risks.

Section 2 may include detailed descriptions and explanations of the material and relevant risks identified by the insurer, the assessment methods used, key assumptions made, risk-mitigation activities and outcomes of any plausible adverse scenarios assessed. The assessment of each risk will depend on its specific characteristics. For some risks, quantitative methods may not be well established and, in these cases, a qualitative assessment may be appropriate. Examples of these risks may include certain operational and reputational risks. In addition, each insurer's quantitative methods for assessing risk may vary; however, insurers generally consider the likelihood and impact that each material and relevant risk identified by the insurer will have on the firm's balance sheet, income statement and future cash flows. Methods for determining the impact on future financial position may include simple stress tests or more complex stochastic analyses. When evaluating a risk, the insurer should analyze the results under both normal and stressed environments. Lastly, the insurer's risk assessment should consider the impact of stresses on capital, which may include consideration of risk capital requirements, available capital, as well as regulatory, economic, rating agency and/or other views of capital requirements.

The analysis should be conducted in a manner that is consistent with the way in which the business is managed, whether on a group, legal entity or other basis. Stress tests for certain risks may be performed at the group level. Where relevant to the management of the business, some group-level stresses may be mapped into legal entities. The commissioner may request additional information to map the results to an individual insurance legal entity.

Any risk tolerance statements should include material quantitative and qualitative risk tolerance limits and how the tolerance statements and limits are determined, taking into account relevant and material categories of risk and the risk relationships that are identified.

Because the risk profile of each insurer is unique, each insurer should utilize assessment techniques (e.g., stress tests, etc.) applicable to its risk profile. U.S. insurance regulators do not believe there is a standard set of stress conditions that each insurer should test. The commissioner may provide input regarding the level of stress that the insurer's management should consider for each risk category. The ORSA Summary Report should provide a general description of the insurer's process for model validation, including factors considered and model calibration. Unless a particular assumption is stochastically modeled, the group's management should set assumptions regarding the expected values based on its current anticipated experience, what it expects to occur during the next year or multiple future years, and consideration of expert judgment. The commissioner may provide input to an insurer's management on the assumptions and scenarios to be used in its assessment techniques. For assumptions that are stochastically modeled, the commissioner may provide input on the level of the measurement metric to use in the stressed condition or specify particular parameters used in the economic scenario generator. Commissioner

input will likely occur during the financial analysis process and/or the financial examination process.

By identifying each material risk category independently and reporting results in both normal and stressed conditions, insurer management and the commissioner are better placed to evaluate certain risk combinations that could cause an insurer to fail. One of the most difficult exercises in modeling insurer results is determining the relationships, if any, between risk categories. History may provide some empirical evidence of relationships, but the future is not always best estimated by historical data.

IV. SECTION 3 – GROUP ASSESSMENT OF RISK CAPITAL AND PROSPECTIVE SOLVENCY ASSESSMENT

Section 3 of the ORSA Summary Report should describe how the insurer combines the qualitative elements of its risk management policy with the quantitative measures of risk exposure in determining the level of financial resources needed to manage its current business and over a longer term business cycle (e.g., the next one to three years). The group risk capital assessment should be performed as part of the ORSA regardless of the basis (group, legal entity or other subset basis) and in a manner that encompasses the entire insurance group. The information provided in Section 3 is intended to assist the commissioner in assessing the quality of the insurer's risk and capital management.

A. Group Assessment of Risk Capital

Within the Group Assessment of Risk Capital, aggregate available capital is compared against the various risks that may adversely affect the enterprise. The insurer should consider how the group capital assessment is integrated into the insurer's management and decision-making culture, how the insurer evaluates its available capital and how risk capital is integrated into its capital-management activities.

The insurer should have sound processes for assessing capital adequacy in relation to its risk profile and those processes should be integrated into the insurer's management and decision-making culture. These processes may assess risk capital through myriad metrics and future forecasting periods, reflecting varying time horizons, valuation approaches and capital management strategies (e.g., mix of capital). While a single internal risk capital measure may play a primary role in internal capital adequacy assessment, insurers may evaluate how risk and capital interrelate over various time horizons, or through the lens of alternative risk capital or accounting frameworks (i.e., economic, rating agency, and/or regulatory frameworks). This section is intended to assist the commissioner in understanding the insurer's capital adequacy in relation to its aggregate risk profiles.

The group capital assessment should include a comparative view of risk capital from the prior year, including an explanation of the changes, if not already explained in another section of the ORSA Summary Report. This information may also be requested by the commissioner throughout the year, if needed (e.g., if material changes in the macroeconomic environment and/or

microeconomic facts and circumstances suggest the information is needed for the ongoing supervisory plan).

The analysis of an insurer’s group assessment of risk capital requirements and associated capital adequacy description should be accompanied by a description of the approach used in conducting the analysis. This should include key methodologies, assumptions and considerations used in quantifying available capital and risk capital. Examples might include:

Considerations	Description of Methodologies and Assumptions	Examples (not exhaustive)
Definition of Solvency	Describe how the insurer defines solvency for the purpose of determining risk capital and liquidity requirements.	Cash flow basis; balance sheet basis
Accounting or Valuation Regime	Describe the accounting or valuation basis for the measurement of risk capital requirements and/or available capital.	GAAP; statutory; economic or market consistent; IFRS; rating agency model
Business Included	Describe the subset of business included in the analysis of capital.	Positions as of a given valuation date; New business assumptions
Time Horizon	Describe the time horizon over which risks were modeled and measured.	One-year, multi-year; lifetime; run-off
Risks Modeled	Describe the risks included in the measurement of risk capital, including whether all relevant and material risks identified by the insurer have been considered.	Credit; market; liquidity; insurance; operational
Quantification Method	Describe the method used to quantify the risk exposure.	Deterministic stress tests; stochastic modeling; factor-based analysis
Risk Capital Metric	Describe the measurement metric utilized in the determination of aggregate risk capital.	Value-at-risk (VAR), which quantifies the capital needed to withstand a loss at a certain probability; tail-value-at-risk (TVAR), which quantifies the capital needed to withstand average losses above a certain probability; probability of ruin, which quantifies the probability of ruin given the capital held

Considerations	Description of Methodologies and Assumptions	Examples (not exhaustive)
Defined Security Standard	Describe the defined security standard utilized in the determination of risk capital requirements, including linkage to business strategy and objectives.	AA solvency; 99.X% 1-year VAR; Y% TVAR or CTE; X% of RBC
Aggregation and Diversification	Describe the method of aggregation of risks and any diversification benefits considered or calculated in the group risk capital determination.	Correlation matrix; dependency structure; sum, full/partial/no diversification

The approach and assessment of group-wide capital adequacy should also consider the following:

- Elimination of intra-group transactions and double-gearing where the same capital is used simultaneously as a buffer against risk in two or more entities;
- The level of leverage, if any, resulting from holding company debt;
- Diversification credits and restrictions on the fungibility of capital within the holding company system, including the availability and transferability of surplus resources created by holding company system level diversification benefits;
- The effects of contagion risk, concentration risk and complexity risk in the group assessment of risk capital.

The goal of the group capital assessment is to provide an overall determination of risk capital needs for the insurer, based upon the nature, scale and complexity of risk within the group and its risk appetite, and to compare that risk capital to available capital to assess capital adequacy. Group assessment of risk capital should not be perceived as the minimum amount of capital before regulatory action will result (e.g., the triggers in the *Risk-Based Capital (RBC) for Insurers Model Act* (#312)); rather, it should be recognized that this is the capital needed within a holding company system to achieve its business objectives.

The insurer should also monitor the effect of liquidity risk, including calls on the insurer's cash position, due to micro-economic factors (i.e., internal operational) and/or macro-economic factors (i.e., economic shifts). The insurer should assess its resilience against severe but plausible liquidity stresses and whether the current liquidity position is within any liquidity risk appetite and/or limits. The insurer should describe in the ORSA the policies and processes in place to manage liquidity risk, as well as contingency funding or other plans to mitigate potential liquidity stresses.

B. Prospective Solvency Assessment

The insurer's capital assessment process should be closely tied to business planning. To this end, the insurer should have a robust capital forecasting capability that supports its management of risk over the planning time horizon in line with its stated risk appetite. The forecasting process should consider material and relevant changes identified by the insurer to the insurer's internal operations and the external business environment. It should also consider the prospect of operating in both normal and stressed environments.

The insurer's prospective solvency assessment should demonstrate it has the financial resources necessary to execute its multi-year business plan in accordance with its stated risk appetite. If the insurer does not have the necessary available capital (in terms of quantity and/or quality) to meet its current and projected risk capital requirements then it should describe the management actions it has taken (or will take) to remedy any capital adequacy concerns. These management actions may include or describe any modifications to the business plan or identification of additional capital resources.

The prospective solvency assessment is, in effect, a feedback loop. The insurer should project its future financial position, including its projected economic and regulatory capital to assess its ability to meet the regulatory capital requirements. Factors to be considered are the insurer's current risk profile, its risk management policy, and its quality and level of capital, including any changes to its current risk profile caused by executing the multi-year business plan. The prospective solvency assessment should also consider both normal and stressed environments.

While the prospective solvency assessment includes capital projections, the prospective solvency assessment should also include a discussion of prospective risks impacting the capital projections. This discussion should address whether risk exposures are expected to increase or decrease in the future and what steps the insurer plans to take that may change its risk exposures. The term "prospective" should pertain to both existing risks likely to intensify and emerging risks with the potential to impact the insurer in the future.

If the prospective solvency assessment is performed for each individual insurer, the assessment should take into account any risks associated with group membership. Such an assessment may involve a review of any group solvency assessment and the methodology used to allocate group capital across insurance legal entities, as well as consideration of capital fungibility; i.e., any constraints on risk capital or the movement of risk capital to legal entities.

V. ADDITIONAL EXPECTATIONS FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS

This section identifies additional enterprise risk management expectations that are applicable to IAIGs and should be discussed in the ORSA Summary Report. These expectations are generally consistent with elements outlined in the IAIS ComFrame and have been incorporated into this manual to the extent deemed appropriate by state insurance regulators.

As stated earlier in this document, an aggregated ORSA Summary Report should be filed at the Head of the IAIG level. The Head of the IAIG should ensure that the risk management strategy and framework described in the ORSA, whether located at the Head of the IAIG or within another legal entity of the IAIG, encompass both the Head of the IAIG and the legal entities within the IAIG to promote a sound risk culture across the group.

The risk management strategy should be approved by the IAIG Board with regular risk management reporting provided to the IAIG Board or one of its committees.

The risk management framework should be integrated with the organizational structure of the IAIG and within its legal entities as appropriate to ensure that the decision making processes, business operations and risk culture of the IAIG are implemented. In addition, the framework should allow for the measurement of risk exposures of the IAIG against established risk limits on an ongoing basis in order to identify potential concerns as early as possible. This framework should cover, at a minimum:

- The diversity and geographical reach of IAIG activities;
- The nature and degree of risks in individual legal entities and business lines;
- The aggregation of risks across entities within the IAIG;
- The interconnectedness of legal entities within the IAIG;
- The level of sophistication and functionality of information and reporting systems in addressing key risks;
- The applicable laws and regulations of the jurisdictions where the IAIG operates.

The risk management framework should promote a sound risk culture across all legal entities of the IAIG by having policies and processes that include risk management training, address independence, create appropriate incentives for staff involved in risk management and encourage timely evaluation and open communication of emerging risks that may be significant to the IAIG and its legal entities.

The risk management framework of the IAIG should be reviewed at least annually to ensure that existing and emerging risks as well as changes in structure and business strategy are taken into account. Necessary modifications and improvements to the risk management framework should be made in a timely manner.

The IAIG's ORSA should explain how the risk management function, the actuarial function and the internal audit function are involved in the risk management of the IAIG. The ORSA should explain the main activities of each of these functions. Furthermore, the ORSA should describe how the risk management function remains independent from risk taking activities. The ORSA should describe how the actuarial function is involved in the risk assessment and management of the risks emanating from the legal entities, in determining the IAIG's solvency position, in any actuarial-related modeling in the ORSA and in the annual reporting to the IAIG Board of Directors on the risks posed to the IAIG. Finally, the ORSA should describe how the audit function provides an independent assessment and assurance to the IAIG Board of Directors of the operational effectiveness of the internal controls incorporated into the risk management framework.

The risk management strategy and framework of an IAIG should be generally consistent –and any material differences should be described in the ORSA. strategic risk. The investment policies should ensure that assets are properly diversified and asset concentration risk is mitigated across the IAIG;

- Mechanisms to keep track of intra-group transactions that have a significant impact on the IAIG, the risks arising from these transactions and the qualitative and quantitative restrictions on these risks. These intra-group transactions may include for example, loans, guarantees, dividend payments, reinsurance, transactions across different financial services entities within the IAIG and any activity undertaken by individual legal entities that may change the risk profile of the IAIG;

- An economic capital model to measure all relevant and material risks that the IAIG faces in different sectors, jurisdictions and economic environments. The model should estimate the amount of capital needed in reasonably foreseeable adverse situations. The results of the model, how the risks were aggregated in the model, how the diversification benefit was estimated and the underlying assumptions used in the model should be presented in the ORSA. The ORSA should show both the economic and the regulatory capital at the Head of the IAIG level. A discussion of the fungibility of capital and the transferability of assets within the group should also be included;
- Risk measurements that include stress and reverse stress testing and scenario analysis deemed relevant to the risk profile of the IAIG,
- Risk measurements of the resilience of its total balance sheet against plausible macroeconomic stresses;
- Risk measurements that assess the aggregate investment counterparty exposures and the effect of severe but plausible stress events on those exposures. In addition, the IAIG should have an investment counterparty risk appetite statement to determine if the current exposures are within the risk appetite and this should be presented in the ORSA.

The risk management framework should include a series of mechanisms to manage the IAIG’s liquidity risk and demonstrate the IAIG’s resilience against severe but plausible liquidity stresses. These mechanisms include:

- A liquidity risk appetite statement and liquidity risk limits to determine if the current liquidity position of the IAIG is within the risk appetite and the limits;
- Strategy, policies and processes to manage liquidity risk;
- Liquidity stress testing;
- An adequate level of unencumbered highly liquid assets;
- Contingency funding to mitigate potential liquidity stresses.

The IAIG may be asked by the group wide supervisor to develop a recovery plan, if warranted. A recovery plan identifies in advance options to restore the financial position and viability of the group if it comes under severe stress. The full recovery plan is not expected to be included in the ORSA Summary Report; however the ORSA Summary Report should discuss at a high-level the severe stresses that could trigger a recovery plan and should summarize the recovery options available .

The risk management framework should be reviewed by the insurer at least once every three years, in order to ascertain that it remains fit for purpose based on the risk profile, structure and business strategy of the IAIG. The review may be carried out by an internal or external body as long as it is not responsible nor involved in the risk management framework that it reviews.

VI. APPENDIX – GLOSSARY

Term	Definition
Available Capital	The amount of resources that an enterprise has at a given point in time under a defined valuation or accounting basis (e.g., economic, statutory, GAAP, or a combination) to support its business and under the defined valuation represents the insurers assessment of the types of capital required to support its business.

Term	Definition
Conditional Tail Expectation (CTE) [Also known as Tail Value at Risk or TVaR]	A measure of the amount of risk that exists in the tail of a distribution of outcomes, expressed as the probability weighted average of the outcomes beyond a chosen point in the distribution. Typically expressed as CTE (1-x), which would be calculated as the probability weighted average of the worst x% of outcomes. For example, CTE 95 is calculated as the probability weighted average of the worst 5% of outcomes, CTE 97 is the probability weighted average of the worst 3% of outcomes, etc. CTE can be used as a way of defining a particular <i>security standard</i> .
Correlation Matrix	A symmetric matrix specifying pairwise interactions between a set of variables or data. A correlation matrix is commonly applied to risks or capital amounts and is an important determinant of calculated <i>risk capital</i> , including levels of <i>diversification</i> .
Deficit Capital	If the amount of <i>available capital</i> is less than the determined <i>risk capital</i> of an enterprise, then the enterprise is said to have <i>deficit capital</i> .
Defined Security Standard	Minimum threshold of <i>available capital</i> that a company wishes to achieve or maintain, consistent with the company's business strategy, <i>risk appetite</i> and <i>risk tolerance</i> .
Dependency Structure	Specification of the relationship between different variables. Commonly specified in a <i>correlation matrix</i> .
Diversification	The extent to which the combined impact of risks inherent to assets and liabilities is less than the sum of the impacts of each risk considered in isolation.
Double Gearing	Used to describe situations where multiple companies (typically parent and subsidiary) are using shared capital to buffer against risk occurring in separate entities.
Economic Capital	The amount of capital that an insurer required to absorb unexpected losses based on its risk profile and risk appetite.
Excess Capital	If the amount of <i>available capital</i> is greater than the determined <i>risk capital</i> of an enterprise, the enterprise is said to have <i>excess capital</i> .
Fungibility	Within a group context, the ability to redeploy <i>available capital</i> from one entity to another. Fungibility is reduced where the movement of <i>available capital</i> within the group is constrained or regulation prohibits it.
Group Capital	Group capital represents the aggregate <i>available capital</i> or <i>risk capital</i> for the entire group. It will be impacted by the interaction of the risks and capital of the individual entities within the group, with properties such as <i>diversification</i> , <i>fungibility</i> and the quality and form of capital being important drivers.
Internationally Active Insurance Group	An insurance holding company system meeting the following criteria: <ol style="list-style-type: none"> 1. Premiums written in at least three countries; 2. The percentage of gross premiums written outside the home country is at least ten percent (10%) of the insurance

Term	Definition
	<p>holding company system’s total gross written premiums; and</p> <p>3. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000).</p>
Probability of Ruin	Likelihood of liabilities exceeding assets for a given time horizon.
Reverse Stress Test	Analysis of those scenarios that would render the insurer insolvent.
Risk Appetite	Documents the overall principles that a company follows with respect to risk-taking, given its business strategy, financial soundness objectives and capital resources. Often stated in qualitative terms, a risk appetite defines how an organization weighs strategic decisions and communicates its strategy to key stakeholders with respect to risk-taking. It is designed to enhance management’s ability to make informed and effective business decisions while keeping risk exposures within acceptable boundaries.
Risk Capital	An amount of capital calculated to be sufficient to withstand adverse outcomes associated with various risks of an enterprise, up to a pre-defined <i>security standard</i> .
Risk Capital Metric	Quantitative variable used to gauge risk.
Risk Exposure	For each risk listed in the company’s <i>risk profile</i> , the amount the company stands to lose due to that particular risk at a particular time, as indicated by a chosen metric.
Risk Limit	Typically quantitative boundaries that control the amount of risk that a company takes. Risk limits are typically more granular than <i>risk tolerances</i> and may be expressed at various levels of aggregation: by type of risk, category within a type of risk, product or line of business, or some other level of aggregation. Risk limits should be consistent with the company’s overall <i>risk tolerance</i> .
Risk Profile	A delineation and description of the material risks to which an organization is exposed.
Risk Tolerance	The company’s qualitative and quantitative boundaries around risk-taking, consistent with its <i>risk appetite</i> . Qualitative risk tolerances are useful to describe the company’s preference for, or aversion to, particular types of risk, particularly for those risks that are difficult to measure. Quantitative risk tolerances are useful to set numerical limits for the amount of risk that a company is willing to take.
Security Standard	The level of a <i>measurement metric</i> used to determine <i>risk capital</i> . It signifies the strength of capital, and in practice, should be chosen to be consistent with the <i>risk appetite</i> and <i>risk tolerance</i> .
Solvency	For a given accounting basis, the state where, and extent to which, assets exceed liabilities.

Term	Definition
Stochastic Analysis	A methodology designed to attribute a probability distribution to a range of possible outcomes. May use closed form solutions, or large numbers of scenarios in order to reflect the shape of the distribution.
Scenario Analysis	Analysis of the impact of possible future outcomes, based on alternative projected assumptions. This can include changes to a single assumption or combination of assumptions.
Stress Test	A type of scenario analysis in which the change in parameters is considered significantly adverse or even extreme.
Time Horizon	In the context of risk capital calculations, the period over which the impact of changes to risks is tested.
Value-at-Risk (VaR)	An estimate of the maximum loss over a certain period of time at a given confidence level.

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Draft: 7/5/22

Mutual Recognition of Jurisdictions (E) Working Group
Virtual Meeting
June 29, 2022

The Mutual Recognition of Jurisdictions (E) Working Group of the Financial Condition (E) Committee met June 29, 2022. The following Working Group members participated: Robert Wake, Chair (ME); Monica Macaluso, Vice Chair (CA); Jack Broccoli and Kathy Belfi (CT); Anoush Brangaccio (FL); Scott Sanders (GA); Tom Travis (LA); Shelley Woods (MO); Lindsay Crawford (NE); John Tirado (NJ); Bob Kasinow (NY); Melisa Greiner (PA); and Mike Arendall (TX). Also participating was: Vincent Tsang (IL).

1. Adopted the GCC Recognize and Accept List

Mr. Wake stated that on Dec. 9, 2020, the Executive (EX) Committee and Plenary adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation With Reporting Forms and Instructions* (#450), which established the group capital calculation (GCC) framework. He stated that the Working Group was assigned a new charge in 2021 to oversee the process for evaluating the jurisdictions and to maintain a listing of jurisdictions that meet the NAIC requirements for recognizing and accepting the NAIC GCC.

Mr. Wake stated that the Working Group adopted the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation* (GCC Recognize and Accept Process), which the Executive (EX) Committee and Plenary adopted on Dec. 16, 2021. He noted that the GCC Recognize and Accept Process includes a requirement for the Working Group to evaluate non-U.S. jurisdictions in accordance with the GCC Recognize and Accept Process. This would then be included on the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation* (GCC Recognize and Accept List), which is to be published through the NAIC committee process.

Mr. Wake stated that under Model #440 and the GCC Recognize and Accept Process, a jurisdiction may meet the standards for its insurance groups to be exempt from the GCC in one of two ways. First, it can be a reciprocal jurisdiction that recognizes the U.S. state regulatory approach to group supervision and group capital. Second, it can be a jurisdiction that has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

Mr. Wake stated that there are currently five reciprocal jurisdictions on the list, which are the European Union (EU) and the United Kingdom (UK) through their covered agreements, and then separately the Working Group has approved Bermuda, Japan, and Switzerland. He stated that all reciprocal jurisdictions designated by the NAIC through the reciprocal jurisdiction review process are also automatically designated as recognize and accept jurisdictions. He noted that the five reciprocal jurisdictions are included in the draft GCC Recognize and Accept List, and clarified that the listing for the EU is not a single jurisdiction, but rather a blanket recognition for each of the EU Member States. He noted that the Working Group has not received any other applications from other jurisdictions.

Mr. Wake stated that on May 19, the Working Group met in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members) and paragraph 8 (considerations of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss the draft GCC Recognize and Accept List. He stated that the Working Group directed NAIC staff to expose the draft document for a 30-day public comment period and that no comments were received from this exposure.

Mr. Wake stated that Model #440, Section 4L(2)(e) directs a lead state insurance commissioner to require the GCC for U.S. operations of any non-U.S. based insurance holding company system based in a GCC Recognize and Accept List jurisdiction if, after any necessary consultation with other supervisors or officials, the insurance commissioner deems such a subgroup calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. He noted that Model #450, Section 21E(1) provides that to assist with such a determination, the GCC Recognize and Accept List will also identify whether a listed jurisdiction requires a group capital filing for any U.S.-based insurance group's operations in that jurisdiction. He stated that the best source of this information will be from industry since they will have direct exposure to the practices in the GCC Recognize and Accept List jurisdictions. Mr. Wake asked that industry provide any information related to this topic to Jake Stultz (NAIC) and Dan Schelp (NAIC), who will bring this information to the Working Group to assess. Ms. Woods added that industry should also provide this information directly to their lead state insurance regulator in the U.S.

Mr. Tirado made a motion, seconded by Ms. Woods, to adopt the GCC Recognize and Accept List (Attachment Five-A). The motion passed unanimously.

Mr. Wake stated that NAIC staff have created a point-of-contact list that is included on the *Certified and Reciprocal Jurisdiction Reinsurer* web page, which includes a single best contact for each state for any issues regarding reciprocal jurisdiction reinsurers and certified reinsurers. He requested that each state provide its point of contact person to Mr. Stultz. Mr. Tsang asked if this list was only for this Working Group or for all U.S. states, and Mr. Wake verified that the list is for all states.

Having no further business, the Mutual Recognition of Jurisdictions (E) Working Group adjourned.

<https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/2022-2-Summer/MRJWG/June 29 Open Meeting/Minutes/MRJWG 6-29 Minutes.docx>

Draft: 5/12/2022



NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation

Reciprocal Jurisdictions (Model #440, Section 4L(2)(c)

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
Member States of the European Union	Respective Member State Supervisory Authorities	January 1, 2022	
United Kingdom (UK)	Prudential Regulation Authority of the Bank of England (PRA)	January 1, 2022	
Bermuda	Bermuda Monetary Authority (BMA)	January 1, 2022	
Japan	Financial Services Agency (FSA)	January 1, 2022	
Switzerland	Financial Market Supervisory Authority (FINMA)	January 1, 2022	

Recognize and Accept Jurisdictions (Model #440, Section 4L(2)(d)

Jurisdiction	Group-Wide Supervisor	Effective Date	Model #440, Section 4L(2)(e) Determination Explanatory Note
None currently			

Group Capital Calculation. On December 9, 2020, the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implement the Group Capital Calculation (GCC) filing requirements for insurance groups at the level of the ultimate controlling person for the purposes of evaluating solvency at the group level. The revisions specifically provide that the requirement to file the NAIC’s GCC applies to U.S.-based groups, while a group headquartered outside the U.S. is exempt from the GCC (subject to limited exceptions detailed in the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*) if its groupwide supervisor “recognizes and accepts” the GCC for U.S. groups doing business in that jurisdiction.

List of Jurisdictions that Recognize and Accept the GCC. The Mutual Recognition of Jurisdictions (E) Working Group will evaluate non-U.S. jurisdictions in accordance with the “Recognize and Accept” Process. A list of “Recognize and Accept” Jurisdictions is published through the NAIC committee process. Sections 21D and 21E of Model #450 provide a general framework for how the process to identify “Recognize and Accept” Jurisdictions will work and specifically contemplates the development of a list of such jurisdictions through the NAIC Committee Process.

NAIC Listing Process. Section 4L(2) of Model #440 provides two ways a non-U.S. jurisdiction may meet the standards for its insurance groups to be exempt from the GCC:

- (a) If the jurisdiction has been determined to be a Reciprocal Jurisdiction for purposes of credit for reinsurance, which includes a requirement that the jurisdiction “recognizes the U.S. state regulatory approach to group supervision and group capital” (Model #440, Section 4L(2)(c)); or
- (b) If the jurisdiction has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

Evaluation of Reciprocal Jurisdictions. Under Section 4L(2)(c) of Model #440, Reciprocal Jurisdictions that recognize the U.S. state regulatory approach to group supervision and group capital are exempt from the GCC. Because a “recognize and accept” evaluation by the Mutual Recognition of Jurisdictions (E) Working Group is already part of the Reciprocal Jurisdiction review process, all Reciprocal Jurisdictions designated by the NAIC through that review process are also automatically designated as “Recognize and Accept” Jurisdictions. Likewise, in view of the terms of the EU and UK Covered Agreements, all EU Member States and the UK are automatically designated “Recognize and

Accept” Jurisdictions. If there is a material change to the terms of the U.S.-EU or U.S.-UK Covered Agreement, or if the United States enters into a new covered agreement with one or more non-U.S. jurisdictions, the Mutual Recognition of Jurisdictions (E) Working Group will consider, and will consult with FIO and USTR regarding, whether and how the applicability of the procedures in this document may apply.

Prudential Oversight and Solvency Monitoring. Section 4L(2)(e) of Model #440 directs a lead state commissioner to require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system based in a “Recognize and Accept” Jurisdiction if, after any necessary consultation with other supervisors or officials, the commissioner deems such a “subgroup” calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 provides that to assist with such a determination, the “Recognize and Accept” List will also identify whether a listed jurisdiction requires a group capital filing for any U.S. based insurance group’s operations in that jurisdiction. The NAIC will identify such jurisdictions on the “Recognize and Accept” List, and may include an explanatory note in cases where a simple “Yes” or “No” response does not adequately describe the jurisdiction’s requirements. States may rely on this List when making determinations under Section 4L(2)(e) of Model #440.

The specific details of the GCC Recognize and Accept process can be found in the [Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation.](#)

Draft: 6/16/22

National Treatment and Coordination (E) Working Group
Virtual Meeting
June 13, 2022

The National Treatment and Coordination (E) Working Group of the Financial Condition (E) Committee met June 13, 2022. The following Working Group members participated: Jay Buschmann, Co-Chair (MO); Cameron Piatt, Co-Chair (OH); Cindy Hathaway (CO); William Mitchell (CT); Alison Sterett (FL); Kari Leonard (MT); Ursula Almada (NM); Doug Hartz (OR); Karen Feather (PA); Amy Garcia (TX); Jay Sueoka (UT); Ron Pastuch and Mark Durphy (WA); Amy Malm and Mark McNabb (WI); and Doug Melvin (WY). Also participating was: Cristy Dunlap (WV).

1. Adopted Proposal 2022-1 (Biographical Affidavit Addendum Pages)

Mr. Piatt said the purpose of the addendum pages is to provide a template for providing additional information that would not fit on the biographical affidavit form. Two options were provided during the exposure period, and Mr. Piatt asked if anyone wants to elaborate on the options.

Gina Hudson (Liberty Mutual) said she prefers Option 1 because Option 2 requires an additional signature that would already be provided at the end of the form. She added that numbering the pages at the bottom of the addendum pages is not necessary. Jane Barr (NAIC) explained that addendum pages may be added after a bio is prepared, and if there is a possibility that they would not be in a portable document format (PDF) all together, pages could get separated; and it will let the state know exactly how many pages should be provided with additional information. Ms. Hudson asked if all addendum pages would be numbered together or by section. Ms. Barr said that would depend on the state's preference. She added that one comment made after the comment period mentioned that one option is more conducive to holding company information. Karen Fallstrom (UnitedHealth Group—UHG) said the UHG provides numerous biographical affidavits on a yearly basis, and the blank page option works better for holding company information.

Mr. Piatt said the better option would be Option 1 and include the blank pages for those affiants that hold numerous positions on a holding company level. Ms. Barr said Frequently Asked Questions (FAQ) would be posted, clarifying the intent of the addendum pages.

Mr. Buschmann made a motion, seconded by Ms. Feather, to adopt the biographical affidavit addendum template (Option 1) (Attachment Six-A). The motion passed unanimously.

2. Received Referrals

Mr. Buschmann said the first referral regarding Form A applications was sent from the Chief Financial Regulator Forum in reference to non-traditional ownership structures, which makes it difficult to determine the ultimate controlling party. Since the Working Group is tasked with the development of the Form A application, the Form A database, and the *Company Licensing Best Practices Handbook* (Handbook), this referral can be sent to the development ad hoc group for further discussion and development.

Mr. Melvin made a motion, seconded by Ms. Garcia, to request that the Form A ad hoc group incorporate the requests of this referral during its development of the Form A application. The motion passed unanimously.

Mr. Buschmann explained that the purpose of the second referral from the Financial Analysis (E) Working Group is to: 1) request that the National Treatment and Coordination (E) Working Group consider developing enhanced

regulatory guidance in the Handbook involving communication to other licensed states regarding troubled insurers that are seeking to redomesticate; and 2) consider tools or functionality for communication between states during the development of the electronic redomestication application.

Ms. Garcia made a motion, seconded by Mr. Sueoka, to keep this referral at the working group level for further development. The motion passed unanimously.

3. Exposed Proposal 2022-02 (Primary and Redomestication Form Revisions)

Ms. Barr said proposal 2022-02 includes suggested changes to the primary and redomestication application forms that were adopted by the Working Group last year. At the time of adoption, it was noted that further modifications could be made during development. Those changes included:

1. Removal facsimile from both application forms.
2. Adding type of business to the primary application form.
3. Removing the witness from the certification and attestation page for both application forms. With the use of DocuSign, the company application coordinator would identify the officer/director and their name for signature request; therefore, a witness signature is no longer necessary.
4. Rewording question 1 of the questionnaire for ease of providing the position at the end of the sentence instead of the middle of the sentence.
5. Resorting the questions on Form 8 by category of holding company, life insurance, and specify if the insurer is intending to write separate accounts.

Ms. Barr suggested exposing for proposal 2022-02 for a 45-day public comment period ending July 29. The Working Group agreed.

4. Discussed Letters of Good Standing

Mr. Buschmann asked if any states want to consider modifying the letter of good standing templates based on requests from specific countries. Mr. Sueoka said Utah has not received any recent requests and does not use this template. Ms. Dunlap said West Virginia receives numerous requests but uses its own form or certificate of compliance.

Ms. Barr said the templates are available for use and can be modified for their specific needs on the collaboration site for company licensing, and there are plans to create a SharePoint site and place regulatory-only tools there.

Having no further business, the National Treatment and Coordination (E) Working Group adjourned.

FRS-UCAA_Conf.Calls_NTCWG_2022 [June 13](#)

National Treatment and Coordination (E) Working Group
Company Licensing Proposal Form

<p align="center">DATE: <u>02/24/22</u></p> <p>CONTACT PERSON: <u>Jane Barr</u></p> <p>TELEPHONE: <u>816-783-8413</u></p> <p>EMAIL ADDRESS: <u>jbarr@naic.org</u></p> <p>ON BEHALF OF: <u>National Treatment & Coordination WG</u></p> <p>NAME: _____</p> <p>TITLE: _____</p> <p>AFFILIATION: _____</p> <p>ADDRESS: _____</p>	<p align="center">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-01</u></p> <p>Year <u>2022</u></p> <p align="center">DISPOSITION</p> <p>[] ADOPTED _____</p> <p>[] REJECTED _____</p> <p>[] DEFERRED TO _____</p> <p>[] REFERRED TO OTHER NAIC GROUP _____</p> <p>[] EXPOSED _____</p> <p>[] OTHER (SPECIFY) _____</p>
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IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- [x] UCAA Forms [] UCAA Instructions [] Enhancement to the Electronic Application Process
 [] Company Licensing Best Practices HB

Forms:

- [] Form 1 – Checklist [] Form 2 - Application [] Form 3 – Lines of Business
 [] Form 6- Certificate of Compliance [] Form 7 – Certificate of Deposit [] Form 8 - Questionnaire
 [] Form 8C- Corporate Amendment Questionnaire [x] Form 11-Biographical Affidavit [] Form 12-Uniform
 Consent to Service of Process [] Form 13- ProForma [] Form 14- Change of Address/Contact Notification
 [] Form 15 – Affidavit of Lost C of A [] Form 16 – Voluntary Dissolution [] Form 17 – Statement of Withdrawal

DESCRIPTION OF CHANGE(S)

Addendum pages were removed from the Biographical Affidavit (Form 11). No changes were made to the revision date of Form 11.

Addendum templates were created for Employment History, Education, Licenses, Professional Memberships/Associations, General and Blank. These templates were developed as Form 11b.

FAQs have been updated to reflect the addendum pages.

REASON OR JUSTIFICATION FOR CHANGE **

The templates were developed to provide a more uniform approach to provide carry over information from the biographical affidavit. These templates are optional and would only need to be utilized if there is not enough space on the biographical affidavit.

Any changes to the addendum pages will have an impact on the background reports including the Best Practices and Guidelines.

Each template will be posted to the webpage separately to allow users flexibility and utilize only those templates needed for the affiant.

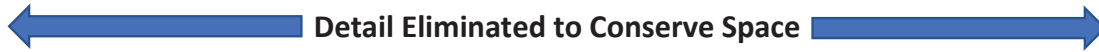
Additional Staff Comments:

Employment Addendum Page – two separate options are provided for the structure of the Employment Addendum page. When providing comments please indicate a preference for Option 1 or Option 2.

** This section must be completed on all forms.

Revised 01-2019

Frequently Asked Questions:



The formatting of the NAIC biographical affidavit, addendum templates and accompanying cover letter should **NOT** be altered, for lengthy or detailed responses refer to Question 22 below.



Q5: Can the Applicant Company use the same biographical affidavit previously submitted by an affiliate within the same group for a new UCAA application filing?

A5: Yes, if the [NAIC biographical affidavit group cover letter](#) is submitted with biographical affidavits for officer/director changes and for expansion and corporate amendment applications. The affidavit and addendum templates can be reused for companies listed on the NAIC biographical affidavit group cover letter and are under the same group code if the affiant and notary signatures on the biographical affidavit and addendum templates are within 6 months of the date of submission and no information on the affidavit or addendum templates have been altered, amended or changed for any reason. Only the NAIC forms can be submitted, individual company cover letters will not be accepted. Refer to the [Fingerprint and Biographical Affidavit Requirements chart](#) for state specific requirements.

Q6: Can a biographical affidavit, addendum templates and third-party background report more than six months old be used in a new application?

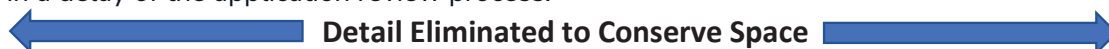
A6: No, affidavits, addendum templates and background reports more than six (6) months old are not acceptable. A newly completed biographical affidavit and addendum templates (if needed) with a current date must be submitted. A new background report would be required for the newly completed affidavit. Biographical affidavits signed within six months of the application submission date may be used for new applications for the same Applicant Company and/or affiliated companies that are under the same group code accompanied with a group cover letter.



Completing the Biographical Affidavit

Q20: Is it acceptable to leave a question or item blank if I don't know the answer, or if the question or item does not apply, or that the answer is none?

A20: No, you must answer **each** and **every** question or item. If the answer is no or none, state "No" or "None". By not responding to each question or item, the various State Insurance Departments may request an updated affidavit regarding the missing question or item. A deficient or incomplete biographical affidavit submitted for a Background Report could result in a delay of the application review process.



Q22: The form does not allow enough space to respond to the questions or items. What should I do?

A22: Addendum pages are available as Form 11b and are to be used for additional responses carried over from the affidavit. There are **six** addendum templates: Employment History, Education, **Licenses, Professional Societies**, General and Blank. Cross-reference and label your responses to the biographical affidavit question or item number when utilizing the General or Blank addendum templates. Addendum pages should be signed by the affiant. Addendum pages are not required to be submitted with the affidavit if they are not utilized.

Biographical Affidavit Questions:**Item 5****Q32: I do not recall the exact dates that I attended college. Can I just guess?**

A32: No, because if you guess and are wrong, when the state department of insurance or independent third-party vendor completing the background report, verifies the information and submits their findings to the State Insurance Departments, a discrepancy will be noted. You may be required by the various State Insurance Departments to submit a notarized affidavit explaining the discrepancy; an unnecessary request had you researched the matter before guessing. If there is not enough space to list all colleges/universities attended on the affidavit, you may add the additional schools to the addendum Form 11b – Education.

NEW QUESTION:

Q: How are multiple schools listed in the Education and Training section for: undergraduate, graduate, and other training?

A: If the affiant has attended more than one school, additional information should be provided on Form 11b – Education. The affiant can enter “See Form 11b-Education” on question 5 of the biographical affidavit.

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

**Uniform Certificate of Authority Application (UCAA)
 BIOGRAPHICAL AFFIDAVIT**

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority. The affiant may be required to provide additional information during the third-party verification process if they have attended a foreign school or lived and worked internationally.

Specify Purpose for Completion:

Form A: _____ **UCAA Type:** _____ **Other:** _____

Full name, address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

Applicant Company Name: _____

Address: _____ City: _____

State/Province: _____ Postal Code: _____ Phone: _____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE," SO STATE. ALL FIELDS MUST HAVE A RESPONSE. INCOMPLETE FORMS COULD DELAY THE APPLICATION PROCESS or RESULT IN REJECTION OF THE APPLICATION.

1. Affiant's Full Name (Initials Not Acceptable): First: _____ Middle: _____ Last: _____

2. a. Are you a citizen of the United States?

Yes No

b. Are you a citizen of any other country?

Yes No

If yes, what country? _____

3. Affiant's occupation or profession: _____

4. Affiant's business address: _____

Business telephone: _____ Business Email: _____

5. Education and training:

<u>College/University</u>	<u>City/State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree Obtained</u>
---------------------------	-------------------	-------------------------------	------------------------

<u>Graduate Studies</u>	<u>College/University</u>	<u>City/State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree Obtained</u>
-------------------------	---------------------------	-------------------	-------------------------------	------------------------

<u>Other Training: Name</u>	<u>City/State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree/Certification Obtained</u>
-----------------------------	-------------------	-------------------------------	--------------------------------------

Note: If affiant attended a foreign school, please provide full address and telephone number of the college/university. If applicable, provide the foreign student Identification Number and/or attach foreign diploma or certificate of attendance to the Biographical Affidavit Personal Supplemental Information.

Revised 12/08/2020

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS
(California)

This Disclosure and Authorization is provided to you in connection with a pending application of _____ [company name] (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by any department of insurance in such states where Company is currently pursuing an Application, because you are either functioning as, or are seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports will be obtained through _____ [name of CRA, address] (“CRA”). Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency (“CRA”) by submitting a written request to Company. You should submit any such written request for more information, to _____ [company’s designated person, position, or department, address and phone].

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.” You will be provided with a copy of any Background Report procured by Company if you check the box below.

- By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. The CRA is required to have personnel available to explain your file to you and the CRA must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond six (6) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature) _____ (Date)

State of: _____ County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20 ____ by _____, and: who is personally known to me, or who produced the following identification: _____.

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

Revised 12/08/2020

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Education Addendum pages are used for additional responses carried over from the biographical affidavit question 5. Responses must be completed in the format provided below (unused sections may be left blank). The Education Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Affiant Signature: _____ Date: _____
Page ____ of ____

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Education Addendum pages are used for additional responses carried over from the biographical affidavit question 5. Responses must be completed in the format provided below (unused sections may be left blank). The Education Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Graduate Studies	
College/University	
City/State	
Dates Attended (MM/YY)	
Degree Obtained	

Affiant Signature: _____ Date: _____
 Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Education Addendum pages are used for additional responses carried over from the biographical affidavit question 5. Responses must be completed in the format provided below (unused sections may be left blank). The Education Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Other Training: Name	
City/State	
Dates Attended (MM/YY)	
Degree/Certification Obtained	

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Professional Societies and Associations Addendum pages are used for additional responses carried over from the biographical affidavit question 6. Responses must be completed in the format provided below (unused sections may be left blank). The Professional Societies and Associations Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

List of memberships in professional societies and associations:

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Name of Society/Association	
Contact Name	
Address	
City, State/Province & Postal Code	
Telephone Number of Society/ Association	

Affiant Signature: _____ Date: _____
 Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

List complete employment record for the past twenty (20) years, whether compensated or otherwise (up to and including present jobs, positions, partnerships, owner of an entity, administrator, manager, operator, directorates or officerships). Please list the most recent first. Attach additional pages if the space provided is insufficient. It is only necessary to provide telephone numbers and supervisory information for the past ten (10) years. Additional information may be required during the third-party verification process for international employers.

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Affiant Signature: _____ Date: _____
 Page ____ of ____

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Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Affiant Signature: _____ Date: _____
 Page ____ of ____

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Affiant Signature: _____ Date: _____
 Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Beginning Date/Ending Date	
Employer's Name	
Address	
City, State/Province & Postal Code	
Country	
Offices/Positions Held (If more than one position held list all.)	
Type of Business	
Supervisor Contact	

Affiant Signature: _____ Date: _____

Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below **(unused sections may be left blank)**. The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

List complete employment record for the past twenty (20) years, whether compensated or otherwise (up to and including present jobs, positions, partnerships, owner of an entity, administrator, manager, operator, directorates or officerships). Please list the most recent first. Attach additional pages if the space provided is insufficient. It is only necessary to provide telephone numbers and supervisory information for the past ten (10) years. Additional information may be required during the third-party verification process for international employers.

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Signature: _____ Date: _____
Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Signature: _____ Date: _____
Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Signature: _____ Date: _____
Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

The Employment Addendum pages are used for additional responses carried over from the biographical affidavit question 8. Responses must be completed in the format provided below (unused sections may be left blank). The Employment Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Name: _____
Date Biographical Affidavit Signed: _____
Address: _____ City: _____ State/Province: _____ Country: _____
Phone: _____ Type of Business: _____ Supervisor/Contact: _____

Company	Position	Date First Elected	Resigned

Affiant Signature: _____ Date: _____
Page ____ of ____

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Licenses Addendum pages are used for additional responses carried over from the biographical affidavit question 10. Responses must be completed in the format provided below (unused sections may be left blank). The Licenses Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the license (s) issued. If your professional license number is your Social Security Number (SSN) or embeds your SSN or any sequence of more than five numbers that are reasonably identifiable as your SSN, then write SSN for that portion of the professional license number that is represented by your SSN. (For example, "SSN", "12-SSN-345" or "1234-SSN" (last 6 digits)). Attach additional pages if the space provided is insufficient.

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Affiant Signature: _____ Date: _____
 Page _____ of _____

Revised 02/24/2022

Applicant Company Name: _____
 NAIC No.: _____ FEIN: _____

The Licenses Addendum pages are used for additional responses carried over from the biographical affidavit question 10. Responses must be completed in the format provided below (unused sections may be left blank). The Licenses Addendum pages must be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Organization/Issuer of License	
Address	
City, State/Province & Postal Code	
Country	
License Type	
License #	
Date Issued (MM/YY) & Date Expired (MM/YY)	
Reason for Termination	
Non-Insurance Regulatory Phone Number	

Affiant Signature: _____ Date: _____
 Page ____ of ____

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

Addendum pages are used for additional responses carried over from the biographical affidavit questions. The question number and response should be provided in the format below. Responses must be labeled and signed by the affiant (unused sections may be left blank). Attachments included as addendum's must also be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Question #:
Response:

Question #:
Response:

Question #:
Response:

Question #:
Response:

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

Addendum pages are used for additional responses carried over from the biographical affidavit questions. The question number and response should be provided in the format below. Responses must be labeled and signed by the affiant (unused sections may be left blank). Attachments included as addendum's must also be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Question #:
Response:

Question #:
Response:

Question #:
Response:

Question #:
Response:

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____
NAIC No.: _____ FEIN: _____

Addendum pages are used for additional responses carried over from the biographical affidavit questions. The question number and response should be provided in the format below. Responses must be labeled and signed by the affiant (unused sections may be left blank). Attachments included as addendum's must also be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Question #:
Response:

Question #:
Response:

Question #:
Response:

Question #:
Response:

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____

NAIC No.: _____ FEIN: _____

Addendum pages are used for additional responses carried over from the biographical affidavit questions **unused pages should be left blank**. Responses must be labeled and signed by the affiant. Attachments included as addendum's must also be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022

Applicant Company Name: _____

NAIC No.: _____ FEIN: _____

Addendum pages are used for additional responses carried over from the biographical affidavit questions **unused pages should be left blank**. Responses must be labeled and signed by the affiant. Attachments included as addendum's must also be signed by the affiant. Refer to the FAQ's on the UCAA webpage for additional questions.

Affiant Signature: _____ Date: _____
Page ____ of ____

Revised 02/24/2022



MEMORANDUM

TO: Accounting Practices and Procedures (E) Task Force
Financial Condition (E) Committee

FROM Statutory Accounting Principles (E) Working Group

DATE August 2, 2022

RE: Related Party Reporting

This memorandum intends to provide information to the Financial Condition (E) Committee and the Accounting Practices and Procedures (E) Task Force on recent adoptions by the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group regarding the identification of related party involvement with investments and request adoption consideration. This item has been separated for individual consideration as the revisions will impact all insurance reporting entities and the discussion included affiliate identification.

In conjunction with recent recommendations from the Macroprudential (E) Working Group regarding the risk of certain investments that involve related parties, in May 2022, the Statutory Accounting Principles (E) Working Group adopted its agenda item *2021-21: Related Party Reporting* (**See details in the Appendix**).

The primary goal of this agenda item was to incorporate new reporting requirements for investment transactions with related parties in order to provide more transparency into the nature of the involvement of related parties. For example, it allows regulators to understand whether the investment involves credit exposure to related parties or whether the investment involves a related party in the origination or servicing of the investment. This reporting applies to all investments involving related parties, regardless of whether they meet the definition of an affiliate per Insurance Holding Company System Regulatory Act (Model #440).

With an effective date of Dec. 31, 2022, Blanks (E) Working Group agenda item 2021-22BWG requires new reporting codes for the following investment schedules: B – Mortgage Loans, D – Long-Term Bonds, DB – Derivatives, BA – Other Long-Term Invested Assets, DA – Short-Term Investments, E2 – Cash Equivalents, and DL – Securities Lending Collateral Assets. The reporting changes will require the identification of related party involvement for every investment using codes (**See code details in the Appendix**). While feedback from interested parties indicated that most investments do not involve a related party, the Statutory Accounting Principles (E) Working Group communicated support to make the related party identification field mandatory, thus a “blank or null” field will not be permitted. This eliminates ambiguity on whether an investment does not have a related party involvement or whether the component of the investment schedule was inadvertently not completed.

In addition to the new reporting granularity, the statutory accounting revisions included adopted clarifications to *SSAP No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R—Loan-Backed and Structured Securities* to make clear that the existing affiliate definition applies to all types of entities, including securitizations. Existing guidance already made clear that control may exist through arrangements other than voting interests, such as in

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the case of a limited partnership where the general partner typically holds control. The adopted revisions add specificity around the application of this existing guidance to other types of non-voting entities. For example, securitization entities are typically controlled through non-voting arrangements. To the extent that such control is held by the reporting entity or its affiliates, then the securitization entity and any investments in it would be deemed affiliated.

Excerpts from the Holding Company Act are provided in the **Appendix** to detail the existing guidance regarding determination of control.

Both the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group unanimously adopted the revisions, with a Dec. 31, 2022, effective date. The Statutory Accounting Principles (E) Working Group reviewed industry comments and incorporated limited revisions to the initially exposed statutory accounting changes and stated support for the exposed blanks reporting revisions with their adoption. No industry comments were presented at the Blanks (E) Working Group. Therefore, the Working Group recommends adoption of these revisions by the Task Force and the Committee.

Appendix

SAPWG Revisions (Agenda Item 2021-21)

Adopted revisions to SSAP No. 25: (New paragraph 9. Remaining paragraphs would be renumbered.)

This new paragraph 9 clarifies the application of the existing affiliate and control definitions to limited partnerships, trusts and other special purpose entities when control is held by an affiliated general partner, servicer or other arrangement. (The proposed deletion of FIN 35 is discussed earlier in the agenda item, but is noted as not necessary with the existing statutory accounting guidance.)

5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.

6. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

7. Control as defined in paragraph 6 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment. The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:

- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
- b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
- c. An entity where the insurer has given up participation rights¹ as a shareholder to the investee.

¹ The term "participating rights" refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee's ordinary course of business and is distinguished from the more limited type of rights referred to as "protective rights". Refer to the sections entitled: "Protective Rights" and "Substantive Participating Rights" in EITF 96-16, *Investor's Accounting for an Investee When the Investor Owns a Majority of the Voting Stock but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term "participating rights" shall be used consistent with the discussion of substantive participating rights in this EITF.

Appendix

8. Any direct or indirect ownership interest of the reporting entity greater than 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation. The *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450) include a provision that allows for the disclaimer of affiliation and/or the disclaimer of control for members of an insurance holding company system. The disclaimer must be filed with the state insurance commissioner. Entities whose relationship is subject to a disclaimer of affiliation or a disclaimer of control are related parties and are subject to the related party disclosures within this statement. Such a disclaimer does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.
9. For entities not controlled by voting interests, such as limited partnerships, trusts and other special purpose entities, control may be held by a general partner, servicer, or by other arrangements. The ability of the reporting entity or its affiliates to direct the management and policies of an entity through such arrangements shall constitute control as defined in paragraph 6. Additionally, a reporting entity or its affiliates may have indirect control of other entities through such arrangements. For example, if a limited partnership were to be controlled by an affiliated general partner, and that limited partnership held greater than 10% of the voting interests of another company², indirect control shall be presumed to exist unless the presumption of control can be overcome as detailed in paragraph 7. If direct or indirect control exists, whether through voting securities, contracts, common management or otherwise, the arrangement is considered affiliated under paragraph 5. Consistent with paragraph 8, a disclaimer of affiliation does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

Adopted revisions SSAP No. 43R:

These revisions move the existing guidance in paragraph 4.a. to paragraph 6 and notes the requirement to identify related party investments in the investment schedules. (Note Footnote 5 is just moved to a new paragraph.)

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer’s obligation has been fully satisfied. The investor only has direct recourse to the issuer’s assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.
- 5. Mortgage-referenced securities do not meet the definition of a loan-backed or structured security but are explicitly captured in scope of this statement. In order to qualify as a mortgage-referenced security, the security must be issued by a government sponsored enterprise³ or by a special purpose trust in a transaction sponsored by a government sponsored enterprise in the form of a “credit risk transfer” in which the issued security is tied to a referenced pool of mortgages and the payments received are linked to the credit and principal payment risk of the underlying mortgage loan borrowers captured in the referenced pool

² Consistent with SSAP No. 97, footnote 1, investments in an exchange traded fund (ETF) or a mutual fund (as defined by the SEC) does not reflect ownership in an underlying entity, regardless of the ownership percentage the reporting entity (or the holding company group) has of the ETF or mutual fund unless ownership of the ETF actually results in “control” with the power to direct or cause the direction of management of an underlying company. ETFs and mutual funds are comprised of portfolios of securities subject to the regulatory requirements of the federal securities laws.

³ Currently, only Fannie Mae and Freddie Mac are the government sponsored entities that either directly issue qualifying mortgage-referenced securities or sponsor transactions in which a special purpose trust issues qualifying mortgage-reference securities. However, this guidance would apply to mortgage-referenced securities issued by any other government sponsored entity that subsequently engages in the transfer of mortgage credit risk.

Appendix

of mortgages. For these instruments, reporting entity holders may not receive a return of their full principal as principal repayment is contingent on repayment by the mortgage loan borrowers in the referenced pool of mortgages. Unless specifically noted, the provisions for loan-backed securities within this standard apply to mortgage-referenced securities.

- 6. Investments within the scope of this statement issued by a related party or acquired through a related party transaction or arrangement are also subject to the provisions, admittance assessments and disclosure requirements of SSAP No. 25. In determining whether a security is a related party investment, consideration should be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security. Loan-backed and structured securities meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement and SSAP No. 25.
 - a. Although a loan-backed or structured security may be acquired from a non-related issuer, if the assets held in trust predominantly⁴ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment. In such situations where the underlying collateral assets are issued by related parties that do not qualify as affiliates, these securities shall be identified as related party investments in the investment schedules.
 - b. A loan-backed or structured security may involve a relationship with a related party but not be considered an affiliated investment. This may be because the relationship does not result in direct or indirect control of the issuer or because there is an approved disclaimer of control or affiliation. Regardless of whether investments involving a related party relationship are captured in the affiliated investment reporting lines, these securities shall be identified as related party investments in the investment schedules. Examples of related party relationships would include involvement of a related party in sponsoring or originating the loan-backed or structured security or any type of underlying servicing arrangement. For the avoidance of doubt, investments from any arrangement that results in direct or indirect control, which include but are not limited to control through a servicer or other controlling arrangement, shall be reported as affiliated in accordance with *SSAP No. 25—Affiliates and Other Related Parties*.

⁴ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in *SSAP No. 25—Affiliates and Other Related Parties*, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

Appendix**Blanks Reporting Changes Agenda Item 2021-22BWG****Investments Involving Related Parties:**

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control / affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a **direct credit exposure**.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies **involving a relationship with a related party** as sponsor, originator, manager, servicer, or other similar influential role **and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.**
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies **involving a relationship with a related party** as sponsor, originator, manager, servicer, or other similar influential role and **for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.**
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

Excerpt from Holding Company Act (Bolding and underlining for emphasis):

A. "Affiliate." An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

C. "Control." The term "control" (including the terms "controlling," "controlled by" and "under common control with") **means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise,** unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Stat Acctg_Statutory_Referrals/2022/APPTF Memo-Related Party Reporting 8122.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Stat%20Acctg_Statutory_Referrals/2022/APPTF%20Memo-Related%20Party%20Reporting%208122.docx)



BOARD OF GOVERNORS of the FEDERAL RESERVE SYSTEM

Insurance Supervisory Framework

Presentation to the NAIC's Financial Condition (E) Committee

August 12, 2022

1



Supervisory Framework Background

- The Federal Reserve released a draft insurance supervisory framework on January 28 for public comment. The comment period closed on May 5.
- The proposed framework describes the Federal Reserve's proposed approach to supervising depository institution holding companies significantly engaged in insurance activities (supervised insurance organizations or SIOs).
- The Board recognizes and has developed the framework to reflect the role of state insurance regulators and that the risks arising from the insurance activities of SIOs are materially different from traditional banking risks.



Structure of Proposed Framework

- Proportional application of supervisory guidance and activities
 - Risk-based classified of SIOs to guide the application of supervisory guidance, the allocation of supervisory resources, and the assignment of supervisory activities
- Supervisory ratings
 - Ratings definitions tailored to SIOs emphasize the ability of the holding company to serve as a source of strength for the depository
 - Ratings assigned for Governance and Controls, Capital Management, and Liquidity Management
- Incorporating the work of other supervisors
 - Emphasizes the importance of collaborating with state insurance regulators and describes how supervisory teams do this



Proportionality

- SIOs would be classified as either complex or noncomplex based on their risk profiles. Their classification affects the frequency and intensity of supervisory activities.
 - Complex SIOs:
 - More challenging to assess and typically larger
 - Assigned a dedicated supervisory team (DST), whose composition and activities would be based on the SIO's risk profile
 - Noncomplex SIOs:
 - Simpler risk profiles and typically smaller
 - No dedicated supervisory team
 - Supervisory activities outside of an annual full scope exam would be atypical and based on the firm's risk profile
- The framework describes how the application of existing supervisory guidance is tailored for SIOs and emphasizes that supervisory activities focus on material risks that could threaten the holding company's ability to support the depository institution

SIO Ratings

- SIOs have been subject to indicative RFI ratings since 2011 and have been excluded from recent rating framework updates.
- The proposal leverages the existing LFI rating framework to take advantage of existing internal processes, but rating definitions are tailored for SIOs.
- One of four ratings assigned for each component (Governance & Controls, Capital Management, Liquidity Management):
 - Broadly Meets Expectations
 - Conditionally Meets Expectations
 - Deficient-1
 - Deficient-2
- The primary consideration for assigning a rating is the safety and soundness of the SIO and its ability to serve as a source of strength for its depository institution(s).



Incorporating the Work of Other Supervisors

- In addition to working with other financial supervisors, supervisory teams must rely as much as possible on the work of state insurance regulators.
- The framework describes how supervisory teams coordinate with state insurance regulators in order to minimize supervisory burden without sacrificing effective oversight, including:
 - Routine discussions with greater frequency during times of stress;
 - Discussion of the supervisory plan with the potential for participation by either side on the other's activities;
 - Consideration of the work done by the state when scoping activities;
 - Sharing and discussing the annual roll-up letter and relevant documents from supervisory activities; and
 - the states sharing the firm's Own Risk Self Assessment (ORSA), their assessment of the ORSA, results from their supervisory activities, and other supervisory material.



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Draft: 8/23/22

Accounting Practices and Procedures (E) Task Force
Portland, Oregon
August 11, 2022

The Accounting Practices and Procedures (E) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Cassie Brown, Chair, represented by Jamie Walker (TX); Mike Causey, Vice Chair, represented by Jackie Obusek (NC); Lori K. Wing-Heier represented by David Phifer (AK); Mark Fowler represented by Sheila Travis (AL); Alan McClain represented by Leo Liu (AR); Ricardo Lara represented by Kim Hudson (CA); Andrew N. Mais represented by William Arfanis (CT); Karima M. Woods represented by Rebecca Davis (DC); Trinidad Navarro represented by Rylynn Brown (DE); David Altmaier represented by Virginia Christy (FL); Doug Ommen represented by Kevin Clark (IA); Dean L. Cameron represented by Jessie Adamson (ID); Vicki Schmidt represented by Tish Becker and Levi Nwasoria (KS); Sharon P. Clark represented by Bill Clark (KY); James J. Donelon represented by Stewart Guerin (LA); Gary D. Anderson represented by John Turchi (MA); Timothy N. Schott represented by Vanessa Sullivan (ME); Anita G. Fox represented by Judy Weaver (MI); Chlora Lindley-Myers represented by Debbie Doggett (MO); Troy Downing represented by Kari Leonard (MT); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by John Sirovetz (NJ); Russell Toal represented by Patrick Zeller (NM); Adrienne A. Harris represented by Bob Kasinow (NY); Judith L. French represented by Dale Bruggeman (OH); Michael Humphreys represented by Melissa Greiner and Matt Milford (PA); Elizabeth Kelleher Dwyer represented by Michael Estabrook and Ted Hurley (RI); Larry D. Deiter represented by Johanna Nickelson (SD); Carter Lawrence represented by Joy Little (TN); Jon Pike represented by Jake Garn (UT); Scott A. White represented by Greg Chew, David Smith, and Doug Stolte (VA); Kevin Gaffney represented by Karen Ducharme (VT); Mike Kreidler represented by Steve Drutz (WA); Nathan Houdek represented by Amy Malm (WI); Allan L. McVey represented by Jamie Taylor (WV); and Jeff Rude represented by Doug Melvin (WY).

1. Adopted its Spring National Meeting Minutes

Ms. Walker directed the members to the Task Force's 2022 Spring National Meeting minutes. Ms. Doggett made a motion, seconded by Ms. Travis, to adopt the Task Force's April 5 minutes (*see NAIC Proceedings – Spring 2022, Accounting Practices and Procedures (E) Task Force*). The motion passed unanimously.

2. Adopted the Report of the Statutory Accounting Principles (E) Working Group

Mr. Bruggeman provided the report of the Statutory Accounting Principles (E) Working Group, which met Aug. 10. During this meeting, the Task Force adopted its July 18, May 24, and Spring National Meeting minutes. During its July 18 meeting, the Working Group exposed agenda item 2019-21: Bond Proposal Reporting Revisions. The exposure included proposed reporting changes to Schedule D-1: Long-Term Bonds, including a proposal for a new schedule to separate issuer obligations and asset-backed securities and revised reporting lines and instructions for investment classification for a public comment period ending Oct 7.

During its May 24 meeting, the Working Group adopted the following statutory accounting principles (SAP) clarifications to statutory accounting guidance:

- A. *Statement of Statutory Accounting Principles (SSAP) No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R—Loan-Backed and Structured Securities*: Revisions clarify application guidance for the existing affiliate definition and incorporate reporting codes within the investment schedules to identify investments that involve related parties. (Ref #2021-21)

- B. Blanks Proposal: Adoption expressed support for a blanks proposal (2022-10BWG) that included instructional changes to Schedule T, the State Page, and Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments. The instructions clarify that all premium adjustments shall be allocated as premium in the respective jurisdiction. This agenda item did not result in statutory revisions. (Ref #2022-03)
- C. *Interpretation (INT) 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates*: The interpretation clarified that an investment in a Freddie Mac “When Issued K-Deal” (WI) Program is in scope of SSAP No. 43R from acquisition. (Ref #2022-08)

Mr. Bruggeman stated that during its Aug. 10 meeting, the Working Group adopted one new SAP concept, *SSAP No. 86—Derivatives*: Revisions adopt elements from Financial Accounting Standards Board (FASB) *Accounting Standards Update (ASU) 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities* for determining hedge effectiveness. The revisions also incorporate statutory-specific measurement methods for excluded components in hedging instruments. The revisions were adopted with a Jan. 1, 2023, effective date, with early adoption permitted. A subsequent blanks proposal will incorporate new electronic-only reporting fields for Schedule DB and note disclosures. (Ref #2021-20)

Mr. Bruggeman stated that the Working Group adopted the following clarifications to statutory accounting guidance:

- A. *SSAP No. 4—Assets and Nonadmitted Assets and the Preamble to the Accounting Practices and Procedures Manual (AP&P Manual)*. Revisions incorporate chapter reference updates from FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation* and Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*. These updates revise the definition of an asset. The Working Group adopted *Issue Paper 166 – Definition of Assets* to document the SAP clarifications to SSAP No. 4. (Ref #2022-01)
- B. *SSAP No. 22R—Leases*: Revisions reject *ASU 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities* for statutory accounting. (Ref #2022-05)
- C. *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*: Revisions incorporate disclosures from *ASU 2021-10, Government Assistance, Disclosures by Business Entities about Government Assistance*. (Ref #2022-04)
- D. *SSAP No. 47—Uninsured Plans and SSAP No. 68—Business Combinations and Goodwill*: Revisions reject *ASU 2021-08, Business Combinations, Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* for statutory accounting. (Ref #2022-07)
- E. *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*: Revisions clarify that the U.S. tax basis equity audit shall occur at the investee level. (Ref #2022-02)
- F. *SSAP No. 104R—Share-Based Payments*: Revisions incorporate the practical expedient for the current price from *ASU 2021-07, Compensation – Stock Compensation (Topic 718), Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards*. (Ref #2022-06)

Mr. Bruggeman stated that the Working Group exposed one new SAP concept to statutory accounting guidance regarding *SSAP No. 26R—Bonds* and *SSAP No. 43R*: Revisions incorporate concepts to principally define what is eligible for reporting as bond on Schedule D-1. The exposure included proposed revisions to *SSAP No. 26R* and *43R*, as well as an updated bond definition and issue paper. (Ref #2019-21)

Mr. Bruggeman stated that the Working Group exposed the following clarifications to statutory accounting guidance for a public comment period ending Oct. 7:

- A. *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets: Revisions incorporate Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*, to revise the definition of a liability. The Working Group exposed a related draft issue paper to detail these SAP clarifications. (Ref #2022-01)
- B. *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements* and *SSAP No. 73—Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities*: Revisions clarify that leasehold improvements shall be immediately expensed upon lease termination, unless limited exclusions are met. (Ref #2021-25)
- C. *SSAP No. 21R—Other Admitted Assets*: Revisions clarify that an asset pledged as collateral must qualify as an admitted invested asset in order for a collateral loan to be admitted. (Ref #2022-11)
- D. *SSAP No. 25 and SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*: Revisions identify foreign open-end investment funds as a fund in which ownership percentage is not deemed to reflect control unless the entity actually controls with the power to direct the underlying company. (Ref #2022-13)
- E. *SSAP No. 36—Troubled Debt Restructuring*: Revisions propose to reject *ASU 2022-02, Troubled Debt Restructurings and Vintage Disclosures* for statutory accounting. (Ref #2022-10)
- F. *SSAP No. 86*: Revisions incorporate derivative guidance from *ASU 2017-12* and *ASU 2022-01, Fair Value Hedging – Portfolio Layer* to include guidance for the portfolio layer method and partial-term hedges. (Ref #2022-09)
- G. *INT 03-02: Modification to an Existing Intercompany Pooling Arrangement*: Exposure proposes to nullify INT 03-02, as it is inconsistent with *SSAP No. 25*. (Ref #2022-12)

Mr. Bruggeman stated that the Working Group received updates on the following items:

- A. Received an update on U.S. generally accepted accounted principles (GAAP) exposures, noting that pending items will be addressed during the normal maintenance process. In addition, NAIC staff are monitoring developments regarding the *Inflation Reduction Act of 2022* for any items that may affect insurers.
- B. Received an update regarding amendments made to the *Valuation Manual* by the Life Actuarial (A) Task Force since the 2021 Summer National Meeting.
- C. Received a referral from the Macprudential (E) Working Group.

Mr. Bruggeman made a motion, seconded by Mr. Chew, to adopt the report of the Statutory Accounting Principles (E) Working Group, except for agenda item 2021-21: Related Party Reporting, which would have a separate vote of the Task Force (Attachment One). The motion passed unanimously.

3. Adopted the Report of the Blanks (E) Working Group

Mr. Hudson provided the report of the Blanks (E) Working Group, which met June 8 and May 25. During these meetings, the Working Group took the following action:

Mr. Hudson stated the Working Group conducted an e-vote that concluded June 8 to adopt 2022-13BWG, which modifies life blank Five-Year Historical Data questions 68 and 69 to reference group comprehensive and questions 70 and 71 to reflect the inclusion of all health lines of business other than group comprehensive. The crosschecks for these questions are being modified accordingly. Interested parties requested an annual 2022 effective date.

Mr. Hudson stated the during its May 25 meeting, the Working Group adopted its Spring National Meeting minutes, adopted its editorial listing, and adopted the following proposals:

- A. 2021-22BWG – Add a new reporting requirement in the investment schedules for investment transactions with related parties. In addition to capturing direct loans in related parties, it will also capture information involving securitizations (or other similar investments) where the related party is a sponsor/originator along with whether the underlying investment is in a related party.
- B. 2022-01BWG – Add new questions to General Interrogatories Part 1 asking if the reporting entity accepts cryptocurrency for payment of premiums, which cryptocurrencies are accepted, and whether they are held for investment or immediately converted to U.S. dollars (2021-24 SAPWG).
- C. 2022-02BWG – Add four new electronic-only columns to Schedule D, Part 6, Section 1, for Prior Year Book/Adjusted Carrying Value (BACV) (Column 16), Prior Year Nonadmitted Amount (Column 17), Prior Year Sub-2 Verified Value (Column 18), and Prior Year VISION Filing Number (Column 19) (2021-22 SAPWG).
- D. 2022-03BWG – Split Line 5 of the Quarterly Part 1 – Loss Experience and Part 2 – Direct Premiums Written into Line 5.1 – Commercial multiple peril (non-liability portion) and Line 5.2 – Commercial multiple peril (liability portion).
- E. 2022-04BWG – Add a new supplement to capture premium and loss data for Annual Statement Line 17.1, 17.2, and 17.3 of the Exhibit of Premiums and Losses (State Page) – Other Liability by more granular lines of business.
- F. 2022-05BWG – Add line numbers to the status data points in the Life/Fraternal, Health, and Property/Casualty (P/C) Schedule T footnote.
- G. 2022-06BWG – Revise the Health Annual Statement Test language in the annual statement instructions.
- H. 2022-07BWG – Modify the Health Actuarial Opinion Instructions. Add definitions of “actuarial asset” and “actuarial liability.” Modify Section 4 – Identification, Section 5 – Scope, and Section 7 – Opinion to clarify that the actuary’s opinion covers actuarial assets, as well as actuarial liabilities. Modify Section 9 to clarify that the guidance related to the type of opinion rendered by an appointed actuary covers both actuarial assets and actuarial liabilities.
- I. 2022-08BWG – Modify the instructions in Section 1, Section 3, and Section 8 of the Property/Casualty (P/C) Actuarial Opinion Instructions to reflect the changes adopted by the Actuarial Opinion (C) Working Group.
- J. 2022-09BWG – Changes to the Life/Fraternal VM-20, Requirements for Principle-Based Reserves for Life Products, Reserves Supplement blank.

- K. 2022-10BWG – Add instructions to Schedule T, State pages and the Accident and Health (A&H) Policy Experience Exhibit to clarify guidance for reporting premium adjustments by jurisdiction.
- L. 2022-11BWG Modified – Update the life/fraternal blank asset valuation reserve (AVR) factors to correspond with the adopted risk-based capital (RBC) factors for the expanded bond designation categories.

Mr. Hudson stated the Working Group deferred proposal 2021-18BWG – Modify the Life Insurance (State Page) to include the line of business detail reported on the Analysis of Operations by Lines of Business pages.

Mr. Hudson stated the Working Group exposed two new proposals for a public comment period ending Oct. 25.

Mr. Hudson stated the Working Group received a Property and Casualty Risk-Based Capital (E) Working Group memorandum.

Mr. Hudson made a motion, seconded by Ms. Doggett, to adopt the report of the Blanks (E) Working Group, except for agenda item 2021-22BWG: Related Party Reporting Codes, which would have a separate vote of the Task Force (Attachment Two). The motion passed unanimously.

4. Adopted Accounting and Reporting Revisions Regarding Related Parties

Mr. Bruggeman summarized recent adoptions by the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group regarding the identification of related party involvement with investments. He noted that items have been separated for individual consideration as the revisions will affect all insurance reporting entities, and the discussion included affiliate identification.

Mr. Bruggeman stated the agenda items were adopted in conjunction with recent recommendations from the Macroprudential (E) Working Group regarding the risk of certain investments that involve related parties.

Mr. Bruggeman noted that in May, the Statutory Accounting Principles (E) Working Group adopted agenda item 2021-21: Related Party Reporting. He stated that the primary goal of the agenda item was to incorporate new reporting requirements for investment transactions with related parties in order to provide more transparency into the nature of the involvement of related parties. For example, it allows state insurance regulators to understand whether the investment involves credit exposure to related parties or whether the investment involves a related party in the origination or servicing of the investment. He stated the reporting applies to all investments involving related parties, regardless of whether they meet the definition of an affiliate per *Insurance Holding Company System Regulatory Act* (#440).

Mr. Bruggeman stated that the Blanks (E) Working Group agenda item 2021-22BWG requires new reporting codes for the following investment schedules: B – Mortgage Loans, D – Long-Term Bonds, DB – Derivatives, BA – Other Long-Term Invested Assets, DA – Short-Term Investments, E2 – Cash Equivalents, and DL – Securities Lending Collateral Assets. The reporting changes, which are effective Dec. 31, 2022, will require the identification of related party involvement for every investment using codes. He stated that feedback from interested parties indicated that most investments do not involve a related party. The Statutory Accounting Principles (E) Working Group communicated support to make the related party identification field mandatory. Therefore, a “blank or null” field will not be permitted. He stated that this requirement eliminates ambiguity on whether an investment does not have a related party involvement or whether the component of the investment schedule was inadvertently not completed.

Mr. Bruggeman stated that in addition to the new reporting granularity, the statutory accounting revisions included adopted clarifications to SSAP No. 25 and SSAP No. 43R to make clear that the existing affiliate definition applies to all types of entities, including securitizations. Existing guidance already made clear that control may exist through arrangements other than voting interests, such as in the case of a limited partnership where the general partner typically holds control. He noted that the adopted revisions add specificity around the application of this existing guidance to other types of non-voting entities. For example, securitization entities are typically controlled through non-voting arrangements. He stated that to the extent that such control is held by the reporting entity or its affiliates, then the securitization entity and any investments in it would be deemed affiliated.

Mr. Bruggeman stated that the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group unanimously adopted the revisions, with a Dec. 31, 2022, effective date. He noted that the Statutory Accounting Principles (E) Working Group reviewed industry comments and incorporated limited revisions to the initially exposed statutory accounting changes and stated support for the exposed blanks reporting revisions with their adoption. He stated that no industry comments were presented at the Blanks (E) Working Group.

Mr. Bruggeman made a motion, seconded by Mr. Hudson, to adopt the accounting and reporting revisions regarding related parties in agenda item 2021-21 (*see NAIC Proceedings – Summer 2022, Accounting Practices and Procedures (E) Task Force, Attachment One-B5*) and 2021-22BWG (*see NAIC Proceedings – Summer 2022, Accounting Practices and Procedures (E) Task Force, Attachment Two-B1*). The motion passed unanimously.

5. Adopted its 2023 Proposed Charges

Ms. Walker directed the Task Force to its 2023 proposed charges, noting that the proposed charges were unchanged from last year.

Ms. Obusek made a motion, seconded by Ms. Malm, to adopt the Task Force's 2023 proposed charges (Attachment Three). The motion passed unanimously.

Having no further business, the Accounting Practices and Procedures (E) Task Force adjourned.

<https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/Minutes/APPTF 8.11.2022 minutes.docx>

Draft: 8/17/22

Statutory Accounting Principles (E) Working Group
Portland, Oregon
August 10, 2022

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met in Portland, OR, Aug. 10, 2022. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Sheila Travis (AL); Kim Hudson and Susan Bernard (CA); William Arfanis (CT); Rylynn Brown (DE); Susan Berry (IL); Melissa Gibson (LA); Judy Weaver (MI); Doug Bartlett (NH); Bob Kasinow (NY); Melissa Greiner, Matt Milford, and Diana Sherman (PA); Amy Garcia and Jamie Walker (TX); Greg Chew, Doug Stolte, and David Smith (VA); and Amy Malm (WI).

1. Adopted its July 18, May 24, and Spring National Meeting Minutes

The Working Group met July 18 and May 24. During its July 18 meeting, the Working Group exposed proposed reporting changes to Schedule D-1: Long-Term Bonds, which included a proposal for separate schedules for issuer obligations and asset-backed securities (ABS), proposed to be named Schedule D-1-1 and Schedule D-1-2, respectively. The exposure also included granular reporting lines, column additions, and instructional changes to improve consistency and transparency in the information reported.

During its May 24 meeting, the Working Group adopted statutory accounting principle (SAP) clarifications to: 1) *Statement of Statutory Accounting Principles (SSAP) No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R—Loan-Backed and Structured Securities* to clarify the identification and reporting requirements for affiliated transactions and incorporate new reporting codes in various investment schedules to identify investments that involve related parties; and 2) *Interpretation (INT) 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates* to clarify that from that date of origination, investments in the Freddie Mac “When Issued K-Deal” (WI) Program are in scope of SSAP No. 43R. Additionally, the Working Group adopted agenda item 2022-03: Premium Adjustments Allocated to Jurisdictions, which did not result in statutory revisions but expressed support for a corresponding blanks proposal—2022-10BWG—that included instructional changes to Schedule T, the State Page, and Accident and Health Policy Experience Exhibit (AHPEE), clarifying guidance for premium adjustments.

The Working Group also met Aug. 4 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) and paragraph 6 (consultations with NAIC staff related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings to discuss its Summer National Meeting agenda.

Ms. Walker made a motion, seconded by Ms. Malm, to adopt the Working Group’s July 18 (Attachment One-A), May 24 (Attachment One-B), and April 4 (see *NAIC Proceedings – Spring 2022, Accounting Practices and Procedures (E) Task Force, Attachment One*) minutes. The motion passed unanimously.

2. Adopted Non-Contested Positions

The Working Group held a public hearing to review comments (Attachment One-C) on previously exposed items.

Mr. Hudson made a motion, seconded by Mr. Clark, to adopt the SAP clarifications detailed below as non-contested statutory accounting revisions. The motion passed unanimously.

a. Agenda Item 2022-04

Mr. Bruggeman directed the Working Group to agenda item 2022-04: ASU 2021-10, Government Assistance (Attachment One-D). Jim Pinegar (NAIC) stated that this agenda item reviews *Accounting Standard Update (ASU) 2021-10, Government Assistance: Disclosures by Business Entities about Government Assistance*, which increases transparency on certain types of government assistance by increasing disclosures in the financial statements. He stated that due to the rarity of such disclosures, this agenda item proposed SAP clarifications to SSAP No. 24—*Discontinued Operations and Unusual or Infrequent Items*, incorporating limited disclosures from ASU 2021-10. The proposed additions will require identification and the terms and provisions of assistance received.

b. Agenda Item 2022-05

Mr. Bruggeman directed the Working Group to agenda item 2022-05: ASU 2021-09, Leases, Discount Rate for Lessees (Attachment One-E). Jake Stultz (NAIC) stated that this agenda item reviews *ASU 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities*, which states that when the rate implicit in the lease is readily determinable for any individual lease, the lessee should use that rate, rather than a risk-free rate or an incremental borrowing rate, regardless of whether it has made the risk-free rate election. As statutory accounting generally requires that all leases be classified as operating leases, this agenda item proposed SAP clarifications to reject ASU 2021-09 in SSAP No. 22R—*Leases* for statutory accounting.

c. Agenda Item 2022-06

Mr. Bruggeman directed the Working Group to agenda item 2022-06: ASU 2021-07, Compensation – Stock Compensation (Attachment One-F). Mr. Pinegar stated that this agenda item reviews *ASU 2021-07, Compensation – Stock Compensation (Topic 718), Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards*, which offers nonpublic companies a practical expedient to one of the inputs necessary—current price input—for option-price modeling. He stated that when equity share options or similar instruments are granted in a share-based payment transaction, the fair value, which is used to determine expense recognition at inception and during any subsequent award modifications, is estimated using an option-pricing model valuation technique. ASU 2021-07 provides a third practical expedient for nonpublic companies, and it is the third practical expedient permitted under U.S. generally accepted accounting principles (GAAP), of which the two other practical expedients are currently permitted under SSAP No. 104R—*Share-Based Payments*. Accordingly, this agenda item proposed SAP clarifications to SSAP No. 104R to incorporate this third new practical expedient.

d. Agenda Item 2022-07

Mr. Bruggeman directed the Working Group to agenda item 2021-07: ASU 2021-08, Business Combinations (Attachment One-G). Mr. Pinegar stated that this agenda item reviews *ASU 2021-08, Business Combinations, Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires acquiring entities to apply the “Revenue from Contracts with Customers” guidance (Topic 606) when valuing and recognizing contract-related assets and liabilities in a business combination. Prior to the issuance of ASU 2021-08, acquirers would generally recognize items using the fair value on the date of acquisition; however, that approach would generally result in lower liability recognition than required under Topic 606. Mr. Pinegar stated that in keeping with historical precedent, this agenda item proposed SAP clarifications to reject ASU 2021-08 in SSAP No. 47—*Uninsured Plans*. However, as ASU 2021-08 is related to business combinations, the agenda item also proposes to reject ASU 2021-08 in SSAP No. 68—*Business Combinations and Goodwill*, noting that rejection does not impact the determination of U.S. GAAP book value in an acquired entity.

3. Reviewed Comments on Exposed Items – Minimal Discussion

a. Agenda Item 2021-20

Mr. Bruggeman directed the Working Group to agenda item 2021-20: Effective Derivatives – ASU 2017-12. Julie Gann (NAIC) stated that during the 2021 Fall National Meeting, the Working Group exposed an agenda item that summarized the key changes detailed in *ASU 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities* with a request for comments on the extent revisions were needed in *SSAP No. 86—Derivatives*. She stated that ASU 2017-12 was originally reviewed in 2017; however, the Working Group only adopted certain disclosure provisions with the intent to review the full ASU subsequently. During the Spring National Meeting, the Working Group exposed additional guidance from ASU 2017-12, proposing a new SSAP No. 86, Exhibit A on assessing hedge effectiveness, which would replace the current Exhibit A and Exhibit B. Ms. Gann stated that these proposed revisions would align U.S. GAAP guidance with statutory accounting so there would be consistency in the determination of hedge effectiveness. In addition, the exposure included revisions to what is permitted as excluded components and explicit measurement methods for each type of excluded component. She stated that the proposed revisions would be considered an adoption, with modification, from U.S. GAAP on the hedge effectiveness guidance from ASU 2017-12, as statutory specific measurement guidance is needed for excluded components due to the different measurement concepts between U.S. GAAP and SAP. She stated that NAIC staff recommended adoption of the exposed revisions to SSAP No. 86, along with guidance to detail an effective date of Jan. 1, 2023, with early adoption permitted, and the guidance adopted from U.S. GAAP. She stated that companies that elect to early adopt would have different financial results for year-end 2022 from those that adopt in 2023; however, most companies are anticipated to early adopt, and the 2023 time frame is only for companies that need additional time for system changes. In addition, it was recommended that the Working Group sponsor a blanks proposal to incorporate new disclosures and electronic column reporting fields in Schedule DB for year-end 2023. However, as the new data-captured elements will not be available until 2023, any company electing to adopt these provisions in 2022 will be required to complete the disclosures in narrative form. She stated that as the modifications to SSAP No. 86 are new SAP concepts, NAIC staff recommend drafting an issue paper to document the revisions captured in this agenda item, as well as other derivative revisions from the review of ASU 2017-12, as certain elements from the ASU are still pending statutory accounting review.

Mr. Hudson made a motion, seconded by Mr. Kasinow, to adopt the exposed new SAP concept revisions to SSAP No. 86, incorporating the Jan. 1, 2023, effective date, with early adoption permitted, and relevant literature language proposed by NAIC staff. The motion included direction to sponsor a blanks proposal and draft an issue paper to document the revisions (Attachments One-H, One-I, and One-J). The motion passed unanimously.

b. Agenda Item 2022-02

Mr. Bruggeman directed the Working Group to agenda item 2022-02: SSAP No. 48 – Alternative Valuation of Minority Ownership Interests. Mr. Pinegar stated that this agenda item reviews the audited U.S. tax equity exception provided in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. He stated that this agenda item arose trying to address questions regarding at which level the audited U.S. tax basis should apply, as there was ambiguity on whether the insurer’s audit would suffice or if the audit should reside at the investee level. He stated that informal comments from a representative of the American Institute of Certified Public Accountants (AICPA) indicated that they were not aware of anyone using the audited U.S. tax basis method, which is permitted as an exception if audited U.S. GAAP basis financial statements were not available. They further indicated that they were not aware of anyone issuing U.S. tax basis equity audits. Mr. Pinegar stated that this agenda item proposed two options for consideration. The first option sought input as to whether the audited U.S. tax basis exception was being used, and if not, whether it should be removed as a permissible exception to audited U.S. GAAP basis in SSAP No. 48. The second option proposed an SAP clarification that if the audited U.S. tax basis

exception is retained, the audit is required at the investee (investment) level. He stated that in response to comments received from interested parties, which indicated that insurers are using the audited U.S. GAAP basis exception, NAIC staff recommended the retention of the audited U.S. tax equity exception in SSAP No. 48 but also clarification that the audit is required at the investee level.

Mr. Clark made a motion, seconded by Mr. Chew, to adopt the exposed SAP clarification to retain the U.S. tax equity exception permitted in SSAP No. 48 but also to clarify that the audit is required to occur at the investee level (Attachment One-K). The motion passed unanimously.

4. Reviewed Comments on Exposed Items

a. Agenda Item 2022-01

Mr. Bruggeman directed the Working Group to agenda item 2022-01: Conceptual Framework – Updates. Mr. Pinegar stated that this agenda item reviews Financial Accounting Standards Board (FASB) Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements* (Chapter 4) and Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation* (Chapter 7) for their impact on statutory accounting. He stated that the final topic reviewed Chapter 7 and proposed a minor SAP clarification to the Preamble, updating a paragraph reference to *Statement of Financial Accounting Concept 5*, which was superseded by Chapter 7. He stated that Chapter 7 describes what information should be included in the financial statements and how appropriate presentation can contribute to the objective of financial reporting. However, Chapter 7 concepts were not expected to modify current guidance, other than to update references to superseded accounting concepts.

Mr. Pinegar stated that Chapter 4 introduced revised definitions for the terms “asset” and “liability,” simplifying their descriptions and redefining their essential characteristics. He stated that the historical definitions no longer include the term “probable” or the phrase “as the result of past transactions or events,” citing that the rationale for their removal has been documented in the agenda item and the related issue papers. He stated that as statutory accounting references these definitions, this agenda item proposed SAP clarifications to SSAP No. 4—*Assets and Nonadmitted Assets* and SSAP No. 5R—*Liabilities, Contingencies and Impairments of Assets* to reflect the FASB’s updated definitions. He stated that in addition, the Working Group exposed two issue papers, each articulating the changes for SSAP No. 4 and SSAP No. 5R, the FASB’s rationale for the changes, and discussion as to why the updates are proposed to be SAP clarifications in nature. He stated that while interested parties did not have any comments on the asset definitional change, or its related issue paper, they did offer comments on the recommended changes to the definitional change of a liability. He stated that interested parties recommended an SSAP-by-SSAP review to ensure that there would not be any unintended consequences, specifically the requirement to now recognize a liability for an item that had not previously been recognized as such. He stated that in response, NAIC staff are of the opinion that combined with the concept of conservatism as detailed in the Preamble, an item meeting the definition of a liability, either under the current or new proposed definition, should likely be reported as a liability for statutory accounting. If there are specific circumstances or instruments that do not warrant recognition as a liability, those should be identified by industry with a request for an individual evaluation by the Working Group. To permit time for a further assessment by industry before considering adoption of the exposed revisions, Mr. Pinegar stated that NAIC staff would recommend a re-exposure of the proposed liability revisions and its related issue paper.

Mr. Bruggeman stated that as statutory accounting integrates these terms at the standard level, they have a higher authority level than U.S. GAAP, as they only reference the terms in concept statements; thus, there is a differentiation in the accounting hierarchy. In response to interested parties requesting an SSAP-by-SSAP review, he said he would be supportive of a re-exposure of the liability portion of the agenda item so interested parties

can present specific instruments or items of consideration. Michael M. Monahan (American Council of Life Insurers—ACLI) stated that interested parties support the re-exposure so they can review for specific instances that may warrant the Working Group’s review.

Mr. Hudson made a motion, seconded by Ms. Walker, to adopt the exposed SAP clarifications to the Preamble and the updated definition of an asset in SSAP No. 4 and its related issue paper, *Statutory Issue Paper No. 166—Updates to the Definition of an Asset* (Attachments One-L and One-M). The motion passed unanimously.

In a separate action, Mr. Hudson made a motion, seconded by Ms. Walker, to re-expose the proposed definition change of a liability in SSAP No. 5R and its related issue paper. The motion passed unanimously.

5. Considered Maintenance Agenda – Pending Listing – Exposures

Mr. Hudson made a motion, seconded by Ms. Malm, to move agenda items 2022-09 through 2022-13 to the active listing and expose all items for a public comment period ending Oct. 7. The motion passed unanimously.

a. Agenda Item 2022-09

Mr. Bruggeman directed the Working Group to agenda item 2022-09: ASU 2022-01: Fair Value Hedging – Portfolio Layer Method. Ms. Gann stated that ASU 2017-12 incorporated a “last-of-layer” method to make portfolio fair value hedge accounting more accessible for specific assets. Under a last-of-layer approach, for a closed portfolio of prepayable financial assets or one or more beneficial interests secured by a portfolio of payable financial instruments, entities were allowed to hedge a stated amount of the assets or assets in a closed portfolio that is anticipated to be outstanding for the designated hedge period. However, since the issuance of ASU 2017-12, the FASB has issued another update in *ASU 2022-01, Fair Value Hedging – Portfolio Layer Method* to expand the last-of-layer approach for additional instruments. Ms. Gann stated that this agenda item proposed new SAP concepts to incorporate portfolio layer method hedging for statutory accounting. She stated that this guidance would be limited to recognized assets, which is consistent with U.S. GAAP. In addition, this agenda item would permit partial term hedging, a method that permits entities to enter fair value hedges of interest rate risk for only a portion of the term of the hedged financial instrument. She stated that while this is proposed to be allowed for statutory accounting, it is proposed to be limited to recognized assets. While U.S. GAAP permit this approach for both assets and liabilities, if permitted for statutory accounting, partial term hedges for liabilities may reduce the carrying cost of the liability when in fact the liability has not been extinguished. Ms. Gann stated that industry suggested the difference to U.S. GAAP to permit the partial term hedging approach to be incorporated for statutory accounting for recognized assets. Subsequent consideration to expand the partial term approach to liabilities could occur as part of a broader topic to review how basis adjustments are reflected under the existing derivative guidance. Ms. Gann stated that the proposed revisions would introduce additional new SAP concepts into SSAP No. 86, and if adopted, they would be integrated into the issue paper being drafted to encompass all revisions to SSAP No. 86.

b. Agenda Item 2022-10

Mr. Bruggeman directed the Working Group to agenda item 2022-10: ASU 2022-02: Troubled Debt Restructuring and Vintage Disclosures. Ms. Gann stated that this agenda item reviews *ASU 2022-02: Troubled Debt Restructurings and Vintage Disclosures*, which effectively eliminated prior U.S. GAAP guidance for troubled debt restructurings in support of using an allowance for credit losses pursuant to *ASU 2016-13: Measurement of Credit Losses on Financial Instruments*. She stated that this agenda item proposes rejecting ASU 2022-03 in *SSAP No. 36—Troubled Debt Restructuring* to maintain the current guidance. She stated that although the guidance is retained, the exposure includes revisions in SSAP No. 36 to detail U.S. GAAP versus SAP differences for the

accounting of troubled debt restructurings for creditors, and the SSAP would no longer converge with authoritative U.S. GAAP guidance.

c. Agenda Item 2022-11

Mr. Bruggeman directed the Working Group to agenda item 2022-11: Collateral for Loans. Robin Marcotte (NAIC) stated that this agenda item proposes revisions to *SSAP No. 21R—Other Admitted Assets* to clarify that the invested assets pledged as collateral for admitted collateral loans must qualify as admitted assets. She noted that the proposed revisions would address consistency differences between *SSAP No. 20—Nonadmitted Assets* and *SSAP No. 21R*.

d. Agenda Item 2022-12

Mr. Bruggeman directed the Working Group to agenda item 2022-12: Review of INT 03-02: Modification to an Existing Intercompany Pooling Arrangement. Ms. Marcotte stated that this agenda item proposes to nullify *INT 03-02: Modification to an Existing Intercompany Pooling Arrangement*, as it contains historical guidance that conflicts with *SSAP No. 25*. She stated that INT 03-02 directs certain transfers, including economic transfers, between affiliates to be recorded at book value, rather than fair value, as is directed in *SSAP No. 25*. Mr. Bruggeman stated that INTs are typically issued for specific situations, and while this INT was issued in 2003, the rationale for having this accounting direction has likely lapsed, and review of INT 03-02 is warranted.

e. Agenda Item 2022-13

Mr. Bruggeman directed the Working Group to agenda item 2022-13: Related Parties – Footnote Updates. Mr. Stultz stated that this agenda item was drafted in response to comments received on agenda item 2021-21: Related Party Reporting, which was adopted by the Working Group on May 24. During that meeting, interested parties suggested extending the exemption to foreign open-end investment funds governed and authorized in accordance with regulations established by the applicable foreign jurisdiction, which are within the scope of *SSAP No. 30R—Unaffiliated Common Stock*. Mr. Stultz stated that in response to comments received, the Working Group directed NAIC staff to draft an agenda item to propose footnote revisions to *SSAP No. 25* and *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, which would make these items consistent with *SSAP No. 30R*.

6. Considered Maintenance Agenda – Active Listing

a. Agenda Item 2021-25

Mr. Bruggeman directed the Working Group to agenda item 2021-25: Leasehold Improvements After Lease Termination. Mr. Stultz stated that this agenda item proposed SAP clarifications to *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements* and *SSAP No. 73—Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities* to address questions about the treatment of leasehold improvements in situations where a leased property is purchased by the lessee during the lease term. He stated that the revisions propose to clarify that in any scenario in which a lease terminates early, all remaining leasehold improvements shall be immediately expensed, even if the lessee purchases the leased property. This proposed guidance was initially exposed at the 2021 Fall National Meeting, from which interested parties provided comments requesting consideration of an exception in specific circumstances. Mr. Stultz stated that in response, the Working Group directed staff to further work with interested parties on this guidance. He stated that NAIC staff have updated the proposed language to allow companies that provide direct health care to exclude situations where the real estate lease agreement has a purchase option that contains language that allows leasehold improvements necessary for

the functionality of specific health care delivery assets to be excluded from the purchase price of the real estate. In these limited scenarios, after purchase, the leasehold improvements necessary for the functionality of health care delivery assets would follow existing guidance for health care delivery assets in SSAP No. 73.

Mr. Hudson made a motion, seconded by Ms. Travis, to expose agenda item 2021-25 for a public comment period ending Oct. 7. The motion passed unanimously.

b. Agenda Item 2019-21

Mr. Bruggeman directed the Working Group to agenda item 2019-21: Proposed Bond Definition. Ms. Gann stated that this agenda item reflects efforts between industry and state insurance regulators to principally define a bond for reporting on Schedule D-1. She stated that this agenda contains several items for exposure, summarized as follows:

- An updated principles-based bond definition, which has been revised to reflect limited changes as directed by the Working Group during its July 18 meeting.
- An updated issue paper, which reflects the overall discussion from the Working Group's July 18 meeting, as well as noted edits to the guidance. For example, the draft issue paper includes discussion on feeder funds and how the assessment of these funds, for reporting purposes, should focus on the substance of the underlying investments in determining bond classification.
- Proposed revisions to SSAP No. 26R—*Bonds* and SSAP No. 43R to incorporate the principles-based bond definition in authoritative accounting guidance. SSAP No. 26R is proposed to contain the principal bond definition; however, SSAP No. 43R contains several proposed revisions, including a name change to "Asset Backed Securities."

Ms. Gann stated that this agenda item also has a current exposure of proposed reporting changes to Schedule D-1 and related instruction revisions. She stated that although the current items reflect the bulk of the anticipated edits for the principles-based bond definition, additional revisions will be necessary, specifically to restrict ABS from the scope of SSAP No. 2R—*Cash, Cash Equivalents, Drafts and Short-Term Investments* and other various references in SSAP No. 103R—*Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. Mr. Bruggeman stated that NAIC staff have spent considerable time evaluating the proposed modifications, including the option to combine SSAP No. 26R and SSAP No. 43R into one SSAP. However, due to distinct differences, maintaining two separate SSAPs appears to be the best approach. In addition, due to the extent of the revisions, and the blanks deadlines, the earliest these revisions are likely to be in effect is Jan. 1, 2025; although, the potential still exists for Jan. 1, 2024. Mr. Bruggeman reminded the Working Group that these revisions are focused on accounting and reporting changes, and elements pertaining to NAIC designations or risk-based capital (RBC) charges would be addressed by the respective groups. In a response to an inquiry from Mr. Monahan, Mr. Bruggeman stated that the comment deadline is Oct. 7; however, due to the extent of the revisions, an extension could be requested, if needed.

Ms. Weaver made a motion, seconded by Mr. Clark, to expose agenda item 2019-21, which includes the updated principle-based bond definition, updated issue paper, and proposed revisions to SSAP No. 26R and SSAP No. 43R for a public comment period ending Oct. 7. The motion passed unanimously.

7. Discussed Other Matters

a. Review of U.S. GAAP Exposures

Ms. Marcotte stated that there were two current FASB exposures; however, NAIC staff recommend reviewing the final ASUs under the SAP Maintenance Process, as detailed in *Appendix F—Policy Statements*. Ms. Gann stated that NAIC staff are monitoring the Inflation Reduction Act of 2022 for any potential impact to insurers, specifically its impact on deferred tax assets/liabilities and subsequent events for financial reporting purposes. Mr. Monahan stated that industry is also monitoring the Inflation Reduction Act of 2022 closely, as it will likely affect several insurers. Jonathan Rodgers (National Association of Mutual Insurance Companies—NAMIC) stated that NAMIC is attempting, either through legislation or an interpretation from the U.S. Department of the Treasury (Treasury Department), that the financial statements of record, which are used to determine a minimum tax per the act, should be statutory statements, rather than U.S. GAAP financial statements. He stated that if changes are needed in *SSAP No. 101—Income Taxes* because of this legislation, NAMIC would request an effective date to occur no earlier than the fourth quarter of 2023.

b. Update for Life Actuarial (A) Task Force Coordination

Ms. Marcotte stated that the Working Group was provided with a listing of the amendments made to the *Valuation Manual* by the Life Actuarial (A) Task Force since the 2021 Summer National Meeting. She stated that there were not any items identified that require Working Group action (Attachment One-N).

c. Received a Referral from the Macroprudential (E) Working Group

Mr. Bruggeman stated that the Working Group has received a referral from the Macroprudential (E) Working Group (Attachment One-O), which includes its work plan (see *NAIC Proceedings – Summer 2022, Financial Stability (E) Task Force, Attachment One-B*). He stated that the referral has several items, some of which are in progress.

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

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/apptf/2022summernm/1_sapwg/minutes/sapwg minutes 8.10.22 - after tpr.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/apptf/2022summernm/1_sapwg/minutes/sapwg%20minutes%208.10.22%20-%20after%20tpr.docx)

Draft: 7/27/22

Statutory Accounting Principles (E) Working Group
Virtual Meeting
July 18, 2022

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met July 18, 2022. The following Working Group members participated: Dale Bruggeman, Chair (OH); Carrie Mears and Kevin Clark, Co-Vice Chairs (IA); Sheila Travis (AL); Kim Hudson and Susan Bernard (CA); William Arfanis and Michael Estabrook (CT); Tom Hudson and Rylynn Brown (DE); Cindy Andersen and Eric Moser (IL); Melissa Gibson (LA); Judy Weaver (MI); Doug Bartlett and Pat Gosselin (NH); Bob Kasinow (NY); Melissa Greiner (PA); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Amy Malm and Elena Vetrina (WI).

1. Considered Maintenance Agenda – Active Listing

The Working Group held a public hearing to review comments (Attachment One-A1) on the bond definition and issue paper exposed March 2.

a. Agenda Item 2019-21

Mr. Bruggeman directed the Working Group to agenda item 2019-21: Proposed Bond Definition. Julie Gann (NAIC) provided an overview of the project stating that an updated principles-based bond definition and a draft issue paper were exposed March 2 for a public comment period ending May 6. She stated that comments were received from interested parties as well as the industry named Lease-Backed Securities Working Group. She identified that the materials provide a review of comments received, with an NAIC staff recommended response to each comment. Ms. Gann summarized each item as follows:

- Interested parties proposed to remove the footnote that details U.S. Treasury Inflation-Indexed Securities are in scope of *Statement of Statutory Accounting Principles (SSAP) No. 26R—Bonds*. The footnote was originally proposed to clarify that TIPS shall be considered bonds for statutory accounting reporting. Ms. Gann stated that these investments have returns that may vary based on an outside variable (inflation), and rather than delete the footnote, she would recommend revising the footnote to detail why these investments should remain in scope of SSAP No. 26R, despite them having the possibility of varied returns. She stated proposed revisions identify that these investments possess plain vanilla inflation adjustment mechanisms and are not intended to be captured within the provisions that restrict bond classification to securities that have principal and interest payments that vary based on an underlying reference variable. In addition, Ms. Gann noted that the bond definition referred to “equity-interests” for situations in which varying contractual principal or interest had to be assessed. She stated that this provision is not intended to be limited to certain types of debt investments, and the principle concept should be applied broadly. She noted that the recommendation is to revise the guidance to reflect “referenced variables.” Michael Reis (Northwestern Mutual), representing interested parties stated that interested parties are supportive of U.S. Treasury Inflation-indexed securities remaining in scope of SSAP No. 26R; however, they have not had an opportunity to review the proposed guidance in detail, so they will submit further comments in conjunction with the updated exposure, which is anticipated to occur at the Summer National Meeting.
- Interested parties recommended changes to the proposed bond definition to include reference that Securities Valuation Office (SVO)-identified credit tenant loans (CTLs) are bonds. Ms. Gann stated that SVO-identified CTLs are, by definition, not bonds; however, they are proposed to be specifically named in

scope of SSAP No. 26R and remain eligible for bond reporting. She stated that SVO-identified CTLs are mortgage loans, not securities, and are therefore initially captured in *SSAP No. 37—Mortgage Loans*. However, if the mortgage loan meets certain criteria after review by the SVO, the investment is captured in scope of SSAP No. 26R. Ms. Gann stated that separating items that qualify as bonds within the bond definition and named inclusions for bond reporting, such as SVO-identified exchange-traded funds (ETFs) or CTLs, is purposeful to prevent inadvertent inference to other investments. Mr. Bruggeman stated that this distinction was previously addressed, as SVO-identified CTLs are not securities, they are mortgage loans, and while the bond definition requires investments in scope to be securities, this named inclusion to SSAP No. 26R will ensure that qualifying non-security CTLs remain in scope. Mr. Reis, representing interested parties, stated that the inclusion of SVO-identified CTLs by name meets the needs of industry, and they do not recommend additional changes at this time. John Garrison (Lease-Backed Securities Working Group) stated agreement with Mr. Reis and inquired for clarification that SVO-identified CTLs, as well as lease-backed securities that meet the safe harbor rule, which allows up to a 5% balloon payment, qualify for reporting in scope of SSAP No. 26R as an issuer obligation. Mr. Clark stated that the nuance being discussed is that the principles-based bond definition applies to securities. As it is currently written, a lease-backed security where the full repayment of principal is supported by a lease to a single operating entity, which allows up to a 5% balloon payment, would qualify as an issuer obligation under the bond definition. Lease-backed securities that do not meet the safe harbor provision are required to be assessed as asset-backed securities (ABS) and only reported as bonds if they qualify. These bond definition components do not apply to SVO-identified CTLs, which are mortgage loans, as these items are reported as bonds only after verification from the SVO that set criteria has been obtained.

- Interested parties proposed to clarify that the assessment of “all returns” in excess of principal repayments are required to be considered interest should only apply to equity-backed ABS. Ms. Gann stated that the inclusion of excess returns as interest should not be limited, as restricting the analysis based on naming convention or broad security classifications would likely result in the misapplication of the guidance. Accordingly, the interested parties’ proposed change to restrict consideration of “all returns” to equity-backed ABS was not recommended, but revisions were proposed to clarify that the restrictions for variations in principal or interest payments applies to any debt investment in scope and can be in response to any underlying reference variable.
- Interested parties’ proposed revisions to clarify that a first loss position, and not just issued tranches, can be considered when assessing substantive credit enhancements. Ms. Gann stated that the initial read of the interested parties’ proposed edits could be interpreted to impact the residual guidance previously adopted, which requires residual tranches to be reported on Schedule BA—Other Long-Term Invested Assets. However, NAIC staff agree that whether a loss position is issued as a separate tranche or retained by the issuer does not impact the assessment of whether the loss position provides substantive credit enhancement to debt tranche holders. Ms. Gann stated that the interested parties’ revisions were reflected, with modifications to clarify that debt tranches are required to have contractual principal and interest payments to be considered for bond reporting. Mr. Reis, on behalf of interested parties, stated that NAIC staff’s proposed modification encompasses the spirit of their request; however, they will review in detail in conjunction with the upcoming exposure. Mr. Bruggeman stated that the proposed modification clarifies that the first issued debt tranche may not necessarily represent the first loss tranche, but there must be substantive credit enhancement to ensure that any issued tranche is eligible for bond reporting.
- Interested parties recommended guidance to address feeder funds, specifically a clarification that explicitly states that reporting entities should determine the source and terms of collateral in determining

whether an investment represents a creditor relationship and qualifies for bond reporting. A feeder fund is an arrangement where debt is issued from one fund (feeder fund), but that fund has an equity interest in another fund (secondary fund) that holds the underlying collateral. If the secondary fund holds qualifying debt instruments generating bond cash flows that are passed through to the holder, then the investment held from the feeder fund could in-substance be considered debt. However, if the underlying collateral in the secondary fund is equity interests, the reporting entity would have to: 1) consider the substance of the equity interests in the secondary fund in supporting the debt from the feeder fund; 2) assess whether the creditor relationship criteria is met; and 3) conclude that the investment does not reflect an in-substance equity relationship. Ms. Gann recommended that the issue paper guidance be expanded to address feeder funds. Mr. Bruggeman stated that the basic structure of feeder funds is described in the interested parties' comments, and the revisions proposed by NAIC staff capture the particularities of these structures. Mr. Clark stated that in response to comments received by industry, their proposed edits went beyond the intent and outcomes of the small group discussions and could be read to imply that the fund intermediary could be ignored as long as the ultimate collateral were fixed income. As a result, revisions to the industry proposed language are proposed by staff to make it clear that the investor should consider the terms of the structure to ensure that the passthrough of underlying cash flows is supported. If the insertion of a feeder fund would alter the amount or timing of cashflows, that would need to be assessed in determining bond classification. Mr. Reis stated that the proposed edits appear to agree with industry requests; however, they will review in detail during the next exposure.

- Interested parties recommended that Appendix I of the bond definition, which has been reduced to two examples that do not reflect in-substance creditor relationships, be codified within the guidance instead of in an appendix. The Working Group directed NAIC staff to work with interested parties on the best approach to integrate the examples into the body of the guidance.
- Interested parties provided comments on the exposed guidance to restrict the reporting of ABS as short-term or cash equivalent investments. Ms. Gann stated support for the reporting of all ABS on the bond schedule to ensure that an avenue is not created that allows investments to bypass the bond assessments and still be reported as a short-term or cash equivalent bond. She stated that short-term and cash equivalent investments receive favorable treatment, as there is a minimal risk-based capital (RBC) factor and there is no need to obtain an NAIC designation or credit rating provider (CRP) rating. She stated that this favorable reporting is in line with a concept that there is insignificant risk for short-term and cash equivalent investments due to the time acquired in proximity to the maturity date. However, as ABS could have elements of principal repayment contingent on sale or refinancing at maturity, or other performance factors, these securities should not be permitted to be reported as short-term or cash equivalent investments regardless of how close the maturity date is after the reporting entity acquires the investment. She stated that there is a perception that short-term ABS are not prevalent, and the only example provided so far is "Asset-Backed Commercial Paper" (ABCP). She informed that although these designs have "commercial paper" in their name, it would be erroneous to assume that these ABS resemble "commercial paper" investments. ABCP structures are very different and represent a short-term vehicle issued by a bank or other financial institution that is backed by the company's physical assets and issued on a discount or interest-bearing basis. She said that an ABCP can be created from any type of asset-backed security, including subprime mortgages or other high-risk performing assets. She stated that it is recommended that all ABS be excluded from the short-term or cash equivalent schedules. This will require that all ABS be assessed under the bond principles and reported, if qualifying, on the bond schedule in the appropriate ABS category.

Ms. Gann stated that the industry Lease-Backed Securities Working Group letter was consistent with its July 15, 2021, comment letter, and the ultimate request is to allow “simple secured loans” issued in security form to be in scope of SSAP No. 26R as issuer credit obligations. She stated that this would likely permit all such designs, regardless of structure, contingent factors, or residual/balloon payments, to be afforded bond treatment without further analysis. She stated that if permitted, investments would likely be in scope of SSAP No. 26R that may not be in line with the goals of the principles-based bond definition. In addition, the comment letter stated a perceived inequity between municipal revenue bonds and non-municipal revenue (project finance) bonds issued by operating entities and other lease-backed structures.

Ms. Gann stated that despite the concern noted by the industry Lease-Backed Securities Working Group, NAIC staff did not believe revisions were required due to the differentiation of these investments already detailed in the draft issue paper. However, if the Working Group agreed that project finance bonds issued by operating entities and lease-backed securities with balloon payments are too similar to warrant classification differences between issuer credit obligations and ABS, then NAIC staff would recommend that the Working Group identify that project finance bonds are not considered to be issued by operating entities for bond reporting purposes. If a structure is not considered to be issued by an operating entity, then the investment would be required to follow the guidance for an ABS classification, including assessments for substantive credit enhancement and meaningful cash flows.

Mr. Clark stated that the distinction between an issuer obligation and ABS is that issuer obligations have repayment that is supported by the creditworthiness of an operating entity. However, for lease-backed securities, the ultimate repayment is generally reliant upon other avenues – generally liquidation or refinancing of the underlying collateral. Mr. Clark stated that those that are not fully supported by an operating entity would be required to review the ABS criteria. However, in terms of project finance, while the investment may appear similar to an ABS, many times, the debt is issued from a standalone operating entity. He stated that the guidance differentiates between the two types of investments; however, if the distinction is too difficult to apply, then all project finance would need to be evaluated using the ABS criteria.

Mr. Garrison stated that the Lease-Backed Securities Working Group’s comments intend to request that simple, structured loans be considered issuer credit obligations. He stated that the repayment of these investments is primarily dependent upon the contractual obligation of a single rated payer, which closely mimics the proposed guidance in the principle-based bond definition. These investments may either be unsecured or secured by a claim on an asset. If these investments are issued in the form of a security, they do not represent structured securities, as they reflect debt instruments that pass through unaltered contractual cashflows to investors. Mr. Garrison stated that even if issued from a trust, the asset owned is the debt instrument, not the underlying collateral. In essence, the debt is a form of security that is not altered by the presence or the attachment to underlying collateral. Additionally, these investments do not create a structured security or transfer equity risk into debt risk. Mr. Garrison stated that classifying some unstructured investments as ABS because of a claim on an asset will cause confusion in the market. He stated that structured investments mean the underlying cashflow of an investment has been structured so that cashflows have been redistributed and that credit has been altered by creating priority and subordinate classes. These investments are primarily supported by the credit worthiness of an operating entity and do not reflect typical structured finance investments. Mr. Garrison stated that certain investments, with similar characteristics, appear to have different treatment and recommend that all credit obligations, which rely primarily on an obligation of an operating entity, be held to the same standard. He stated that as an example, lease-backed securities are typically issued by a special purpose entity and are based on the cashflows from nonfinancial assets backed by a lease or other contract with an operator. If these contractual payments, which are secured by a lien on the asset, do not at least cover 100% of the interest and 95% of the contractual principal payment, they are not considered issuer credit obligations; however, no other investments are subject to these requirements. Mr. Garrison stated that all similar asset types (project finance, equipment

trust certificates, etc.) should all be treated similarly. He clarified that the comment letter was intended to be limited to simple unstructured debt, which relies primarily on a contractual repayment obligation of a single credit rated obligor and was not intended to open the door to other investments falling into scope of SSAP No. 26R. These investments are what many lenders consider to be optimal debt structures, as they offer the most protections to lenders. However, if state insurance regulators wish to have these investments subject to the ABS standard, then they would request a clarification that the ABS standard applies to both ABS and simple secured loans. In a response to an inquiry from Mr. Bruggeman, Mr. Garrison stated that project finance should be treated similar to other assets with comparable risks, and he added that rating agencies state that revenue bonds are also not to be considered debt of the municipality, which is a further example of disparate treatment of similar asset types.

Mr. Reis, representing interested parties, stated that the exposed bond guidance represents the prior discussions with the small group involving interested parties; however, Mr. Garrison's discussion represents asset classification between issuer obligations and ABS, not the determination of what a bond. He stated that interested parties support the previously exposed language, as they believe it best represents assets that fall along a continuum, ones that do not cleanly fit in one particular category.

Mr. Clark stated that Mr. Garrison's comments that categorization as ABS occurs because a loan is secured by assets is not a correct statement. He stated that the reason many of these investments are considered ABS is because recourse of the debt instrument to the operating entity does not provide full repayment of the debt. Even if the operating entity fully performs on its payment obligations, there would still be remaining principal outstanding that relies on the underlying collateral to repay. This is why these investments require review under the ABS criteria because repayment of the debt generally requires reliance on the underlying collateral. Mr. Clark stated that the other types of issuer obligations like corporate bonds or treasuries are issued directly from with full recourse to the issuing operating entities. Lease-backed investments are issued by special purpose vehicles (SPVs), with the repayment obligation being shifted to an operating entity through a lease contract. However, if repayment is not fully shifted to an operating entity through the lease, they should be precluded from being considered issuer credit obligations. Mr. Clark stated that it is his view that it makes perfect sense for this to be where the distinguishing line is drawn between issuer obligations and ABS. Ms. Gann stated that NAIC staff recommend retaining the guidance as previously exposed and not direct that project finance bonds that are issued by operating entities be required to follow the ABS criteria.

Ms. Gann stated that interested parties also provided comments on the classification of non-bond investments to Schedule BA and the appropriate measurement method for those investments. She stated that NAIC staff request direction from the Working Group to develop statutory accounting revisions to incorporate principles-based guidance for the measurement and admittance of different types of investments. Additionally, she stated that interested parties had proposed to capture New Markets Tax Credit (NMTC) investments in scope of the bond project. She recommended that NMTCs be reviewed in a sperate agenda item. Mr. Bruggeman stated that he views the NMTCs similarly to federal Low-Income Housing Tax Credits (LIHTCs), and a separate discussion for these investments is most appropriate. Mr. Reis stated that interested parties support drafting guidance for investments that move to Schedule BA and support a NMTC agenda item to clarify the accounting and reporting requirements.

Mr. Clark made a motion, seconded by Mr. Bartlett, to direct NAIC staff to: 1) draft revisions as discussed during the meeting to the principles-based bond definition and issue paper, where applicable, regarding TIPS and varying contractual principal and interest payments, clarifying guidance for first loss positions in providing substantive credit enhancement; and 2) add guidance for feeder funds. It is anticipated that a revised packet, which includes the updated bond definition, issue paper, and proposed revisions to incorporate the bond concepts in SSAP No. 26R and *SSAP No. 43R—Loan-Backed and Structured Securities* (to be renamed "Asset Backed Securities") will be presented for exposure at the Summer National Meeting. Additionally, the motion included direction for NAIC

staff to: 1) draft measurement and admittance guidance for investments that will move from the bond schedule to Schedule BA; and 2) consider NMTCs in a separate agenda item. The motion passed unanimously.

2. Considered Maintenance Agenda – Pending Listing – Exposures

a. Agenda Item 2019-21

Mr. Bruggeman directed the Working Group to agenda item 2019-21: Bond Proposal Reporting Revisions. Ms. Gann stated that a key element of the principles-based bond project is to improve transparency and granularity to the state insurance regulators regarding investment types and investment structure. This aspect of this agenda item includes two documents for exposure summarized as follows:

- **Proposed Reporting Lines** – This document proposes annual statement general instructions (reporting line descriptions) for suggested reporting lines to capture issuer credit obligations and ABS on Schedule D-1. The general classifications that currently exist are proposed to be deleted, and new granular reporting lines are suggested. This document shows tracked changes to the current “Annual Statement General Instructions”; however, the document only includes revisions related to Schedule D-1. It is anticipated that other schedules are likely to be impacted by these new reporting lines, and those revisions will be drafted after considering the comments from this initial exposure.
- **Schedule D-1 Annual Statement Instructions** – This document details the overall approach to add a new bond reporting schedule to expand Schedule D-1 into two components. Schedule D-1-1 would reflect issuer credit obligations (items proposed to be captured in scope of SSAP No. 26R) and Schedule D-1-2 would reflect ABS (items proposed to be captured in scope of SSAP No. 43R). This separation of schedules is supported to enable different reporting columns based on the type of security. Columns that are proposed to be specific to issuer obligations and ABS are noted within the document. In addition to creating new columns, this document also details revisions to existing columns and instructions.

Ms. Gann stated that at this time, NAIC staff are not recommending a referral to the Blanks (E) Working Group, as the intent of this exposure is to gather initial feedback regarding the proposed direction, specifically adding a new schedule specific to ABS investments. Mr. Bruggeman stated that separate schedules for issuer credit obligations and ABS was the result of ongoing discussions with interested parties regarding the most efficient way to capture information elements specific to each investment type. Tip Tipton (Thrivent) stated that interested parties have been working behind the scenes to understand the goals of state insurance regulators and the changes proposed. He stated that interested parties look forward to collaborating with state insurance regulators and NAIC staff in the ultimate adoption of this proposal.

Mr. Hudson made a motion, seconded by Mr. Clark, to move agenda item 2019-21 to the active listing and expose it for a public comment period ending Oct. 7. Also included in the motion was direction to NAIC staff to notify all working groups and task forces of use of Schedule D-1 for any analysis of this exposure, so that any group affected will have an opportunity to offer input regarding the proposed revisions. The motion passed unanimously.

3. Discussed Other Matters

a. Memorandum of Support from the Financial Condition (E) Committee

Ms. Gann stated that Financial Condition (E) Committee distributed a memorandum of support (Attachment One-A2) for several current, interrelated initiatives focused on asset risk or spread risk within the task forces and

working groups of the Committee. She stated that the clarification of investments permitted to be reported as long-term bonds, with improved transparent accounting and RBC reporting, was specifically identified. Mr. Bruggeman identified that the memorandum would be noted as received by the Working Group.

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

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/apptf/2022summernm/1_sapwg/minutes/attachment-one-a_sapwg minutes 7.18.22pr.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/apptf/2022summernm/1_sapwg/minutes/attachment-one-a_sapwg%20minutes%207.18.22pr.docx)

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May 6, 2022

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

RE: Principles-Based Bond Definition and Draft Issue Paper – Comments Due May 6, 2022

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the exposed Principles-Based Bond Definition (the Proposed Bond Definition) and Draft Issue Paper that were released for comment by the NAIC Statutory Accounting Principles (E) Working Group (the Working Group).

Interested parties believe this effort is resulting in a workable and high-quality bond definition and we look forward to our continued collaborative effort as the project proceeds toward finalization. Interested parties also would like to commend NAIC staff for a well thought out and documented Draft Issue Paper.

The interested parties' comments are organized in two sections – 1) Comments on the Proposed Bond Definition and Draft Issue Paper and 2) Comments on the Specific Questions Posed in the Draft Issue Paper.

Comments on the Proposed Bond Definition and Draft Issue Paper

- 1) Interested parties suggest a slight modification to paragraph 2a, on page 2, of the Proposed Bond Definition. While interested parties are supportive of proposed edits to include U.S. Treasury Inflation-Indexed Securities in paragraph 2a, we do not believe the following subscript is appropriate or warranted.

The inclusion of U.S. Treasury Inflation-Indexed Securities identifies these securities as an explicit exception to the principles-based bond definition that prohibits securities from being reported on Schedule D-1 that have variable principal or interest due to the underlying equity appreciation or depreciation, or an equity-based derivative.

Interested parties believe U.S. Treasury Inflation-Indexed Securities are more accurately adjusted for inflation rather than adjusted for “underlying equity appreciation or depreciation, or an equity-based derivative.”

- 2) Interested parties believe a small change is need on Page 2, paragraph 2g of the Proposed Bond Definition, to be consistent with both regulator intent, and current practice, related to loan form CTLs, that would otherwise be reported on Schedule B, Mortgage Loans, under SSAP No. 37. Paragraph 2g, as written, is only inclusive of security form CTLs which excludes certain loan form CTLs currently permitted to be reported on Schedule D in guidance adopted by the NAIC during 2021. Specifically, interested parties propose the following changes (underlined) to paragraph 2g:

Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity (e.g., Credit Tenant Loans (CTLs), Equipment Trust Certificates (ETCs), other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principle-based concept, repayment is fully supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security. In addition, mortgage loans in scope of SSAP No. 37 that qualify under a SVO structural assessment are in scope of this statement as CTLs.

- 3) Interested parties note there is new language included within paragraph 3b, on page 3, of the Proposed Bond Definition. Interested parties agree with what we believe to be the intent (i.e., close a potential “loophole” related to equity backed securities). We therefore propose the following technical edit (underlined) to ensure it is not potentially interpreted more broadly:

For clarification purposes, all returns from an equity backed ABS in excess of principal repayment are required to be considered as interest. Therefore, investments with “stated” interest and then “additional returns” to which the holder of the debt instrument is entitled are collectively considered as interest and shall be assessed together in determining whether the investment has variable principal or interest due to underlying equity interests.

- 4) Interested parties propose the following changes (underlined) to the Substantive Credit Enhancement Language included within the glossary of the Proposed Bond Definition. The proposed changes are meant to clarify that there could be a first loss tranche, owned by an insurer, where there is a substantial credit enhancement that still qualifies the first loss tranche for Schedule D reporting (e.g., a Single Asset Single Borrower (SASB) CMBS security with substantial overcollateralization). For example, a SASB could be collateralized

by a single real estate asset (e.g., \$100 collateral value) where the loan being collateralized is only a fraction of the collateral value (e.g., \$60). In such an instance, the first loss tranche security may be owned by an insurance company, but the first loss position is borne by the sponsor (i.e., the first \$40 of losses). Interested parties believe the below proposed edits will help provide clarity for such a security, or other similar securities, and is consistent with the spirit of the proposed principles included therein.

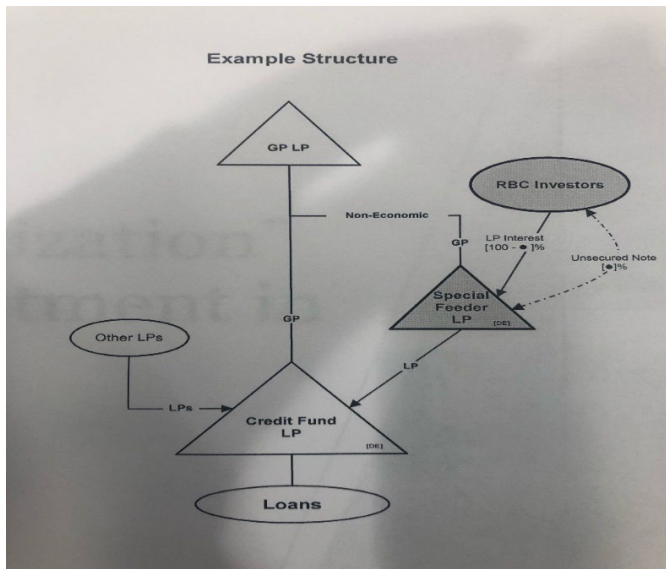
The first loss tranche position ~~(or tranches if the first tranche is not itself substantive)~~ may be issued as part of the securitization in the form of debt or equity interest, or it may be retained by the sponsor and not issued as part of the securitization. If the first loss tranche position ~~(or a more senior position(s), if the first loss position(s) lack a substantive credit enhancement)~~ is issued as part of the securitization, and does not have a substantive credit enhancement and is held by a reporting entity, the accounting should follow the guidance applicable to the type of instrument (i.e., debt vs. equity); however, regardless of the type of instrument, it does not qualify as a Schedule D bond and should be reported on Schedule BA.

Additionally, interested parties question whether the accounting (highlighted above) for Schedule BA Assets should be codified within the Substantive Criteria of the Bond Definition. In principle it doesn't seem appropriate there and it may also conflict with, or add confusion around, any accounting guidance determined to be appropriate for such assets (see interested party comments in section 2 of this letter).

- 5) Interested parties note that “feeder funds” were a focal point of discussions during development of the Proposed Bond Definition. In large part, this was in the context of the “stapling” concern, which was de-escalated, as residual tranches have been moved to Schedule BA with the desire of regulators to assess appropriate capital charges. The below is a representative structure of a feeder fund, structured for various legal reasons, which we understand is not viewed as problematic. To ensure the Draft Issue Paper is wholly inclusive of discussions held on feeder funds, and further clarify the principle-based approach, we suggest the following language, and example structure, be included in the Draft Issue Paper. An appropriate spot might be right after paragraph 26.

The assessment of equity backed securities should be looked at, not only in form, but in substance. For example, a feeder fund arrangement where the debt is issued from the feeder fund, that has an equity interest in another fund that holds debt instruments, should not be viewed as holding one equity interest (i.e., in this case a pass-through entity) if the substance is the debt is backed by debt instruments. Similarly, if the “credit” fund were an “equity” fund, backed by equity interests, the debt of the feeder fund would have to meet the requirements of paragraph 26 while looking at the substance of equity interests supporting the debt. Of course, such an arrangement would have to meet the other

relevant parts of the standard (e.g., have a substantive credit enhancement, etc.). Substance over form should be the determining factor in these and similar situations.



- 6) Interested parties note that examples 1 & 2 of Appendix I are less explicit, as they have evolved over time, than the examples in Appendix II. For example, example 2 has many variables and really doesn't address a specific debt instrument, rather it lays out principles. Using a specific security in the example would not be particularly helpful as there are too many variables and any one example would therefore be of limited use. Interested parties therefore suggest the standard might have better flow if examples 1 & 2 become codified as part of the standard itself, with potentially minor edits for purposes of flow only. Instead of referencing Appendix 1, in paragraph 1, it might make sense to codify these examples at the end of paragraph 1. The end of paragraph 3 would potentially be another area to embed these principles within the standard itself. If regulators agree that there is value in this suggestion, interested parties would be more than willing to work with regulators and NAIC staff in that regards.
- 7) Interested parties note that paragraph 67 of the Draft Issue Paper includes a concept that is not in the Proposed Bond Definition, and which interested parties do not recall being discussed in any meaningful way. Therefore, interested parties question the appropriateness of its inclusion in the Draft Issue Paper. The stated concern appears to be "to allow for full assessment of the extent of ABS by regulators." The proposed solution is to remove all such investments from within the Scope of SSAP No. 2R, *Cash, Cash Equivalents, Drafts and Short-Term Investments*. Interested parties believe a less disruptive solution would be to just disclose, or have a separate reporting line, of any ABS short-term investments (e.g., ABS Commercial Paper) on the Short-Term investment schedules. If there is a broader concern that regulators feel needs to be addressed, interested parties believe that should be a separate

project, as it appears outside of the Proposed Bond Definition Project, and should be addressed separately and therefore not included in the Draft Issue Paper for the Proposed Bond Definition.

Comments on the Specific Questions Posed in the Draft Issue Paper

Paragraph 105 of the Draft Issue Paper notes that it is anticipated that guidance will be drafted to recommend the use of Schedule BA for most investments that do not qualify as bonds under the Proposed Bond Definition, with comments requested in three areas. Interested parties' comments are immediately following each of the three questions asked and enumerated below:

- 1) Are there investments that will not qualify as bonds that should be considered for reporting on a different schedule other than Schedule BA? Comments on key investment characteristics that would appropriately distinguish these investments are requested.

Interested parties have not identified anything to date, that will not qualify as a bond under the Proposed Bond Definition, for which we have identified an alternative reporting schedule to Schedule BA.

- 2) For investments that are captured on Schedule BA, should consideration occur to permit an amortized cost approach rather than a lower of cost or fair value measurement? For investments in which an amortized cost approach is supported, what characteristics can be used to identify / support this measurement method? Should use of NAIC designations be permitted to drive the Schedule BA measurement method for these securities?

Interested parties note that there are likely investments that do not qualify as Schedule D, Bonds (e.g., non-agency guaranteed pass-through mortgage-back securities) that are not considered bad investments (i.e., they are considered good investments, by both interested parties and regulators, just not appropriate as bonds on Schedule D). Further, in the case of non-agency guaranteed pass-through mortgage-backed securities, the securities are not considered bonds because they have no substantive credit enhancement, which therefore are akin to mortgages that have a designated reporting schedule. While this example, in theory, could be reported on the Schedule B – Mortgage Loans, it may not be practical to report them on Schedule B because Schedule B RBC formulas would need to substantially be revised. Further, revisions to SSAP No. 37 would be necessary since securities are not permitted as mortgage loans. The question implies that the default measurement method on Schedule BA would be lower of cost or fair value, which itself seems to imply they are “bad” investments. Interested parties therefore recommends taking a close look at this assumption for all investments that may have to be reported on Schedule BA simply because they do not meet the definition of a bond under the Proposed Bond Definition. For example, specifically related to non-agency guaranteed pass-through mortgage-backed securities, like mortgages, amortized cost seems to be the appropriate accounting.

In addition to amortized cost, fair value or lower of cost or fair value may be appropriate in other situations. For example, fair value may be appropriate for equity-linked bonds as they exhibit equity like characteristics. Lower of cost or fair value may be appropriate for Principal Protected Notes, if regulators believe lower of cost or fair value appropriately captures the non-payment risk they have identified as a concern.

Also, as noted in the “feeder fund example”, and previously discussed in this letter, the “residual tranche” is in a limited partnership form. In general, limited partnership interests are accounted for under the equity method of accounting, and subject to impairment. It may be that such accounting is determined to be appropriate in this instance. If not, interested parties would like to discuss with regulators and NAIC staff any distinctions which may need to be made when a limited partnership interest is a residual tranche or the equity component of a SSAP No. 48/97 investment that issues debt.

Lastly, interested parties are very supportive of the SVO’s outstanding exposure, and shared (with interested parties) objective, on designating additional Schedule BA assets, that exhibit fixed income characteristics, with the goal of obtaining commensurate risk-based-capital charges. With that said, interested parties do not necessarily see the connection for having NAIC designations drive the measurement method (accounting) of investments on Schedule BA.

SSAP No. 26R *Bonds* includes in its scope debt instruments issued by Certified Capital Companies (CAPCOs). As defined in INT 06-02 *Accounting and Reporting for Investments in a Certified Capital Company*, CAPCOs are state legislated venture capital firms for which investors who invest cash to acquire an equity interest or qualified debt instrument receive state premium tax credit or income tax credit.

As currently exposed, the Proposed Bond Definition will continue to include debt investments in CAPCOs in the scope of SSAP No. 26R. Therefore, it is expected that these investments will continue to be reported on Schedule D as bonds.

This question has also raised a question on debt investments whose returns are earned solely through federal tax credits – should they be reported on Schedule D since these investments are similar to debt investments in CAPCOs?

For example, there is a program referred to as the New Markets Tax Credit (NMTC) program whose goal is to stimulate regeneration of low-income and impoverished communities across the United States. Capital raised by NMTC programs is used to drive expansion of investment, job creation and economic opportunities in distressed communities. The NMTC program provides federal tax credits to reporting entities that invest in the development entities which make direct investments in these communities. An investor is required to make a debt and equity investment into the development entity. We believe that debt investments in this program are akin to debt investments in CAPCOs. The only differences of which we are aware is that CAPCOs benefit from state tax credits whereas NMTC programs benefit from federal tax credits and CAPCOs do not require investors to also make

an equity investment. Some of the similarities between CAPCOs and NMTC programs are as follows:

1. **Fixed schedule for one or more future payments** – The schedule and timing of tax credits to be earned is fixed from day 1. In addition, the par amount of the notes is paid back in cash upon maturity of the deal.
2. **Return is based on tax credits** – The return on NMTC investments is earned solely through tax credits. Similar to CAPCOs, where there is usually no cash interest earned on the debt investment, NMTC deals do not pay cash interest.
3. **Significant premiums** – These investments are purchased at significant premiums. Premiums are amortized pro-rata throughout the life of the deal in proportion to the tax credits earned.
4. **Operating entity guarantee** – It is common for debt investments in these deals to have a guarantee by an operating entity such as a financial institution. The guarantee would ensure that if the tax credits do not emerge, the investor gets its investment back.

Based on these similarities, we believe that debt investments in NMTC programs and other similar programs should also qualify for Schedule D reporting. Interested parties would like to discuss these investments with regulators and NAIC staff as to whether they qualify for Schedule D reporting and/or if specific language should be added to paragraph 2.k.iii with CAPCOs.

- 3) Revisions are also expected to SSAP No. 2R, to address the ABS restrictions, as well as SSAP No. 103R, to clarify that only beneficial interests that qualify as ABS will be accounted for under SSAP No. 43R. Comments are requested on whether other SSAPs will also be impacted and need to be revised.

Please see our comments above related to SSAP No. 2R on ABS restrictions. In relation to any changes to SSAP No. 103R, interested parties think this potentially relates to proposed changes being drafted in SSAP No. 43R, which are not part of the Draft Issue Paper, and believe it is appropriate to see such proposed changes prior to commenting. It may be appropriate to develop the accounting guidance for securities discussed in question 2 above and/or securities not meeting the substantive criteria of the Proposed Bond Definition (see also the interested party response 4 in section I of this comment letter). It may be appropriate to include this guidance in another SSAP such as SSAP No. 21, *Other Admitted Assets*.

One further comment relates to adoption of the standard, specifically as it relates to the meaningful and/or substantive credit enhancement requirements, which require stepping back in time “as if” one was looking forward at that time. Upon adoption, this could require looking back for a considerable period, perhaps decades. It may be necessary, for example, to allow an insurance entity to use hindsight in instances in which assumptions in a prior period are unobservable or otherwise unavailable and cannot be independently substantiated. Interested

parties would like to continue discussions with regulators on this topic which, while discussed, the issue of a “practical expedient” was never fully discussed through to full resolution.

* * *

Thank you for considering interested parties’ comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell

Rose Albrizio

cc: NAIC staff
Interested parties

The Lease-Backed Securities Working Group

May 5, 2022

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

RE: Ref #2019-24 – SSAP No. 26R & 43R, Proposed Bond Definition

Dear Mr. Bruggeman:

Our group, the *Lease-Backed Securities Working Group*, would like to thank the Statutory Accounting Principles Working Group (SAPWG) for the opportunity to comment on the exposure Reference #2019-24 – SSAP No. 26R & 43R, Proposed Bond Definition (the “Proposed Bond Definition” or “Exposure”) as well the attached Statutory Issue Paper No. 1XX (the “Issue Paper”).

We fully support the attempt to clarify the accounting standards for bonds and structured assets, and we appreciate the immense effort that has gone into this project by both the regulators and various industry groups. While we believe much work remains to be done, our group looks forward to assisting in any way we can as this project continues to evolve. We also anticipate the opportunity to comment on the draft revisions to the two SSAPs when the language is submitted for exposure later this year. At this point, we are limiting our comments to several ‘high-level’ observations:

In particular, we worry that the designation of *some* simple unstructured single-borrower securities backed by secured loans as 26R “issuer credit obligations” and *others* as 43R “asset-backed securities” will cause confusion in the markets and will result in inconsistent filing by insurance company investors.

Our group was involved over twelve years ago when investments were originally separated between 26R and 43R. At that time, a decision was made -- which we did not agree with -- that even simple un-structured single-borrower securities should be included in 43R, along with “structured securities”, if they had been issued by a trust or SPV. For that reason, it was determined that 43R would include “Loan-Backed *and* Structured Securities” (“LBASS”). However, as the Issue Paper notes, that decision led to confusion in the markets as “many insurers had different interpretations of the adopted 2010 revisions.”

This is because market participants distinguish between two basic types of transactions, based on the source of the credit:

- 1.) Simple unstructured debt transactions where the credit depends primarily on the contractual obligation of *a single rated-credit payor*. These transactions may either be “unsecured” or “secured” by a lien on an asset. If issued in security form by a Trust or special-purpose issuer, the cash flows from the underlying loan are simply “passed-through” unaltered to investor, and the credit risk of the securities is identical to that of the underlying loan.

and

- 2.) “Asset-Backed” or “Structured Securities” where the credit of each security is not based fundamentally on the credit characteristics of the underlying collateral -- which is typically unrated -- but instead is determined by the “structure” that has been imposed on the transaction, & which

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fundamentally alters the cash-flows to investors. In these transactions, determining the “credit” of each security depends on a detailed analysis of the structure.

For this reason, the 2010 revisions were confusing to market participants, and many, assuming that 43R was meant to be for “structured securities”, continued to file simple single credit-based transactions under SSAP 26R. Other investors filed anything issued by an SPE Trust -- even if backed by a single loan to a single borrower -- under 43R. This led to inconsistent filing of transactions.

Seeking to address this confusion, the current Proposed Bond Definition seeks once again to clarify for investors which types of transactions should be reported in scope of 26R (now to be designated as “issuer credit obligations”) and which fall more properly into 43R, (now labeled as “asset-backed securities”) -- or even potentially what types of investments would not be admitted as “bonds” under either Schedule and would be have to be reported on Schedule BA, “Other Admitted Assets”.

This determination would be made first based on whether the issuer was considered to be an ‘operating entity’ or an SPE “ABS Issuer”. If the transaction was determined to be issued by an “ABS Issuer”, there would be a second distinction based on the degree of “asset risk” implicit in the transaction. Those with very little “asset risk” could still qualify as an “issuer credit obligations”; while those with higher exposures, would be either designated as “asset-backed securities” -- or even potentially was as “non-bond” BA assets. For simple secured loans, “asset risk” would be measured by the size of the unamortized residual or final “balloon” payment supported by a lien on the asset -- as a proportion of the original principal balance.

The implied concept behind this framework seems to be that being secured by a lien on an asset implies a level of “equity risk” for the lender. We disagree, for several reasons:

As every lender knows, having a lien on an asset does not convey an “equity” or ownership interest in that asset.

The lien securing the loan is in almost all cases represents a “first priority” claim on the asset, and the final payment secured by that lien is typically only a fraction of the total estimated value of the asset at the maturity of the loan. The correct metric for assessing the risk of that priority claim is the size of the claim relative to the value of the asset (and the predictability of that value), not the size of the final payment as a proportion of the total loan. Determining this risk is an essential part of the credit analysis that all secured lenders -- and rating agencies -- undertake, and is definitely not equivalent to the risk associated with owning the asset outright.

From an accounting standpoint, the only proper time to assign “equity risk” to a lender is when the lender becomes the owner of the asset, via foreclosure or otherwise depending on the terms of the credit agreement.

The result of applying this framework is that *some* simple secured single-borrower loans such as those listed in 1.) above -- even if issued by an SPV Trust or “ABS Issuer” -- would now be designated to be “issuer credit obligations” while *others* would be “asset-backed securities” -- or, depending on the degree of “asset risk”, even potentially BA assets:

Some simple secured transactions supported by cash flows from a non-financial asset via a lease or other form of contract with the credit payor -- for example, project finance loans or municipal lease-revenue bonds -- even if they were issued as securities through a “trust” or “SPV” by an “ABS Issuer” -- would now be re-classified as “issuer credit obligations” *regardless of the size of the residual asset exposure in the transaction.*

The Lease-Backed Securities Working Group

Other identical structures, i.e. loans secured by leases to corporate entities, equipment trust certificates, funding agreement notes, etc. would either be classified as “issuer credit obligations” or “asset backed securities” depending on the amount of residual “asset risk” in the transaction. Those with minimal residual asset exposure (less than 5%) would now qualify as “issuer credit obligations”. Those with higher exposures would be designated as either “asset backed securities” or even, depending on the size of the exposure, potentially as Schedule BA assets. (That determination would depend on the specifics of each individual transaction.)

Those secured loans designated as “asset backed securities” would have additional credit requirements regarding “credit enhancement” and the demonstration of a “meaningful” level of cash flows to service the debt (if supported by “non-financial assets” - see below) -- requirements which would not apply to those designated as issuer credit obligations.

This framework is bound to create confusion for investors and lead once again to inconsistencies and errors in reporting. The confusion is made worse by the two additional requirements for a transaction to qualify as a Schedule D-1 asset backed security:

The first requirement is that in order to qualify as an asset-backed security, a transaction must benefit from “Substantive Credit Enhancement” sufficient to place the holder of the debt *“in a different position than if the holder owned the ABS Issuer’s assets directly”*. (Paragraph 41 of the Issue Paper states that “To qualify as a bond under this standard, there is a requirement that there are *substantive credit enhancements within the structure that absorb losses before the debt instrument being evaluated would be expected to absorb losses.*”) [emphases added]

To begin with, the determination of “expected losses” is a subjective determination which is an essential part of credit analysis, not an accounting distinction.

More fundamentally, there are many simple secured loan transactions where the issuer of the securities (the ABS Issuer) has no equity or ownership interest in the asset being financed. In these transactions the “asset” held by the issuer is the loan itself, a financial instrument that unambiguously represents a “creditor relationship” with the borrower, not an equity interest. In these simple “pass-through securities”, there is no intervening structure and the cashflows from the underlying loan are simply passed-through *unaltered* to the holders of the securities. In other words, the holder of the securities is in *exactly* the same position “as if it owned the ABS Issuer’s assets (underlying loan) directly”. While this may not be the intent of the drafters, interpreted literally, it would disqualify all simple pass-through secured loans as ABS securities - and implicitly, as bonds.

The second requirement to qualify as an “asset backed security” is that those deals secured by “cash-generating non-financial assets” must demonstrate a “meaningful” source of cash flows for the repayment of the bond (i.e.: other than through the sale or re-financing of the assets). However, as the exposure itself admits, determining what constitutes a “meaningful” source of cash flows is once again subjective, depending largely on the specifics of each individual transaction, requiring numerous “examples” to serve as guidance, but no firm metrics.

Conclusion:

Secured lending is as old as lending itself, and does not represent a new or exotic innovation. Simple secured loans, even if issued in security form by a trust or SPV -- allowing investors to participate *pari-*

The Lease-Backed Securities Working Group

passu in the underlying loan -- have long been accepted insurance company investments, as codified in SSAP 43R for many years -- and indeed before that, as 26R “bonds”.

While in one sense every secured loan issued in security form can be considered an “asset-backed security”, this not the common understanding in the market. The term “Asset-Backed Security” is broadly used by market participants (including the SEC and organizations such as SIFMA) to refer to “structured securities”: pools of assets which have been carved-up, or “tranching” into multiple securities, and for which the payments received by investors are not “directly proportional” to the payments flowing from the underlying assets.

The current version of 43R states clearly that it covers both “loan-backed” and “structured” securities. (It appears that the term “asset-backed security is not used in the current 43R.) If the current terminology is dropped, and some simple secured loans are now to be designated as “asset-backed securities”, we feel it is important that additional language be added to the standard making it clear that they are not subject to the same requirements as “structured securities” -- the most common use of the term “asset-backed securities”.

Our group continues to believe that a much clearer division between the two SSAPs, 26R and 43R – one which would avoid much of the ambiguity in the current Exposure – would be to assign *all* single-credit payor/single obligor transactions – whether secured or unsecured – to be in scope of SSAP 26R as “issuer credit obligations”. This would allow for SSAP 43R to be used exclusively for true *structured securities*, where the credit is not based on the underlying loans or assets – which are frequently not rated entities – but instead credit is determined by the structure of the transaction.

This reflects the common understanding in the market, which draws a fundamental distinction between simple (i.e.: unstructured) debt relying primarily on the creditworthiness of a single rated-credit payor, and “structured securities”, where the credit has been modified through the introduction of multiple classes of securities, each with its own credit characteristics, and where the underlying cash flows have been altered by the structure, thus putting investors in a different economic position from having direct credit exposure to the underlying loans or assets backing the transaction (the most common use of the term “Asset-Backed Securities”).

If the current framework is adopted, we would suggest that additional language needs be supplied to 43R making it clear -- as does the current version of 43R -- that it covers simple secured loan-backed transactions as well as “structured securities”.

We thank you for the opportunity to offer these comments, and are happy to answer any questions or discuss our comments further with the regulator community.

Thank you for considering our comments,

John Garrison
On behalf of The Lease-Backed Securities Working Group



MEMORANDUM

TO: Interested Parties of the Financial Condition (E) Committee

FROM: Financial Condition (E) Committee

DATE: May 23, 2022

RE: Memorandum of Support

Since the great financial crisis, interest rates have generally been in a downward trend for nearly 15 years, resulting in reduced spreads for life insurers and otherwise putting pressure on many members of the industry that depend upon longer-dated, lower risk debt instruments. In addition, recent inflationary pressures and increasing uncertainty resulting from the Russia/Ukraine crisis are exacerbating other challenges for the industry. Members of the Committee remain particularly concerned that macro-economic trends are likely to continue to drive an increase in asset risk for at least some members of the industry.

This memorandum is being issued by the Committee to express its support for several current, interrelated initiatives focused on asset risk or spread risk within the task forces and working groups of the Committee as well as other related work within the task forces and working groups of other Committees, including the Life Insurance and Annuities (A) Committee. The Committee recognizes the range of risk management practices within the industry and the critical importance of maintaining a fair and competitive marketplace by establishing standards if necessary to address issues that could translate into material risks if not properly and timely considered within the NAIC solvency framework.

Although the Committee has not yet reviewed specific proposals from these various groups, it is aware of the underlying objectives of many of the proposals under discussion, including, without limitation:

- A more risk-sensitive Life Risk Based Capital (RBC) charge for certain structured securities and other asset-backed securities that carry a greater tail risk;
- Clarification of investments permitted to be reported on Schedule D-1: Long-Term Bonds, particularly focused on improved transparent accounting and RBC reporting for certain loan-backed and structured securities to capture the more risk-sensitive features of these types of assets;
- Consideration of changes to the current policies of the Valuation of Securities (E) Task Force as they pertain to possible use of or reduction of reliance on rating agencies, where deemed appropriate, and possible use of other risk identifiers such as market data;
- A modified economic scenario generator that more appropriately captures the low interest rates experienced during the past few years; and
- Consideration of certain “high-yielding” assets within the annual asset adequacy analysis testing.

The Committee is grateful to all the States and staff members that are currently participating in the important work of these groups and welcomes the input of industry and other stakeholders in the development of proposals. Although this work is ongoing, the Committee encourages all States and the Securities Valuation Office (SVO) to continue to take all appropriate actions under existing rules and standards.

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Draft: 5/27/22

Statutory Accounting Principles (E) Working Group
Virtual Meeting
May 24, 2022

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met May 24, 2022. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark and Carrie Mears, Co-Vice Chairs (IA); Sheila Travis (AL); Kim Hudson (CA); Michael Estabrook (CT); Rylynn Brown and Tom Hudson (DE); Eric Moser (IL); Judy Weaver (MI); Doug Bartlett and Pat Gosselin (NH); Bob Kasinow (NY); Melissa Greiner (PA); Jamie Walker and Shawn Frederick (TX); David Smith (VA); and Amy Malm (WI).

1. Reviewed Comments on Exposed Items

The Working Group held a public hearing to review comments (Attachment One-B1) on previously exposed items.

a. Agenda Item 2022-03

Mr. Bruggeman directed the Working Group to agenda item 2022-03: Premium Adjustment Allocated to Jurisdictions. Robin Marcotte (NAIC) stated that while this agenda item does not propose statutory revisions, it proposes blanks instructional changes to Schedule T, the State Page, and the Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments. She stated that NAIC staff received inquiries regarding a minor number of entities that primarily wrote health business related to the federal Affordable Care Act (ACA), who did not properly allocate premium adjustments by jurisdiction but instead reported the adjustments on the “aggregate other alien line” in the statutory financial statements. The proposed instruction changes clarify that all premium adjustments, both increases and decreases, including but not limited to, ACA premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction and are effective for year-end 2022 reporting.

Ms. Malm made a motion, seconded by Mr. Hudson, to adopt agenda item 2022-03 (Attachment One-B2), noting that the agenda item did not result in statutory revisions; however, it expressed support for the sponsored Blanks (E) Working Group proposal 2022-10BWG. The motion passed unanimously.

b. Agenda Item 2022-08

Mr. Bruggeman directed the Statutory Accounting Principles (E) Working Group to agenda item 2022-08: Treatment of Freddie Mac WI Certificates and the related *Interpretation (INT) 22-01T: Freddie Mac When-Issued K-Deal (WI Trust) Certificates*. Julie Gann (NAIC) stated that this sponsored agenda item is to address the accounting and reporting for Freddie Mac When-Issued K-Deal (WI Trust) Certificates. This program, in essence, creates an additional trust where the investor buys certificates in the WI trust, which is initially backed by cash; and within 90 days, the WI trust uses the cash to purchase the mortgage securities from the real estate mortgage investment conduit trust. Ms. Gann stated that although there is a short delay in acquiring the mortgage-backed securities, the performance of the investment is guaranteed by Freddie Mac. The tentative statutory accounting interpretation clarifies that investments in the Freddie Mac WI Program shall be captured in scope of *Statement of Statutory Accounting Principles (SSAP) No. 43R—Loan-Backed and Structured Securities* from initial acquisition.

Mr. Hudson made a motion, seconded by Ms. Greiner, to adopt the exposed INT 22-01 to clarify that Freddie Mac When-Issued K-Deal (WI Trust) Certificates are in scope of SSAP No. 43R from acquisition (Attachments One-B3 and One-B4). The motion passed unanimously.

c. Agenda Item 2021-21

Mr. Bruggeman directed the Working Group to agenda item 2021-21: Related Party Reporting. Jake Stultz (NAIC) stated that this agenda item was drafted in response to recent discussions on the reporting and disclosure requirements for investments that involve related parties. He stated that the agenda item proposes revisions to *SSAP No. 25—Affiliates and Other Related Parties* and *SSAP No. 43R*, clarifying related party and affiliate guidance, as well as requiring new reporting information for investments that are acquired from a related party, regardless of whether the investment is captured on the affiliate reporting line. He stated that the main goals are to: 1) clarify the reporting of affiliate transactions within existing reporting lines in the investment schedules; and 2) incorporate new reporting requirements for investment transactions with related parties using new reporting codes. He stated that interested parties requested the deletion of a proposed addition to *SSAP No. 43R*; i.e., an addition that seeks to clarify that investments with arrangements that result in a direct or indirect control shall be reported as affiliated. He stated that in response to these comments, pursuant to existing guidance in the *Insurance Holding Company System Regulatory Act (#440)* and *SSAP No. 25*, affiliation is determined through direct or indirect control, and that control can be based on voting rights, management and policies, contract, or otherwise. He also stated that the addition to *SSAP No. 43R* does not modify the current affiliation designation process. He stated that NAIC support staff recommended retaining the sentence requested for deletion; however, they modified it slightly to clarify that these scenarios are examples and not limitations in the determination of control. He stated that NAIC staff recommended that the Working Group adopt this agenda item and confirm that:

1. The new disclosures are effective for year-end 2022 reporting, as this date is in line with other state insurance regulators' initiatives, including the Macroprudential (E) Working Group.
2. The related party new electronic code column is effective for all noted investment schedules: B—Mortgage Loans, D—Long-Term Bonds, DB—Derivatives, BA—Other Long-Term Invested Assets, DA—Short-Term Investments, E2—Cash Equivalents, and DL—Securities Lending Collateral Assets.
3. The related party new electronic code column shall be completed for all investments on any reporting line.
4. The Statutory Accounting Principles (E) Working Group supports the inclusion of Code 6 (no related party relationship), as exposed by the Blanks (E) Working Group (2021-22 BWG), to eliminate potential confusion on whether the absence of a code represents incomplete reporting or a non-related party relationship.

Mr. Stultz stated that information contained in the interested parties' comment letter regarding the determination of affiliation under Model #440, and that it is solely based on voting rights of an equity holder, is incorrect. He stated that although ownership of 10% of voting securities results in a presumption of control, voting securities are not the sole basis for determining control. Determination of the affiliation of an investment is based on an evaluation of control of the investee, whether through voting interests or other means; accordingly, this agenda item does not propose to change the affiliate determination or definition. Mr. Stultz stated that interested parties also recommended other revisions to *SSAP No. 25* and *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities* to include open-ended foreign regulated investments that are currently captured in *SSAP No. 30R—Unaffiliated Common Stock*; however, it was recommended that any other changes to the exposed language be considered in a separate agenda item.

Angelica Tamayo-Sanchez (New York Life), representing interested parties, stated that there remain interpretation questions regarding the objectives of the agenda item versus what reporting will result upon adoption. She stated that while interested parties agree that guidance states that control can be achieved through means other than ownership, specific questions remain regarding collateral loan obligations (CLOs). She stated that language being proposed for adoption implies that CLOs managed by an affiliated party would be deemed to be an affiliated transaction; i.e., an interpretation that differs from industry's interpretation of current reporting requirements.

She stated that most insurance companies would not have reported CLOs as affiliated investments if the underlying investments do not have affiliated credit exposure, despite it being managed or originated by a related party. She stated that while the agenda item states that it is not intended to change current affiliated reporting requirements, if these investments should be deemed affiliated, most insurers have likely misinterpreted the guidance regarding their reporting. Discussions among industry indicate that if it is the will of the Statutory Accounting Principles (E) Working Group to classify these investments as affiliated, it will be a change from current, prevalent practice. In addition, there is a presumption that affiliated investments are required to be reviewed by the NAIC Securities Valuation Office (SVO), and if certain CLOs are required to be reported as affiliated, they could lose their filing exempt (FE) status. If FE status is lost, the SVO may need to develop additional procedures, as it does not currently have a methodology to designate this type of asset-backed security investment structure.

Mr. Clark stated that there is a mistaken interpretation that affiliation designation based on securitizations should be based on the affiliated credit exposure of the underlying collateral. He stated this interpretation is not consistent with Model #440 or SSAP No. 25. The affiliate designation is determined based on the ability to direct activities, not credit exposure. If an entity can control the activities of another entity, then all transactions, regardless of credit exposure, should be deemed affiliated. Mr. Clark stated that there is nothing in Model #440 that would scope out securitizations, and to exclude them for any purpose, including through the insertion of an unaffiliated intermediary, is incorrect. He stated that investments without an affiliated credit exposure that are originated or managed through an affiliated entity should be deemed affiliated. The need to distinguish between affiliated and unaffiliated credit exposure, despite being on an affiliated reporting line, is an important goal of this agenda item and is achieved through the new, supplemental reporting codes. Currently, since affiliation is based on control, without the use of these reporting codes, there is no way to differentiate between various types of credit exposure. In addition, some investments could be structured in a manner that the control threshold is not met, thus an investment would not be classified as affiliated; however, it does have underlying affiliated investment involvement; i.e., affiliated origination. This agenda item would assist state insurance regulators in the identification of such circumstances. Mr. Clark stated that the specificity proposed for SSAP No. 25 does not imply that any affiliated involvement causes an investment to become affiliated; it only clarifies that a control evaluation is still required by the insurer. He stated that as an example, for affiliated investment managers who originate investments that are ultimately determined not to be affiliated, the fee structure is certainly an affiliated transaction and should have been reviewed by the state of domicile through an appropriate Model #440 filing. He stated that he would support a referral to the Valuation of Securities (E) Task Force to address FE questions regarding CLOs, as the intent was not to modify FE status of these investments.

Keith Bell (Travelers), representing interested parties, stated that the language as proposed will likely not yield the results desired by state insurance regulators, specifically the reporting of certain investments as affiliated if they are managed by an affiliated asset manager. He stated that Model #440 was drafted prior to the prevalence of securitizations, and the emphasis of the model is on equity investments, not debt investments. He stated that debt investments are the rights to contractual cashflows, which do not represent equity investments; thus, determining control based on a debt investment for the determination of affiliate classification is not consistent with current practice. He stated that interested parties do not disagree with the objectives of state insurance regulators, but they believe the added language changes the scope of affiliated transactions, and if that is the ultimate wish of state insurance regulators, alternate guidance should be considered. Mr. Bruggeman stated that the spirit of the model is that if the underlying entity is affiliated, all associated transactions should also be deemed affiliated. However, increased reporting granularity of underlying credit exposure would be achieved through the new proposed reporting codes. The proposed language is only to clarify control, and it is not modifying Model #440, nor modifying affiliated reporting requirements. Mr. Clark stated that he agrees with Mr. Bruggeman in that if a company is deemed to be affiliated, all transactions, debt, equity, or other should also be reported as affiliated transactions. He also stated that the proposed language only clarifies when control exists, not necessarily how to determine if control exists. He stated that if there is a desire to further clarify how to determine control, that

would need to be in a project separate from this agenda item. Ms. Weaver stated that the interpretive disconnect of industry could leave open the possibility of other investments to not be reported as affiliated, and she inquired if interested parties have suggestions to the proposed revisions. Mr. Bell stated that interested parties do not have any suggestions but believe the current language is not sufficient to meet the needs of state insurance regulators, as there will still be ambiguity in reporting requirements. Rose Albrizio (Equitable), representing interested parties, stated that she concurs with Mr. Bell, and there will be difficulty for industry with applying the clarified affiliated reporting standard.

In response to Mr. Clark's comments regarding determination of control for consolidated reporting purposes, Ms. Tamayo-Sanchez stated that U.S. generally accepted accounting principles (GAAP) generally require the determination of who controls the significant activities or economics in the initial determination of control for consolidated reporting purposes. She stated that if U.S. GAAP were used as a basis to determine if a CLO should be reported as affiliated due to exercising control, they would likely not be deemed as affiliates; however, industry struggles with how to define control of these instruments for statutory reporting purposes. As the insurer likely has a very passive involvement in the underlying investment and is only involved in the investment in the event of certain default situations, an affiliated designation for statutory accounting purposes is not consistent with current processes. Accordingly, many insurers will likely need to now move many debt investments to affiliated reporting lines.

Mr. Bruggeman stated that the challenge is that the intent of the agenda item is not to change affiliated reporting requirements; however, as many insurers believe this is a change, this likely represents an interpretation disconnect between insurers and state insurance regulators. He stated that this agenda will likely: 1) communicate the scope of affiliation determination and the associated reporting desires of state insurance regulators; and 2) supplement the reporting of all investments with the proposed reporting codes. The agenda item is not changing related party or affiliation determination pursuant to Model #440, especially as some states have adopted slight variations to the model. Mr. Clark stated that he agrees with Mr. Bruggeman, and he added that the determination of control has not changed. If detailed guidance regarding the evaluation of control were desired, it should be considered in a separate agenda item; however, insurers should continue to consult with their domestic regulators in the determination of affiliation designation. Mr. Bell stated that Mr. Bruggeman's summation of the challenge was accurate; however, many in industry would not report affiliated debt investments as affiliated transactions, as they interpret Model #440 to be limited to equity interests. He stated that the interpretation of state insurance regulators is that investments originated through, or debt issued by, an affiliated entity is an approach not commonly interpreted by industry. Mr. Clark stated that his interpretation is that if an entity is determined to be affiliated, all transactions—i.e., debt or equity issued by an affiliate—would also be classified as affiliated; and to the extent that this has not been done previously, he supports corrected reporting going forward. Ms. Tamayo-Sanchez stated that the interpretation of industry based on today's discussion was wrong, as they believe Model #440 only requires affiliated reporting if the investment has underlying affiliated credit exposure or if the insurer has control in the underlying investment, not an asset manager who originates the investment. Ms. Albrizio stated that the guidance should be supplemented using examples to clarify which investments should be reported as affiliated, as interested parties do not believe the current guidance is adequate to ensure that the reporting desired by state insurance regulators will be achieved. Mr. Bruggeman stated he appreciates the comments of industry to help articulate the interpretation differences; however, state insurance regulators believe that if an entity is deemed to be affiliated, all investments—debt or equity—should be reported as affiliated, regardless of underlying affiliated credit exposure. With the agenda item, the investments would have supplemental reporting to help further differentiate those with varying degrees of underlying related party credit exposure. Ms. Tamayo-Sanchez, not speaking on behalf of interested parties, stated that the interpretation of applying the affiliated designation to debt instruments only when there was an underlying affiliated credit exposure was incorrect and not in line with state insurance regulator expectations. She stated that for insurers who have not been a party to

the discussions related to this agenda item, they would likely continue existing practices for the determination of affiliation designation.

Mr. Clark made a motion, seconded by Mr. Smith, to:

1. Adopt the exposed revisions in SSAP No. 25; exposed revisions, with minor edits, in SSAP No. 43R; and new reporting disclosures for investments acquired from a related party, regardless of whether the investment is captured on an “affiliate” reporting line (Attachment One-B5).
2. Confirm that the new reporting codes applicable for investment schedules B, D, DB, BA, DA, E2, and DL shall apply to all investments on any reporting line and are effective for year-end 2022 reporting.
3. Confirm support for the inclusion of Code 6 (no related party relationship), as exposed by the Blanks (E) Working Group (2021-22 BWG) to eliminate potential confusion on whether the absence of a code represents incomplete reporting or a non-related party relationship.
4. Direct NAIC staff to draft the following for future Statutory Accounting Principles (E) Working Group discussion: 1) possible footnote revisions pursuant to interested parties’ comments; and 2) examples for possible inclusion in SSAP No. 43R to further clarify investments that should be classified as affiliated.
5. Send a referral to the Valuation of Securities (E) Task Force, notifying of this adopted agenda item, and assess whether corresponding edits are needed to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) regarding CLO investments that may now be classified as affiliated.

The motion passed unanimously.

Ms. Gann stated that as a reminder, the Blanks (E) Working Group has a public call scheduled for May 25, and the Statutory Accounting Principles (E) Working Group has a public call scheduled for July 18 to hear comments on the exposed bond definition and related issue paper.

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

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/apptf/2022summernm/1_sapwg/minutes/attachment-one-b_sapwg minutes 5.24.22tpr.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/apptf/2022summernm/1_sapwg/minutes/attachment-one-b_sapwg%20minutes%205.24.22tpr.docx)

**Statutory Accounting Principles (E) Working Group
 May 24, 2022 – Interim Call
 Comment Letters Received**

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May 6, 2022

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

RE: Items Exposed for Comment by the Statutory Accounting Principles Working Group on April 4, 2022, with Comments due May 6th.

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the exposure drafts released for comment by the NAIC Statutory Accounting Principles (E) Working Group (the Working Group) during its meeting on April 4 in Kansas City.

We offer the following comments:

Ref #2019-21: Proposed Bond Definition

Pursuant to the direction from the Working Group in October 2020, a small group of regulators and industry have been meeting regularly to draft a bond definition for consideration. The intent of this project is to clarify what should be considered a bond (whether captured in SSAP No. 26R—*Bonds* or SSAP No. 43R—*Loan-Backed and Structured Securities*) and reported on Schedule D-1: Long-Term Bonds. This exposure is specific to the proposed bond definition included in the exposed Form A, along with the glossary (page 5) and appendices (pages 6-12), but comments on future developments (such as reporting changes, accounting and reporting guidance for items that do not qualify as bonds, transition guidance, etc.) may also be submitted to assist in the development of these items.

Interested parties are providing comments in a separate letter for this item due to the number of issues involved.

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Ref #2022-03: *Premium Adjustments Allocated to Jurisdictions*

The Working Group moved this item to the active listing and exposed proposed revisions to be incorporated into a Blanks (E) Working Group proposal (2022-10BWG) which would modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE). The proposed revisions clarify that all premium adjustments shall be allocated as premium in each respective jurisdiction. This agenda item did not propose statutory revisions. This item was exposed with a shortened comment period ending May 6 to permit consideration for a year-end 2022 effective date of the reporting revisions.

Interested parties have no comment on this item.

Ref #2022-08: *Treatment of Freddie Mac WI Certificates*

The Working Group moved this agenda item to the active listing and exposed a tentative interpretation INT 22-01: Freddie Mac When-Issued K-Deal (I Trust) Certificates to clarify that investments in the Freddie Mac “When Issued K-Deal” (WI) Program are in scope of SSAP No. 43R. This item has a shortened comment deadline of May 6.

Interested parties support the conclusions reached on this interpretation.

Ref #2021-21: *Related Party Reporting*

The Working Group exposed this agenda item, incorporating proposed revisions after considering comments from interested parties shown highlighted in gray below. The changes from the prior exposure only clarify previous components of the proposed revisions. Similar changes to the blanks proposal are also concurrently exposed by the Blanks (E) Working Group in their corresponding agenda item (2021-22BWG) to allow for a year-end 2022 effective date. This item was exposed with a shortened comment period ending May 6.

Interested parties appreciate the opportunity to provide additional comments for this item regarding Related Party Reporting (the “Related Party Exposure”), which was re-exposed by the Working Group (the “SAPWG”) on April 4, 2022.

As stated in our original comment letter on this item, we understand that one of the goals of the proposal is to identify investments that are originated, managed, sponsored, or serviced by an affiliate or related party of the insurer (referred to as managed by affiliates for the remainder of this letter). Interested parties agree that this information can be useful for the regulators, but we continue to stress that it is critical to differentiate investments where there is direct credit exposure to an affiliate from those investments that are only managed by affiliates with no underlying credit exposure to the affiliate of the insurer.

In addition to the above, we have the following additional comments on the re-exposure:

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1. **SSAP No. 25** - The Related Party Exposure is proposing to add the paragraph below, which would require a look through of affiliated investment structures to identify entities over which the insurer may have indirect control. To address Interested Parties' comments, the Working Group has added the footnote in red below to clarify that the look-through requirement is not required for SEC-registered mutual funds and ETFs.

“For entities not controlled by voting interests, such as limited partnerships, trusts and other special purpose entities, control may be held by a general partner, servicer, or by other arrangements. The ability of the reporting entity or its affiliates to direct the management and policies of an entity through such arrangements shall constitute control as defined in paragraph 6. Additionally, a reporting entity or its affiliates may have indirect control of other entities through such arrangements. For example, if a limited partnership were to be controlled by an affiliated general partner, and that limited partnership held greater than 10% of the voting interests of another company (FN10), indirect control shall be presumed to exist. If direct or indirect control exists, whether through voting securities, contracts, common management or otherwise, the arrangement is considered affiliated under paragraph 5. Consistent with paragraph 8, a disclaimer of affiliation does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.”

FN10 Consistent with SSAP No. 97, footnote 1, investments in an exchange traded fund (ETF) or a mutual fund (as defined by the SEC) does not reflect ownership in an underlying entity, regardless of the ownership percentage the reporting entity (or the holding company group) has of the ETF or mutual fund unless ownership of the ETF actually results in “control” with the power to direct or cause the direction of management of an underlying company. ETFs and mutual funds are comprised of portfolios of securities subject to the regulatory requirements of the federal securities laws.

Interested parties' comments on the amendments are as follows:

- We agree that the look-through requirement should not extend to SEC registered mutual funds and ETFs as those investments are subject to many regulatory requirements. However, the exemption should also extend to foreign open-end investment funds governed and authorized in accordance with regulations established by the applicable foreign jurisdiction, which are within the scope of SSAP No. 30 - *Unaffiliated Common Stock* and which are very similar to open-end mutual funds in the United States.
- As stated on our previous comment letter, doing a look-through of the underlying investments of investment funds managed by affiliates to determine if there is indirect control will be a significant operational change as information will need to be requested from affiliated funds regarding their underlying investments along with percentage ownership. Once the information is obtained, insurers will need to go through each investment where the affiliated fund owns more than 10% of the equity of another company to document whether the presumption of control is

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overcome or not. We kindly request again for a 2023 implementation date to be considered.

- Interested parties would like to confirm our understanding of the look through proposal. We believe an insurer would be required to look through to the underlying investments only in the situation where the entity (managed by an affiliate) in which the insurer owns equity instruments (e.g., private equity funds and CFOs). For example, if the insurer owns debt tranches of a CFO managed by an affiliate, we assume the look through analysis would be applied since the underlying investments of the CFO are equities. However, if the insurer owns an interest (debt or equity) in a CLO investment where the underlying assets are loans, we would not expect the look through to be applied since the CLO loans do not usually give an investor any control. As the look through paragraph is being inserted into SSAP 25 (which applies to all types of instruments), we believe clarification may be needed.
 - We also suggest adding the new footnote that was added to the new proposed paragraph 9 of SSAP No. 25 to the new codes being proposed to the investment schedules so that there is consistency regarding the types of assets for which the insurer would have to do a look-through of underlying investments of an affiliated fund.
2. ***Proposed changes to SSAP No. 43R to clarify that investments managed by affiliates are viewed as affiliated even if the underlying assets in the structure do not have any credit exposure to an affiliate*** – As stated above and in our previous comment letter, many insurers own asset management subsidiaries which manage securitization transactions. There is no question that the asset manager itself is a Subsidiary, Controlled and Affiliate (SCA) of the insurer and such asset managers are reported on Schedule Y as affiliates of the insurer and in the related party disclosures. However, when any debt tranches purchased from those securitization vehicles do not have any credit exposure to SCAs of the insurer, the debt tranches are not reported in the affiliated section of Schedule D and not filed as affiliated debt investments with the Securities Valuation Office (SVO) since they do not have affiliated credit risk exposure, even if the securitization vehicle is managed by a related party.

It is very important to interested parties that this distinction is understood for Schedule D bond investments. Schedule D bond investments should not be reported in the affiliated section of Schedule D if they do not have affiliated credit exposure. We believe that the new codes that are being proposed should provide the regulators with information regarding investments that have credit risk exposure to affiliates versus those investments that are only managed by affiliates or other related parties. If the intent is to change how investments are actually reported between affiliated and non-affiliated lines in the schedules, additional changes would need to be made to the current guidance, including the annual statement instructions and the SVO Purposes and Procedures (P&P) Manual, so that this is clear to all insurers. If all unaffiliated investments which are managed by

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an affiliate were required to be reported as affiliated, updates would have to be made to the SVO P&P manual to clarify that those investments continue to be Filing Exempt since the SVO does not provide designations on asset-backed securities and the manual requires filing for all affiliated debt investments. Furthermore, our understanding of the definition of affiliates and control under the Holding Company act is that they are based on voting rights of an equity holder. Therefore, asset managers that meet the definition of affiliates under the Holding Company Act are reported as affiliates on Schedule Y and any agreements with those affiliates are reported in the related party disclosure. However, investments that are simply managed by such affiliate with no credit risk exposure to an affiliate and where the underlying borrowers are not affiliates, would not meet the definition of an affiliate under the Holding Company Act.

All the language included in the exposure with the exception of the last sentence in the new paragraph 6b being proposed in SSAP No.43R support the view that unaffiliated investments managed by an affiliate shall be reported as unaffiliated. The last sentence in 6b indicates that “any arrangement that results in direct or indirect control, including control through a servicer” should be considered affiliated. While this statement is meant to make it clear, it is confusing as it relates to unaffiliated investments (where the insurer has no credit risk exposure to the underlying borrower), that are managed by an affiliate (either a subsidiary of the insurer or an entity under common control with the insurer). Interested parties request that the final sentence be removed as this sentence will only add confusion and will create inconsistency in reporting depending on how each insurer interprets these rules. As stated throughout the letter, the presence of certain arrangements such as an affiliated servicer do not usually mean that the investments managed are affiliated. A determination of direct or indirect control over the ultimate obligor pursuant to SSAP No. 25 is still required.

b. A loan-backed or structured security may involve a relationship with a related party but not be considered an affiliated investment. This may be because the relationship does not result in direct or indirect control of the issuer or because there is an approved disclaimer of control or affiliation. Regardless of whether investments involving a related party relationship are captured in the affiliated investment reporting lines, these securities shall be identified as related party investments in the investment schedules. Examples of related party relationships would include involvement of a related party in sponsoring or originating the loan-backed or structured security or any type of underlying servicing arrangement. For the avoidance of doubt, investments from any arrangement that results in direct or indirect control, including control through a servicer or other controlling arrangement, shall be reported as affiliated in accordance with SSAP No. 25 — Affiliates and Other Related Parties.

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As stated above, we are more than happy to provide the transparency that the regulators are looking for, which we believe will be accomplished through the new codes that will flag these investments as being managed by related parties.

3. ***Proposed annual statement changes to add a new electronic-only column to the investment schedules to identify investments involving related parties*** –The new codes being proposed in the related party exposure are as follows:

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships, and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.

Interested parties offer the following additional comments on the proposed codes:

- We understand that the codes will be required on all investment schedules. However, most of the codes appear to be more applicable to Schedule D and Schedule BA investments where investments can be made through an investment vehicle. For example, when we think of the relevancy of the codes to the mortgage loan schedule, it would appear that the only code that may potentially apply is code No. 1 if the insurer has issued a mortgage loan to a related party. Codes 2-5 do not seem applicable since mortgage loans reported on Schedule B can only be reported on Schedule B if the insurer has issued the mortgage loan directly to a borrower. The same would likely be true for Schedule DB.
- It is unclear to interested parties what “in-substance” related party transactions are referred to in code 4. Perhaps some examples can be provided as to the types of

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structures this is referring to so that insurers know what to report under this category.

- When reviewing the Blanks exposure on this item, we noted that the Blanks exposure added an additional code 6 for investments that have no related party relationship. We question the need for such code as a significant majority of insurers' investments will probably be coded as such. There are other columns that are populated only if the code applies to that investment (e.g., Column 3 – Code; Column 5 – Bond Characteristics). Perhaps leaving the code blank will accomplish the same objective.

* * *

Thank you for considering interested parties' comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell

Rose Albrizio

cc: NAIC staff
Interested parties

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

Issue: Premium Adjustments Allocated to Jurisdictions

Check (applicable entity):

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

Description of Issue:

This agenda item has been drafted to propose blanks instructional changes primarily to Schedule T which reflects premiums, allocated by states and territories. NAIC staff received inquiries from 3 states in the fourth quarter of 2021 regarding a minor number of entities that primarily wrote health business related to the Affordable Care Act (ACA) which are believed to have not properly allocated premium adjustments by jurisdiction on the statutory financial statement. The states identified that a minority of entities reported some portion of their U.S.-based premium in the category of “aggregate other alien.” The aggregate other alien line is for non-U.S. premium therefore, reporting U.S.-based ACA premium as alien is problematic. The purpose of this agenda item is to add additional annual statement instructions to address this reporting inconsistency. Regardless of the cause of this specific issue, the proposed revisions intend to clarify that premium adjustments (both increases and decreases) shall be reflected in the appropriate jurisdiction. This proposal is to address this current issue as well as future situations.

The specific premium identified is understood to be ACA premium written in the U.S. and its territories. Based on the descriptions provided, most of the amounts are presumed to be from premium redistribution as a result of the risk adjustment program of the ACA. All of the premium adjustments from the ACA risk adjustment program, and the risk corridor program, are noted as premium in *SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act*. (Although the risk corridor program ended in 2016, distributions related to 2015-2016 plan years have been received in the last two years due to a U.S. Supreme Court decision.)

The ACA risk adjustment premium redistribution calculations are calculated by plan and by jurisdiction. Therefore, the jurisdictions are known. The ACA risk adjustment program redistributes premium from plans that have relatively healthier insureds and gives to plans with relatively less healthy insureds based on risk scores. SSAP No. 107 directs reporting the premium adjustments in the ACA risk adjustment program as premium subject to redetermination, which requires accruing the adjustments based on policy experience as described in the authoritative literature section below.

NAIC staff understanding is that most states would treat the premium after adjustments (both increases and decreases) as the amount subject to premium tax. However, preliminary conversations some health entities have asserted that they believe their state only subjects the premium prior to adjustment to premium tax. In the statutory annual statement, the premium including adjustments should be reported as premium subject to redetermination as identified in SSAP No. 107. If a jurisdiction treats premium differently for tax purposes, that would be addressed on the jurisdiction’s premium tax return.

Because of the way the ACA risk adjustment program premium adjustments calculation works, an insurer can have both payables and receivables in different plans in the same jurisdiction. For example, they could be a receiver in the bronze plan in state A and a payer in the silver plan in state A. Total premium in the state is redistributed among

plans at the same level in the state, no new funds are added. In the examples below the total premium columns are what is reported in the state A and B lines of Schedule T.

State A	Initial Premium	Premium Adjustments/Redistribution	Total Premium	State B	Initial Premium	Premium Adjustments/Redistribution	Total Premium
Bronze	\$ 100	\$ 40	\$ 140	Bronze	\$ 100	\$ 20	\$ 120
Silver	\$ 100	\$ (25)	\$ 75	Silver	\$ 100	\$ (25)	\$ 75
<u>Gold</u>	<u>\$ 100</u>	<u>\$ -</u>	<u>\$ 100</u>	<u>Gold</u>	<u>\$ 100</u>	<u>\$ (15)</u>	<u>\$ 85</u>
total	\$ 300	\$ 15	\$ 315	total	\$ 300	\$ (20)	\$ 280

Existing Authoritative Literature (bolding added for emphasis):

- *Uniform Deposit Law Model 300:*

“Alien insurer” means an insurer incorporated or organized under the laws of any country other than the United States.

- *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities:*

8.b.iv. Investments in foreign insurance SCA entities shall be recorded based on the underlying U.S. GAAP equity from the audited U.S. GAAP basis financial statements, adjusted to a limited statutory basis of accounting in accordance with paragraph 9, if available. If the audited U.S. GAAP basis financial statements are not available, the investment can be recorded on the audited foreign statutory basis financial statements of the respective entity adjusted to a limited statutory basis of accounting in accordance with paragraph 9 and adjusted for reserves of the foreign insurance SCA with respect to the business it assumes directly and indirectly from a U.S. insurer using the statutory accounting principles promulgated by the NAIC in the *Accounting Practices and Procedures Manual*. The audited foreign statutory basis financial statements must include an audited footnote that reconciles net income and equity on the foreign statutory basis of accounting to the U.S. GAAP basis. **Foreign insurance SCA entities are defined as alien insurers formed according to the legal requirements of a foreign country.**

- *SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act:*

Risk Adjustment Program – Accounting Treatment

14. Premium adjustments pursuant to the risk adjustment program will be based upon the risk scores (health status) of enrollees, participating in risk adjustment covered plans rather than the actual loss experience of the insured. This program bears some similarities to the Medicare Advantage risk adjustment program¹ under which the plan receives additional funding (or pays additional amounts)

¹ The ACA program also has significant differences from the Medicare Advantage risk adjustment program, which is retrospective, administered as a single national program, with most enrollees administered by the federal government. By contrast, the ACA risk adjustment is not retrospective, and is administered by each entity by state and by plan.

based on adjustments to risk scores of enrollees (see *INT 05-05: Accounting for Revenues Under Medicare Part D Coverage*).

15. The risk adjustment payables and receivables shall be accounted for as premium adjustments subject to redetermination as specified in this statement. Effective beginning with 2018 benefit plan years, the risk adjustment assessments and distributions are calculated including the high-cost risk pool aspect of this program and should be reported on a net basis.

- a. Risk adjustment payables meet the definition of liabilities as set forth in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*. Risk adjustment receivables meet the definition of an asset and are admissible to the extent that they meet all of the criteria in this statement.
- b. Risk adjustment payables and receivables shall be estimated based on experience to date. The method used to estimate the payables and receivables shall be reasonable and consistent between reporting periods. Reporting entities shall be aware of the significant uncertainties involved in preparing estimates and be both diligent and conservative in their estimations. In exercising the judgment required to prepare reasonable estimates for the financial reporting of risk adjustment program payables and receivables, the statutory accounting concept of conservatism shall be followed. In addition, reporting entities are required to have sufficient data to determine a reasonable estimate. Ensuring sufficient data requires that the reporting entity's estimate is based on demonstrated knowledge of the marketplace and annual information which includes patient encounter and diagnosis code data to determine the differences in the actuarial risk profile of the reporting entity's insureds versus the market participants in the particular market and state risk pool. Sufficient data shall incorporate patient default scores, if applicable, under the terms of the risk adjustment program. In addition, the estimates shall be consistent with other financial statement assertions and the pricing scenarios used by the reporting entity.
- c. Premium revenue adjustments for the risk adjustment program are estimated for the portion of the policy period that has expired and shall be reported as an immediate adjustment to premium. Accrued risk adjustment receivables shall be recorded in premium and considerations receivable, with a corresponding entry to written premiums. Accrued risk adjustment payables shall be recorded as a liability² with a corresponding entry to written premiums. Reporting entities shall record additions or reductions to revenue resulting from the risk adjustment program in the period in which the changes in risk scores of enrollees result in reasonably estimable additions or reductions. The risk adjustment program receivables shall be reported gross of payables.
- d. The risk adjustment receivables are administered through a federal governmental program. Once amounts are collected by the governmental entity, there is an obligation to distribute the funds. Amounts over 90 days due shall not cause the receivable to be treated as a nonadmitted asset based solely on aging.
- e. Provided that the risk adjustment receivables due the reporting entity are determined in a manner that is consistent with the requirements of this statement, the receivables are admitted assets until determination of impairment or payment denial is received from the governmental entity or government-sponsored entity administering the

² The annual statement liability lines will vary by the type of annual statement the reporting entity files. Managed care/accident and health reporting entities report as aggregate health policy reserves; life and accident and health reporting entities report as aggregate reserves for accident and health contracts; and property and casualty reporting entities report as aggregate write-ins for liabilities.

program. Upon notification that payments to be paid to the reporting entity will be less than the recorded receivables, any amount in excess of the confirmed amount shall be written off and charged to income, except for amounts that are under appeal. Any receivable for risk adjustment amounts under appeal shall be reflected as a nonadmitted asset.

- f. Evaluation of the collectibility of all amounts receivable from the risk adjustment program shall be made for each reporting period. If, in accordance with SSAP No. 5R, it is probable that the risk adjustment receivables are uncollectible, any uncollectible receivable shall be written off and charged to income in the period the determination is made. If it is reasonably possible that a portion of the balance determined in accordance with this paragraph is not anticipated to be collected and is therefore not written off, the disclosure requirements outlined in SSAP No. 5R shall be followed.

Risk Adjustment Program – High-Cost Risk Pool – Accounting Treatment

16. The individual and small group high-cost risk pools of the ACA risk adjustment program shall be accounted for consistent with the rest of the ACA risk adjustment program. Reporting entity issuers in the individual or small group markets need to account for the following risk adjustment payables and receivables including the impairment and aging guidance reflected in paragraph 15 and paragraph 16:

- a. **The high-cost risk pool assessment payable by the reporting entity, which is the percent-of-premium charge to the issuer in order to fund reimbursements across all issuers of claims above the high cost risk pool threshold, shall be accounted for as decreases to written premium subject to redetermination.**
- b. **High-cost risk pool distributions, which represent proportionate reimbursement for the issuer's claims above the high cost risk pool threshold, would be accounted for as increases to written premium subject to redetermination.**
- c. As the risk adjustments and distributions described in paragraphs 4-9 are calculated after excluding the percentage of costs above the threshold specified in the high-cost risk pool aspect of this program, the payments described in paragraphs 4-9 will continue to be accounted for consistent with guidance in paragraph 15 and paragraph 16 (i.e., as a premium adjustment subject to redetermination).

Note that Schedule T, part 1 has slightly different names by annual statement type, but it reflects premiums, allocated by states and territories. Schedule T, Part 2 Interstate Compact- Exhibit of Premiums Written Allocated By States and Territories is the same name for all annual statement types.

- **Annual Statement Instructions Schedule T, Part 1 – Premiums and Other Considerations Allocated By States and Territories – Health:**

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as "Other Alien." Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and

reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

- **Annual Statement Instructions Schedule T, Part 1 – Premiums and Annuity Considerations Allocated By States and Territories Life and Fraternal:**

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” **All U.S. business must be allocated by state regardless of license status.**

Details of Write-ins Aggregated on Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany). For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

- **Annual Statement Instructions Schedule T, Part 1 – Property and Casualty:**

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in Schedule Details of Write-ins Aggregated at Line 58 for Other Alien.

All U.S. business must be allocated by state regardless of license status.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and

reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

Schedule T, Part 2 Uniform instructions:

Line 58 – Aggregate Other Alien

Enter the total of all alien business in the appropriate columns. Details by countries are not required.

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

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

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

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and concurrently expose an annual statement blanks proposal for 2022 annual reporting. The sponsored blanks proposal has been forwarded to the Blanks (E) Working Group to modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments to ensure that entities are reporting premium by jurisdiction. This agenda item does not result in SSAP revisions. The proposed additions to the blanks instructions are shown below.

1. Schedule T, part 1 annual statement instructions for Health (This revision will make Health instructions consistent with the property casualty and life fraternal annual statement instructions.)

[Line 58 – Aggregate Other Alien](#)

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” All U.S. business shall be allocated by state regardless of license status.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

2. Schedule T, part 1 annual statement instructions for Health; Life and Fraternal and Property and Casualty

Add to general instructions:

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

3. Schedule T, Part 2 Uniform instructions:

Line 58 – Aggregate Other Alien

Enter the total of all alien business in the appropriate columns. Details by countries are not required.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

4. Add additional instructions to line 58 - Aggregate Other Alien to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

5. State Page - general instructions to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

6. Accident and Health Policy Experience Exhibit (AHPEE) to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Staff Review Completed by: Robin Marcotte– NAIC Staff, February 2022

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and concurrently expose an annual statement blanks proposal for 2022 annual reporting. The sponsored blanks proposal has been forwarded to the Blanks (E) Working Group to modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments. This agenda item does not result in SSAP revisions. The proposed additions to the blanks instructions are shown in the agenda item, but the primary instructional revision is as follows:

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this item to the active listing and exposed proposed revisions to be incorporated into a Blanks (E) Working Group proposal (2022-10BWG) which would modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE). The proposed revisions clarify that all premium adjustments shall be allocated as premium in each respective jurisdiction. This agenda item did not propose statutory revisions. This item was exposed with a shortened comment period ending May 6 to permit consideration for a year-end 2022 effective date of the reporting revisions.

On May 24, 2022, the Statutory Accounting Principles (E) Working Group adopted this agenda item, which did not result in statutory accounting revisions, however the adoption expressed support for the corresponding Blanks (E) Working Group exposure (2022-10BWG), which modifies the instructions for Schedule T, the State Page and the Accident and Health Policy Experience Exhibit (AHPEE), clarifying the guidance for premium adjustments.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-B2_22-03 - Premium Adj by Jurisdiction.docx

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

Issue: Treatment of Freddie Mac WI Certificates

Check (applicable entity):

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

Description of Issue:

Freddie Mac “When Issued K-Deal” certificates (“WI”) are backed by an asset pool held in trust, but those assets do not initially include any mortgages or mortgage-backed assets. Rather these assets include cash from the sale of the WI certificates and a commitment by Freddie Mac to deliver one or more structured pass through certificates (SPCs) in exchange for the WI trust’s cash within approximately 90 days of settlement. The date on which this delivery occurs is referred to as the “Subsequent Transfer Date.”

Prior to the Subsequent Transfer Date, the WI trusts pay fixed coupons to certificate holders which are funded from a Freddie Mac guarantee on the WI certificates. After the Subsequent Transfer Date the WI trust will hold the promised SPCs which are backed by mortgages and guaranteed by Freddie Mac. Additionally, after this date the WI trust becomes a pass-through of the underlying trust. The WI certificates have an optional exchange right where they can be exchanged for the underlying SPCs, but if not exchanged, the WI certificates after the Subsequent Transfer Date will still be backed by the SPCs.

The issue is the statutory accounting treatment of WI certificates prior to the Subsequent Transfer Date.

Existing Authoritative Literature:

SSAP No. 43R—Loan-Backed and Structured Securities, paragraphs 2-4:

2. Loan-backed securities are defined as securitized assets not included in structured securities, as defined below, for which the payment of interest and/or principal is directly proportional to the payments received by the issuer from the underlying assets, including but not limited to pass-through securities, lease-backed securities, and equipment trust certificates.
3. Structured securities are defined as loan-backed securities which have been divided into two or more classes for which the payment of interest and/or principal of any class of securities has been allocated in a manner which is not proportional to payments received by the issuer from the underlying assets.
4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer’s obligation has been fully satisfied. The investor only has direct recourse to the issuer’s assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.

SSAP No. 86—Derivatives. Key excerpts from SSAP No. 86 are as follows:

The definition of a derivative instrument and forwards from SSAP No. 86, paragraph 4 and 5d:

4. “Derivative instrument” means an agreement, option, instrument or a series or combination thereof:
 - a. To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or
 - b. That has a price, performance, value or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests.
- 5.d. “Forwards” are agreements (other than futures) between two parties that commit one party to purchase and the other to sell the instrument or commodity underlying the contract at a specified future date. Forward contracts fix the price, quantity, quality, and date of the purchase and sale. Some forward contracts involve the initial payment of cash and may be settled in cash instead of by physical delivery of the underlying instrument.

Guidance on TBAs from the Annual Statement Instructions:

““To Be Announced” securities (commonly referred to as TBAs) are to be reported in Schedule D unless the structure of the security more closely resembles a derivative, as defined within *SSAP No. 86—Derivatives*, in which case the security should be reported on Schedule DB. The exact placement of TBAs in the investment schedules depends upon how a company uses TBA.

Excerpt from Annual Statement Instructions, Schedule D, Part 3 and 4 on Disposals / Acquisitions:

This schedule should include a detailed listing of all securities that were purchased/acquired during the current reporting year that are still owned as of the end of the current reporting year (amounts purchased and sold during the current reporting year are reported in detail on Schedule D, Part 5 and only in subtotal in Schedule D, Part 3). This should include all transactions that adjust the cost basis of the securities. **Thus, it should not be used for allocations of TBAs to specific pools subsequent to initial recording in Schedule D, Part 3 or other situations such as CUSIP number changes.**

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

Reporting entity has filed a RTAS with the NAIC SVO.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:

The inaugural offering was the WI-K132 transaction (CUSIP: 3137H2NM2) which settled on September 28th, 2021 with the promised K-deal certificates being the K-132’s AM class. The K-132 class AM certificates (CUSIP: 3137H3EW8) were settled and delivered to the WI-K132 trust on October 14th, 2021. The purpose of this request is to evaluate the structure of the WI offering more broadly but the WI-K132 transaction may serve as a helpful example for evaluation. To that end the offering documents for both the WI-K132 and the related K-132’s certificate offerings are linked below. The webpage housing the base offering documents for the WI and K-Deal programs are also linked for ease of reference along with informational materials further detailing the WI program.

WI-K132 Offering Circular Supplement: <http://capitalmarkets.freddiemac.com/mbs/data/wik132oc.pdf>

K132 Offering Circular Supplement: <http://capitalmarkets.freddiemac.com/mbs/data/k132oc.pdf>

WI/K-Deal Base Offering Documents: <http://capitalmarkets.freddiemac.com/mbs/legal/>

WI Program Page: <https://mf.freddiemac.com/investors/when-issued-k-deals.html>

WI Investor Presentation: https://mf.freddiemac.com/docs/wi_investor_presentation.pdf

WI Frequently Asked Questions: https://mf.freddiemac.com/docs/wi_frequently_asked_questions.pdf

Video Overview of the WI Program: <https://www.youtube.com/watch?v=Lv7YaPvNspo&feature=youtu.be>

Recommended Conclusion or Future Action on Issue:

Sponsoring entity requests statutory accounting guidance to confirm that WI Trust SPCs shall be reported in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* and not as a forward contract under *SSAP No. 86—Derivatives*.

Recommending Party:

State Farm Mutual Automobile Insurance Company

Mark Ludy, Staff Finance Analyst

Mark.E.Ludy.GC98@StateFarm.Com

March 8, 2022

Staff Recommendation:

NAIC staff recommends that the Working Group expose a tentative statutory accounting interpretation to clarify that investments in the Freddie Mac WI Program shall be captured in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* from initial acquisition. Key elements for this recommendation include:

- The WI Program is fully guaranteed by Freddie Mac and ensures that the investor will receive pass-through certificates, backed by mortgage loans held in trust, that reflect the terms of the investment set at original acquisition. In the event that the K-Deal certificates cannot be acquired, Freddie Mac is guaranteed to provide payment to the investor that reflects the full principal and interest per the original terms of the agreement, which reflects the payments that would have been received overtime if K-Deal certificates had been acquired.
- The definition of a forward contract in *SSAP No. 86* reflects an agreement between two parties that commit one party to purchase and another party to sell the instrument underlying the contract at a specified future date. With the WI Trust Program, the investor does not have a future commitment to acquire securities, as the investor acquires the WI Trust certificate on day one of the transaction and the investor is not required to convert the WI Trust certificates at any time. This WI Trust certificate is not a derivative instrument, as at the time of acquisition, the certificate reflects a tradeable investment in a trust structure backed by cash and a Freddie Mac guarantee of cash flows in accordance with terms established at original acquisition. In addition to having no variation to the investor as a result of an underlying interest, there is no requirement on the investor to take delivery of a different investment. The ability to convert the WI Trust certificate to a K-Deal certificate is strictly an election to the investor and is not a requirement to receive the pass-through cash flows per the terms of the initial investment.
- The WI Program, and resulting obligation of Freddie Mac, ultimately reflects an investment where the investor receives pass-through cash flows generated from mortgage loans acquired and held in trust. This is within the scope of *SSAP No. 43R—Loan-Backed and Structured Securities*, paragraphs 2-4.
- The WI Program, and treatment as a *SSAP No. 43R* security, is consistent with the current guidance for TBA securities when an insurer intends to take possession of the resulting mortgage-backed security. A TBA security reflects the pre-purchase of mortgage-backed securities prior to the finalization of the security issuance. Pursuant to the annual statement instructions, TBA securities are to be reported on Schedule D-1: Long-Term Bonds unless the structure more closely resembles a derivative. This determination depends

on how a company uses the TBA. (For example, if a company intended to assume the mortgage-backed security once issued, the TBA would be captured on Schedule D-1 at initial acquisition. If a reporting entity was to continually trade/roll TBA exposures, this would be more characteristics of a derivative and would be captured on Schedule DB as a derivative.)

Staff Review Completed by: Julie Gann, NAIC Staff – March 14, 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing and exposed a tentative interpretation *INT 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates* to clarify that investments in the Freddie Mac “When Issued K-Deal” (WI) Program are in scope of SSAP No. 43R. This item has a shortened comment deadline of May 6.

On May 24, 2022, the Statutory Accounting Principles (E) Working Group adopted *INT 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates* to clarify that investments in the Freddie Mac “When Issued K-Deal” (WI) Program are in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* from the date of initial acquisition.

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Interpretation of the Statutory Accounting Principles (E) Working Group

INT 22-01: Freddie Mac When-Issued K-Deal (WI Trust) Certificates

INT 22-01 Dates Discussed

April 4, 2022; May 24, 2022

INT 22-01 References

SSAP No. 43R—Loan-Backed and Structured Securities

SSAP No. 86—Derivatives

INT 22-01 Issue

1. This interpretation is to address questions on the accounting and reporting for Freddie Mac “When-Issued K-Deal (WI Trust) Certificates” (WI Program). Ultimately, the question is whether the structure should be initially captured in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* or as a forward contract in scope of *SSAP No. 86—Derivatives*.
2. The design of the WI Program is summarized as follows:
 - a. Investor acquires WI Trust certificates, which are backed by cash held in the WI Trust and pay a fixed coupon amount funded from a Freddie Mac guarantee.
 - b. Within 90 days, the trust uses the cash to acquire newly issued K-Deal structured pass-through certificates (SPCs) meeting certain pooling parameters laid out in the respective WI Offering Circular Supplement. K-Deal SPC (s) are Freddie Mac-issued structured pass-through certificates backed by the corresponding class of certificates issued by a separate REMIC trust that holds multifamily fixed-rate mortgage loans. The cash flows from the mortgage loans held by the REMIC trust provide pass-through payments to holders of the K-Deal SPCs.
 - c. An investor can choose to continue to hold the WI Trust certificates or exchange dollar-for-dollar their WI-securities into the underlying K-Deal SPCs. In either case, the investor receives a pass-through of cash flows generated by the mortgages held in the REMIC trust and the performance of the K-Deal SPCs is guaranteed by Freddie Mac. If continuing to hold the WI Trust certificates – rather than convert the certificates to K-deal SPCs – the K-Deal SPCs are held by the WI Trust, who in turn passes the cashflows to WI Trust investors. The WI Trust certificates benefit from Freddie Mac payment guarantee which guarantees that any cashflows collected from the K-Deal SPCs will be paid to the WI certificate holders.
3. Additional characteristics on this program include the following:
 - a. The WI Trust certificates are public securities and tradeable shortly after pricing.
 - b. The WI Trust certificates are backed by a Freddie Mac guarantee from acquisition.
 - c. From acquisition of the WI Trust certificates, the investor receives fixed coupon amounts reflective of the investment terms of the K-Deal SPCs.

- d. The WI Trust is obligated to acquire, and Freddie Mac is required to sell, the K-Deal SPCs at the amount stated at the time of initial investment. Meaning, the investor is not at a risk of loss, nor will experience any variation in outcome due to underlying variables that occur from the time of initial investment in the WI Trust until the K-Deal SPCs are acquired. If market forces change the purchase price of the K-Deal SPCs during the 90-days after initial acquisition of the WI Trust certificates, then Freddie Mac is still required to sell the K-Deal certificates at the terms agreed to at original investment. Ultimately, the investor is guaranteed an investment in K-Deal SPCs that reflects the notional value of the WI Trust-certificates and coupon terms at initial acquisition. (For example, if the investor acquired \$100 million of WI Trust certificates at acquisition, when the K-Deals are subsequently acquired, the entity will receive \$100 million of K-Deal SPCs with the same payment terms regardless of any market impacts.)
 - e. In the event that Freddie Mac is unable to acquire the K-Deal SPCs within the 90-day period, Freddie Mac is required to return the principal to the investor as well as provide a yield maintenance payment calculated using the full coupon payments that would have been received over the course of the investment.
 - f. In the event that the investor elects to exchange the WI Trust certificates to the K-Deal SPCs, the investor receives an equivalent principal amount of the K-Deal SPCs of the same class. Although the investment will have a change in CUSIP, any such exchange is not deemed to be a taxable event as described in the respective Offering Circular Supplements for the WI Certificates. As such investors will not recognize a gain or loss on the exchange and investors will be treated as continuing to own the interests that were owned immediately prior to the exchange. Stated differently, any gains or losses on the exchanged WI-Certificates are “rolled into” the investors’ new K-Deal Certificate position.
4. The question of whether the structure is a loan-backed or structured security, or a derivative is primarily focused on the initial acquisition and the 90-day (or less) timeframe before the WI Trust acquires K-Deal certificates. The question is whether the initial 90-day acquisition of the WI Trust certificate, prior to the trust’s acquisition of the K-Deal certificates, represents a forward contract required to be accounted for under *SSAP No. 86—Derivatives*. Key excerpts from SSAP No. 86 are as follows:
- a. The definition of a derivative instrument from SSAP No. 86, paragraph 4:
 - 4. “Derivative instrument” means an agreement, option, instrument or a series or combination thereof:
 - a. To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or
 - b. That has a price, performance, value or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests.
 - b. The definition of a forward contract from SSAP No. 86, paragraph 5.d.:
 - 5.d. “Forwards” are agreements (other than futures) between two parties that commit one party to purchase and the other to sell the instrument or commodity underlying the contract at a specified future date. Forward contracts fix the price, quantity, quality, and date of the purchase and sale. Some forward contracts involve the

initial payment of cash and may be settled in cash instead of by physical delivery of the underlying instrument.

5. This interpretation intends to clarify whether investments in the Freddie Mac WI Program shall be initially captured in scope of *SSAP No. 86—Derivatives* or captured in scope of *SSAP No. 43R—Loan-Backed and Structured Securities*.

INT 21-01 Discussion

6. This interpretation clarifies that investments in the Freddie Mac WI Program shall be captured in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* from initial acquisition, and not as a derivative forward contract, for the following reasons:

- a. The WI Program is fully guaranteed by Freddie Mac and ensures that the investor will receive pass-through certificates, backed by mortgage loans held in trust, that reflect the terms of the investment set at original acquisition. In the event that the K-Deal certificates cannot be acquired, Freddie Mac is guaranteed to provide payment to the investor that reflects the full principal and interest per the original terms of the agreement, which reflects the payments that would have been received overtime if K-Deal certificates had been acquired.
- b. The definition of a forward contract in *SSAP No. 86* reflects an agreement between two parties that commit one party to purchase and another party to sell the instrument underlying the contract at a specified future date. With the WI Trust Program, the investor does not have a future commitment to acquire securities, as the investor acquires the WI Trust certificate on day one of the transaction and the investor is not required to convert the WI Trust certificates at any time. This WI Trust certificate is not a derivative instrument, as at the time of acquisition, the certificate reflects a tradeable investment in a trust structure backed by cash and a Freddie Mac guarantee of cash flows in accordance with terms established at original acquisition. In addition to having no variation to the investor as a result of an underlying interest, there is no requirement on the investor to take delivery of a different investment. The ability to convert the WI Trust certificate to a K-Deal certificate is strictly an election to the investor and is not a requirement to receive the pass-through cash flows per the terms of the initial investment.
- c. The WI Program, and resulting obligation of Freddie Mac, ultimately reflects an investment where the investor receives pass-through cash flows generated from mortgage loans acquired and held in trust. This investment dynamic is within the scope of *SSAP No. 43R—Loan-Backed and Structured Securities*, paragraphs 2-4:
 2. Loan-backed securities are defined as securitized assets not included in structured securities, as defined below, for which the payment of interest and/or principal is directly proportional to the payments received by the issuer from the underlying assets, including but not limited to pass-through securities, lease-backed securities, and equipment trust certificates.
 3. Structured securities are defined as loan-backed securities which have been divided into two or more classes for which the payment of interest and/or principal of any class of securities has been allocated in a manner which is not proportional to payments received by the issuer from the underlying assets.
 4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-

backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer's obligation has been fully satisfied. The investor only has direct recourse to the issuer's assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.

- d. The WI Program, and treatment as a SSAP No. 43R security, is consistent with the current guidance for TBA securities when an insurer intends to take possession of the resulting mortgage-backed security. A TBA security reflects the pre-purchase of mortgage-backed securities prior to the finalization of the security issuance. Pursuant to the annual statement instructions, TBA securities are to be reported on Schedule D-1: Long-Term Bonds unless the structure more closely resembles a derivative. This determination depends on how a company uses the TBA. (For example, if a company intended to assume the mortgage-backed security once issued, the TBA would be captured on Schedule D-1 at initial acquisition. If a reporting entity was to continually trade/roll TBA exposures, this would be more characteristics of a derivative and would be captured on Schedule DB as a derivative.)

INT 22-01 Consensus

5. The Statutory Accounting Principles (E) Working Group reached a consensus that investments in the WI Trust Program shall be captured in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* from initial acquisition.

6. If a reporting entity elects to convert WI Trust SPC securities into K-Deal SPC securities, the guidance in the Annual Statement Instructions, Schedule D, Part 3 and Part 4 shall be followed. Per that guidance, the transition from a WI Trust to a K-Deal shall not be reported as a disposal or acquisition. As the terms and cost basis of the SPC certificates would be identical, and the change would only reflect a CUSIP number change, a disposal and reacquisition shall not be recorded.

7. Excerpt from Annual Statement Instructions, Schedule D, Part 3 and 4:

This schedule should include a detailed listing of all securities that were purchased/acquired during the current reporting year that are still owned as of the end of the current reporting year (amounts purchased and sold during the current reporting year are reported in detail on Schedule D, Part 5 and only in subtotal in Schedule D, Part 3). This should include all transactions that adjust the cost basis of the securities. Thus, it should not be used for allocations of TBAs to specific pools subsequent to initial recording in Schedule D, Part 3 or other situations such as CUSIP number changes.

INT 22-01 Status

8. No further discussion is planned.

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

Issue: Related Party Reporting

Check (applicable entity):

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

Description of Issue: This agenda item has been drafted in response to recent discussions on the reporting and disclosure requirements for investments with related parties. This agenda item intends to encompass two main goals:

1. Clarify the reporting of affiliate transactions within existing reporting lines in the investment schedules. This clarification intends to be consistent with the definition of an “affiliate” pursuant to the *Insurance Holding Company System Regulatory Act (Model #440)*, SSAP No. 25—*Affiliates and Other Related Parties* and SSAP No. 97—*Investments in Subsidiary, Controlled and Affiliated Entities*.
2. Incorporate new reporting requirements for investment transactions with related parties. Pursuant to recent discussions, regulators desire additional information on investment transactions involving related parties, regardless of whether the related party is “affiliated” pursuant to Model #440. To preserve the affiliate definition and reporting categories, these additional proposed reporting elements will be captured outside of the current affiliate reporting requirements.

Affiliate Definition and Identified Reporting Issues:

The *Insurance Holding Company System Regulatory Act (Model #440)* defines “affiliate” and “control” as:

- **Affiliate:** An “affiliate” of, or person “affiliated” with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.
- **Control:** The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

The guidance / concepts from Model #440 are reflected in SSAP No. 25, paragraphs 5-7 and SSAP No. 97, paragraphs 5-7 and are summarized as follows:

- An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.
- Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.
- Control shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment based on the criteria in *FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18*. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee. The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:
 1. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
 2. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
 3. An entity where the insurer has given up participation rights as a shareholder to the investee.

The Annual Statement Instructions identifies what is captured in the reporting lines for “Parent, Subsidiary and Affiliates” as “Defined by *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*.”

Under the existing guidance, the following investments would likely not be reported as affiliated unless a domiciliary state has directed otherwise:

- Qualifying affiliated investments for which the domiciliary state has approved a disclaimer of affiliation or disclaimer of control from the affiliated entity. Once a disclaimer has been granted, the qualifying affiliate relationship is no longer considered an affiliate and any investments issued or held from the entity would not be reported as affiliated.
- Investments held from entities that do not qualify as affiliates, even if the entity qualifies as a related party. The determination of an affiliate is based on direct or indirect control. If the control determinants are not met, investments held from related parties are not reported as affiliated.

- Any investments acquired that were sponsored / originated by an affiliate, but the actual investment is not in the affiliate or other companies within the controlled holding company structure.

Model #440 explicitly excludes the purchase of securities solely for investment purposes from the determination of a change in control, so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in the state. This guidance further states that if the purchase of securities results in a presumption of control, then the acquisition of securities would not be considered solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control of affirmatively finds that control does not exist.

Proposed Related Party Revisions

Although the affiliate definition may preclude certain investments from being captured in the “affiliated” reporting lines, there is a regulator desire to have improved information on investments with non-affiliated related parties as well as investments acquired from affiliates and non-affiliated related parties that do not reflect an investment within the affiliate/related party. For example, if the affiliate/related party was to sponsor or originate the investment, such investment would likely not be captured in the designated affiliate reported lines. This agenda item proposes revisions to SSAP No. 25 and SSAP No. 43R, as well as proposed concepts for an annual statement reporting change to capture information on these investments. Additionally, the proposed revisions would provide clarity, consistent with the existing affiliate definition, on scenarios that would qualify as affiliated transactions.

As an additional item, the existing reference in SSAP No. 25 to *FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18* (FIN 35) has been proposed to be removed. Although the intent was to originally update the U.S. GAAP reference to reflect the current Accounting Standards Codification (ASC) citations, it was noted that the original provisions in FIN 35 (captured now in ASC 323-10-15-8, 323-10-15-10 and 323-10-15-11) only reiterate that the presumption that the investor has the ability to exercise significant influence over the investee's operating and financial policies based on ownership of voting stock stands until overcome by prominent evidence to the contrary. The ASC includes the following indicators originally in FIN 35 for when investors would be unable to exercise significant influence over the operating and financial policies of an investee:

- Opposition by the investee, such as litigation or complaints to government regulatory authorities, challenges the investor's ability to exercise significant influence.
- The investor and investee sign an agreement (such as a standstill agreement) under which the investor surrenders significant rights as a shareholder.
- Majority ownership of the investee is concentrated among a small group of shareholders who operate the investee without regards to the views of the investor.
- The investor wants or needs more financial information to apply the equity method than is available to the investee's other shareholders, tries to obtain that information, and fails. (The ASC example is a request for quarterly info when the investee only provides public information annually.)
- The investor tries and fails to obtain representation on the investee's board of directors.

The ASC also notes that these situations are just indicators and are not all-inclusive and that none of the individual circumstances are necessarily conclusive that the investee is unable to exercise significant influence over the investee's operating and financial policies. Rather, if any of these situations exist, an investor with controlling voting ownership shall evaluate all facts and circumstances related to the investment to reach a judgment about

whether the presumption that the investor has the ability to exercise significant influence over the investee's operating and financial policies is overcome. Furthermore, the guidance indicates that it may be necessary to evaluate the facts and circumstances over a period of time before reaching a judgment.

After a review of the ASC / FIN 35 guidance, it is proposed that the reference be deleted from SSAP No. 25. The general concepts for a review of all facts and circumstances, as well as example indicators, are already reflected directly in SSAP No. 25. Lastly, the reference to FIN 35 / ASC could be confusing as U.S. GAAP utilizes a different (higher) percentage of voting ownership than statutory accounting.

Existing Authoritative Literature:

- *Insurance Holding Company System Regulatory Act (Model #440)* – This model is an accreditation standard and is adopted by all states in a substantially similar manner. Only the territories of America Samoa, Guam and the Northern Mariana Islands do not have this model adopted.
- *SSAP No. 25—Affiliates and Other Related Parties* establishes statutory accounting principles and disclosure requirements for related party transactions. This statement shall be followed for all related party transactions, even if the transaction is also governed by other statutory accounting principles. As detailed in paragraph 1, related party transactions are subject to abuse as reporting entities may be induced to enter transactions that may not reflect economic realities or may not be fair and reasonable to the reporting entity or its policyholders. As such, related party transactions require specialized accounting rules and increased regulatory scrutiny. The guidance in paragraphs 4-8 include the definition of related parties and affiliates:

4. Related parties are defined as entities that have common interests as a result of ownership, control, affiliation or by contract. Related parties shall include but are not limited to the following:
 - a. Affiliates of the reporting entity, as defined in paragraph 5;
 - b. Trusts for the benefit of employees, such as pension and profit-sharing trusts and Employee Stock Ownership Plans that are managed by or under the trusteeship of management of the reporting entity, its parent or affiliates;
 - c. The principal owners, directors, officers of the reporting entity;
 - d. Any immediate family member of a principal owner, director or executive officer of the reporting entity, which means any child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, or individual related by blood or marriage whose close association is equivalent to a family relationship of such director, executive officer or nominee for director, or any person (other than a tenant or employee) sharing the household of such director, executive officer or nominee for director;
 - e. Companies and entities which share common control, such as principal owners, directors, or officers, including situations where principal owners, directors, or officers have a controlling stake in another reporting entity;
 - f. Any direct or indirect ownership greater than 10% of the reporting entity results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation;
 - g. The management of the reporting entity, its parent or affiliates (including directors);

- h. Members of the immediate families of principal owners and management of the reporting entity, its parent or affiliates and their management;
 - i. Parties with which the reporting entity may deal if either party directly or indirectly controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interest;
 - j. A party which can, directly or indirectly, significantly influence the management or operating policies of the reporting entity, which may include a provider who is contracting with the reporting entity. This is not intended to suggest that all provider contracts create related party relationships;
 - k. A party which has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests;
 - l. Attorney-in-fact of a reciprocal reporting entity or any affiliate of the attorney-in-fact; and
 - m. A U.S. manager of a U.S. Branch or any affiliate of the U.S. manager of a U.S. Branch.
5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.
6. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.
7. Control as defined in paragraph 6 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment based on the criteria in FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee. The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:
- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
 - b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.

- c. An entity where the insurer has given up participation rights¹ as a shareholder to the investee.
- d. Agreements where direct or indirect non-controlling ownership interest is less than 10% where the parties have structured the arrangement in this structure to avoid the 10% threshold in paragraph 4.f. and paragraph 8.

8. Any direct or indirect ownership interest of the reporting entity greater than 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation. The *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450) include a provision that allows for the disclaimer of affiliation and/or the disclaimer of control for members of an insurance holding company system. The disclaimer must be filed with the state insurance commissioner. Entities whose relationship is subject to a disclaimer of affiliation or a disclaimer of control are related parties and are subject to the related party disclosures within this statement. Such a disclaimer does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

- *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* establishes guidance for these investments. The guidance in this SSAP provides different guidance when there is a “more than minor” or “minor ownership interest.” Pursuant to existing guidance, reporting entities must also identify whether the investment is a related-party transaction.

9. Investments in these ventures, except for joint ventures, partnerships and limited liability companies with a minor ownership interest¹, shall be reported using an equity method as defined in *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, paragraphs 8.b.i. through 8.b.iv. (The equity method calculation may result with a negative valuation of the investment; therefore, the SSAP No. 97 equity method calculation shall occur regardless of whether the investment is supported by an audit and the reporting entity will nonadmit the investment.) A reporting entity whose shares of losses in a SSAP No. 48 entity exceeds its investment in the SSAP No. 48 entity shall disclose the information required by SSAP No. 97, paragraph 35.a.

Footnote: With the identification of whether the reporting entity has a minor ownership interest, reporting entities must also identify whether the investment is a related-party transaction. Pursuant to the concepts reflected in *SSAP No. 25—Affiliates and Other Related Parties*, consideration shall be given to the substance of the transaction and the parties whose action or performance materially impacts the insurance reporting entity holding the security. For example, if the underlying assets within a SSAP No. 48 entity represent assets issued by an affiliate, then the SSAP No. 48 entity shall be considered a related party (affiliate) investment, with the transaction subject to the accounting and reporting provisions of SSAP No. 25. As identified in SSAP No. 25, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

- *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities* establishes statutory accounting principles for investments in subsidiaries, controlled and affiliated entities. The guidance in paragraphs 3-6 include the definitions for parent, subsidiary, and affiliate. (The definition for an affiliate and control is identical

¹ The term “participating rights” refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee’s ordinary course of business and is distinguished from the more limited type of rights referred to as “protective rights”. Refer to the sections entitled: “Protective Rights” and “Substantive Participating Rights” in EITF 96-16, *Investor’s Accounting for an Investee When the Investor Owns a Majority of the Voting Stock but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term “participating rights” shall be used consistent with the discussion of substantive participating rights in this EITF.

to SSAP No. 25.) (As noted, the Annual Statement reporting lines for “Parent, Subsidiary and Affiliates” refers to the definition within SSAP No. 97. If an investment is held for an entity that does not meet the SSAP No. 97 definitions, or for which a disclaimer of control or affiliation has been received, then the investment would not be captured within the Parent, Subsidiary or Affiliate reporting line.)

3. Parent and subsidiary are defined as follows:
 - a. Parent—An entity that directly or indirectly owns and controls the reporting entity;
 - b. Subsidiary—An entity that is, directly or indirectly, owned and controlled by the reporting entity.
4. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments.
5. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by common management, or (d) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity².
6. Control as defined in paragraph 5 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13% and therefore each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment based on the criteria in *FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18*. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee. The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. An investment in an SCA entity may fall below the level of ownership described in paragraph 5, in which case, the reporting entity would discontinue the use of the equity method, as prescribed in paragraph 13.g. Additionally, through an increase in the level of ownership, a reporting entity may become qualified to use the equity method of accounting (paragraph 8.b.), in which case, the reporting entity shall add the cost of acquiring additional interest to the current basis of the previously held interest and shall apply the equity method prospectively, as of the date the investment becomes qualified for equity method accounting. Examples of situations where the presumption of control may be in doubt include the following:

² Investments in an exchange traded fund (ETF) or a mutual fund (as defined by the SEC) does not reflect ownership in an underlying entity, regardless of the ownership percentage the reporting entity (or the holding company group) has of the ETF or mutual fund unless ownership of the ETF actually results in “control” with the power to direct or cause the direction of management of an underlying company. ETFs and mutual funds are comprised of portfolios of securities subject to the regulatory requirements of the federal securities laws. ETFs and mutual funds held by a reporting entity shall be reported as common stock, unless the ETF qualifies for bond or preferred stock treatment per the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*. Reporting entities are not required to verify that SCAs (subject to SSAP No. 97) are represented in the portfolio of securities held in ETFs or mutual funds or to adjust the value of SCAs as a result of investments in ETFs or mutual funds.

- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
- b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
- c. An entity where the insurer has given up participating rights³ as a shareholder to the investee.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): In March 2021, the Statutory Accounting Principles (E) Working Group adopted revisions to SSAP No. 25 pursuant to agenda item 2019-34: Related Parties, Disclaimers of Affiliation and Variable Interest Entities. Additionally, a new reporting Schedule Y, Part 3 was adopted by the Blanks (E) Working Group in proposal 2020-37BWG, with an initial effective date of Dec. 31, 2021, to capture information on all entities with ownership greater than 10%, the ultimate controlling parties of those owners and other entities that the ultimate controlling party controls.

The adopted revisions to SSAP No. 25 from agenda item 2019-34 are summarized as follows:

- Clarify the identification of related parties and ensure that any related party identified under U.S. GAAP or SEC reporting requirements would be considered a related party under statutory accounting principles.
- Clarify that non-controlling ownership over 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation.
- Clarify the impact of a disclaimer of control or disclaimer of affiliate under SAP. As detailed, such disclaimers impact holding company group allocation and reporting as an SCA under SSAP No. 97, but do not eliminate the classification as a “related party” and the disclosure of material transactions as required under SSAP No. 25.
- Rejected several U.S. GAAP standards addressing variable interest entities.

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

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

Staff Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a nonsubstantive change, and expose revisions to SSAP No. 25 and SSAP No. 43R to clarify application of the existing affiliate definition as well as to incorporate new disclosure requirements for investments acquired through, or in, related parties, regardless of if they meet the affiliate definition. (Staff Note: Pursuant to the

³ The term “participating rights” refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee’s ordinary course of business and is distinguished from the more limited type of rights referred to as “protective rights”. Refer to the sections entitled: “Protective Rights” and “Substantive Participating Rights” in *EITF 96-16, Investor’s Accounting for an Investee When the Investor Has a Majority of the Voting Interest but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term “participating rights” shall be used consistent with the discussion of substantive participating rights in this EITF.

NAIC Policy Statement on Maintenance of Statutory Accounting Principles, new disclosures and modifications to existing disclosures are considered nonsubstantive changes.)

Proposed edits to SSAP No. 25: (New paragraph 9. Remaining paragraphs would be renumbered.)

This new paragraph 9 clarifies the application of the existing affiliate and control definitions to limited partnerships, trusts and other special purpose entities when control is held by an affiliated general partner, servicer or other arrangement. (The proposed deletion of FIN 35 is discussed earlier in the agenda item, but is noted as not necessary with the existing statutory accounting guidance.)

5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.

6. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

7. Control as defined in paragraph 6 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment ~~based on the criteria in FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee.~~ The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:

- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
- b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
- c. An entity where the insurer has given up participation rights⁴ as a shareholder to the investee.

⁴ The term "participating rights" refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee's ordinary course of business and is distinguished from the more limited type of rights referred to as "protective rights". Refer to the sections entitled: "Protective Rights" and "Substantive Participating Rights" in EITF 96-16, *Investor's Accounting for an Investee When the Investor Owns a Majority of the Voting Stock but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term "participating rights" shall be used consistent with the discussion of substantive participating rights in this EITF.

8. Any direct or indirect ownership interest of the reporting entity greater than 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation. The *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450) include a provision that allows for the disclaimer of affiliation and/or the disclaimer of control for members of an insurance holding company system. The disclaimer must be filed with the state insurance commissioner. Entities whose relationship is subject to a disclaimer of affiliation or a disclaimer of control are related parties and are subject to the related party disclosures within this statement. Such a disclaimer does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

9. For entities not controlled by voting interests, such as limited partnerships, trusts and other special purpose entities, control may be held by a general partner, servicer, or by other arrangements. The ability of the reporting entity or its affiliates to direct the management and policies of an entity through such arrangements shall constitute control as defined in paragraph 6. Additionally, a reporting entity or its affiliates may have indirect control of other entities through such arrangements. For example, if a limited partnership were to be controlled by an affiliated general partner, and that limited partnership held greater than 10% of the voting interests of another company, indirect control shall be presumed to exist. If direct or indirect control exists, whether through voting securities, contracts, common management or otherwise, the arrangement is considered affiliated under paragraph 5. Consistent with paragraph 8, a disclaimer of affiliation does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25

Proposed edits to SSAP No. 43R:

These revisions move the existing guidance in paragraph 4.a. to paragraph 6 and notes the requirement to identify related party investments in the investment schedules. (Note Footnote 5 is just moved to a new paragraph.)

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer’s obligation has been fully satisfied. The investor only has direct recourse to the issuer’s assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.

~~a. In determining whether a loan-backed structure is a related party investment, consideration shall be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security. For example, although a loan-backed security may be acquired from a non-related issuer, if the assets held in trust predominantly⁵ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment, and the transaction shall also be subject to the accounting and reporting provisions in SSAP No. 25—Affiliates and Other Related Parties.~~

⁵In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—Affiliates and Other Related Parties, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

5. Mortgage-referenced securities do not meet the definition of a loan-backed or structured security but are explicitly captured in scope of this statement. In order to qualify as a mortgage-referenced security, the security must be issued by a government sponsored enterprise⁶ or by a special purpose trust in a transaction sponsored by a government sponsored enterprise in the form of a “credit risk transfer” in which the issued security is tied to a referenced pool of mortgages and the payments received are linked to the credit and principal payment risk of the underlying mortgage loan borrowers captured in the referenced pool of mortgages. For these instruments, reporting entity holders may not receive a return of their full principal as principal repayment is contingent on repayment by the mortgage loan borrowers in the referenced pool of mortgages. Unless specifically noted, the provisions for loan-backed securities within this standard apply to mortgage-referenced securities.

6. Investments within the scope of this statement issued by a related party or acquired through a related party transaction or arrangement are also subject to the provisions, admittance assessments and disclosure requirements of SSAP No. 25. In determining whether a security is a related party investment, consideration should be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security if the SSAP No. 43R transaction is a related party arrangement⁷. Loan-backed and structured securities meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement and SSAP No. 25.

a. Although a loan-backed or structured security may be acquired from a non-related issuer, if the assets held in trust predominantly⁸ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment. In such situations where the underlying collateral assets are issued by related parties that do not qualify as affiliates, these securities shall be identified as related party investments in the investment schedules.

b. A loan-backed or structured security may involve a relationship with a related party but not be considered an affiliated investment. This may be because the relationship does not result in direct or indirect control of the issuer or because there is an approved disclaimer of control or affiliation. Regardless of whether investments involving a related party relationship are captured in the affiliated investment reporting lines, these securities shall be identified as related party investments in the investment schedules. Examples of related party relationships would include involvement of a related party in sponsoring or originating the loan-backed or structured security or any type of underlying servicing arrangement. For the avoidance of doubt, investments from any arrangement that results in direct or indirect control, including control through a servicer or other controlling arrangement, shall be reported as affiliated in accordance with SSAP No. 25—Affiliates and Other Related Parties.

⁶ Currently, only Fannie Mae and Freddie Mac are the government sponsored entities that either directly issue qualifying mortgage-referenced securities or sponsor transactions in which a special purpose trust issues qualifying mortgage-reference securities. However, this guidance would apply to mortgage-referenced securities issued by any other government sponsored entity that subsequently engages in the transfer of mortgage credit risk.

~~⁷ As discussed in paragraph 4.a. of this statement, a SSAP No. 43R security may still be considered a related party transaction even if the asset trustee or security issuer is a non-related party.~~

⁸ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—Affiliates and Other Related Parties, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

Proposed Annual Statement Reporting Changes: *(These will be captured in a blanks proposal.)*

These reflect a new electronic-only column for the investment schedules and the related instructions.

Column XX: Investments Involving Related Parties:

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control / affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.

Staff Review Completed by: Julie Gann, NAIC Staff – October 2021

Status:

On December 11, 2021, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed revisions to SSAP No. 25 and SSAP No. 43R, as illustrated above, to clarify application of the existing affiliate definition and incorporate disclosure requirements for all investments that involve related parties, regardless of if they meet the affiliate definition. In addition, draft annual statement reporting revisions were also exposed, in anticipation of incorporating those revisions into a Blanks (E) Working Group proposal.

On April 4, 2022, the Statutory Accounting Principles (E) Working Group exposed this agenda item, incorporating proposed revisions after considering comments from interested parties shown highlighted in gray below. The changes from the prior exposure only clarify previous components of the proposed revisions. Similar changes to the blanks proposal are also concurrently exposed by the Blanks (E) Working Group in their corresponding agenda item (2021-22BWG) to allow for a year-end 2022 effective date. This item was exposed with a shortened comment period ending May 6.

Proposed edits to SSAP No. 25: (New paragraph 9. Remaining paragraphs would be renumbered.)

This new paragraph 9 clarifies the application of the existing affiliate and control definitions to limited partnerships, trusts and other special purpose entities when control is held by an affiliated general partner, servicer or other arrangement. (The proposed deletion of FIN 35 is discussed earlier in the agenda item, but is noted as not necessary with the existing statutory accounting guidance.)

5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.

6. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

7. Control as defined in paragraph 6 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment ~~based on the criteria in FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee.~~ The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:

- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.
- b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
- c. An entity where the insurer has given up participation rights⁹ as a shareholder to the investee.

8. Any direct or indirect ownership interest of the reporting entity greater than 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation. The *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450) include a provision that allows for the disclaimer of affiliation and/or the disclaimer of control for

⁹ The term "participating rights" refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee's ordinary course of business and is distinguished from the more limited type of rights referred to as "protective rights". Refer to the sections entitled: "Protective Rights" and "Substantive Participating Rights" in EITF 96-16, *Investor's Accounting for an Investee When the Investor Owns a Majority of the Voting Stock but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term "participating rights" shall be used consistent with the discussion of substantive participating rights in this EITF.

members of an insurance holding company system. The disclaimer must be filed with the state insurance commissioner. Entities whose relationship is subject to a disclaimer of affiliation or a disclaimer of control are related parties and are subject to the related party disclosures within this statement. Such a disclaimer does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

9. For entities not controlled by voting interests, such as limited partnerships, trusts and other special purpose entities, control may be held by a general partner, servicer, or by other arrangements. The ability of the reporting entity or its affiliates to direct the management and policies of an entity through such arrangements shall constitute control as defined in paragraph 6. Additionally, a reporting entity or its affiliates may have indirect control of other entities through such arrangements. For example, if a limited partnership were to be controlled by an affiliated general partner, and that limited partnership held greater than 10% of the voting interests of another company¹⁰, indirect control shall be presumed to exist unless the presumption of control can be overcome as detailed in paragraph 7. If direct or indirect control exists, whether through voting securities, contracts, common management or otherwise, the arrangement is considered affiliated under paragraph 5. Consistent with paragraph 8, a disclaimer of affiliation does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

Proposed edits to SSAP No. 43R:

These revisions move the existing guidance in paragraph 4.a. to paragraph 6 and notes the requirement to identify related party investments in the investment schedules. (Note Footnote 5 is just moved to a new paragraph.)

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer’s obligation has been fully satisfied. The investor only has direct recourse to the issuer’s assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.

~~a.—In determining whether a loan-backed structure is a related party investment, consideration shall be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security. For example, although a loan-backed security may be acquired from a non-related issuer, if the assets held in trust predominantly¹⁴ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction~~

¹⁰ Consistent with SSAP No. 97, footnote 1, investments in an exchange traded fund (ETF) or a mutual fund (as defined by the SEC) does not reflect ownership in an underlying entity, regardless of the ownership percentage the reporting entity (or the holding company group) has of the ETF or mutual fund unless ownership of the ETF actually results in “control” with the power to direct or cause the direction of management of an underlying company. ETFs and mutual funds are comprised of portfolios of securities subject to the regulatory requirements of the federal securities laws.

¹⁴ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—*Affiliates and Other Related Parties*, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

~~shall be considered an affiliated investment, and the transaction shall also be subject to the accounting and reporting provisions in SSAP No. 25—Affiliates and Other Related Parties.~~

5. Mortgage-referenced securities do not meet the definition of a loan-backed or structured security but are explicitly captured in scope of this statement. In order to qualify as a mortgage-referenced security, the security must be issued by a government sponsored enterprise¹² or by a special purpose trust in a transaction sponsored by a government sponsored enterprise in the form of a “credit risk transfer” in which the issued security is tied to a referenced pool of mortgages and the payments received are linked to the credit and principal payment risk of the underlying mortgage loan borrowers captured in the referenced pool of mortgages. For these instruments, reporting entity holders may not receive a return of their full principal as principal repayment is contingent on repayment by the mortgage loan borrowers in the referenced pool of mortgages. Unless specifically noted, the provisions for loan-backed securities within this standard apply to mortgage-referenced securities.

6. Investments within the scope of this statement issued by a related party or acquired through a related party transaction or arrangement are also subject to the provisions, admittance assessments and disclosure requirements of SSAP No. 25. In determining whether a security is a related party investment, consideration should be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security ~~if the SSAP No. 43R transaction is a related party arrangement¹³~~. Loan-backed and structured securities meet the definition of assets as defined in SSAP No. 4—*Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement and SSAP No. 25.

- a. Although a loan-backed or structured security may be acquired from a non-related issuer, if the assets held in trust predominantly¹⁴ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment. In such situations where the underlying collateral assets are issued by related parties that do not qualify as affiliates, these securities shall be identified as related party investments in the investment schedules.
- b. A loan-backed or structured security may involve a relationship with a related party but not be considered an affiliated investment. This may be because the relationship does not result in direct or indirect control of the issuer or because there is an approved disclaimer of control or affiliation. Regardless of whether investments involving a related party relationship are captured in the affiliated investment reporting lines, these securities shall be identified as related party investments in the investment schedules. Examples of related party relationships would include involvement of a related party in sponsoring or originating the loan-backed or structured security or any type of underlying servicing arrangement. For the avoidance of doubt, investments from any arrangement that results in direct or indirect

¹² Currently, only Fannie Mae and Freddie Mac are the government sponsored entities that either directly issue qualifying mortgage-referenced securities or sponsor transactions in which a special purpose trust issues qualifying mortgage-reference securities. However, this guidance would apply to mortgage-referenced securities issued by any other government sponsored entity that subsequently engages in the transfer of mortgage credit risk.

~~¹³ As discussed in paragraph 4.a. of this statement, a SSAP No. 43R security may still be considered a related party transaction even if the asset trustee or security issuer is a non-related party.~~

¹⁴ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—*Affiliates and Other Related Parties*, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

control, including control through a servicer or other controlling arrangement, shall be reported as affiliated in accordance with SSAP No. 25—Affiliates and Other Related Parties.

Proposed Annual Statement Reporting Changes: (These in a blanks proposal 2021-22BWG.)

These reflect a new electronic-only column for the investment schedules and the related instructions.

Column XX: Investments Involving Related Parties:

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control / affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.

On May 24, 2022, the Statutory Accounting Principles (E) Working Group took the following actions:

1. Adopted, as final, the exposed revisions to SSAP No. 25 and SSAP No. 43R, as illustrated below, to clarify application of the existing affiliate definition and incorporate disclosure requirements for all investments that involve related parties, regardless of if they meet the affiliate definition. The revisions to SSAP No. 43R also included additional minor edits to paragraph 6.b., clarifying that the investments from any arrangements that results in direct or indirect control, which include but are not limited to control through a servicer, shall be reported as affiliated investments.
2. In addition, to the adopted revisions, the Statutory Accounting Principles (E) Working Group expressed support for the corresponding Blanks (E) Working Group proposal (2021-22BWG), which will incorporate 6 reporting codes to identify the role of the related party in any investment, on any reporting line, in

schedules: B – Mortgage Loans, D – Long-Term Bonds, DB – Derivatives, BA – Other Long-Term Invested Assets, DA – Short-Term Investments, E2 – Cash Equivalents, and DL – Securities Lending Collateral Assets, with an effective date of December 31, 2022.

3. Direct NAIC staff to draft the following for future Working Group discussion: 1) possible footnote revisions pursuant to interested parties' comments, and 2) examples for possible inclusion in SSAP No. 43R, to further clarify investments that should be classified as affiliated. and
4. Send a referral to the Valuation of Securities (E) Task Force, notifying of this adopted agenda item, and to assess whether corresponding edits are needed to the *Practices and Procedures Manual of the NAIC Investment Analysis Office* regarding CLO investments that may now be classified as affiliated.

Adopted revisions to SSAP No. 25: (New paragraph 9. Remaining paragraphs would be renumbered.)

This new paragraph 9 clarifies the application of the existing affiliate and control definitions to limited partnerships, trusts and other special purpose entities when control is held by an affiliated general partner, servicer or other arrangement. (The proposed deletion of FIN 35 is discussed earlier in the agenda item, but is noted as not necessary with the existing statutory accounting guidance.)

5. An affiliate is defined as an entity that is within the holding company system or a party that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the reporting entity. An affiliate includes a parent or subsidiary and may also include partnerships, joint ventures, and limited liability companies as defined in SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies. Those entities are accounted for under the guidance provided in SSAP No. 48, which requires an equity method for all such investments. An affiliate is any person that is directly or indirectly, owned or controlled by the same person or by the same group of persons, that, directly or indirectly, own or control the reporting entity.

6. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by contract for goods or nonmanagement services where the volume of activity results in a reliance relationship (d) by common management, or (e) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

7. Control as defined in paragraph 6 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13%, and therefore, each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment ~~based on the criteria in FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting securities of an investee.~~ The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:

- a. Any limited partner investment in a limited partnership, unless the limited partner is affiliated with the general partner.

- b. An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.
- c. An entity where the insurer has given up participation rights¹⁵ as a shareholder to the investee.

8. Any direct or indirect ownership interest of the reporting entity greater than 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation. The *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450) include a provision that allows for the disclaimer of affiliation and/or the disclaimer of control for members of an insurance holding company system. The disclaimer must be filed with the state insurance commissioner. Entities whose relationship is subject to a disclaimer of affiliation or a disclaimer of control are related parties and are subject to the related party disclosures within this statement. Such a disclaimer does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

9. For entities not controlled by voting interests, such as limited partnerships, trusts and other special purpose entities, control may be held by a general partner, servicer, or by other arrangements. The ability of the reporting entity or its affiliates to direct the management and policies of an entity through such arrangements shall constitute control as defined in paragraph 6. Additionally, a reporting entity or its affiliates may have indirect control of other entities through such arrangements. For example, if a limited partnership were to be controlled by an affiliated general partner, and that limited partnership held greater than 10% of the voting interests of another company¹⁶, indirect control shall be presumed to exist unless the presumption of control can be overcome as detailed in paragraph 7. If direct or indirect control exists, whether through voting securities, contracts, common management or otherwise, the arrangement is considered affiliated under paragraph 5. Consistent with paragraph 8, a disclaimer of affiliation does not eliminate a “related party” distinction or disclosure requirements for material transactions pursuant to SSAP No. 25.

Adopted revisions SSAP No. 43R:

These revisions move the existing guidance in paragraph 4.a. to paragraph 6 and notes the requirement to identify related party investments in the investment schedules. (Note Footnote 5 is just moved to a new paragraph.)

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring organization. The assets securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer’s obligation has been fully satisfied. The investor only has direct recourse to the issuer’s assets, but may have secondary recourse to third parties through insurance or guarantee for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying assets. Some sponsors do guarantee the performance of the underlying assets.

¹⁵ The term “participating rights” refers to the type of rights that allows an investor to effectively participate in significant decisions related to an investee’s ordinary course of business and is distinguished from the more limited type of rights referred to as “protective rights”. Refer to the sections entitled: “Protective Rights” and “Substantive Participating Rights” in EITF 96-16, *Investor’s Accounting for an Investee When the Investor Owns a Majority of the Voting Stock but the Minority Shareholder or Shareholders Have Certain Approval or Veto Rights*. The term “participating rights” shall be used consistent with the discussion of substantive participating rights in this EITF.

¹⁶ Consistent with SSAP No. 97, footnote 1, investments in an exchange traded fund (ETF) or a mutual fund (as defined by the SEC) does not reflect ownership in an underlying entity, regardless of the ownership percentage the reporting entity (or the holding company group) has of the ETF or mutual fund unless ownership of the ETF actually results in “control” with the power to direct or cause the direction of management of an underlying company. ETFs and mutual funds are comprised of portfolios of securities subject to the regulatory requirements of the federal securities laws.

~~a. In determining whether a loan-backed structure is a related party investment, consideration shall be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security. For example, although a loan-backed security may be acquired from a non-related issuer, if the assets held in trust predominantly¹⁷ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment, and the transaction shall also be subject to the accounting and reporting provisions in SSAP No. 25—Affiliates and Other Related Parties.~~

5. Mortgage-referenced securities do not meet the definition of a loan-backed or structured security but are explicitly captured in scope of this statement. In order to qualify as a mortgage-referenced security, the security must be issued by a government sponsored enterprise¹⁸ or by a special purpose trust in a transaction sponsored by a government sponsored enterprise in the form of a “credit risk transfer” in which the issued security is tied to a referenced pool of mortgages and the payments received are linked to the credit and principal payment risk of the underlying mortgage loan borrowers captured in the referenced pool of mortgages. For these instruments, reporting entity holders may not receive a return of their full principal as principal repayment is contingent on repayment by the mortgage loan borrowers in the referenced pool of mortgages. Unless specifically noted, the provisions for loan-backed securities within this standard apply to mortgage-referenced securities.

6. Investments within the scope of this statement issued by a related party or acquired through a related party transaction or arrangement are also subject to the provisions, admittance assessments and disclosure requirements of SSAP No. 25. In determining whether a security is a related party investment, consideration should be given to the substance of the transaction, and the parties whose action or performance materially impacts the insurance reporting entity holding the security if the SSAP No. 43R transaction is a related party arrangement¹⁹. Loan-backed and structured securities meet the definition of assets as defined in SSAP No. 4—Assets and Nonadmitted Assets and are admitted assets to the extent they conform to the requirements of this statement and SSAP No. 25.

a. Although a loan-backed or structured security may be acquired from a non-related issuer, if the assets held in trust predominantly²⁰ reflect assets issued by affiliates of the insurance reporting entity, and the insurance reporting entity only has direct recourse to the assets held in trust, the transaction shall be considered an affiliated investment. In such situations where the underlying collateral assets are issued by related parties that do not qualify as

~~¹⁷ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—Affiliates and Other Related Parties, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.~~

¹⁸ Currently, only Fannie Mae and Freddie Mac are the government sponsored entities that either directly issue qualifying mortgage-referenced securities or sponsor transactions in which a special purpose trust issues qualifying mortgage-reference securities. However, this guidance would apply to mortgage-referenced securities issued by any other government sponsored entity that subsequently engages in the transfer of mortgage credit risk.

~~¹⁹ As discussed in paragraph 4.a. of this statement, a SSAP No. 43R security may still be considered a related party transaction even if the asset trustee or security issuer is a non-related party.~~

²⁰ In applying this guidance, a reporting entity is not required to complete a detailed review of the assets held in trust to determine the extent, if any, the assets were issued by related parties. Rather, this guidance is a principle concept intended to prevent situations in which related party transactions (particularly those involving affiliates) is knowingly captured in a SSAP No. 43R structure and not identified as a related party transaction (or not reported as an affiliated investment on the investment schedule) because of the involvement of a non-related trustee or SSAP No. 43R security issuer. As identified in SSAP No. 25—Affiliates and Other Related Parties, it is erroneous to conclude that the inclusion of a non-related intermediary, or the presence of non-related assets in a structure predominantly comprised of related party investments, eliminates the requirement to identify and assess the investment transaction as a related party arrangement.

affiliates, these securities shall be identified as related party investments in the investment schedules.

- b. A loan-backed or structured security may involve a relationship with a related party but not be considered an affiliated investment. This may be because the relationship does not result in direct or indirect control of the issuer or because there is an approved disclaimer of control or affiliation. Regardless of whether investments involving a related party relationship are captured in the affiliated investment reporting lines, these securities shall be identified as related party investments in the investment schedules. Examples of related party relationships would include involvement of a related party in sponsoring or originating the loan-backed or structured security or any type of underlying servicing arrangement. For the avoidance of doubt, investments from any arrangement that results in direct or indirect control, which include but are not limited to control through a servicer or other controlling arrangement, shall be reported as affiliated in accordance with SSAP No. 25—Affiliates and Other Related Parties.

Supported Annual Statement Reporting Changes: (Reflected in 2021-22BWG.)

These reflect a new electronic-only column for the investment schedules and the related instructions.

Column XX: Investments Involving Related Parties:

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control / affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

**Statutory Accounting Principles (E) Working Group
2022 Summer National Meeting
Comment Letters Received**

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June 3, 2022

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

RE: Items Exposed for Comment by the Statutory Accounting Principles Working Group on
April 4, 2022, with Comments due June 3

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the exposure drafts released for comment by the NAIC Statutory Accounting Principles (E) Working Group (the Working Group).

We offer the following comments:

Ref #2021-20: Effective Derivatives – ASU 2017-12

The Working Group exposed two documents for public comment. The first document (labeled 21-20 SSAP No. 86 – Exhibit A 3-2-22), proposes revisions in the form of a new Exhibit A (which will replace both Exhibit A and Exhibit B of SSAP No. 86 that adopts with modification U.S. GAAP guidance in determining hedge effectiveness. The second document (labeled 21-20 SSAP No. 86 – Excluded Components - 3-17-22), proposes measurement methods for excluded components in hedging Ref # 2021-20. The Working Group also directed staff to continue to work with industry representatives on other elements within ASU 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities.

Interested parties support the changes and we look forward to working with the staff on the further updates.

Ref #2022-01: Conceptual Framework – Updates

The Working Group moved this agenda item to the active listing, categorized as a SAP

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clarification, and exposed revisions to the Preamble, SSAP No. 4—*Assets and Nonadmitted Assets* and SSAP No. 5R—*Liabilities, Contingencies and Impairment of Assets* to incorporate 1) updates from FASB Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 7, Presentation which identifies factors to consider when deciding how items should be displayed on the financial statements, and 2) Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements, which updates the definitions of an asset and a liability. The Working Group also exposed two draft issue papers for historical documentation of these SAP clarifications.

Interested parties request an additional 30 days to review this item.

Ref #2022-02: SSAP No. 48 – Alternative Valuation of Minority Ownership Interests

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed two possible options for the U.S. GAAP audit exception in SSAP No. 48—*Joint Ventures, Partnerships and Limited Liability Companies*. The options are described below:

Option #1 proposes to delete the audited U.S. tax basis equity as a permissible valuation method as this method does not appear to be utilized by insurers.

Option #2 proposes to retain the audited U.S. tax basis equity valuation method but clarifies that the audit must reside at the investee level.

Interested parties recommend that Option #2 be adopted as there are insurers who use this approach for investments in some partnerships.

Ref #2022-04: ASU 2021-10, Government Assistance

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 24—*Discontinued Operations and Unusual or Infrequent Items* which incorporate certain disclosures from ASU 2021-10 to supplement existing disclosures regarding unusual or infrequent items.

Interested parties have no comment on this item.

Ref #2022-05: ASU 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities

The Working Group moved this item to the active listing, categorized as a SAP clarification, and exposed revisions to reject ASU 2021-05 in SSAP No. 22R—*Leases*.

Interested parties have no comment on this item.

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Ref :2022-06: ASU 2021-07, Compensation – Stock Compensation

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 104R—*Share-Based Payments* to incorporate a practical expedient for the current price input, a required component for option-pricing models which are utilized in the determination of fair value for share-based payments.

Interested parties have no comment on this item.

Ref #2022-07: ASU 2021-08, Business Combinations

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 47—*Uninsured Plans* and SSAP No. 68—*Business Combinations and Goodwill* to reject ASU 2021-08 for statutory accounting. In addition, the proposed revisions to SSAP No. 68 include notations that the rejection of ASU 2021-08 does not impact the determination of U.S. GAAP book value in an acquired entity.

Interested parties have no comment on this item.

* * *

Thank you for considering interested parties' comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell

Rose Albrizio

cc: NAIC staff
Interested parties

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July 19, 2022

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

RE: Ref# 2022-01: Conceptual Framework – Updates

Dear Mr. Bruggeman:

Interested parties appreciate the extension of the comment deadline and the opportunity to comment on Ref# 2022-01 that was released for comment by the NAIC Statutory Accounting Principles (E) Working Group (the Working Group) during its meeting on April 4 in Kansas City.

We offer the following comments:

Ref #2022-01: Conceptual Framework – Updates

Liability

Interested parties are concerned with the change for the liability definition as the FASB notes it will change the definition of a liability, expanding the population of liabilities and it will need to be reviewed on a standard basis. On expanding the population of liabilities, paragraph 12 states that the FASB recognized “the revised definition potentially expands the population of liabilities to include certain obligations to issue or potentially issue an entity’s own shares rather than settle an obligation exclusively with assets. In essence, clarifying that instruments with characteristics of both liabilities and equity may in fact be classified as liabilities in certain situations.”

We noted that there is not an analysis by the SAPWG of the impact on the various SSAP’s of incorporating the guidance. The FASB states that *needs* to be done “Thus, the FASB concluded that the specific facts and circumstances at the standards level (or in the case of statutory accounting, at the SSAP level) must be utilized to determine whether the entity has created a constructive obligation and must recognize a liability.” Please see the shaded text from the FASB

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excerpts below.

From the Liability Paper:

9. The updated liability definition from Concept Statement No. 8 no longer includes the term *probable* or the phrase *in the future and as a result of past transactions or events*. The FASB concluded that the term *probable* has historically been misunderstood as implying that a future obligation must meet a probability to a certain threshold before the definition of a liability was met. Thus, if the probability of a future transfer of an asset (or the requirement to provide a service) was low, a liability would likely not be recognized. In removing the term *probable* (and replacing it with “present obligation”), FASB concluded that in almost all situations, the presence of an obligation will be apparent. It stated that most present obligations are legally enforceable, including obligations arising from binding contracts, agreements, statutes, or other legal or contractual means. Chapter 4 also discusses the prevalence of certain business risks and how to assess if they result in the recognition of a liability. The FASB concluded that while certain businesses have a risk that a future event will cause them to transfer an economic benefit (an asset), the risk itself does not represent a present obligation because exposure to a potential negative consequence does not constitute a present obligation.

10. However, the FASB also stated that situations lacking clear legal or contractual evidence of a present obligation may pose particular challenges that may make it difficult to discern whether a present obligation exists. In these settings, the FASB stated that constructive obligations or other noncontractual obligations are created by circumstance rather than by explicit agreement. In the absence of an explicit agreement, sufficient information to distinguish a present obligation is likely only available at the specific standards level. Thus, the FASB concluded that the specific facts and circumstances at the standards level (or in the case of statutory accounting, at the SSAP level) must be utilized to determine whether the entity has created a constructive obligation and must recognize a liability.

12. When reviewing the substance of the revisions, the FASB concluded that the updated definition resulted in a clearer and more precise definition. Furthermore, while it did not fundamentally change the historical concept of a liability, the revised definition potentially expands the population of liabilities to include certain obligations to issue or potentially issue an entity’s own shares rather than settle an obligation exclusively with assets. In essence, clarifying that instruments with characteristics of both liabilities and equity may in fact be classified as liabilities in certain situations.

13. In general, the FASB did not anticipate that the liability definition revisions would result in any material changes in instrument reclassification (e.g., items now being classified as a liability when previously they were not considered liabilities). Again, FASB Concept Statements are not authoritative and thus the guidance in any specific standard will still be utilized for instrument measurement and classification. For statutory accounting purposes, the updated definition should be viewed similarly, that is it does not change fundamental concepts, change current practices, or introduce a new, original or a

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modified accounting principle. The revisions to the definition of a liability clarify the definitional language and do not modify the original intent of SSAP No. 5R and thus the changes are deemed to be a statutory accounting principle clarification.

Consistent with the FASB approach that an evaluation needs to be done at the standards level, interested parties recommend that for the case of statutory accounting the Working Group complete an SSAP-by-SSAP analysis to identify potential effects prior to amending the definition of liability to avoid unintended consequences.

* * *

Thank you for considering interested parties' comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell

Rose Albrizio

cc: NAIC staff
Interested parties

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

Issue: ASU 2021-10, Government Assistance

Check (applicable entity):

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

Description of Issue: In November 2021, the Financial Accounting Standards Board (FASB) issued *Accounting Standards Update (ASU) 2021-10, Government Assistance, Disclosures by Business Entities about Government Assistance* to increase financial statement transparency regarding certain types of government assistance by increasing the disclosure of such information in the notes to the financial statements.

The new disclosure aims to increase transparency by enhancing the identification of 1) the types of assistance received, 2) an entity’s accounting for said assistance, and 3) the effects of the assistance in an entity’s financial statements. The disclosures will contain information about the nature of the transactions, which includes a general description of the transaction and identification of the form (cash or other) in which the assistance was received. In terms of the effects on the financial statement, disclosure will include identification of the specific line items in both the balance sheet and income statement and a description of the extent to which they have been impacted by any government assistance. In addition, an entity will be required to disclose information about any significant terms of the transaction with a government entity, with items including durations of such agreements and any provisions for potential recapture.

ASU 2021-10 defines “government assistance,” in a comprehensive manner to capture most types of assistance and includes examples of tax credits, cash grants or grants of other assets. The scope of this ASU is narrow as it does not apply to not-for-profit entities or benefit plans. Further narrowing in scope, the new disclosure requirements in this ASU only apply to transactions that are accounted for by analogizing either a grant or contribution model. As such, these enhanced disclosures do not apply to government transactions that are accounted for in accordance with other codification topics, such as classifying the transactions as debt in ASC 470, income taxes in ASC 740, or as revenue from contracts with customers in ASC 606.

With the specificity of these additional disclosures only applying in certain circumstances (only applicable in cases where the government assistance is not accounted for in accordance with other accounting standards – i.e., revenue in the normal course of business or debt), NAIC staff believe the occurrence of such items requiring disclosure per ASU 2021-10 will likely be relatively infrequent.

NAIC staff also note that consistent with ASU 2021-10, had the assistance been accounted for in a differing manner (e.g., as debt per *SSAP No. 15—Debt and Holding Company Obligations*), that the required identification and disclosures for the applicable SSAP would apply. As a final note, it is anticipated that for most entities who qualified for and received Paycheck Protection Program (PPP) loans, as authorized by the CARES Act, that the additional disclosures in this ASU still would not apply. It is believed that most insurance reporting entities accounted for PPP transactions as liabilities per SSAP No. 15. [For reference, in accordance with SSAP No. 15, debt may only be derecognized if the reporting entity was legally released from the liability (SSAP No. 15, paragraph 11), at which time the extinguishment of debt was reported as a capital gain (SSAP No. 15, paragraph 25).]

Existing Authoritative Literature:

NAIC Staff Note – as mentioned above, NAIC staff believe that as these additional disclosures are not applicable for transactions that are in scope of other accounting standards, and only apply when the transaction is accounted for by analogy using the grant or contribution model, the prevalence of such items will be infrequent. As such, the most appropriate location for these items is reflected in SSAP No. 24.

SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items**Unusual or Infrequently Occurring Items**

9. A material event or transaction that an entity considers to be of an unusual nature or of a type that indicates infrequency of occurrence or both shall be reported consistently with the reporting entity's reporting of continuing operations (i.e., no separate line item presentation in the balance sheet or statement of operations). Such items shall not be charged directly to surplus unless specifically addressed elsewhere within the *Accounting Practices and Procedures Manual*.

a. "Unusual Nature" shall be defined as the underlying event or transaction that should possess a high degree of abnormality and be of a type clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the entity, taking into account the environment in which the entity operates.

b. "Infrequency of Occurrence" is defined as the underlying event or transaction that would not reasonably be expected to recur in the foreseeable future, taking into account the environment in which the entity operates.

Disclosures [Unusual/Infrequent Items]

16. The nature and financial effects of each unusual or infrequent event or transaction shall be disclosed in the notes to the financial statements. Gains or losses of a similar nature that are not individually material shall be aggregated. This disclosure shall include the line items which have been affected by the event or transaction considered to be unusual and/or infrequent.

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

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

Convergence with International Financial Reporting Standards (IFRS): NA

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*, incorporating certain disclosures from ASU 2021-10. The proposed additions will supplement existing disclosures to require that if the unusual or infrequent item is as the result of government assistance, the transaction will require identification as well as a description of the terms and provisions of the assistance received.

NAIC staff recommend incorporating the new disclosures in ASU 2020-10, modified only to require the supplemental disclosures for all entity types (as SAP disclosures do not differentiate between entity type – i.e., not-for-profit vs. other). As a final note, existing disclosures for unusual/infrequent items (captured in financial

statement note #21) already contains the requirement to identify the specific line items which have been affected by the events or transactions considered to be unusual and/or infrequent - thus that specific portion of ASU 2021-10 is not included in the proposed additions below.

Proposed Revisions to SSAP No. 24

Disclosures [Unusual/Infrequent Items]

16. The nature, including a general description of the transactions, and financial effects of each unusual or infrequent event or transaction shall be disclosed in the notes to the financial statements. Gains or losses of a similar nature that are not individually material shall be aggregated. This disclosure shall include the line items which have been affected by the event or transaction considered to be unusual and/or infrequent. If the unusual or infrequent item is as the result of government assistance (as defined in ASU 2021-10, *Government Assistance, Disclosures by Business Entities about Government Assistance*) disclosure shall additionally include the form in which the assistance has been received (for example, cash or other assets), and information regarding significant terms and conditions of the transaction, with items including, to the extent applicable, the duration or period of the agreement, and commitments made by the reporting entity, provisions for recapture, or other contingencies.

Relevant Literature

24. This statement adopts ASU 2021-10, *Government Assistance: Disclosure by Business Entities about Government Assistance*, with modification to require disclosure by all entity types.

Staff Review Completed by: Jim Pinegar - NAIC Staff, January 2022

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*, incorporating certain disclosures from ASU 2021-10. The proposed additions will supplement existing disclosures to require that if the unusual or infrequent item is as the result of government assistance, the transaction will require identification as well as a description of the terms and provisions of the assistance received.

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*, as illustrated above, which incorporate certain disclosures from ASU 2021-10 to supplement existing disclosures regarding unusual or infrequent items.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions, as illustrated above, to *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items*. The revisions incorporate certain disclosures, adopted with modification from ASU 2021-10, to supplement existing disclosures regarding unusual or infrequent items.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-D_22-04_ASU 2021-10.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-D_22-04_ASU%2021-10.docx)

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

Issue: ASU 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities

Check (applicable entity):

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

Description of Issue: In November 2021, the Financial Accounting Standards Board (FASB) issued *Accounting Standard Update (ASU) 2021-09, Leases (Topic 842), Discount Rate for Lessees That Are Not Public Business Entities*. This ASU was issued as part of FASB’s post-implementation review to address issues that have been found during the implementation of the new lease guidance from *ASU 2016-02, Leases (Topic 842)*. Topic 842 generally requires the capitalization of leases, which is calculated by discounting the lease payments utilizing the implicit rate in the lease, or if not determinable, the lessee’s incremental borrowing rate. However, the standard also provides nonpublic entities with a practical expedient, permitting the use of a risk-free rate (e.g., U.S. Treasury Rate) for the capitalization calculation. As the risk-free rate is generally lower than anyone’s incremental borrowing rate, stakeholders expressed concerns that the calculation of present value (utilizing the practical expedient) often results in recognition of lease liabilities and right-of-use assets that are greater than those recognized by their public counterparts. To alleviate this concern, the guidance in ASU 2021-09 broadens the practical expedient so nonpublic lessees may make the risk-free rate election by class of underlying asset, rather than at the entity-wide level – thus the entity more able to apply the practical expedient when beneficial. An entity that makes the risk-free rate election is required to disclose which asset classes it has elected to apply a risk-free rate. The guidance provided in this ASU is specific to the financing lease treatment under U.S. GAAP, and since *SSAP No. 22R—Leases* requires nearly all leases to be treated as operating leases for statutory accounting, adoption of this guidance would be unnecessary.

Existing Authoritative Literature:

The ASUs related to Topic 842 have previously been rejected in *SSAP No. 22R—Leases*.

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

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

Convergence with International Financial Reporting Standards (IFRS): ASC Topic 842 was the result of a joint project between FASB and the International Accounting Standards Board.

Recommendation: NAIC staff recommends the Working Group move this agenda item to the active listing, categorized as a SAP clarification and expose revisions to reject ASU 2021-05 in *SSAP No. 22R—Leases*. Under statutory accounting almost all leases are classified as operating leases, thus this U.S. GAAP guidance is not necessary. Proposed Revision to SSAP No. 22R (Relevant Literature section – paragraph 52):

- j. [ASU 2021-09, Leases \(Topic 842\), Discount Rate for Lessees That Are Not Public Business Entities \(Rejected in its entirety.\)](#)

Staff Review Completed by: Jake Stultz, NAIC Staff – January 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this item to the active listing, categorized as a SAP clarification, and exposed revisions, as illustrated above, to reject ASU 2021-09 in *SSAP No. 22R—Leases*.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions, as illustrated above, to reject ASU 2021-09 in *SSAP No. 22R—Leases*.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-E_22-05_ASU 2021-09.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-E_22-05_ASU%2021-09.docx)

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

Issue: ASU 2021-07, Compensation – Stock Compensation

Check (applicable entity):

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

Description of Issue: In October 2021, the Financial Accounting Standards Board (FASB) issued *Accounting Standards Update (ASU) 2021-07, Compensation – Stock Compensation (Topic 718), Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards* to offer nonpublic companies a practical expedient to one of the several inputs necessary for option-priced modeling. When equity share options or similar instruments are granted in a share-based payment transaction, the fair value (which is used to determine expense recognition at inception and during any subsequent award modification) is estimated using an option-pricing model valuation technique.

In terms of option-priced models, the Black-Scholes-Merton model is considered to be one of the most widely used as it has less complexity than other pricing models. However, despite its reduced complexity, it (and various other pricing models) requires numerous inputs which typically include exercise price, expected dividend rate, risk-free interest rate, expected term, expected share price volatility, and current share price. For public entities, the determination of these values is generally readily available, however for nonpublic entities, many of these inputs are not easily determinable.

Of these inputs, private company stakeholders have indicated that three of these inputs (exercise price, expected dividend rate, and risk-free interest rate) are easy to obtain. However, stakeholders indicated that the remaining three inputs (expected share price volatility, expected term, and current share price) can be costly and difficult to estimate. Topic 718 already provides nonpublic entities with practical expedients for expected share price volatility and expected term. However, prior to ASU 2021-07, a practical expedient was not available for estimating the current price input. The current price input is often considered the most costly and complex input to determine and audit for nonpublic entities, primarily because an active market for those entities’ shares does not exist and therefore a readily determinable market price is not available.

ASU 2021-07 provides a practical expedient for nonpublic entities to determine the current price by utilizing a “reasonable application of a reasonable valuation method.” The practical expedient describes several characteristics of a reasonable valuation method and will include 1) consideration of the value of all tangible and intangible assets, 2) the present value of future anticipated cash flows, 3) the market value of similar entities, 4) recent arm’s-length transactions involving the sale or transfer of stock/equity interests, and 5) other relevant factors that affect the valuation or have a material economic effect on the entity. The calculation of share price must be timely in it cannot be more than 12 months stale, and all available information after the date of calculation that may materially affect the valuation of the entity must be considered for any value updates.

One final note - this ASU provides a practical expedient (not an accounting alternative) to one of the inputs used for nonpublic companies in their option-pricing modeling. Also, as mentioned previously, this is the third such practical expedient permitted in Topic 718, of which the previous two (expected share price volatility and expected

term) have previously been adopted and are currently permissible for use in *SSAP No. 104R—Share-Based Payments* (further detailed in the “Existing Authoritative Literature” section).

Existing Authoritative Literature: ASU 2021-07 offers a third practical expedient for the inputs utilized in option-pricing models. As previously mentioned, the prior two practical expedients are permissible in SSAP No. 104R and are included herein for reference:

Practical Expedient Regarding Volatility: Topic 718 (paragraph 718-10-30-20) recognizes nonpublic entities may not be able to reasonably estimate the fair value as it is not practicable to estimate share volatility, a component of the fair value calculation. Adoption of this first practical expedient to address this circumstance occurred through the Working Group's adoption of *FAS 123R, Share-Based Payment*. The applicable paragraph in SSAP No. 104R has been included with relevant guidance bolded.

52. **A reporting entity may not be able to reasonably estimate the fair value of its equity share options, nonemployee awards and similar instruments because it is not practicable for the reporting entity to estimate the expected volatility of its share price. In that situation, the entity shall account for its equity share options, nonemployee awards and similar instruments based on a value calculated using the historical volatility of an appropriate industry sector index instead of the expected volatility of the entity's share price (the calculated value).** A reporting entity's use of calculated value shall be consistent between employee share-based payment transactions and nonemployee share-based payment transactions. Throughout the remainder of this statement, provisions that apply to accounting for share options, nonemployee awards and similar instruments at fair value also apply to calculated value.

Practical Expedient Regarding Expected Term: Topic 718 (paragraph 718-10-30-20A) recognizes nonpublic entities may not be able to reasonably account for the expected term of a share-based payment. Adoption of a second practical expedient to address this circumstance occurred through the Working Group's adoption, with modification, of *ASU 2016-09, Improvements to Employee Share-Based Payment Accounting*. The applicable paragraphs from SSAP No. 104R have been included below:

53. For an award that meets the conditions in paragraph 54, a reporting entity may make an entity-wide accounting policy election to estimate the expected term using the following practical expedient:

- a. If vesting is only dependent upon a service condition, a reporting entity shall estimate the expected term as the midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term of the award.
- b. If vesting is dependent upon satisfying a performance condition, an entity first would determine whether the performance condition is probable of being achieved.
 - i. If the reporting entity concludes that the performance condition is probable of being achieved, the entity shall estimate the expected term as the midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term.
 - ii. If the reporting entity concludes that the performance condition is not probable of being achieved, the reporting entity shall estimate the expected term as either:
 - (a) The contractual term if the service period is implied (that is, the requisite service period or the nonemployee's vesting period is not explicitly stated but inferred based on the achievement of the performance condition at some undetermined point in the future).

- (b) The midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term if the requisite service period is stated explicitly.

54. A reporting entity that elects to apply the practical expedient in paragraph 53 shall apply the practical expedient to a share option or similar award that has all of the following characteristics:

- a. The share option or similar award is granted at the money.
- b. The grantee has only a limited time to exercise the award (typically 30-90 days) if the grantee no longer provides goods or terminates service after vesting.
- c. The grantee can only exercise the award. The grantee cannot sell or hedge the award.
- d. The award does not include a market condition.

A reporting entity that elects to apply the practical expedient in paragraph 53 may always elect to use the contractual term as the expected term when estimating the fair value of a nonemployee award as described in paragraph 42. However, a reporting entity must apply the practical expedient in paragraph 53 for all nonemployee awards that have all the characteristics listed in this paragraph if that reporting entity does not elect to use the contractual term as the expected term and that reporting entity elects the accounting policy election to apply the practical expedient in paragraph 53.

ASU 2021-07 also supplements existing disclosure requiring that if this new practical expedient is utilized, its use shall be disclosed. NAIC staff have determined that additional disclosures in SSAP No. 104R are likely not necessary as existing SAP disclosures reference the disclosures in FASB Codification 718-10-50-2 as required – which is the location for FASB's new disclosure regarding use of this practical expedient.

Disclosures

113. An entity with one or more share-based payment arrangements shall disclose information that enables users of the financial statements to understand all of the following:

- a. The nature and terms of such arrangements that existed during the period and the potential effects of those arrangements on shareholders;
- b. The effect of compensation costs arising from share-based payment arrangements on the income statement;
- c. The method of estimating the fair value of the goods or services received, or the fair value of the equity instruments granted (or offered to grant), during the period; and
- d. The cash flow effects resulting from share-based payment arrangements.

114. The disclosures in paragraph 113 are for annual audited statutory financial statements only. **This statement adopts FASB Codification 718-10-50-2 for the minimum disclosure information needed to achieve the objective in paragraph 113 of this statement, noting that a reporting entity may need to disclose additional information to achieve the objectives.**

As final reference, SSAP No. 104R has predominantly adopted, with modification from U.S. GAAP guidance regarding share-based payment guidance, as detailed below.

126. This statement adopts with modification the U.S. GAAP guidance for share-based payment transactions reflected in FASB *Accounting Standards Codification (ASC) Topic 718, Compensation – Stock*

Compensation, as modified by the ASUs listed in paragraphs 126.a through 126.e, excluding the guidance in *ASC Subtopic 718-40, Employee Stock Ownership Plans (ESOPs)*. Statutory accounting guidance for ESOPs is addressed in *SSAP No. 12—Employee Stock Ownership Plans*. This adoption with modification includes the related implementation guidance reflected within the FASB Codification Topic 718 not reflected within this standard. The U.S. GAAP guidance adopted with modification reflects the adoption with modification of the following ASUs:

- a. *ASU 2018-07, Improvements to Nonemployee Share-Based Payment Accounting*. The revisions from ASU 2018-07 expand the scope of ASC 718 to include share-based payment transactions for acquiring goods and services from nonemployees. With ASU 2018-17, *ASC 505-50, Equity – Equity Payments to Nonemployees* was superseded.
- b. *ASU 2017-09, Scope of Modification Accounting*
- c. *ASU 2016-09, Improvements to Employee Share-Based Payment Accounting*
- d. *ASU 2014-12, Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period*
- e. *ASU 2010-13, Effect of Denominating the Exercise Price of a Share-Based Payment Award in the Current of the Market in Which the Underlying Equity Security Trades*

127. The statutory accounting guidance for share-based payments is intended to be consistent with U.S. GAAP. Adopted modifications to U.S. GAAP guidance are as follows:

- a. GAAP references to “public and nonpublic” guidance have been eliminated. However, entities that report share-payment transactions under U.S. GAAP as “public” entities shall not report different amounts between U.S. GAAP and SAP. (For example, if a reporting entity reports “fair value” under U.S. GAAP, that entity shall not utilize a “calculated or intrinsic” amount under statutory accounting.
- b. Prepaid assets are nonadmitted.
- c. GAAP references are revised to reference applicable statutory accounting guidance.
- d. GAAP reporting line items (either explicitly provided in the statement or adopted by reference – such as the GAAP implementation guidance) shall be replaced to reference applicable statutory annual statement line items. (For example, GAAP references to “other comprehensive income” shall be reflected within “Surplus - Unassigned Funds”).
- e. GAAP guidance to calculate earnings per share is not applicable to statutory accounting and has not been included within the statement.
- f. GAAP effective date and transition, and transition disclosures have not been incorporated. Reporting entities shall follow the effective date and transition elements provided within this statement.
- g. Inclusion of guidance specific to statutory for consolidated/holding company plans.

128. The adoption with modification of FASB Codification Topic 718 detailed in paragraph 126 of this statement reflects adoption with modification of the following pre-codification GAAP standards:

- a. *FAS 123R, Share-Based Payment (FAS 123R)*;

- b. *FAS 150, Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity* (FAS 150) – (Adopted only to the extent referenced in FAS 123R for classifying instruments as equity or liability for application in this statement. Adopted guidance is reflected in Exhibit A);
- c. *FASB Staff Position FAS 123(R)-1: Classification and Measurement of Freestanding Financial Instruments Originally issued in Exchange for Employee Services under FASB Statement No. 123(R)* (FAS 123R-1);
- d. *FASB Staff Position (FSP) FAS 123(R)-2: Practical Accommodation to the Application of Grant Date as Defined in FASB Statement No. 123(R)* (FSP FAS 123R-2);
- e. *FASB Staff Position (FSP) FAS123(R)-4: Classification of Options and Similar Instruments Issued as Employee Compensation That Allow for Cash Settlement upon the Occurrence of a Contingent Event* (FSP FAS 123R-4);
- f. *FASB Staff Position (FSP) FAS 123(R)-5: Amendment of FASB Staff Position FAS 123R-1* (FSP FAS 123R-5);
- g. *FASB Staff Position (FSP) FAS 123(R)-6: Technical Corrections of FASB Statement No. 123(R)* (FSP FAS 123R-6);
- h. *FASB Emerging Issues Task Force 97-14: Accounting for Deferred Compensation Arrangements Where Amounts Earned Are Held in a Rabbi Trust and Invested* (EITF 97-14);
- i. *FASB Emerging Issues Task Force 00-16: Recognition and Measurement of Employer Payroll Taxes on Employee Stock-Based Compensation* (EITF 00-16);
- j. *FASB Technical Bulletin 97-01, Accounting under Statement 123 for Certain Employee Stock Purchase Plans with a Look-Back Option* (TB 97-01)

129. The adoption with modification of FASB Codification Topic 718 in this statement reflects rejection of the following pre-codification GAAP standards:

- a. *FASB Staff Position (FSP) FAS 123(R)-3: Transition Election Related to Accounting for the Tax Effects of Share-Based Payment Awards* (FSP FAS 123R-3); and
- b. *FASB Staff Position (FSP) EITF 03-6-1; Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* (FSP EITF 03-6-1).

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

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

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

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 104R—Share-Based Payments* to incorporate the practical expedient for the current price input, a required component for the option-pricing models – models in which are utilized in the determination of fair value for share-based payments. Integration of this third practical expedient is consistent with previous decisions by the Working Group to adopt the prior two practical expedients

regarding option-pricing modeling input permitted by FASB. The language proposed by NAIC staff directs that the practical expedient is only available when a reporting entity is not able to reasonable estimate the current fair value. While this language is technically broader than what was adopted by FASB (as ASU 2021-07 directly references non-public companies), the proposed language is consistent with prior Working Group adoptions and by default, should not be utilized by public entities – as they would be able to reasonable estimate fair value, which is likely the publicly traded share price.

Proposed Revisions to SSAP No. 104R

52. A reporting entity may not be able to reasonably estimate the fair value of its equity share options, nonemployee awards and similar instruments because it is not practicable for the reporting entity to estimate the expected volatility of its share price. In that situation, the entity shall account for its equity share options, nonemployee awards and similar instruments based on a value calculated using the historical volatility of an appropriate industry sector index instead of the expected volatility of the entity's share price (the calculated value). A reporting entity's use of calculated value shall be consistent between employee share-based payment transactions and nonemployee share-based payment transactions. Throughout the remainder of this statement, provisions that apply to accounting for share options, nonemployee awards and similar instruments at fair value also apply to calculated value.

53. For an award that meets the conditions in paragraph 54, a reporting entity may make an entity-wide accounting policy election to estimate the expected term using the following practical expedient:

- a. If vesting is only dependent upon a service condition, a reporting entity shall estimate the expected term as the midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term of the award.
- b. If vesting is dependent upon satisfying a performance condition, an entity first would determine whether the performance condition is probable of being achieved.
 - i. If the reporting entity concludes that the performance condition is probable of being achieved, the entity shall estimate the expected term as the midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term.
 - ii. If the reporting entity concludes that the performance condition is not probable of being achieved, the reporting entity shall estimate the expected term as either:
 - (a) The contractual term if the service period is implied (that is, the requisite service period or the nonemployee's vesting period is not explicitly stated but inferred based on the achievement of the performance condition at some undetermined point in the future).
 - (b) The midpoint between the employee's requisite service period or the nonemployee's vesting period and the contractual term if the requisite service period is stated explicitly.

54. A reporting entity that elects to apply the practical expedient in paragraph 53 shall apply the practical expedient to a share option or similar award that has all of the following characteristics:

- a. The share option or similar award is granted at the money.
- b. The grantee has only a limited time to exercise the award (typically 30-90 days) if the grantee no longer provides goods or terminates service after vesting.

- c. The grantee can only exercise the award. The grantee cannot sell or hedge the award.
- d. The award does not include a market condition.

A reporting entity that elects to apply the practical expedient in paragraph 53 may always elect to use the contractual term as the expected term when estimating the fair value of a nonemployee award as described in paragraph 42. However, a reporting entity must apply the practical expedient in paragraph 53 for all nonemployee awards that have all the characteristics listed in this paragraph if that reporting entity does not elect to use the contractual term as the expected term and that reporting entity elects the accounting policy election to apply the practical expedient in paragraph 53.

55. If a reporting entity is not able to reasonably estimate the current share price (fair value), as a practical expedient, a reporting entity may use a value determined by the reasonable application of a reasonable valuation method as the current price of its underlying share for purposes of determining the fair value of an award that is classified as equity at grant date or upon a modification. The determination of whether a valuation method is reasonable, or whether an application of a valuation method is reasonable, shall be made on the facts and circumstances as of the measurement date. Factors to be considered under a reasonable valuation method include, as applicable:

- a. The value of tangible and intangible assets
- b. The present value of anticipated future cash flows
- c. The market value of stock or equity interests in similar corporations and other entities engaged in trades or businesses substantially similar to those engaged by the entity for which the stock is to be valued, the value of which can be readily determined through nondiscretionary, objective means (such as through trading prices on an established securities market or an amount in an arm's length transaction)
- d. Recent arm's length transactions involving the sale or transfer of stock or equity interest
- e. Other relevant factors such as control premiums or discounts for lack of marketability and whether the valuation method is used for other purposes that have a material economic effect on the entity, its stockholders, or its creditors
- f. The entity's consistent use of a valuation method to determine the value of its stock or assets for other purposes, including for purposes unrelated to compensation of service providers.

Effective Date and Transition

130. This statement was effective January 1, 2013, with interim and annual financial reporting thereafter. Early adoption was permitted for December 31, 2012, financial statements with interim and annual reporting thereafter. At the time of initial adoption of this statement, reporting entities with existing share-based payment instruments that applied the guidance in *SSAP No. 13—Stock Options and Stock Purchase Plans* were to apply the requirements of *SSAP No. 104* prospectively to new awards and to awards modified, repurchased or cancelled after the required effective date. Those reporting entities were to continue to account for any portion of awards outstanding at the date of initial application using the statutory accounting principles originally applied to those awards (e.g., *SSAP No. 13*).

131. Since the initial adoption of *SSAP No. 104*, subsequent revisions were effective as follows:

- a. *ASU 2021-07, Compensation – Stock Compensation, Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards. This SAP clarification is effective.*

- a.b. ASU 2018-07, *Improvements to Nonemployee Share-Based Payment Accounting*: Nonsubstantive revisions effective January 1, 2020, with early application permitted.
- b.c. ASU 2017-09, *Scope of Modification Accounting*: Nonsubstantive revisions effective January 1, 2018, applicable to modifications that occur on or after the effective date, with early application permitted.
- e.d. ASU 2016-09, *Improvements to Employee Share-Based Payment Accounting*: Nonsubstantive revisions effective December 31, 2017, with early adoption permitted. The adoption included the transition provisions from ASU 2016-19, although not duplicated within this statement.
- d.e. ASU 2014-12, *Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period*: Nonsubstantive revisions effective January 1, 2016, with early adoption permitted.
- e.f. ASU 2010-13, *Effect of Denominating the Exercise Price of a Share-Based Payment Award in the Current of the Market in Which the Underlying Equity Security Trades*: Captured in the original adoption of SSAP No. 104, effective January 1, 2013.

Staff Review Completed by: Jim Pinegar– NAIC Staff, February 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to *SSAP No. 104R—Share-Based Payments* to incorporate a practical expedient for the current price input, a required component for option-pricing models which are utilized in the determination of fair value for share-based payments.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions, as illustrated above, to *SSAP No. 104R—Share-Based Payments* to incorporate a practical expedient for the current price input, a required component for option-pricing models which are utilized in the determination of fair value for share-based payments.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-F_22-06_ASU 2021-07.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-F_22-06_ASU%2021-07.docx)

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

Issue: ASU 2021-08, Business Combinations

Check (applicable entity):

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

Description of Issue: In October 2021, the Financial Accounting Standards Board (FASB) issued *Accounting Standards Update (ASU) 2021-08, Business Combinations, Accounting for Contract Assets and Contract Liabilities from Contracts with Customers* to require acquiring entities to apply Topic 606 (the topic that specifies the accounting for revenue and liabilities resulting from contracts with customers), when valuing and recognizing contract related assets and liabilities in a business combination.

Prior to the issuance of ASU 2021-08, acquirers would generally only recognize such items based on their fair values on the date of acquisition. When assessing liabilities at fair value, acquirers would generally only recognize an acquiree’s deferred revenue (i.e., a contract liability), to the extent the acquirer had a legal obligation to perform a service or remit a product. However, to only recognize a contract liability to the extent of a legal obligation is contrary to Topic 606 as it states that performance obligations may (and often) extend beyond legal obligations – with examples including implied promises and customer business practices within the contract with a customer, regardless of whether such promises were legally enforceable.

This ASU noted that the amendments will enhance comparability of the business results from before and after the acquisition (as presumably in most cases, the Topic 606 liability of the acquiree would transfer from the acquiree to the acquirer) and thus continuity of presentation would be retained. It is also important to note that the application of Topic 606 (rather than applying fair value standards) for acquired contract liabilities will generally result in a larger liability being recognized by the acquirer. This is because in cases where a provider receives cash in advance of performing a service or providing a product, in many instances some or all of the advanced funds have been spent prior to the date of acquisition, and thus the acquirer, using fair value measurement techniques, will not designate value to the spent funds. However again, the primary goal of these amendments is to improve comparability by providing consistent recognition and measurement guidance for revenue contracts - regardless of if those contracts were or were not acquired in a business combination.

The statutory accounting guidance for business combinations is found in *SSAP No. 68—Business Combinations and Goodwill* and requires business combinations be reported at cost, which in an arms-length transaction; is presumably fair value. SSAP No. 68 also requires that for entities (other than insurance reporting entities), the acquirer use the acquiree’s U.S. GAAP book value for the determination of statutory goodwill. The calculation of statutory goodwill, while beyond the scope of this agenda item, is important to briefly comment on as it adds an additional level of conservatism not recognized by U.S. GAAP – as it requires the recognition of goodwill for the amount of cost in excess of the acquiree’s book value (as opposed to fair value under U.S. GAAP).

So, in essence, for statutory accounting, other than the reporting of statutory goodwill, the acquiree’s book value of all associated assets (and liabilities) are reported on the acquirer’s books. As ASU 2021-08 requires the acquirer to utilize the acquiree’s book value, measured via Topic 606, for contract liabilities, the practice (unless the acquiree

has not previously or has incorrectly applied Topic 606) conceptually consistent statutory accounting requirements, requires a measurement method previously rejected by statutory accounting.

Existing Authoritative Literature: As previously mentioned, the statutory guidance for business combinations is contained in SSAP No. 68 - relevant paragraphs, with applicable guidance is included below.

SSAP No. 68

Business Combinations

2. A business combination shall be accounted for as either a statutory purchase or a statutory merger. Business combinations that create a parent-subsidiary relationship shall be accounted for as a statutory purchase. Business combinations where equity of one entity is issued in exchange for the equity of another entity, which is then canceled, and prospectively only one entity exists, shall be accounted for as a statutory merger.

Statutory Purchases of SCA Investments

3. **The statutory purchase method of accounting is defined as accounting for a business combination as the acquisition of one entity by another.** It shall be used for all purchases of SCA entities including partnerships, joint ventures, and limited liability companies. **The acquiring reporting entity shall record its investment at cost. Cost is defined as the sum of: (a) any cash payment, (b) the fair value of other assets distributed, (c) the fair value of any liabilities assumed, and (d) any direct costs of the acquisition.**^(INT 00-28) Contingent consideration issued in a purchase business combination that is embedded in a security or that is in the form of a separate financial instrument shall be recorded by the issuer at fair value at the acquisition date.

4. **For those acquired SCA entities accounted for in accordance with paragraphs 8.b.i., 8.b.ii., 8.b.iii. or 8.b.iv. of SSAP No. 97, and joint venture, partnership or limited liability company entities accounted for in accordance with paragraph 8 of SSAP No. 48, goodwill is defined as the difference between the cost of acquiring the entity and the reporting entity's share of the book value of the acquired entity.** When the cost of the acquired entity is greater than the reporting entity's share of the book value, positive goodwill exists. When the cost of the acquired entity is less than the reporting entity's share of the book value, negative goodwill exists. Goodwill resulting from assumption reinsurance shall be recorded as a separate write-in for other-than-invested assets. All other goodwill shall be reported in the carrying value of the investment.

5. A business combination accounted for under the statutory purchase method and in which the acquired entity is valued in accordance with paragraphs 8.b.ii., 8.b.iii. or, 8.b.iv. of SSAP No. 97 **shall determine the amount of positive goodwill or negative goodwill created by the combination using the reporting entity's share of the GAAP net book value of the acquired entity,** adjusted to a statutory basis of accounting in accordance with paragraph 9 of SSAP No. 97 in the case of acquired entities valued in accordance paragraphs 8.b.ii. or 8.b.iv. of SSAP No. 97. Business combinations accounted for under the statutory purchase method and in which the acquired entity is valued in accordance with, paragraph 8.b.i. of SSAP No. 97 shall determine the amount of positive or negative goodwill created by the business combination using the insurer's share of the statutory book value of the acquired entity.

6. For those acquired SCA entities accounted for in accordance with paragraph 8.b.i. of SSAP No. 97 under the statutory purchase method, the historical bases of the acquired entity shall continue to be used in preparing its statutory financial statements. Therefore, pushdown accounting is not permitted.

As mentioned above, utilizing an acquiree's book value is likely consistent with current practice, however, all previous Topic 606 guidance has been rejected for statutory accounting as insurance contracts are explicitly excluded from its scope. The rejections are noted within the body of statutory guidance in *SSAP No. 47—Uninsured Plans*.

SSAP No. 47

Relevant Literature

15. This statement rejects *ASU 2014-09, Revenue from Contracts with Customers*; *ASU 2015-14, Revenue From Contracts With Customers*; *ASU 2016-08, Revenue From Contracts with Customers: Principal versus Agent Considerations (Reporting Revenue Gross versus Net)*; *ASU 2016-10, Revenue from Contracts with Customers: Identifying Performance Obligations and Licensing*; *ASU 2016-12, Revenue from Contracts with Customers: Narrow-Scope Improvements and Practical Expedients*; *ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers*; *ASU 2018-18, Collaborative Arrangements (Topic 808), Clarifying the Interaction between Topic 808 and Topic 606*, and *ASU 2021-02, Franchisors—Revenue from Contracts with Customers*.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): As previously mentioned, all ASUs related to ASC Topic 606 have been rejected by the Working Group.

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

Convergence with International Financial Reporting Standards (IFRS): ASC Topic 606 and IFRS 15 are the result of the joint project between the FASB and IASB to improve financial reporting by creating common revenue recognition guidance.

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as SAP clarifications to:

- 1) **Expose revisions to *SSAP No. 47—Uninsured Plans* to reject ASU 2021-08 for statutory accounting.** This recommendation is consistent with how the prior ASUs related to Topic 606 have been treated.
- 2) **Expose revisions to *SSAP No. 68—Business Combinations and Goodwill* to reject the ASU 2021-08 for statutory accounting, while noting that rejection does not impact the determination of U.S. GAAP book value in an acquired entity.** NAIC staff note that as all prior Topic 606 guidance has been rejected for statutory accounting, the explicit rejection of this ASU should not be construed to mean that the U.S. GAAP net book value (which is utilized for the determination of statutory goodwill) will need to be modified by the guidance required in this ASU. The intent is to not modify any U.S. GAAP requirements for the determination of U.S. GAAP net book value within this standard.

Proposed Revisions to SSAP No. 47

Relevant Literature

15. This statement rejects *ASU 2014-09, Revenue from Contracts with Customers*; *ASU 2015-14, Revenue From Contracts With Customers*; *ASU 2016-08, Revenue From Contracts with Customers: Principal versus*

Agent Considerations (Reporting Revenue Gross versus Net); ASU 2016-10, Revenue from Contracts with Customers: Identifying Performance Obligations and Licensing; ASU 2016-12, Revenue from Contracts with Customers: Narrow-Scope Improvements and Practical Expedients; ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers; ASU 2018-18, Collaborative Arrangements (Topic 808), Clarifying the Interaction between Topic 808 and Topic 606, and ASU 2021-02, Franchisors—Revenue from Contracts with Customers, and ASU 2021-08, Business Combinations, Accounting for Contract Asset and Contract Liabilities from Contracts with Customers.

Proposed Revisions to SSAP No. 68

Relevant Literature

22. This statement rejects [ASU 2021-08, Business Combinations, Accounting for Contract Asset and Contract Liabilities from Contracts with Customers, however the rejection of which shall not modify the U.S. GAAP accounting standards as required within this standard.](#) ASU 2019-06, *Intangibles—Goodwill and Other Business Combinations, and Non-for-Profit Entities*, ASU 2017-04, *Simplifying the Test for Goodwill Impairment*, ASU 2016-03, *Intangibles—Goodwill and Other, Business Combinations, Consolidation, Derivatives and Hedging*; ASU 2014-02, *Accounting for Goodwill (a consensus of the Private Company Council)*, ASU 2012-02, *Testing Indefinite-Lived Intangible Assets for Impairment*, ASU 2011-08, *Testing Goodwill for Impairment* and ASU 2010-28, *When to Perform Step 2 of the Goodwill Impairment Test for Reporting Units with Zero or Negative Carrying Amounts*; Accounting Principles Board Opinion No. 16, *Business Combinations*; FASB Statement No. 38, *Accounting for Preacquisition Contingencies of Purchased Enterprises, an amendment of APB Opinion No. 16*; Accounting Principles Board Opinion No. 17, *Intangible Assets*; FASB Statement No. 79, *Elimination of Certain Disclosures for Business Combinations by Nonpublic Enterprises*; FASB Statement No. 141, *Business Combinations*; and FASB Statement No. 142, *Goodwill and Other Intangible Assets* The following related interpretative pronouncements are also rejected:

[NAIC Staff Note, the remainder of this paragraph has been omitted for brevity.]

Staff Review Completed by: Jim Pinegar - NAIC Staff, February 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to *SSAP No. 47—Uninsured Plans* and *SSAP No. 68—Business Combinations and Goodwill* to reject ASU 2021-08 for statutory accounting. In addition, the proposed revisions to SSAP No. 68 include notations that the rejection of ASU 2021-08 does not impact the determination of U.S. GAAP book value in an acquired entity. The proposed revisions are illustrated above, under the recommended action.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions, as illustrated above, to *SSAP No. 47—Uninsured Plans* and *SSAP No. 68—Business Combinations and Goodwill* to reject ASU 2021-08 for statutory accounting. In addition, the revisions to SSAP No. 68 include notations that the rejection of ASU 2021-08 does not impact the determination of U.S. GAAP book value of an acquired entity.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-G_22-07_ASU 2021-08.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-G_22-07_ASU%2021-08.docx)

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

Issue: Effective Derivatives – ASU 2017-12

Check (applicable entity):

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

Description of Issue:

To be consistent with what is permitted under U.S. GAAP, this agenda item has been prepared to consider expanding the statutory accounting principles (SAP) guidance in *SSAP No. 86—Derivatives* in the determination of highly effective hedging derivatives. In 2017, the FASB issued *Accounting Standard Update (ASU) 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities* to reduce complexity and align hedge accounting with risk management activities. The Working Group previously considered limited revisions from this ASU, mostly on documentation requirements, which occurred in agenda item *2018-30: SSAP No. 86 – Hedge Effectiveness Documentation*. That agenda item was identified as limited-scope and noted further consideration of ASU 2017-12, potentially in a broader derivative project, would subsequently occur. With the focus of other projects, and COVID-19 impacts, this broader derivative project is still pending.

NAIC staff have been contacted by industry and regulators requesting further consideration of ASU 2017-12, particularly with regards to the permitted derivative arrangements that U.S. GAAP allows as highly effective hedges. Due to the revisions from ASU 2017-12, there is a disconnect between U.S. GAAP and SAP regarding certain types of effective hedging relationships. This is problematic as it results in inconsistent documentation of hedging transactions, as well as hinders reporting entities in electing to enter hedging transactions as the benefits are not currently permitted to be reflected in statutory financials.

Although NAIC staff agree that the determination of whether a hedge is highly effective should be consistent between U.S. GAAP and SAP, it is important to highlight that accounting for effective hedges varies greatly between U.S. GAAP and SAP. The effective hedging relationships permitted under ASU 2017-12 have been identified to expand upon these differences and could result with reporting elements that were not originally intended with the statutory accounting guidance adopted under SSAP No. 86. Although consistent effective hedge assessments between U.S. GAAP and SAP are desired, NAIC staff note that it is appropriate to identify how the expanded U.S. GAAP effective hedge assessments would be reflected within statutory financials and identify areas where clarifications or modifications may be needed as part of the process to consider the expanded effective hedge provisions. To be clear, the expanded hedge relationships permitted within ASU 2017-12 do not create the statutory accounting issues identified within this agenda item, however, the expanded effective hedging relationships would exacerbate the reporting issues within SSAP No. 86. (For example, although existing SAP guidance permits derivative adjustments to the hedged item, which can be a liability, such transactions are currently limited as the maturity of the hedging instruments (derivative) likely mirrors the hedged item’s maturity. This is because the matching of maturities under the current SAP guidance facilitates an easier effective hedge determination.) With the ASU’s expanded provisions for “partial term hedges” (as discussed within), adjustments will occur to the hedged item prior to its maturity, resulting in direct impacts to the presentation of the hedged item in statutory financial statements – which may not be easily identifiable to users.)

Overview of U.S. GAAP and SAP Derivative Reporting:

Under U.S. GAAP, the decision to document a hedge as effective has no impact on the balance sheet measurement of the derivative. Under U.S. GAAP, all derivatives are always reported at fair value; therefore, there is no “off-balance sheet” derivative risk exposure. As highly effective hedging derivatives are an income-statement matching tool, when a fair value hedge is effective, the change in fair value of the derivative offsets the change in fair value of the hedged item in the income statement. For cash flow hedges, changes in the fair value of the derivative are reported through other comprehensive income (OCI) and amortized into earnings. When a derivative is not identified as highly effective, the matching of changes through the income statement simply does not occur. Regardless of whether a derivative is used in a highly effective hedge, under U.S. GAAP all derivatives are fully recognized on the balance sheet with fair value changes or cash flows from the derivatives fully recognized either to income or OCI.

Under SAP, the determination of an effective hedge has a significant impact on the reported value of derivatives and the presentation of derivatives in the financial statements. As the statutory guidance permits derivatives to mirror the measurement method of the hedged item, if the hedged item is reported at amortized cost, then a highly effective derivative is also reported at amortized cost. (Under U.S. GAAP, the reporting basis of the hedged item in a fair value hedge is made to match the derivative (i.e., fair value). The opposite is true under SAP.) It should be noted that SSAP No. 86 was originally drafted based on an assumption that it would predominantly be used for the hedging of assets reported at amortized cost or fair value. Hedges of liabilities, particularly reserve liabilities valued using statutory reserve requirements, do not fit neatly into the amortized cost or fair value framework permitted by SSAP No. 86. Such liabilities are not valued using either fair value or amortized cost, therefore reporting the hedging instrument at amortized cost still creates reporting mismatches. Furthermore, adjustments to the hedged item, as permitted under SSAP No. 86, can result with a financial statement presentation that appears to show a reduction of a liability, although the reporting entity’s contractual obligation has not been reduced.

If using an amortized cost measurement method, the initial recognition of the derivative is at cost (which could be zero), and subsequent changes in the fair value of the derivative are not recognized. So, if the fair value of the derivative was to move to a liability position (effectively offsetting a fair value increase in a hedged item), the derivative liability is not recognized. The derivative side of this transaction is considered an off-balance sheet surplus risk that exists until the hedging relationship expires. If a hedging relationship was no longer highly effective, the derivative would be recognized at fair value. At that time, the financial statements would reflect the derivative position that was outstanding. (For a derivative in a liability position, this would be a negative impact to surplus.) As one last point, the determination of a highly effective hedge generally permits a range between 80-125%. As such, a derivative instrument’s fair value that is expected to move in conjunction within a range of 20-25% of the underlying hedged item’s fair value is considered an effective hedge. Under the SAP guidance, this means that if the fair value of the hedged asset was to increase 100 and the fair value of the hedging derivative was to decrease 120, the hedge would still be considered effective and the change in the derivative fair value would not be recognized in the financial statements. At the time the asset matured, and the derivative was closed, the reporting entity would have an additional liability of \$20 that was not previously recognized on the financial statements and not offset by the corresponding increase in the hedged item.

While it is important that the impact of the SAP hedging guidance be clearly understood, as initially noted, NAIC staff agree that assessments of hedge effectiveness are preferred to be consistent between U.S. GAAP and SAP. However, by expanding the SAP guidance to permit effective hedges allowed under ASU 2017-12, pursuant to the existing measurement provisions within SSAP No. 86, there would be an increase to the off-balance sheet surplus risk noted above from the hedging activity. Also note, this increase in off-balance sheet exposure does not necessarily correlate to an increase in economic risk, as the hedging relationships allowed under the GAAP ASU

are expected to allow for prudent risk management strategies that would be expected to decrease economic risk. In addition, other nuances in SAP reporting have the potential to be more pronounced under the expanded effective hedge assessments. As detailed within the recommendation section, NAIC staff recommend review, with possible modification, of certain elements within SSAP No. 86 as part of this review of ASU 2017-12. However, these recommendations do not initially include a fundamental change in the SAP provisions that permit an amortized cost measurement method for highly effective derivatives if hedging an item not reported at fair value. Regulator and industry comments are welcome on whether a fundamental change to the measurement and reporting of derivatives should be considered to be consistent with U.S. GAAP. If there is support for a fair value measurement approach for all derivatives, then consideration of offsetting surplus adjustments for the fair value volatility – similar to what is permitted in *SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees* would also be considered.

Review of Effect Hedge Arrangements Permitted Under ASU 2017-12:

The derivative arrangements / changes permitted under U.S. GAAP through ASU 2017-12 and addressed within this agenda item are identified as follows:

- Partial Term Hedging
- Last of Layer
- Hedges of Interest Rate Risk When the Hedged Item Can be Settled Before Scheduled Maturity
- Expansion of Excluded Derivative Components in Assessment of Hedge Effectiveness

Partial Term Hedging:

This provision allows reporting entities to enter into fair value hedges of interest rate risk for only a portion of the term of the hedged financial instrument. Prior to the ASU, these sorts of arrangements were not successful in being identified as highly effective due to offsetting changes in the fair value as a result of the difference in timing between the hedged item's principal repayment and the maturity date of the hedging derivative. Under ASU 2017-12, an entity may measure the change in the fair value of the hedged item attributable to changes in the benchmark interest rate by "using an assumed term that begins when the first hedged cash flow begins to accrue and ends when the last hedged cash flow is due and payable." Also, the hedged item's assumed maturity will be the date on which the last hedged cash flow is due and payable, therefore a principal payment will be assumed to occur at the end of the specified partial term.

The example provided under U.S. GAAP involves outstanding fixed rate debt. So, if an entity was to issue \$100 million of five-year, noncallable, fixed-rate debt, the entity could designate a two-year, receive-fixed, pay variable, \$100 million notional interest rate swap as a fair value hedge of the interest rate risk for the first two years of the debt's term. When calculating the change in the fair value of the debt attributable to changes in interest rate risk, the entity may assume that 1) the term of the hedged debt is two years, and 2) repayment of the outstanding debt occurs at the end of the second year. The ASU also permits use of the shortcut method to these partial-term fair value hedges of interest rate risk.

SAP Assessment – With the differences in reporting between U.S. GAAP/SAP, the key issue to highlight is that with SAP's amortized cost approach at the conclusion of the hedged period, the reporting entity would close the derivative with an offsetting entry that adjusts the basis of the hedged item. When hedging a liability (such as issued debt), if the derivative were in a liability position (satisfied with a credit to cash), the mechanics would result in an offsetting entry to reduce the debt (debit to the issued debt). However, this reduction to the debt does not reflect an actual reduction of the liability that the entity is legally obligated to pay, it just reduces the amount reported as outstanding debt in the financial statements. The debt would accrete back up to the full liability with increased entries to interest expense over the remaining term of the debt. (Ultimately, under GAAP, the fair value change in

the derivative and debt are recognized concurrently in the income statement. Since SAP does not report these items at fair value, the change reduces the debt at the time of derivative close, and then the debt obligation accretes back up over time with an offsetting entry to interest expense.) Although this is in line with existing SSAP No. 86 guidance, under the past effective hedge provisions, the debt obligation maturity would likely be matched with the derivative term, so there would be no lingering financial statement impact to the debt obligation after the derivative transaction closed. With the partial term hedge, reporting entities have the potential to present an improved financial statement presentation over the remaining life of the hedge item (e.g., debt instrument) until accreted back to the full amount. The SAP guidance also has an alternative to take the adjustment directly to IMR (instead of to the hedged item). There is uncertainty on which approach is used in practice, and whether it varies based on the hedged item (e.g., hedging an asset or liability). Although there is a limited information in Schedule DB on adjustments to the hedged item, that information is only for the current year, and it does not provide detailed information on the overall impact to the financial statements.

Items to Consider: Although the current guidance in SSAP No. 86 is explicit that the effective hedge adjusts the basis of the hedged item (or is reflected in IMR), the Working Group may want to consider revising this guidance to prevent a presentation that shows a reduced outstanding liability when in fact there has been no actual reduction of the obligation. Consideration could be given to directing these derivative adjustments to a specific reporting line. Although this would not change the overall financial statements, (a more favorable presentation could still exist), the debt obligation (or any liability hedged) would still be presented as the amount that corresponds to the obligation outstanding and not reflect the impact of derivative transactions. Furthermore, if a specific line was utilized, the impact of these derivative transactions would be identifiable within the financial statements. As noted, this dynamic exists under the current SSAP No. 86 guidance, but is less pronounced as the derivative term most commonly matches the debt's obligation term. As such, the final resulting entries all occur (generally) at debt maturity. With the increased ability to establish effective hedges that do not mature at the same time as the hedged item, the impact from these derivative transactions would increase situations in which liabilities are presented that do not reflect the full outstanding obligation.

Staff Note – The adjustment to the hedged item also occurs when effectively hedging an asset item. However, in that dynamic for a fair value hedge, the assets would only be increased to reflect the fair value change. (The offsetting entry in response to a derivative in a liability position would be a debit to the hedged asset.) Although the use of effective derivatives may facilitate an ability to increase the reported value of assets to current fair value, the amount reported for the asset would still be subject to impairment and collectability assessments. NAIC staff view this dynamic differently than a hedge of a liability when the resulting transaction reduces the amount shown as an obligation on the financial statements (debit to the liability) as nothing has occurred that has actually reduced the reporting entity's obligation.

Last of Layer / Portfolio Method

Under the “last of layer” hedge method, for a closed portfolio of prepayable financial assets, the entity may designate as the hedged item, a stated amount of the asset or assets that are not expected to be affected by prepayments, defaults and other factors affecting the timing and amount of cash flows if the designation is made in conjunction with the partial term hedging election. The “last of layer” hedge provision is permitted only for a closed portfolio of prepayable financial assets, or one or more beneficial interests secured by a portfolio of prepayable financial instruments (e.g., mortgage-backed securities). Industry comment letters to FASB have requested that liabilities, particularly insurance liabilities, be added to the scope, but that is not currently permitted under U.S. GAAP.

For this option, as part of the initial hedge documentation, an analysis shall be completed and documented to support the entity's expectation that the hedged item (that is, the designated last of layer), is anticipated to be outstanding as of the hedged item's assumed maturity date in accordance with the entity's partial-term hedge election. That

analysis shall incorporate the entity's current expectations of prepayments, defaults, and other events affecting the timing and amount of cash flows associated with the closed portfolio of prepayable financial assets or beneficial interests secured by a portfolio of prepayable financial instruments. For purposes of the analysis, the entity may assume that as prepayments, defaults, and other events affecting the timing and amount of cash flows occur, they first will be applied to the portion of the closed portfolio of prepayable financial assets or one or more beneficial interest that is not part of the hedged item - (i.e., not part of the designated last layer.)

Proposed amendments to the ASU are currently being considered by the FASB to provide additional clarifying guidance. One of those elements clarifies that a closed portfolio is not limited to a single hedge. Rather, there can be multiple-layer hedges utilized in a closed portfolio. In response to this proposed clarification, the FASB is changing the name of "last of layer" and renaming it the "portfolio layer method." Also, since the hedged item reflects a closed portfolio of assets, the FASB has clarified that the change in fair value (gain or loss) of the hedged item (portfolio of assets) attributed to the hedged risk shall not adjust the carrying value of the individual assets in the portfolio. Instead, that amount shall be maintained on a closed portfolio basis and amortized to earnings, with amortization beginning when the hedged item ceases to be adjusted for changes in its fair value attributable to the risk being hedged. However, the gain or loss shall be fully amortized prior to the assumed maturity date of the hedged item. *(Note: FASB has identified that allocating adjustments to individual assets may lead to uneconomic results if an asset is sold or removed from a closed portfolio. They have also noted that an allocation election would lead to a lack of comparability across entities and potential for earning management.)*

A key aspect to note is that the GAAP guidance will allow a single derivative to hedge different portfolio layers. In the event one layer was to no longer be considered highly effective, the portion of the derivative to hedge that layer would be removed, and the effective hedge for the remaining layers could continue.

SAP Assessment: For the last of layer / portfolio method, the overall accounting guidance under U.S. GAAP is consistent with existing derivative structures, just expanded on what can be designated as the hedged item and an exception that the entity shall not adjust the basis of the individual items combined into the portfolio. The biggest aspect with this change will be the assessment and documentation to confirm hedge effectiveness. This hedging option will require more work and documentation than a hedge of a single asset. However, if a reporting entity is effectively hedging under GAAP, without the SAP provisions for hedge accounting, then a reporting entity would have to recognize the hedging derivatives at fair value, which would create surplus volatility in their SAP financials.

Items to Consider: Although it seems that the derivative transaction is generally consistent with what would be anticipated under SSAP No. 86, except on a portfolio basis, there are key elements that should be addressed to facilitate the application of these methods under SAP:

- Incorporating the last of layer / portfolio method into SAP will require discussion (and likely revisions) to ensure that individual assets are not adjusted at hedge termination, and that a portfolio approach is utilized. This would be consistent with the current direction of FASB to clarify the guidance in a subsequent ASU. If revisions are not incorporated to have a "portfolio" basis for adjustment, then revisions will be needed on how to allocate the resulting gain/loss to the individual assets within the closed portfolio.
- Guidance should be considered to limit this derivative strategy to the same scope permitted under U.S. GAAP. This would require an explicit prohibition of the last of layer / portfolio method to liabilities, including insurance liabilities. Although the "framework" of U.S. GAAP derivative guidance is adopted in SSAP No. 86, statutory accounting guidance permits hedging transactions to be classified as highly effective when they would not be permitted that classification under U.S. GAAP. As such, limiting application to the same parameters of U.S. GAAP would be a new addition to SSAP No. 86.

- A key aspect of this proposed method (and of the excluded components expansion discussed below) is that under U.S. GAAP derivatives are permitted to be bifurcated in terms of effectiveness. That is, if a portion of a derivative were deemed to be highly effective in hedging an item, the fair value change related to that portion would be recognized in the income statement to match the fair value change of the hedged item. Fair value changes to other portions of the derivative that were not highly effective would still be recognized, but without the matching concept to the same reporting location as the fair value changes of the hedged item. Under SSAP No. 86, the guidance is explicit that a derivative is not bifurcated as to hedge effectiveness. So, a derivative shall be either classified as an effective hedge and permitted for amortized cost reporting (if consistent with the valuation of the hedged item) or classified as an ineffective hedge and reported at fair value. To mirror U.S. GAAP on the ability to designate a portion of a derivative, revisions would need to be considered to the current SSAP No. 86 guidance. If revisions permit the bifurcating of derivatives, then consideration would have to occur on how bifurcated derivatives would be reported in the *Schedule DB – Derivative Instruments*. (Particularly, on whether the derivative BACV should reflect a combined fair value (FV) and amortized cost (AC) reported value or whether the derivative shall be divided and reported separately based on portions held at FV and AC.) NAIC staff have heard that bifurcating derivatives does already occur in practice, as the guidance in SSAP No. 86 - Exhibit B for the exclusion of the time value of money implies that it should be permitted. From initial information received from industry, in those limited situations it is believed that the derivative is reported on a single line with a combined BACV that reflects a combination of FV and AC. However, NAIC staff believe these instances are uncommon, but would become more prominent if the last of layer / portfolio method approach was adopted for statutory accounting.
- Lastly, it is proposed that this method only be incorporated once the proposed ASU is finalized. (The last of layer is detailed in the 2017 ASU, but the clarifying guidance is in a current proposed ASU which is expected to be finalized by the end of the year.)

Fair Value Hedges of Interest Rate Risk in Which the Hedged Item Can be Settled Before Scheduled Maturity:

Under these U.S. GAAP revisions, an entity may consider only how changes in the benchmark interest rate affect the decision to settle the hedged item before its scheduled maturity. (For example, an entity may consider only how changes in the benchmark interest rate affect an obligor's decision to call a debt instrument - when it has a right to do so.) The entity need not consider other factors that would affect this decision (for example, credit risk) when assessing hedge effectiveness.

With this provision, U.S. GAAP guidance has also been added to specify the measurement of the hedged item. This guidance indicates that the factors incorporated for the purpose of adjusting the carrying amount of the hedged item shall be the same factors that the entity incorporated for the purpose of assessing hedge effectiveness. For example, if an entity considers only how changes in the benchmark interest rate affect an obligor's decision to prepay a debt instrument when assessing hedge effectiveness, it shall also only consider that factor when adjusting the carrying amount of the hedged item. The election to consider only how changes in the benchmark interest rate affect an obligor's decision to prepay a debt instrument does not affect an entity's election to use either the full contractual coupon cash flows or the benchmark rate component of the contractual coupon cash flows determined at hedge inception for purposes of measuring the change in fair value of the hedged item. With this guidance, an investor is not required to consider all factors that will affect the decision to settle the financial instrument before its scheduled maturity when assessing hedge effectiveness and measuring the change in fair value of the debt attributed to changes in the benchmark interest rate. This change was made as estimating the fair value of the prepayment option to the level of precision required in the current reporting and regulatory environment is virtually impossible because an entity is required to incorporate credit and all other idiosyncratic factors that would affect the prepayment option. It was noted that allowing a prepayment option to be modeled considering only the change in the benchmark interest

rate more closely aligns the accounting for those hedges with an entity's risk management activities and more accurately reflects the change in the fair value of the hedged item attributable to interest rate risk.

SAP Assessment: Existing guidance in SSAP No. 86 incorporates the prior criteria for fair value hedges from U.S. GAAP, which includes guidance that has been eliminated in the ASU. The U.S. GAAP guidance has been expanded to specifically capture elements related to assessing effectiveness of prepayable instruments.

Items to Consider: Like other elements, the change in assessment of effectiveness, and determining the measurement / adjustment to the hedged item will require SAP consideration as to the offsetting measurement aspects and how those should be recognized in the financial statements.

Expansion of Excluded Derivative Components from Assessment of Hedge Effectiveness

Industry has also requested consideration of the FASB guidance that expands the ability to exclude components of a derivative from the assessment of hedge effectiveness. Under prior U.S. GAAP (which is adopted in SSAP No. 86), the guidance permitted the exclusion of the time value of money, and the guidance in the ASU has expanded that prior capability to also allow exclusion of the portion of the fair value of a currency swap attributable to a cross-currency basis spread.

SAP Assessment: The current guidance in *SSAP No. 86, Exhibit B – Assessment of Hedging Effectiveness* incorporates U.S. GAAP guidance from FAS 133, with a significant portion addressing the exclusion of a hedging instrument's time value from the assessment of hedging effectiveness. This old U.S. GAAP guidance has been revised from ASU 2017-12, to expand the potential exclusions and update the related guidance. As previously noted, the existing guidance in Exhibit B appears to contradict the guidance in SSAP No. 86 that specifically indicates that derivatives shall not be bifurcated for effectiveness. (The guidance in Exhibit B notes that changes in the excluded components would be included in unrealized gains and losses – which would represent a fair value measurement for these pieces, even if the derivative was classified as highly effective and reported at amortized cost.)

Items to Consider: Although the SSAP No. 86 Exhibit B guidance has incorporated prior U.S. GAAP guidance for excluding components, the guidance for these permissions does not align with the guidance in the body of SSAP No. 86. To ensure clear and consistent application, revisions would need to be considered to specify the reporting when changes in the fair value of a derivative are separated and treated differently.

Existing Authoritative Literature:

SSAP No. 86—Derivatives is the authoritative source of guidance for determining hedge effectiveness and reporting derivatives for statutory accounting. Key aspects to highlight from this SSAP for consideration as part of this agenda item:

- U.S. GAAP and SAP differ with regards to the reporting of derivatives. Under U.S. GAAP, all derivatives are reported at fair value. When a derivative represents a highly effective hedge, the process to recognize changes in fair value through the income statement in earnings or OCI is designed to mirror the recognition of fair value changes in the hedged item. (Under U.S. GAAP, highly effective hedges result in an income statement matching mechanism.) Under SAP, derivatives are reported differently based on whether they are used in a highly effective hedge. If highly effective, then the derivative measurement method mirrors the measurement method of the hedged item – which could be amortized cost. If not highly effective, then the derivative measurement method is fair value.
- Under U.S. GAAP, a fair value hedge approach requires that the hedged item be reported at fair value. (This allows for the matching of fair value changes of the hedged item and the hedging instrument (derivative))

through the income statement.) This is not a required element under SAP. This GAAP-to-SAP difference makes sense as it allows companies that have highly effective hedges under U.S. GAAP to also identify those relationships as highly effective under SAP even though SAP uses an amortized cost (or other non-fair value) measurement method for hedged items.

- Assessment and determination of hedge effectiveness has generally been consistent between U.S. GAAP and SAP. The guidance in SSAP No. 86, Exhibit B – Assessment of Hedging Effectiveness, identifies the intent to remain consistent with U.S. GAAP with respect to assessing hedge effectiveness.
- Although the guidance in SSAP No. 86 prescribes the general concepts for hedges, as well as the measurement guidance for derivatives based on whether they are (or not) highly effective, the application guidance is detailed in Exhibit C – Specific Hedge Accounting Procedures for Derivatives. These procedures are SAP specific due to the fundamental differences in measurement and recognition of derivatives between U.S. GAAP and SAP.

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

- Agenda item 2018-30: SSAP No. 86 – Hedge Effectiveness Documentation considered the revised hedge effectiveness documentation provisions incorporated within ASU 2017-12, Derivatives and hedging. The revisions from this agenda item were adopted Nov. 15, 2018 and were effective Jan. 1, 2019, with early adoption permitted. U.S. GAAP filers could only early adopt if they also early-adopted ASU 2017-12.
- Agenda item 2017-33 was drafted to continue the overall accounting and reporting changes in ASU 2017-12 as potential substantive revisions. This item is still pending for statutory accounting. Although still pending, it is recommended that the 2021 limited-scope edits requested by industry be captured in this new agenda item, with agenda item 2017-33 retained as a broader scope project to review other derivative concepts, or subsequently disposed if no longer needed.

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

Staff Recommendation:

It is recommended that the Working Group move this agenda item to the active listing, categorized as new SAP concepts, and direct NAIC staff to work with regulators and industry in assessing and developing revisions to facilitate effective hedge assessments consistently between SAP and U.S. GAAP. As this guidance will reflect a change from the original concepts reflected in SSAP No. 86, it is recommended that the revisions be detailed in an issue paper for historical reference. This issue paper is recommended to be completed concurrently or subsequently to the consideration of SSAP revisions. The anticipated revisions from this agenda item are considered to reflect new SAP concepts as the effective hedge relationships that will be assessed have not been allowed under existing statutory accounting guidance.

As detailed within this agenda item, the discussion, and potential revisions, are expected to encompass the following elements:

- **Appropriate reporting lines for effective hedges when the hedged item is a liability.**

- **Recognition of hedged-item adjustments (to a closed portfolio) when the last-of-layer / portfolio method of hedging is used.**
- **Scope limitations of the last of layer / portfolio method to mirror U.S. GAAP.**
- **The potential bifurcation of derivatives, and how such items should be reported for statutory accounting, when only portions of derivatives are permitted to be designated as effective. (This pertains to potential mixed-measurement reporting values.)**

As detailed above, the Working Group also welcomes comments from regulators and industry on whether a fundamental change in SAP for derivative measurement (to be more consistent with U.S. GAAP) should be considered. Although specific revisions are not yet detailed, it is recommended that this agenda item be exposed to solicit comments and feedback on the overall summary and potential revisions to be considered.

Status:

On December 11, 2021, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as substantive, and directed NAIC staff to work with regulators and industry in assessing and developing revisions to facilitate effective hedge assessments consistently between U.S. GAAP and statutory accounting.

On April 4, 2022, the Statutory Accounting Principles (E) Working Group exposed two documents for public comment. The first document (labeled 21-20 SSAP No. 86 – Exhibit A 3-2-22), proposes revisions in the form of a new Exhibit A (which will replace both Exhibit A and Exhibit B of SSAP No. 86 that adopts with modification U.S. GAAP guidance in determining hedge effectiveness. The second document (labeled 21-20 SSAP No. 86 – Excluded Components - 3-17-22), proposes measurement methods for excluded components in hedging instruments. The Working Group also directed staff to continue to work with industry representatives on other elements within *ASU 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities*.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group took the following actions:

1. Adopted as final, the exposed revisions:
 - New Exhibit A (which will replace both Exhibit A and Exhibit B) of SSAP No. 86 that adopts, with modification, U.S. GAAP guidance in determining hedge effectiveness.
 - Revisions to SSAP No. 86 to incorporate measurement methods for excluded components.
2. Adopted as final revisions, illustrated below, which detail the January 1, 2023 effective date, with early adoption permitted, and relevant U.S. GAAP references.
3. Directed a blanks proposal to incorporate Schedule DB reporting fields and templates to capture the new disclosures for excluded components detailed in paragraph 41g of the exposed revisions.
4. Directed an Issue Paper to detail the derivative revisions from this agenda item and other statutory derivative revisions resulting from ASU 2017-12 and other recent U.S. GAAP issuances.

SSAP No. 86 Revisions**Relevant Literature**

64. This statement adopts the framework established by FAS 133, *FASB Statement No. 137, Accounting for Derivative Instruments and Hedging Activities—Deferral of the Effective Date of FASB Statement No. 133, An amendment of FASB Statement No. 133* (FAS 137) and *FASB Statement No. 138, Accounting for Certain Derivative Instruments and Certain Hedging Activities, An amendment of FASB Statement No. 133* (FAS 138), for fair value and cash flow hedges, including its technical guidance to the extent such guidance is consistent with the statutory accounting approach to derivatives utilized in this statement. This statement adopts the provisions of FAS 133 and 138 related to foreign currency hedges. With the exception of guidance specific to foreign currency hedges and amendments specific to refining the hedging of interest rate risk (under FAS 138, the risk of changes in the benchmark interest rate would be a hedged risk), this statement rejects FAS No. 137 and 138 as well as the various related Emerging Issues Task Force interpretations. This statement adopts paragraphs 4 and 25 of *FASB Statement No. 149: Amendment of Statement 133 on Derivative Instruments and Hedging Activities* (FAS 149) regarding the definition of an underlying and guidance for assessing hedge effectiveness. [\(The adoption from FAS 149 on the assessment of hedge effectiveness is impacted by the adoption with modification of guidance from ASU 2017-12 as detailed in paragraph 65b, with the guidance from ASU 2017-12 superseding the prior adoption to the extent applicable.\)](#) All other paragraphs in FAS 149 are rejected as not applicable for statutory accounting. This statement adopts FSP FAS 133-1 and FIN 45-5: *Disclosures about Credit Derivatives and Certain Guarantees, An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45 and Clarification of the Effective Date of FASB Statement No. 161* (FSP FAS 133-1 and FIN 45-4) and requires disclosures by sellers of credit derivatives. This statement rejects *FSP FIN 39-1, Amendments of FASB Interpretation No. 39, and ASU 2014-03, Derivatives and Hedging – Accounting for Certain Receive-Variable, Pay-Fixed Interest Rate Swaps – Simplified Hedge Accounting Approach*.

[65. This statement adopts, with modification, certain revisions to ASC 815-20 included in ASU 2017-12. Remaining provisions of ASU 2017-12 will be subsequently assessed for statutory accounting and shall not be considered adopted for statutory accounting until that assessment is complete.](#)

[a. Revisions effective January 1, 2019 with early adoption permitted. ~~This adoption is~~are limited to specific provisions, and related transition guidance, pertaining to the documentation and assessment of hedge effectiveness and only includes: 1\) provisions allowing more time to perform the initial quantitative hedge effectiveness assessment; 2\) provisions allowing subsequent assessments of hedge effectiveness to be performed qualitatively if certain conditions are met; and 3\) revisions regarding use of the critical terms and short-cut methods for assessing hedge effectiveness.](#)

[b. Revisions effective January 1, 2023, with early adoption permitted, are limited to the criteria for initial and subsequent hedge effectiveness detailed in the FASB Accounting Standards Codification \(ASC\) paragraphs 815-20-25-72 through 815-20-35-20, as modified through the issuance of ASU 2017-12. This adoption reflects statutory modifications to specify that the accounting and reporting of hedging instruments, including excluded components of the instruments, shall follow statutory specific guidance detailed in the statement. The intent of this guidance is to clarify that the determination of whether a hedging instrument qualifies as an effective hedge shall converge with U.S. GAAP, but that the measurement method shall continue to follow statutory specific provisions. The adoption of the referenced ASC paragraphs only extends to revisions incorporated through ASU 2017-12; therefore, any subsequent U.S. GAAP edits would require statutory accounting consideration before considered adopted.](#)

~~The remaining provisions of ASU 2017-12 will be subsequently assessed for statutory accounting and shall not be considered adopted for statutory accounting until that assessment is complete.~~

Effective Date and Transition

~~74.73~~ This statement is effective for derivative transaction entered into or modified on or after January 1, 2003. A modification is any revision or change in contractual terms of the derivative. SSAP No. 31 applies to derivative transaction prior to January 1, 2003. Alternatively, an insurer may choose to apply this statement to all derivatives to which the insurer is a party as of January 1, 2003. In either case, the insurer is to disclose the transition approach that is being used.

- a. Revisions adopted to paragraph 64 to reject FSP FIN 39-1 is effective January 1, 2013, for companies that have previously reported a position in the balance sheet that was net of counterparty agreements. (Companies that have previously reported derivative instruments and/or related collateral gross shall not be impacted by these revisions.)
- b. Revisions adopted in paragraph 16 clarify the reporting for amounts received/paid to adjust variation margin until the derivative contract has ended and are effective January 1, 2018, on a prospective basis, for reporting entities that have previously considered these amounts to reflect settlement or realized gains/losses. (Companies that have previously reported variation margin changes in line with the revisions shall not be impacted by these revisions.)
- c. Revisions to incorporate limited provisions from ASU 2017-12 pertaining to the documentation of hedge effectiveness (detailed in paragraph 65) are effective January 1, 2019, with early adoption permitted for year-end 2018. However, if the reporting entity is a U.S. GAAP filer, the reporting entity may only elect early adoption if the entity has also elected early adoption of ASU 2017-12 for year-end 2018.
- d. Revisions adopted April 2019 to explicitly include structured notes in scope of this statement are effective December 31, 2019. Revisions adopted July 2020 to define “derivative premium,” require gross reporting of derivatives without the impact of financing premiums and require separate recognition of premiums payable and premiums receivable, are effective January 1, 2021.
- e. Revisions adopted August 2022 that adopt with modification the criteria for initial and subsequent hedge effectiveness detailed in the FASB ASC paragraphs 815-20-25-72 through 815-20-35-20, as modified through the issuance of ASU 2017-12 and that incorporate statutory accounting revisions for the accounting and reporting of excluded components are effective January 1, 2023, with early adoption permitted. These revisions shall be applied prospectively for all new and existing hedges. Entities shall detail the adoption of this guidance as a change in accounting principle pursuant to SSAP No. 3—Accounting Changes and Corrections of Errors.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-H_21-20_ASU 2017-12.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-H_21-20_ASU%202017-12.docx)

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

SSAP No. 86—Derivatives
Assessment of Hedge Effectiveness

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Review of U.S. derivative guidance and the application to SAP is complex with many facets. This initial document considers consistency in the determination of hedge effectiveness between U.S. GAAP and SAP. The second element pertaining to the accounting and reporting of hedging instruments, including excluded components, will be considered separately, as that guidance has been historically different.

1) Assessment of Hedge Effectiveness – Consistency with U.S. GAAP

NAIC staff agree that the assessment of hedge effectiveness for derivatives should be consistent between U.S. GAAP and SAP. This would ensure that transactions identified to be highly effective hedges under U.S. GAAP would also be identified as highly effective hedges under statutory accounting. If a hedging instrument results with offsetting changes (or other permitted aspects) to a hedged item pursuant to the guidelines under U.S. GAAP to qualify as a highly effective hedge, the same assessment as a highly effective hedge should occur under SAP.

NAIC staff highlight that the current guidance in SSAP No. 86 in Exhibit A – Discussion of Hedge Effectiveness and Exhibit B – Assessment of Hedging Effectiveness have not been significantly updated since the original issuance of FAS 133, *Accounting for Derivative Instruments and Hedging Activities* and SSAP No. 86. Exhibit A continues to reference guidance issued by the Derivatives Implementation Group (DIG) in E7 and E8, which were not considered official FASB positions, although these DIG provisions (and other clarifications) been incorporated into the FASB Codification as authoritative. NAIC staff highlight that the list of components permitted to be excluded from the assessment of hedge effectiveness captured in the FASB Codification (815-20-25-82) differs from the statutory accounting guidance in SSAP No. 86, Exhibit B. The statutory accounting guidance in Exhibit B reflects original guidance from FAS 133, paragraph 63, but the statutory accounting guidance has not been updated to reflect provisions from the DIG E19 incorporated into the FASB Codification or the revisions from ASU 2017-12 that pertain to cross-currency basis spread.

To ensure consistency with U.S. GAAP in the assessment of hedge effectiveness, NAIC staff recommend that the Working Group consider adoption, with modification, of U.S. GAAP guidance pertaining to the criteria for initial and subsequent hedge effectiveness detailed in the FASB Accounting Standards Codification (ASC) paragraphs 815-20-25-72 through 815-20-35-20, as modified through the issuance of ASU 2017-12. Although the U.S. GAAP guidance for the assessment and determination of hedge effectiveness is proposed to be adopted, this action recommends statutory modifications to specify that the accounting and reporting of hedging instruments, including excluded components of the instruments, shall follow statutory specific guidance detailed in SSAP No. 86. The intent of this guidance is to clarify that the determination of whether a hedging instrument qualifies as an effective hedge shall converge with U.S. GAAP, but that the measurement method shall continue to follow statutory specific provisions. The proposed adoption only extends to revisions incorporated through ASU 2017-12, as such, any subsequent U.S. GAAP edits would continue to require statutory accounting consideration before they were considered adopted.

Exposure and request for comments - Excerpts of the U.S. GAAP guidance proposed to be adopted are recommended to replace the existing guidance in Exhibit A and Exhibit B of SSAP No. 86. However, these excerpts do not reflect the full U.S. GAAP guidance referenced. This reduction of quoted guidance is simply

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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to manage the extent of detail captured in SSAP No. 86. With exposure of the proposed excerpts and adoption language, the Working Group requests comments on whether certain paragraphs should be removed as unnecessary in the Exhibit and whether other guidance from the referenced U.S. GAAP would be beneficial to be incorporated. (NAIC staff note that the U.S. GAAP themes previously captured within Exhibit A and B have been retained – with updated ASC language.) Unless noted with tracked changes, the cited paragraphs are proposed to be incorporated directly from U.S. GAAP. (The tracked changes most commonly update GAAP references or paraphrase topics captured in GAAP references.)

Proposed New Exhibit A Which Would Replace The Existing Exhibit A and Exhibit B

EXHIBIT A – DISCUSSION OF HEDGE EFFECTIVENESS

The guidance within this exhibit reflects the adoption, with modification, of *FASB Accounting Standards Codification (ASC) 815-20-25-72 through 815-20-35-20*, as revised through the issuance of *ASU 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities* (ASU 2017-12) (issued on August 28, 2017). This adoption captures the U.S. GAAP guidance for the assessment and determination of hedge effectiveness, with modification to require the accounting and reporting of hedging instruments, including excluded components of hedging instruments to follow specific statutory accounting guidance in SSAP No. 86. The intent of this guidance is to clarify that the determination of whether a hedging instrument and derivative transaction qualifies as an effective hedge shall converge with U.S. GAAP, but that the measurement and reporting of effective hedge transactions shall follow statutory specific provisions. The adoption only extends to revisions incorporated to the FASB ASC through ASU 2017-12, therefore any subsequent U.S. GAAP edits to the ASC would require statutory accounting adoption before application. The guidance within this Exhibit reflects excerpts from the U.S. GAAP ASC, but do not reflect the full U.S. GAAP guidance referenced in the adopted language. The exclusion of cited guidance is to manage the extent of detail included within SSAP No. 86. Excerpts not duplicated within from the cited U.S. GAAP guidance are considered adopted unless subject to the specific accounting and reporting statutory exclusion. This Exhibit intends to supplement the guidance in SSAP No. 86 on hedge effectiveness. In any event in which this Exhibit could be interpreted as conflicting with the SSAP No. 86 guidance, the guidance in the body of SSAP No. 86 shall be followed.

(Staff Note: Tracked changes show proposed revisions to the U.S. GAAP guidance.)

Hedge Effectiveness Criteria Applicable to Both Fair Value Hedges and Cash Flow Hedges

1. This guidance addresses hedge effectiveness criteria applicable to both fair value hedges and cash flow hedges. *(815-20-25-74)*
2. To qualify for hedge accounting, the hedging relationship, both at inception of the hedge and on an ongoing basis, shall be expected to be highly effective in achieving either of the following: *(815-20-25-75)*
 - a. Offsetting changes in fair value attributable to the hedged risk during the period that the hedge is designated (if a fair value hedge)

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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- b. Offsetting cash flows attributable to the hedged risk during the term of the hedge (if a cash flow hedge), unless the hedging instrument is used to modify the contractually specified interest receipts or payments associated with a recognized financial asset liability from one variable rate to another variable rate. ~~except as indicated in paragraph 815-20-25-50~~
3. If the hedging instrument (such as an at-the-money option contract) provides only one-sided offset of the hedged risk, either of the following conditions shall be met: (815-20-25-76)
 - a. The increases (or decreases) in the fair value of the hedging instrument are expected to be highly effective in offsetting the decreases (or increases) in the fair value of the hedged item (if a fair value hedge).
 - b. The cash inflows (outflows) from the hedging instrument are expected to be highly effective in offsetting the corresponding change in the cash outflows or inflows of the hedged transaction (if a cash flow hedge).
4. There would be a mismatch between the change in fair value or cash flows of the hedging instrument and the change in fair value or cash flows of the hedged item or hedged transaction in any of the following circumstances, among others: (815-20-25-77)
 - a. A difference between the basis of the hedging instrument and the hedged item or hedged transaction, to the extent that those bases do not move in tandem
 - b. Differences in critical terms of the hedging instrument and hedged item or hedged transaction, such as differences in any of the following:
 - i. Notional amounts
 - ii. Maturities
 - iii. Quantity
 - iv. Location (not applicable for hedging relationships in which the variability in cash flows attributable to changes in a contractually specified component is designated as the hedged risk)
 - v. Delivery Dates
5. An entity shall consider hedge effectiveness in two different ways—in prospective considerations and in retrospective evaluations: (815-20-25-79)
 - a. Prospective considerations. The entity's expectation that the relationship will be highly effective over future periods in achieving offsetting changes in fair value or cash flows, which is forward looking, must be assessed on a quantitative basis at hedge inception unless

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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one of the exceptions [detailed in ASU 2017-12](#), paragraph 815-20-25-3(b)(2)(iv)(01)¹ is met. Prospective assessments shall be subsequently performed whenever financial statements or earnings are reported and at least every three months. The entity shall elect at hedge inception ~~in accordance with paragraph 815-20-25-3(b)(2)(iv)(03)~~ whether to perform subsequent [retrospective and prospective hedge effectiveness](#) assessments on a quantitative or qualitative basis. ~~See paragraphs 815-20-35-2A through 35-2F for additional guidance on qualitative assessments of hedge effectiveness.~~ A quantitative assessment can be based on regression or other statistical analysis of past changes in fair values or cash flows as well as on other relevant information. The quantitative prospective assessment of hedge effectiveness shall consider all reasonably possible changes in fair value (if a fair value hedge) or in fair value or cash flows (if a cash flow hedge) of the derivative instrument and the hedged items for the period used to assess whether the requirement for expectation of highly effective offset is satisfied. The quantitative prospective assessment may not be limited only to the likely or expected changes in fair value (if a fair value hedge) or in fair value or cash flows (if a cash flow hedge) of the derivative instrument or the hedged items. Generally, the process of formulating an expectation regarding the effectiveness of a proposed hedging relationship involves a probability-weighted analysis of the possible changes in fair value (if a fair value hedge) or in fair value or cash flows (if a cash flow hedge) of the derivative instrument and the hedged items for the hedge period. Therefore, a probable future change in fair value will be more heavily weighted than a reasonably possible future change. ~~That calculation technique is consistent with the definition of the term expected cash flow in FASB Concepts Statement No. 7, Using Cash Flow Information and Present Value in Accounting Measurements.~~

- b. Retrospective evaluations. An assessment of effectiveness may be performed on a quantitative or qualitative basis on the basis of the entity's election at hedge inception ~~in accordance with paragraph 815-20-25-3(b)(2)(iv)(03)~~. That assessment shall be performed whenever financial statements or earnings are reported, and at least every three months. ~~See paragraphs 815-20-35-2 through 35-4 for further guidance.~~ At inception of the hedge, an entity electing a dollar-offset approach to perform retrospective evaluations on a quantitative basis may choose either a period-by-period approach or a cumulative approach in designating how effectiveness of a fair value hedge or of a cash flow hedge will be assessed retrospectively under that approach, depending on the nature of the hedge [initially documented in accordance with paragraph 815-20-25-3](#). ~~For example, an entity may decide that the cumulative approach is generally preferred, yet may wish to use the period-by-period approach in certain circumstances. See paragraphs 815-20-35-5 through 35-6 for further guidance.~~

Skipping 815-20-25-79A

6. All assessments of effectiveness shall be consistent with the originally documented risk management strategy for that particular hedging relationship. An entity shall use the quantitative

¹ [Reference to this ASU 2017-12 guidance is consistent with the guidance in SSAP No. 86, paragraph 42, footnote 5.](#)

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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effectiveness assessment method defined at hedge inception consistently for the periods that the entity either elects or is required to assess hedge effectiveness on a quantitative basis. (815-20-25-80)

7. This ~~Subtopic~~ guidance does not specify a single method for assessing whether a hedge is expected to be highly effective. The method of assessing effectiveness shall be reasonable. The appropriateness of a given method of assessing hedge effectiveness depends on the nature of the risk being hedged and the type of hedging instrument used. Ordinarily, an entity shall assess effectiveness for similar hedges in a similar manner, including whether a component of the gain or loss on a derivative instrument is excluded in assessing effectiveness for similar hedges. Use of different methods for similar hedges shall be justified. The mechanics of isolating the change in time value of an option discussed beginning in paragraph ~~13 815-20-25-98~~ also shall be applied consistently. (815-20-25-81)

8. In defining how hedge effectiveness will be assessed, an entity shall specify whether it will include in that assessment all of the gain or loss on a hedging instrument. An entity may exclude all or a part of the hedging instrument's time value from the assessment of hedge effectiveness, as follows: (815-20-25-82)

- a. If the effectiveness of a hedge with an option is assessed based on changes in the option's intrinsic value, the change in the time value of the option would be excluded from the assessment of hedge effectiveness.
- b. If the effectiveness of a hedge with an option is assessed based on changes in the option's minimum value, that is, its intrinsic value plus the effect of discounting, the change in the volatility value of the contract shall be excluded from the assessment of hedge effectiveness.
- c. An entity may exclude any of the following components of the change in an option's time value from the assessment of hedge effectiveness:
 - i. The portion of the change in time value attributable to the passage of time (theta)
 - ii. The portion of the change in time value attributable to changes due to volatility (vega)
 - iii. The portion of the change in time value attributable to changes due to interest rates (rho).
- d. If the effectiveness of a hedge with a forward contract or futures contract is assessed based on changes in fair value attributable to changes in spot prices, the change in the fair value of the contract related to the changes in the difference between the spot price and the forward or futures price shall be excluded from the assessment of hedge effectiveness.
- e. An entity may exclude the portion of the change in fair value of a currency swap attributable to a cross-currency basis spread.

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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9. No other components of a gain or loss on the designated hedging instrument shall be excluded from the assessment of hedge effectiveness nor shall an entity exclude any aspect of a change in an option's value from the assessment of hedge effectiveness that is not one of the permissible components of the change in an option's time value. For example, an entity shall not exclude from the assessment of hedge effectiveness the portion of the change in time value attributable to changes in other market variables (that is, other than rho and vega). (815-20-25-83)

Note – The following ASC Paragraphs 815-20-25-83A and 83B would not be considered adopted under the proposed language as they address measurement and recognition. SAP measurement and recognition guidance will be captured in the body of the SSAP or Appendix C.

For fair value and cash flow hedges, the initial value of the component excluded from the assessment of effectiveness shall be recognized in earnings using a systematic and rational method over the life of the hedging instrument. Any difference between the change in fair value of the excluded component and amounts recognized in earnings under that systematic and rational method shall be recognized in other comprehensive income. Example 31 beginning in paragraph 815-20-55-235 illustrates this approach for a cash flow hedge in which the hedging instrument is an option and the entire time value is excluded from the assessment of effectiveness. (815-20-25-83A)

For fair value and cash flow hedges, an entity alternatively may elect to record changes in the fair value of the excluded component currently in earnings. This election shall be applied consistently to similar hedges in accordance with paragraph 815-20-25-81 and shall be disclosed in accordance with paragraph 815-10-50-4EEEE. (815-20-25-83B)

10. If the critical terms of the hedging instrument and of the hedged item or hedged forecasted transaction are the same, the entity could conclude that changes in fair value or cash flows attributable to the risk being hedged are expected to completely offset at inception and on an ongoing basis. For example, an entity may assume that a hedge of a forecasted purchase of a commodity with a forward contract will be perfectly effective if all of the following criteria are met:

- a. The forward contract is for purchase of the same quantity of the same commodity at the same time and location as the hedged forecasted purchase. Location differences do not need to be considered if an entity designates the variability in cash flows attributable to changes in a contractually specified component as the hedged risk and the requirements in paragraphs 815-20-25-22A through 25-22B of the FASB Codification are met. (815-20-25-84)
- b. The fair value of the forward contract at inception is zero.
- c. Either of the following criteria is met:
 - i. The change in the discount or premium on the forward contract is excluded from the assessment of effectiveness pursuant to paragraphs 7-9~~815-20-25-81 through 25-83~~.

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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- ii. The change in expected cash flows on the forecasted transaction is based on the forward price for the commodity.

11. In a cash flow hedge of a group of forecasted transactions in accordance with paragraph 28a of the SSAP guidance ~~815-20-25-15(a)(2)~~, an entity may assume that the timing in which the hedged transactions are expected to occur and the maturity date of the hedging instrument match in accordance with paragraph 10a ~~815-20-25-84(a)~~ if those forecasted transactions occur and the derivative matures within the same 31-day period or fiscal month. (815-20-25-84A)

12. If all of the criteria in paragraphs 10-11 ~~815-20-25-84 through 25-84A~~ are met, an entity shall still perform and document an assessment of hedge effectiveness at the inception of the hedging relationship and, ~~as discussed beginning in paragraph 815-20-35-9~~, on an ongoing basis throughout the hedge period. No quantitative effectiveness assessment is required at hedge inception if the criteria in paragraphs 10-11 ~~815-20-25-84 through 25-84A~~ are met ~~(see paragraph 815-20-25-3(b)(2)(iv)(01))~~. (815-20-25-85)

Skipped paragraphs 815-20-25-86 to 815-20-25-97

Computing Changes in an Option's Time Value

13. In computing the changes in an option's time value that would be excluded from the assessment of hedge effectiveness, an entity shall use a technique that appropriately isolates those aspects of the change in time value. Generally, to allocate the total change in an option's time value to its different aspects—the passage of time and the market variables—the change in time value attributable to the first aspect to be isolated is determined by holding all other aspects constant as of the beginning of the period. Each remaining aspect of the change in time value is then determined in turn in a specified order based on the ending values of the previously isolated aspects. (815-20-25-98)

14. Based on that general methodology, if only one aspect of the change in time value is excluded from the assessment of hedge effectiveness (for example, theta), that aspect shall be the first aspect for which the change in time value is computed and would be determined by holding all other parameters constant for the period used for assessing hedge effectiveness. However, if more than one aspect of the change in time value is excluded from the assessment of hedge effectiveness (for example, theta and vega), an entity shall determine the amount of that change in time value by isolating each of those two aspects in turn in a prespecified order (one first, the other second). The second aspect to be isolated would be based on the ending value of the first isolated aspect and the beginning values of the remaining aspects. The portion of the change in time value that is included in the assessment of effectiveness shall be determined by deducting from the total change in time value the portion of the change in time value attributable to excluded components. (815-20-25-99)

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted a new Exhibit A as detailed within this document (This is new guidance and any tracked changes within show changes from U.S. GAAP. That tracking will not be shown in SSAP No. 86.)

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Skipped paragraphs 815-20-25-100 and 815-20-25-101

Assuming Perfect Hedge Effectiveness in a Hedge with an Interest Rate Swap

15. The conditions for the shortcut method do not determine which hedging relationships qualify for hedge accounting; rather, those conditions determine which hedging relationships qualify for a shortcut version of hedge accounting that assumes perfect hedge effectiveness. If all of the applicable conditions in the list in paragraph ~~17 815-20-25-104~~ are met, an entity may assume perfect effectiveness in a hedging relationship of interest rate risk involving a recognized interest-bearing asset or liability (or a firm commitment arising on the trade [pricing] date to purchase or issue an interest-bearing asset or liability) and an interest rate swap (or a compound hedging instrument composed of an interest rate swap and a mirror-image call or put option as discussed in paragraph ~~17e 815-20-25-104(e)~~) provided that, in the case of a firm commitment, the trade date of the asset or liability differs from its settlement date due to generally established conventions in the marketplace in which the transaction is executed. The shortcut method's application shall be limited to hedging relationships that meet each and every applicable condition. That is, all the conditions applicable to fair value hedges shall be met to apply the shortcut method to a fair value hedge, and all the conditions applicable to cash flow hedges shall be met to apply the shortcut method to a cash flow hedge. A hedging relationship cannot qualify for application of the shortcut method based on an assumption of perfect effectiveness justified by applying other criteria. The verb *match* is used in the specified conditions in the list to mean *be exactly the same* or *correspond exactly*. (815-20-25-102)

16. Implicit in the conditions for the shortcut method is the requirement that a basis exist for concluding on an ongoing basis that the hedging relationship is expected to be highly effective in achieving offsetting changes in fair values or cash flows. In applying the shortcut method, an entity shall consider the likelihood of the counterparty's compliance with the contractual terms of the hedging derivative that require the counterparty to make payments to the entity. (815-20-25-103)

17. All of the following conditions apply to both fair value hedges and cash flow hedges: (815-20-25-104)

- a. The notional amount of the interest rate swap matches the principal amount of the interest-bearing asset or liability being hedged.
- b. If the hedging instrument is solely an interest rate swap, the fair value of that interest rate swap at the inception of the hedging relationship must be zero, with one exception. The fair value of the swap may be other than zero at the inception of the hedging relationship only if the swap was entered into at the relationship's inception, the transaction price of the swap was zero in the entity's principal market (or most advantageous market), and the difference between transaction price and fair value is attributable solely to differing prices within the bid-ask spread between the entry transaction and a hypothetical exit transaction. The guidance in the preceding sentence is applicable only to transactions considered *at market* (that is, transaction price is zero exclusive of commissions and other transaction costs, ~~as discussed in paragraph 820-10-35-9B~~). If the hedging instrument is solely an interest rate swap that at the inception of the hedging relationship has a positive or negative

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fair value, but does not meet the one exception specified in this paragraph, the shortcut method shall not be used even if all the other conditions are met.

- c. If the hedging instrument is a compound derivative composed of an interest rate swap and mirror-image call or put option as discussed in (e), the premium for the mirror-image call or put option shall be paid or received in the same manner as the premium on the call or put option embedded in the hedged item based on the following:
 - i. If the implicit premium for the call or put option embedded in the hedged item is being paid principally over the life of the hedged item (through an adjustment of the interest rate), the fair value of the hedging instrument at the inception of the hedging relationship shall be zero (except as discussed previously in (b) regarding differing prices due to the existence of a bid-ask spread).
 - ii. If the implicit premium for the call or put option embedded in the hedged item was principally paid at inception-acquisition (through an original issue discount or premium), the fair value of the hedging instrument at the inception of the hedging relationship shall be equal to the fair value of the mirror-image call or put option.
- d. The formula for computing net settlements under the interest rate swap is the same for each net settlement. That is, both of the following conditions are met:
 - i. The fixed rate is the same throughout the term.
 - ii. The variable rate is based on the same index and includes the same constant adjustment or no adjustment. The existence of a stub period and stub rate is not a violation of the criterion in (d) that would preclude application of the shortcut method if the stub rate is the variable rate that corresponds to the length of the stub period.
- e. The interest-bearing asset or liability is not prepayable, that is, able to be settled by either party before its scheduled maturity, or the assumed maturity date if the hedged item is measured as a partial-term hedge of interest rate risk in which the assumed maturity of the hedged items occur on the date in which the last hedged cash flow is due and payable, in accordance with paragraph 815-25-35-13B, with the following qualifications:
 - i. This criterion does not apply to an interest-bearing asset or liability that is prepayable solely due to an embedded call option (put option) if the hedging instrument is a compound derivative composed of an interest rate swap and a mirror-image call option (put option).
 - ii. The call option embedded in the interest rate swap is considered a mirror image of the call option embedded in the hedged item if all of the following conditions are met:

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- (a.) The terms of the two call options match exactly, including all of the following:
 - (1.) Maturities
 - (2.) Strike price (that is, the actual amount for which the debt instrument could be called) and there is no termination payment equal to the deferred debt issuance costs that remain unamortized on the date the debt is called
 - (3.) Related notional amounts
 - (4.) Timing and frequency of payments
 - (5.) Dates on which the instruments may be called.
 - (b.) The entity is the writer of one call option and the holder (purchaser) of the other call option.
- f. Any other terms in the interest-bearing financial instruments or interest rate swaps meet both of the following conditions:
- i. The terms are typical of those instruments.
 - ii. The terms do not invalidate the assumption of perfect effectiveness.
18. All of the following incremental conditions apply to fair value hedges only: *(815-20-25-105)*
- a. The expiration date of the interest rate swap matches the maturity date of the interest-bearing asset or liability or the assumed maturity date if the hedged item is measured [as a partial-term hedge of interest rate risk in which the assumed maturity of the hedged items occur on the date in which the last hedged cash flow is due and payable](#)~~in accordance with paragraph 815-25-35-13B.~~
 - b. There is no floor or cap on the variable interest rate of the interest rate swap.
 - c. The interval between repricings of the variable interest rate in the interest rate swap is frequent enough to justify an assumption that the variable payment or receipt is at a market rate (generally three to six months or less).
 - d. For fair value hedges of a proportion of the principal amount of the interest-bearing asset or liability, the notional amount of the interest rate swap designated as the hedging instrument (~~see (a) in paragraph 815-20-25-104~~) matches the portion of the asset or liability being hedged.

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- e. For fair value hedges of portfolios (or proportions thereof) of similar interest-bearing assets or liabilities, both of the following criteria are met:
 - i. The notional amount of the interest rate swap designated as the hedging instrument matches the aggregate notional amount of the hedged item (whether it is all or a proportion of the total portfolio).
 - ii. The remaining criteria for the shortcut method are met with respect to the interest rate swap and the individual assets or liabilities in the portfolio.
 - f. The index on which the variable leg of the interest rate swap is based matches the benchmark interest rate designated as the interest rate risk being hedged for that hedging relationship.
19. All of the following incremental conditions apply to cash flow hedges only: (815-20-25-106)
- a. All interest receipts or payments on the variable-rate asset or liability during the term of the interest rate swap are designated as hedged.
 - b. No interest payments beyond the term of the interest rate swap are designated as hedged.
 - c. Either of the following conditions is met:
 - i. There is no floor or cap on the variable interest rate of the interest rate swap.
 - ii. The variable-rate asset or liability has a floor or cap and the interest rate swap has a floor or cap on the variable interest rate that is comparable to the floor or cap on the variable-rate asset or liability. For purposes of this paragraph, comparable does not necessarily mean equal. For example, if an interest rate swap's variable rate is based on LIBOR and an asset's variable rate is LIBOR plus 2 percent, a 10 percent cap on the interest rate swap would be comparable to a 12 percent cap on the asset.
 - d. The repricing dates of the variable-rate asset or liability and the hedging instrument must occur on the same dates and be calculated the same way (that is, both shall be either prospective or retrospective). If the repricing dates of the hedged item occur on the same dates as the repricing dates of the hedging instrument but the repricing calculation for the hedged item is prospective whereas the repricing calculation for the hedging instrument is retrospective, those repricing dates do not match.
 - e. For cash flow hedges of the interest payments on only a portion of the principal amount of the interest-bearing asset or liability, the notional amount of the interest rate swap designated as the hedging instrument ~~(see paragraph 815-20-25-104(a))~~ matches the

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principal amount of the portion of the asset or liability on which the hedged interest payments are based.

- f. For a cash flow hedge in which the hedged forecasted transaction is a group of individual transactions (as permitted by [paragraph 28a of the SSAP guidance](#) ~~paragraph 815-20-25-15(a)~~), if both of the following criteria are met:
 - i. The notional amount of the interest rate swap designated as the hedging instrument ~~(see paragraph (a))~~ matches the notional amount of the aggregate group of hedged transactions.
 - ii. The remaining criteria for the shortcut method are met with respect to the interest rate swap and the individual transactions that make up the group. For example, the interest rate repricing dates for the variable-rate assets or liabilities whose interest payments are included in the group of forecasted transactions shall match (that is, be exactly the same as) the reset dates for the interest rate swap.
 - g. The index on which the variable leg of the interest rate swap is based matches the contractually specified interest rate designated as the interest rate being hedged for that hedging relationship.
20. The shortcut method may be applied to a hedging relationship that involves the use of an interest rate swap-in-arrears provided all of the applicable conditions are met. (815-20-25-107)
21. Any discount or premium in the hedged debt's carrying amount (including any related deferred issuance costs) is irrelevant to and has no direct impact on the determination of whether an interest rate swap contains a mirror-image call option under [paragraph 17e.i.\(e\)](#). Typically, the call price is greater than the par or face amount of the debt instrument. The carrying amount of the debt is economically unrelated to the amount the issuer would be required to pay to exercise the call embedded in the debt. (815-20-25-108)
22. The fixed interest rate on a hedged item need not exactly match the fixed interest rate on an interest rate swap designated as a fair value hedge. Nor does the variable interest rate on an interest-bearing asset or liability need to be the same as the variable interest rate on an interest rate swap designated as a cash flow hedge. An interest rate swap's fair value comes from its net settlements. The fixed and variable interest rates on an interest rate swap can be changed without affecting the net settlement if both are changed by the same amount. That is, an interest rate swap with a payment based on LIBOR and a receipt based on a fixed rate of 5 percent has the same net settlements and fair value as an interest rate swap with a payment based on LIBOR plus 1 percent and a receipt based on a fixed rate of 6 percent. (815-20-25-109)
23. Comparable credit risk at inception is not a condition for assuming perfect effectiveness even though actually achieving perfect offset would require that the same discount rate be used to determine the fair value of the swap and of the hedged item or hedged transaction. To justify using the same discount rate, the credit risk related to both parties to the swap as well as to the debtor on the hedged interest-bearing asset (in a fair value hedge) or the variable-rate asset on which the interest payments are hedged (in a cash flow

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hedge) would have to be the same. However, because that complication is caused by the interaction of interest rate risk and credit risk, which are not easily separable, comparable creditworthiness is not considered a necessary condition for assuming perfect effectiveness in a hedge of interest rate risk. (815-20-25-111)

Skipped paragraphs 815-20-25-112 through 815-20-25-143

Hedge Effectiveness – After Designation

24. If a fair value hedge or cash flow hedge initially qualifies for hedge accounting, the entity would continue to assess whether the hedge meets the effectiveness test on either a quantitative basis (using either a dollar-offset test or a statistical method such as regression analysis) or a qualitative basis. ~~See paragraphs 815-20-35-2A through 35-2F for additional guidance on qualitative assessments of effectiveness.~~ If the hedge fails the effectiveness test at any time (that is, if the entity does not expect the hedge to be highly effective at achieving offsetting changes in fair values or cash flows), the hedge ceases to qualify for hedge accounting. At least quarterly, the hedging entity shall determine whether the hedging relationship has been highly effective in having achieved offsetting changes in fair value or cash flows through the date of the periodic assessment.) (815-20-35-2)

Effectiveness Assessment on a Qualitative Basis

25. An entity may qualitatively assess hedge effectiveness if both of the following criteria are met: (815-20-35-2A)

- a. An entity performs an initial quantitative test of hedge effectiveness on a prospective basis (that is, it is not assuming that the hedging relationship is perfectly effective at hedge inception ~~as described in paragraph 815-20-25-3(b)(2)(iv)(01)(A) through (H)~~), and the results of that quantitative test demonstrate highly effective offset.
- b. At hedge inception, an entity can reasonably support an expectation of high effectiveness on a qualitative basis in subsequent periods.

26. An entity may elect to qualitatively assess hedge effectiveness in accordance with paragraph 25 815-20-35-2A on a hedge-by-hedge basis. If an entity makes this qualitative assessment election, only the quantitative method specified in an entity's initial hedge documentation must comply with paragraph 7815-20-25-81. (815-20-35-2B)

27. When an entity performs qualitative assessments of hedge effectiveness, it shall verify and document whenever financial statements or earnings are reported and at least every three months that the facts and circumstances related to the hedging relationship have not changed such that it can assert qualitatively that the hedging relationship was and continues to be highly effective. While not all-inclusive, the following is a list of indicators that may, individually or in the aggregate, allow an entity to continue to assert qualitatively that the hedging relationship is highly effective: (815-20-35-2C)

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- a. An assessment of the factors that enabled the entity to reasonably support an expectation of high effectiveness on a qualitative basis has not changed such that the entity can continue to assert qualitatively that the hedging relationship was and continues to be highly effective. ~~This shall include an assessment of the guidance in paragraph 815-20-25-100 when applicable.~~
- b. There have been no adverse developments regarding the risk of counterparty default.

28. If an entity elects to assess hedge effectiveness on a qualitative basis and then facts and circumstances change such that the entity no longer can assert qualitatively that the hedging relationship was and continues to be highly effective in achieving offsetting changes in fair values or cash flows, the entity shall assess effectiveness of that hedging relationship on a quantitative basis in subsequent periods. In addition, an entity may perform a quantitative assessment of hedge effectiveness in any reporting period to validate whether qualitative assessments of hedge effectiveness remain appropriate. In both cases, the entity shall apply the quantitative method that it identified in its initial hedge documentation ~~in accordance with paragraph (b)(2)(iv)(03).~~ (815-20-35-2D)

29. When an entity determines that facts and circumstances have changed and it no longer can assert qualitatively that the hedging relationship was and continues to be highly effective, the entity shall begin performing subsequent quantitative assessments of hedge effectiveness as of the period that the facts and circumstances changed. If there is no identifiable event that led to the change in the facts and circumstances of the hedging relationship, the entity may begin performing quantitative assessments of effectiveness in the current period. (815-20-35-2E)

30. After performing a quantitative assessment of hedge effectiveness for one or more reporting periods as discussed in paragraphs ~~28-29~~ ~~815-20-35-2D through 35-2E~~, an entity may revert to qualitative assessments of hedge effectiveness if it can reasonably support an expectation of high effectiveness on a qualitative basis for subsequent periods. ~~See paragraphs 815-20-55-79G through 55-79N for implementation guidance on factors to consider when determining whether qualitative assessments of effectiveness can be performed after hedge inception.~~ (815-20-35-2F)

Quantitative Hedge Effectiveness Assessments After Hedge Designation

31. Quantitative assessments can be based on regression or other statistical analysis of past changes in fair values or cash flows as well as on other relevant information. (815-20-35-2G)

32. If an entity elects at the inception of a hedging relationship to use the same regression analysis approach for both prospective considerations and retrospective evaluations of assessing effectiveness, then during the term of that hedging relationship both of the following conditions shall be met: (815-20-35-3)

- a. Those regression analysis calculations shall generally incorporate the same number of data points.
- b. That entity must periodically update its regression analysis (or other statistical analysis).

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33. Electing to use a regression or other statistical analysis approach instead of a dollar-offset approach to perform retrospective evaluations of assessing hedge effectiveness may affect whether an entity can apply hedge accounting for the current assessment period. (815-20-35-4)

34. In periodically (that is, at least quarterly) assessing retrospectively the effectiveness of a fair value hedge (or a cash flow hedge) in having achieved offsetting changes in fair values (or cash flows) under a dollar-offset approach, an entity shall use either a period-by-period approach or a cumulative approach on individual fair value hedges (or cash flow hedges): (815-20-35-5)

- a. Period-by-period approach. The period-by-period approach involves comparing the changes in the hedging instrument's fair values (or cash flows) that have occurred during the period being assessed to the changes in the hedged item's fair value (or hedged transaction's cash flows) attributable to the risk hedged that have occurred during the same period. If an entity elects to base its comparison of changes in fair value (or cash flows) on a period-by-period approach, the period cannot exceed three months. Fair value (or cash flow) patterns of the hedging instrument or the hedged item (or hedged transaction) in periods before the period being assessed are not relevant.
- b. Cumulative approach. The cumulative approach involves comparing the cumulative changes (to date from inception of the hedge) in the hedging instrument's fair values (or cash flows) to the cumulative changes in the hedged item's fair value (or hedged transaction's cash flows) attributable to the risk hedged.

35. If an entity elects at inception of a hedging relationship to base its comparison of changes in fair value (or cash flows) on a cumulative approach, then that entity must abide by the results of that methodology as long as that hedging relationship remains designated. Electing to utilize a period-by-period approach instead of a cumulative approach (or vice versa) to perform retrospective evaluations of assessing hedge effectiveness under the dollar-offset method may affect whether an entity can apply hedge accounting for the current assessment period. (815-20-35-6)

Assessing Effectiveness Based on Whether the Critical Terms of the Hedging Instrument and the Hedged Items Match

36. If, at inception, the critical terms of the hedging instrument and the hedged forecasted transaction are the same (see paragraphs [10-11815-20-25-84 through 25-84A](#)), the entity can conclude that changes in cash flows attributable to the risk being hedged are expected to be completely offset by the hedging derivative. Therefore, subsequent assessments can be performed by verifying and documenting whether the critical terms of the hedging instrument and the forecasted transaction have changed during the period in review. (815-20-35-9)

37. Because the assessment of hedge effectiveness in a cash flow hedge involves assessing the likelihood of the counterparty's compliance with the contractual terms of the derivative instrument designated as the hedging instrument, the entity must also assess whether there have been adverse

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developments regarding the risk of counterparty default, particularly if the entity planned to obtain its cash flows by liquidating the derivative instrument at its fair value. (815-20-35-10)

38. If there are no such changes in the critical terms or adverse developments regarding counterparty default, the entity may conclude that the hedging relationship is perfectly effective. In that case, the change in fair value of the derivative instrument can be viewed as a proxy for the present value of the change in cash flows attributable to the risk being hedged. (815-20-35-11)

39. However, the entity must assess whether the hedging relationship is expected to continue to be highly effective using a quantitative assessment method (either a dollar-offset test or a statistical method such as regression analysis) if any of the following conditions exist: (815-20-35-12)

- a. The critical terms of the hedging instrument or the hedged forecasted transaction have changed.
- b. There have been adverse developments regarding the risk of counterparty default.

Possibility of Default by the Counterparty to Hedging Derivative

40. For an entity to conclude on an ongoing basis that the hedging relationship is expected to be highly effective in achieving offsetting changes in cash flows, the entity shall not ignore whether it will collect the payments it would be owed under the contractual provisions of the derivative instrument. In complying with the requirements of paragraph ~~2b815-20-25-75(b)~~, the entity shall assess the possibility of whether the counterparty to the derivative instrument will default by failing to make any contractually required payments to the entity as scheduled in the derivative instrument. In making that assessment, the entity shall also consider the effect of any related collateralization or financial guarantees. The entity shall be aware of the counterparty's creditworthiness (and changes therein) in determining the fair value of the derivative instrument. Although a change in the counterparty's creditworthiness would not necessarily indicate that the counterparty would default on its obligations, such a change shall warrant further evaluation. (815-20-35-14)

41. If the likelihood that the counterparty will not default ceases to be probable, an entity would be unable to conclude that the hedging relationship in a cash flow hedge is expected to be highly effective in achieving offsetting cash flows. (815-20-35-15)

42. In contrast, a change in the creditworthiness of the derivative instrument's counterparty in a fair value hedge would have an immediate effect because that change in creditworthiness would affect the change in the derivative instrument's fair value, which would immediately affect both of the following: (815-20-35-16)

- a. The assessment of whether the relationship qualifies for hedge accounting
- b. The amount of mismatch between the change in the fair value of the hedging instrument and the hedged item attributable to the hedged risk recognized in earnings under fair value hedge accounting.

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43. Paragraph ~~16815-20-25-103~~ states that, in applying the shortcut method, an entity shall consider the likelihood of the counterparty's compliance with the contractual terms of the hedging derivative that require the counterparty to make payments to the entity. That paragraph explains that implicit in the criteria for the shortcut method is the requirement that a basis exist for concluding on an ongoing basis that the hedging relationship is expected to be highly effective in achieving offsetting changes in fair values or cash flows. (815-20-35-18)

Change in Hedge Effectiveness Method When Hedge Effectiveness is Assessed on a Quantitative Basis

44. If the entity identifies an improved method of assessing hedge effectiveness in accordance with the guidance in paragraph ~~6815-20-25-80~~ and wants to apply that method prospectively, it shall do both of the following: (815-20-35-19)

- a. Discontinue the existing hedging relationship
- b. Designate the relationship anew using the improved method.

45. The new method of assessing hedge effectiveness shall be applied prospectively and shall also be applied to similar hedges unless the use of a different method for similar hedges is justified. A change in the method of assessing hedge effectiveness by an entity shall not be considered a change in accounting principle as defined in ~~Topic 250~~ *SSAP No. 3—Accounting Changes and Corrections of Errors*. (815-20-35-20)

U.S. GAAP ASC Excerpts Proposed to be Excluded from Exhibit A

This information is included to illustrate the guidance within the adopted ASC references that are not proposed to be captured in Exhibit A. The guidance within these paragraphs would be considered part of the statutory adoption unless they include specific accounting and reporting guidance. Comments are requested on whether any of the following paragraphs should be explicitly captured in Exhibit A.

Skipping 815-20-25-79A

815-20-25-79A See paragraphs 815-20-25-139 through 25-142 about the timing of hedge effectiveness assessments required by paragraph 815-20-25-79 for a private company that is not a financial institution or a not-for-profit entity (except for a not-for-profit entity that has issued, or is a conduit bond obligor for, securities that are traded, listed, or quoted on an exchange or an over-the-counter market).

Skipped paragraphs 815-20-25-86 through 815-20-25-97

815-20-25-86 The remainder of this guidance on hedge effectiveness criteria applicable to both fair value hedges and cash flow hedges is organized as follows:

- a. Hedge effectiveness when the hedging instrument is an option or combination of options
- b. Hedge effectiveness when hedged exposure is more limited than hedging instrument

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- c. Hedge effectiveness during designated hedge period
- d. Assuming perfect effectiveness in a hedge with an interest rate swap (the shortcut method).

Hedge Effectiveness When the Hedging Instrument Is an Option or Combination of Options

815-20-25-87 The hedge effectiveness criteria applicable to options and combinations of options are organized as follows:

- a. Determining whether a combination of options is net written
- b. Hedge effectiveness of written options
- c. Hedge effectiveness of options in general.

Determining Whether a Combination of Options Is Net Written

815-20-25-88 This guidance addresses how an entity shall determine whether a combination of options is considered a net written option subject to the requirements of paragraph 815-20-25-94. A combination of options (for example, an interest rate collar) entered into contemporaneously shall be considered a written option if either at inception or over the life of the contracts a net premium is received in cash or as a favorable rate or other term. Furthermore, a derivative instrument that results from combining a written option and any other non-option derivative instrument shall be considered a written option. The determination of whether a combination of options is considered a net written option depends in part on whether strike prices and notional amounts of the options remain constant.

Strike Prices and Notional Amounts Remain Constant

815-20-25-89 For a combination of options in which the strike price and the notional amount in both the written option component and the purchased option component remain constant over the life of the respective component, that combination of options would be considered a net purchased option or a zero cost collar (that is, the combination shall not be considered a net written option subject to the requirements of paragraph 815-20-25-94) provided all of the following conditions are met:

- a. No net premium is received.
- b. The components of the combination of options are based on the same underlying.
- c. The components of the combination of options have the same maturity date.
- d. The notional amount of the written option component is not greater than the notional amount of the purchased option component.

815-20-25-90 If the combination of options does not meet all of those conditions, it shall be subject to the test in paragraph 815-20-25-94. For example, a combination of options having different underlying indexes, such as a collar containing a written floor based on three-month U.S. Treasury rates and a purchased cap

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based on three-month London Interbank Offered Rate (LIBOR), shall not be considered a net purchased option or a zero cost collar even though those rates may be highly correlated.

Strike Prices and Notional Amounts Do Not Remain Constant

815-20-25-91 If either the written option component or the purchased option component for a combination of options has either strike prices or notional amounts that do not remain constant over the life of the respective component, the assessment to determine whether that combination of options can be considered not to be a written option under paragraph 815-20-25-88 shall be evaluated with respect to each date that either the strike prices or the notional amounts change within the contractual term from inception to maturity.

815-20-25-92 Even though that assessment is made on the date that a combination of options is designated as a hedging instrument (to determine the applicability of paragraph 815-20-25-94), it shall consider the receipt of a net premium (in cash or as a favorable rate or other term) from that combination of options at each point in time that either the strike prices or the notional amounts change, such as either of the following circumstances:

- a. If strike prices fluctuate over the life of a combination of options and no net premium is received at inception, a net premium will typically be received as a favorable term in one or more reporting periods within the contractual term from inception to maturity.
- b. If notional amounts fluctuate over the life of a combination of options and no net premium is received at inception, a net premium or a favorable term will typically be received in one or more periods within the contractual term from inception to maturity.

815-20-25-93 In addition, a combination of options in which either the written option component or the purchased option component has either strike prices or notional amounts that do not remain constant over the life of the respective component shall satisfy all of the conditions in paragraph 815-20-25-89 to be considered not to be a written option (that is, to be considered to be a net purchased option or zero cost collar) under paragraph 815-20-25-88. For example, if the notional amount of the written option component is greater than the notional amount of the purchased option component at any date that the notional amount changes within the contractual term from inception to maturity, the combination of options shall be considered to be a written option under paragraph 815-20-25-88 and, thus, subject to the criteria in the following paragraph.

Hedge Effectiveness of Written Options

815-20-25-94 If a written option is designated as hedging a recognized asset or liability or an unrecognized firm commitment (if a fair value hedge) or the variability in cash flows for a recognized asset or liability or an unrecognized firm commitment (if a cash flow hedge), the combination of the hedged item and the written option provides either of the following:

- a. At least as much potential for gains as a result of a favorable change in the fair value of the combined instruments (that is, the written option and the hedged item, such as an embedded

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purchased option) as exposure to losses from an unfavorable change in their combined fair value (if a fair value hedge)

b. At least as much potential for favorable cash flows as exposure to unfavorable cash flows (if a cash flow hedge).

815-20-25-95 The written-option test in the preceding paragraph shall be applied only at inception of the hedging relationship and is met if all possible percentage favorable changes in the underlying (from zero percent to 100 percent) would provide either of the following:

a. At least as much gain as the loss that would be incurred from an unfavorable change in the underlying of the same percentage (if a fair value hedge)

b. At least as much favorable cash flows as the unfavorable cash flows that would be incurred from an unfavorable change in the underlying of the same percentage (if a cash flow hedge).

815-20-25-96 The time value of a written option (or net written option) may be excluded from the written-option test if, in defining how hedge effectiveness will be assessed, the entity specifies that it will base that assessment on only changes in the option's intrinsic value. In that circumstance, the change in the time value of the options would be excluded from the assessment of hedge effectiveness in accordance with paragraph 815-20-25-82(a).

815-20-25-97 When applying the written-option test to determine whether there is symmetry of the gain and loss potential of the combined hedged position for all possible percentage changes in the underlying, an entity is permitted to measure the change in the intrinsic value of the written option (or net written option) combined with the change in fair value of the hedged item.

Skipped paragraphs 815-20-25-100 and 815-20-25-101

Hedge Effectiveness When Hedged Exposure Is More Limited Than Hedging Instrument

815-20-25-100 An entity may designate as the hedging instrument in a fair value hedge or cash flow hedge a derivative instrument that does not have a limited exposure comparable to the limited exposure of the hedged item to the risk being hedged. However, to make that designation, in accordance with paragraph 815-20-25-75, the entity shall establish that the hedging relationship is expected to be highly effective in achieving offsetting changes in fair value or cash flows attributable to the hedged risk during the period that the hedge is designated. See paragraph 815-20-25-79(a) for additional guidance on prospective considerations of hedge effectiveness in this circumstance.

Hedge Effectiveness during Designated Hedge Period

815-20-25-101 It is inappropriate under this Subtopic for an entity to designate a derivative instrument as the hedging instrument if the entity expects that the derivative instrument will not be highly effective in achieving offsetting changes in fair value or cash flows attributable to the hedged risk during the period

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that the hedge is designated, unless the entity has documented undertaking a dynamic hedging strategy in which it has committed itself to an ongoing repositioning strategy for its hedging relationship.

Skipped paragraphs 815-20-25-112 through 815-20-25-143

>>>> Application of Prepayable Criterion

815-20-25-112 An interest-bearing asset or liability shall be considered prepayable under the provisions of paragraph **815-20-25-104(e)** if one party to the contract has the right to cause the payment of principal before the scheduled payment dates unless either of the following conditions is met:

- a. The debtor has the right to cause settlement of the entire contract before its stated maturity at an amount that is always greater than the then fair value of the contract absent that right.
- b. The creditor has the right to cause settlement of the entire contract before its stated maturity at an amount that is always less than the then fair value of the contract absent that right.

815-20-25-113 However, none of the following shall be considered a prepayment provision:

a. Any term, clause, or other provision in a debt instrument that gives the debtor or creditor the right to cause prepayment of the debt contingent upon the occurrence of a specific event related to the debtor's credit deterioration or other change in the debtor's credit risk, such as any of the following:

1. The debtor's failure to make timely payment, thus making it delinquent
2. The debtor's failure to meet specific covenant ratios
3. The debtor's disposition of specific significant assets (such as a factory)
4. A declaration of cross-default
5. A restructuring by the debtor.

b. Any term, clause, or other provision in a debt instrument that gives the debtor or creditor the right to cause prepayment of the debt contingent upon the occurrence of a specific event that meets all of the following conditions:

1. It is not probable at the time of debt issuance.
2. It is unrelated to changes in benchmark interest rates, contractually specified interest rates, or any other market variable.
3. It is related either to the debtor's or creditor's death or to regulatory actions, legislative actions, or other similar events that are beyond the control of the debtor or creditor.

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c. Contingent acceleration clauses that permit the debtor to accelerate the maturity of an outstanding note only upon the occurrence of a specified event that meets all of the following conditions:

1. It is not probable at the time of debt issuance.
2. It is unrelated to changes in benchmark interest rates, contractually specified interest rates, or any other market variable.
3. It is related to regulatory actions, legislative actions, or other similar events that are beyond the control of the debtor or creditor.

815-20-25-114 Furthermore, a right to cause a contract to be prepaid at its then fair value would not cause the interest-bearing asset or liability to be considered prepayable because that right would have a fair value of zero at all times and essentially would provide only liquidity to the holder.

815-20-25-115 Application of this guidance to specific debt instruments is illustrated in paragraph 815-20-55-75.

Application of the Shortcut Method to a Portfolio of Hedged Items

815-20-25-116 Portfolio hedging cannot be used to circumvent the application of the shortcut method criteria beginning in paragraph 815-20-25-102 to a fair value hedge of an individual interest-bearing asset or liability. A portfolio of interest-bearing assets or interest-bearing liabilities cannot qualify for the shortcut method if it contains an interest-bearing asset or liability that individually cannot qualify for the shortcut method.

815-20-25-117 The fair value hedge requirements of paragraph 815-20-25-12(b)(1) ensure that the individual items in a portfolio share the same risk exposure and have fair value changes attributable to the hedged risk that are expected to respond in a generally proportionate manner to the overall fair value changes of the entire portfolio. That requirement restricts the types of portfolios that can qualify for portfolio hedging; however, it also permits the existence of a mismatch between the change in the fair value of the individual hedged items and the change in the fair value of the hedged portfolio attributable to the hedged risk in portfolios that do qualify. As a result, the assumption of perfect effectiveness required for the shortcut method generally is inappropriate for portfolio hedges of similar assets or liabilities that are not also nearly identical (except for their notional amounts). Application of the shortcut method to portfolios that meet the requirements of paragraph 815-20-25-12(b)(1) is appropriate only if the assets or liabilities in the portfolio meet the same stringent criteria in paragraphs 815-20-25-104(e), 815-20-25-104(g), and 815-20-25-105(a) as required for hedges of individual assets and liabilities.

Application of Whether the Shortcut Method Was Not or No Longer Is Appropriate

815-20-25-117A In the period in which an entity determines that use of the shortcut method was not or no longer is appropriate, the entity may use a quantitative method to assess hedge effectiveness and

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measure hedge results without dedesignating the hedging relationship if both of the following criteria are met:

- a. The entity documented at hedge inception in accordance with paragraph 815-20-25-3(b)(2)(iv)(04) which quantitative method it would use to assess hedge effectiveness and measure hedge results if the shortcut method was not or no longer is appropriate during the life of the hedging relationship.
- b. The hedging relationship was highly effective on a prospective and retrospective basis in achieving offsetting changes in fair value or cash flows attributable to the hedged risk for the periods in which the shortcut method criteria were not met.

815-20-25-117B If the criterion in paragraph 815-20-25-117A(a) is not met, the hedging relationship shall be considered invalid in the period in which the criteria for the shortcut method were not met and in all subsequent periods. If the criterion in paragraph 815-20-25-117A(a) is met, the hedging relationship shall be considered invalid in all periods in which the criterion in paragraph 815-20-25-117A(b) is not met.

815-20-25-117C If an entity cannot identify the date on which the shortcut criteria ceased to be met, the entity shall perform the quantitative assessment of effectiveness documented at hedge inception for all periods since hedge inception.

815-20-25-117D The terms of the hedged item and hedging instrument used to assess effectiveness, in accordance with paragraph 815-20-25-117A(b), shall be those existing as of the date that the shortcut criteria ceased to be met. For cash flow hedges, if the hypothetical derivative method is used as a proxy for the hedged item, the value of the hypothetical derivative shall be set to zero as of hedge inception.

Hedge Effectiveness Criterion Applicable to Fair Value Hedges Only—Effectiveness Horizon

815-20-25-118 In documenting its risk management strategy for a fair value hedge, an entity may specify an intent to consider the possible changes (that is, not limited to the likely or expected changes) in value of the hedging derivative instrument and the hedged item only over a shorter period than the derivative instrument's remaining life in formulating its expectation that the hedging relationship will be highly effective in achieving offsetting changes in fair value for the risk being hedged. The entity does not need to contemplate the offsetting effect for the entire term of the hedging instrument.

Consideration of Prepayment Risk Using the Last-of-Layer Method

815-20-25-118A In a fair value hedge of interest rate risk designated under the last-of-layer method in accordance with paragraph 815-20-25-12A, an entity may exclude prepayment risk when measuring the change in fair value of the hedged item attributable to interest rate risk.

Hedge Effectiveness Criteria Applicable to Cash Flow Hedges Only

815-20-25-119 The hedge effectiveness criteria applicable to cash flow hedges only are organized as follows:

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- a. Consideration of the time value of money
- b. Consideration of counterparty credit risk
- c. Additional considerations for options in cash flow hedges
- d. Assuming perfect hedge effectiveness in a cash flow hedge of a variable-rate borrowing with a receive-variable, pay-fixed interest rate swap recorded under the simplified hedge accounting approach.

Consideration of the Time Value of Money

815-20-25-120 In assessing the effectiveness of a cash flow hedge, an entity generally shall consider the time value of money, especially if the hedging instrument involves periodic cash settlements.

815-20-25-121 An example of a situation in which an entity likely would reflect the time value of money is a tailing strategy with futures contracts. When using a tailing strategy, an entity adjusts the size or contract amount of futures contracts used in a hedge so that earnings (or expense) from reinvestment (or funding) of daily settlement gains (or losses) on the futures do not distort the results of the hedge. To assess offset of expected cash flows when a tailing strategy has been used, an entity could reflect the time value of money, perhaps by comparing the present value of the hedged forecasted cash flow with the results of the hedging instrument.

Consideration of Counterparty Credit Risk

815-20-25-122 For a cash flow hedge, an entity shall consider the likelihood of the counterparty's compliance with the contractual terms of the hedging derivative instrument that require the counterparty to make payments to the entity. Paragraph [815-20-35-14](#) states that, for an entity to conclude on an ongoing basis that a cash flow hedging relationship is expected to be highly effective in achieving offsetting changes in cash flows, the entity shall not ignore whether it will collect the payments it would be owed under the contractual provisions of the derivative instrument. See paragraphs [815-20-35-14](#) through [35-18](#) for further guidance.

Additional Considerations for Options in Cash Flow Hedges

815-20-25-123 When an entity has documented that the effectiveness of a cash flow hedge will be assessed based on changes in the hedging option's intrinsic value pursuant to paragraph [815-20-25-82\(a\)](#), that assessment (and the related cash flow hedge accounting) shall be performed for all changes in intrinsic value—that is, for all periods of time when the option has an intrinsic value, such as when the underlying is above the strike price of the call option.

815-20-25-124 When a purchased option is designated as a hedging instrument in a cash flow hedge, an entity shall not define only limited parameters for the risk exposure designated as being hedged that would include the time value component of that option. An entity cannot arbitrarily exclude some portion of an option's intrinsic value from the hedge effectiveness assessment simply through an articulation of the risk

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exposure definition. It is inappropriate to assert that only limited risk exposures are being hedged (for example, exposures related only to currency-exchange-rate changes above \$1.65 per pound sterling as illustrated in Example 26 [see paragraph [815-20-55-205](#)]).

815-20-25-125 If an option is designated as the hedging instrument in a cash flow hedge, an entity may assess hedge effectiveness based on a measure of the difference, as of the end of the period used for assessing hedge effectiveness, between the strike price and forward price of the underlying, undiscounted. Although assessment of cash flow hedge effectiveness with respect to an option designated as the hedging instrument in a cash flow hedge shall be performed by comparing the changes in present value of the expected future cash flows of the forecasted transaction to the change in fair value of the derivative instrument (aside from any excluded component under paragraph [815-20-25-82](#)), that measure of changes in the expected future cash flows of the forecasted transaction based on forward rates, undiscounted, is not prohibited. With respect to an option designated as the hedging instrument in a cash flow hedge, assessing hedge effectiveness based on a similar measure with respect to the hedging instrument eliminates any difference that the effect of discounting may have on the hedging instrument and the hedged transaction. Pursuant to paragraph [815-20-25-3\(b\)\(2\)\(iv\)](#), entities shall document the measure of intrinsic value that will be used in the assessment of hedge effectiveness. As discussed in paragraph [815-20-25-80](#), that measure must be used consistently for each period following designation of the hedging relationship.

Assessing Hedge Effectiveness Based on an Option's Terminal Value

815-20-25-126 The guidance in paragraph [815-20-25-129](#) addresses a cash flow hedge that meets all of the following conditions:

- a. The hedging instrument is a purchased option or a combination of only options that comprise either a net purchased option or a zero-cost collar.
- b. The exposure being hedged is the variability in expected future cash flows attributed to a particular rate or price beyond (or within) a specified level (or levels).
- c. The assessment of effectiveness is documented as being based on total changes in the option's cash flows (that is, the assessment will include the hedging instrument's entire change in fair value, not just changes in intrinsic value).

815-20-25-127 This guidance has no effect on the accounting for fair value hedging relationships. In addition, in determining the accounting for seemingly similar cash flow hedging relationships, it would be inappropriate to analogize to this guidance.

815-20-25-128 For a hedging relationship that meets all of the conditions in paragraph [815-20-25-126](#), an entity may focus on the hedging instrument's terminal value (that is, its expected future pay-off amount at its maturity date) in determining whether the hedging relationship is expected to be highly effective in achieving offsetting cash flows attributable to the hedged risk during the term of the hedge. An entity's focus on the hedging instrument's terminal value is not an impediment to the entity's subsequently deciding to dedesignate that cash flow hedge before the occurrence of the hedged transaction. If the hedging instrument is a purchased cap consisting of a series of purchased caplets that are each hedging an individual

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hedged transaction in a series of hedged transactions (such as caplets hedging a series of hedged interest payments at different monthly or quarterly dates), the entity may focus on the terminal value of each caplet (that is, the expected future pay-off amount at the maturity date of each caplet) in determining whether each of those hedging relationships is expected to be highly effective in achieving offsetting cash flows. The guidance in this paragraph applies to a purchased option regardless of whether at the inception of the cash flow hedging relationship it is at the money, in the money, or out of the money.

815-20-25-129 A hedging relationship that meets all of the conditions in paragraph 815-20-25-126 may be considered to be perfectly effective if all of the following conditions are met:

- a. The critical terms of the hedging instrument (such as its notional amount, underlying, maturity date, and so forth) completely match the related terms of the hedged forecasted transaction (such as the notional amount, the variable that determines the variability in cash flows, the expected date of the hedged transaction, and so forth).
- b. The strike price (or prices) of the hedging option (or combination of options) matches the specified level (or levels) beyond (or within) which the entity's exposure is being hedged.
- c. The hedging instrument's inflows (outflows) at its maturity date completely offset the change in the hedged transaction's cash flows for the risk being hedged.
- d. The hedging instrument can be exercised only on a single date—its contractual maturity date.

The condition in (d) is consistent with the entity's focus on the hedging instrument's terminal value. If the holder of the option chooses to pay for the ability to exercise the option at dates before the maturity date (for example, by acquiring an American-style option), the hedging relationship would not be perfectly effective.

815-20-25-129A In a hedge of a group of forecasted transactions in accordance with paragraph 815-20-25-15(a)(2), an entity may assume that the timing in which the hedged transactions are expected to occur and the maturity date of the hedging instrument match in accordance with paragraph 815-20-25-129(a) if those forecasted transactions occur and the derivative matures within the same 31-day period or fiscal month.

Hedge Effectiveness of a Net-Purchased Combination of Options

815-20-25-130 The guidance in the following paragraph addresses a cash flow hedging relationship that meets both of the following conditions:

- a. A combination of options (deemed to be a net purchased option) is designated as the hedging instrument.
- b. The effectiveness of the hedge is assessed based only on changes in intrinsic value of the hedging instrument (the combination of options).

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815-20-25-131 The assessment of effectiveness of a cash flow hedging relationship meeting the conditions in the preceding paragraph may be based only on changes in the underlying that cause a change in the intrinsic value of the hedging instrument (the combination of options). Thus, the assessment can exclude ranges of changes in the underlying for which there is no change in the hedging instrument's intrinsic value.

Hedge Accounting Provisions Applicable to Certain Private Companies

Assuming Perfect Hedge Effectiveness in a Cash Flow Hedge of a Variable-Rate Borrowing with a Receive-Variable, Pay-Fixed Interest Rate Swap Recorded under the Simplified Hedge Accounting Approach

815-20-25-133 Paragraphs 815-10-35-1A through 35-1C, 815-10-50-3, 815-20-25-3A, 815-20-25-119, 815-20-25-134 through 25-138, 815-20-55-79A through 55-79B, 825-10-50-3, and 825-10-50-8 provide guidance for an entity electing the simplified hedge accounting approach. See paragraph 815-10-65-6 for transition guidance on applying the simplified hedge accounting approach.

815-20-25-134 The conditions for the simplified hedge accounting approach determine which cash flow hedging relationships qualify for a simplified version of hedge accounting. If all of the conditions in paragraphs 815-20-25-135 and 815-20-25-137 are met, an entity may assume perfect effectiveness in a cash flow hedging relationship involving a variable-rate borrowing and a receive-variable, pay-fixed interest rate swap.

815-20-25-135 Provided all of the conditions in paragraph 815-20-25-137 are met, the simplified hedge accounting approach may be applied by a **private company** except for a financial institution as described in paragraph 942-320-50-1. An entity may elect the simplified hedge accounting approach for any receive-variable, pay-fixed interest rate swap, provided that all of the conditions for applying the simplified hedge accounting approach specified in paragraph 815-20-25-137 are met. Implementation guidance on the conditions set forth in paragraph 815-20-25-137 is provided in paragraphs 815-20-55-79A through 55-79B.

815-20-25-136 In applying the simplified hedge accounting approach, the documentation required by paragraph 815-20-25-3 to qualify for hedge accounting must be completed by the date on which the first annual **financial statements are available to be issued** after hedge inception rather than concurrently at hedge inception.

815-20-25-137 An eligible entity under paragraph 815-20-25-135 must meet all of the following conditions to apply the simplified hedge accounting approach to a cash flow hedge of a variable-rate borrowing with a receive-variable, pay-fixed interest rate swap:

- a. Both the variable rate on the swap and the borrowing are based on the same index and reset period (for example, both the swap and borrowing are based on one-month London Interbank Offered Rate [LIBOR] or both the swap and borrowing are based on three-month LIBOR).
- b. The terms of the swap are typical (in other words, the swap is what is generally considered to be a “plain-vanilla” swap), and there is no floor or cap on the variable interest rate of the swap unless the borrowing has a comparable floor or cap.

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- c. The repricing and settlement dates for the swap and the borrowing match or differ by no more than a few days.
- d. The swap's fair value at inception (that is, at the time the derivative was executed to hedge the interest rate risk of the borrowing) is at or near zero.
- e. The notional amount of the swap matches the principal amount of the borrowing being hedged. In complying with this condition, the amount of the borrowing being hedged may be less than the total principal amount of the borrowing.
- f. All interest payments occurring on the borrowing during the term of the swap (or the effective term of the swap underlying the forward starting swap) are designated as hedged whether in total or in proportion to the principal amount of the borrowing being hedged.

815-20-25-138 A cash flow hedge established through the use of a forward starting receive-variable, pay-fixed interest rate swap may be permitted in applying the simplified hedge accounting approach only if the occurrence of forecasted interest payments to be swapped is probable. When forecasted interest payments are no longer probable of occurring, a cash flow hedging relationship will no longer qualify for the simplified hedge accounting approach and the General Subsections of this Topic shall apply at the date of change and on a prospective basis.

Timing of Hedge Documentation for Certain Private Companies If Simplified Hedge Accounting Approach Is Not Applied

Concurrent Hedge Documentation

815-20-25-139 Concurrent with hedge inception, a **private company** that is not a financial institution as described in paragraph 942-320-50-1 shall document the following:

- a. The hedging relationship in accordance with paragraph 815-20-25-3(b)(1)
- b. The hedging instrument in accordance with paragraph 815-20-25-3(b)(2)(i)
- c. The hedged item in accordance with paragraph 815-20-25-3(b)(2)(ii), including (if applicable) firm commitments or the analysis supporting a last-of-layer designation in paragraph 815-20-25-3(c), or forecasted transactions in paragraph 815-20-25-3(d)
- d. The nature of the risk being hedged in accordance with paragraph 815-20-25-3(b)(2)(iii).

815-20-25-140 A private company that is not a financial institution is not required to perform or document the following items concurrent with hedge inception but rather is required to perform or document them within the time periods discussed in paragraph 815-20-25-142:

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- a. The method of assessing hedge effectiveness at inception and on an ongoing basis in accordance with paragraph 815-20-25-3(b)(2)(iv) and (vi)
- b. Initial hedge effectiveness assessments in accordance with paragraph 815-20-25-3(b)(2)(iv)(01) through (04).

815-20-25-141 Example 1A beginning in paragraph 815-20-55-80A illustrates hedge documentation when the critical terms of the hedging instrument and hedged forecasted transaction match. Although that Example illustrates the documentation of the method of assessing hedge effectiveness, private companies that are not financial institutions may complete hedge documentation requirements in accordance with paragraphs 815-20-25-139 through 25-140.

Hedge Effectiveness Assessments

815-20-25-142 For a private company that is not a financial institution, the performance and documentation of the items listed in paragraph 815-20-25-140, as well as required subsequent quarterly hedge effectiveness assessments, may be completed before the date on which the next interim (if applicable) or annual financial statements are available to be issued. Even though the completion of the initial and ongoing assessments of effectiveness may be deferred to the date on which financial statements are available to be issued the assessments shall be completed using information applicable as of hedge inception and each subsequent quarterly assessment date when completing this documentation on a deferred basis. Therefore, the assessment should be performed to determine whether the hedge was highly effective at achieving offsetting changes in fair values or cash flows at inception and in each subsequent quarterly assessment period up to the reporting date.

Hedge Accounting Provisions Applicable to Certain Not-for-Profit Entities

815-20-25-143 Not-for-profit entities (except for not-for-profit entities that have issued, or are a conduit bond obligor for, securities that are traded, listed, or quoted on an exchange or an over-the-counter market) may apply the guidance on the timing of hedge documentation and hedge effectiveness assessments in paragraphs 815-20-25-139 through 25-142. Specifically, those entities shall document the items listed in paragraph 815-20-25-139 concurrent with hedge inception, but they may perform and document the items listed in paragraph 815-20-25-140 and perform the required subsequent quarterly hedge effectiveness assessments in accordance with paragraph 815-20-25-142 within the time periods discussed in paragraph 815-20-25-142.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-I_21-20_SSAP86_Exhibit A.docx

Note: On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted the proposed revisions shown as tracked changes to SSAP No. 86 within this document.

SSAP No. 86—Derivatives
Measurement of Excluded Components

Ref #2021-20

Review of U.S. derivative guidance and the application to SAP is complex with many facets. This document is the second of two initial documents and focuses on the accounting and reporting of hedging instruments, including excluded components.

2) Measurement of Excluded Components In Hedging Instruments

Existing guidance in SSAP No. 86, paragraph 40, Exhibit B – Assessment of Hedging Effectiveness, and Exhibit C – Specific Hedge Accounting Procedures for Derivatives address components permitted to be excluded when determining hedge effectiveness and/or the measurement of excluded components. Key elements to note with regards to the existing guidance:

- Components permitted for exclusion in Exhibit B were adopted from U.S. GAAP (FAS 133, paragraph 63) at the time of initial SSAP adoption. Although these have not been updated since original issuance, NAIC staff is proposing (in the Hedge Effectiveness review document) to continue the adoption of U.S. GAAP in determining hedge effectiveness. This will ensure that hedging instruments identified as effective hedges under U.S. GAAP will be considered effective hedges under statutory accounting principles.
- The guidance in paragraph 40 and Exhibit B appears to adopt U.S. GAAP with the treatment of accounting for excluded components at fair value, with changes in fair value recognized as unrealized gains or losses.
- The existing guidance adopted from U.S. GAAP (in paragraph 40 and Exhibit B) is contradictory to guidance in SSAP No. 86, paragraph 23 and Exhibit C. Pursuant to paragraph 23, entities should not bifurcate the effectiveness of derivatives and a derivative instrument is either classified as an effective hedge or an ineffective hedge. If classified as an effective hedge, then the measurement method of the hedged item is used for the hedging instrument (e.g., amortized cost). This guidance does not seemingly permit reporting entities to report part of a hedging instrument at amortized cost, with excluded components reported at fair value. (However, NAIC staff believes this may in fact occur in practice under the provisions of paragraph 40 and Exhibit B.)
- Furthermore, the guidance in Exhibit C for foreign currency swaps and forwards identifies that premiums / discounts shall be amortized into income over the life of the contract. This treatment is different than the fair value / change in unrealized recognition for excluded component detailed in paragraph 40 and Exhibit B. (This guidance has been part of Exhibit C since the original adoption of the SSAP and reflects a difference from U.S. GAAP.)

Interested parties have identified that the SAP treatment of excluded components related to foreign currency transactions are hindering the ability to engage in those transactions and have requested consideration to 1) clarify the inconsistent guidance in SSAP No. 86, and 2) consider SAP specific measurement methods for excluded components to prevent surplus volatility from derivative transactions.

As background information, the classification of derivatives as highly effective is ultimately an income-statement matching tool. Although all derivatives are reported at fair value under U.S. GAAP, if effective

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hedges, then changes in fair value are allocated to either net income or other comprehensive income (OCI) in a manner that matches and predominantly offsets the fluctuations from the hedged item. (For example, under U.S. GAAP, a fair value hedge requires both the hedging instrument and the hedged item to be reported at fair value, so fluctuations on one of offset by the other.) Under SAP, as the hedged items are not commonly reported at fair value, the guidance in SSAP No. 86 permits the derivative to reflect a measurement method that is more akin to the hedged item. (So, if hedging a bond at amortized cost, the hedging instrument would also be reported at amortized cost. This prevents fair value fluctuations from the highly effective hedge from causing ‘noise’ in the financial statements throughout the hedge duration.)

Interested parties have communicated that requiring excluded components for foreign currency hedges to be recognized at fair value, with changes in fair value recognized as unrealized gains / losses, the financial statements show volatility that is not reflective of the underlying hedging transaction:

- For foreign currency forward contracts that have a premium / discount (e.g., forward point – difference between the forward contract rate and the spot rate at derivative execution), the amount required is set at origination. Although the change in spot rate over the hedge term could result with a fair value change of the forward point / premium, this change in fair value does not impact the required amount that was set at derivative execution. (Under Exhibit C, the existing guidance would require amortization of the premium, but this is conflicting with paragraph 40 and Exhibit B.) Regardless of if the derivative is terminated early or is identified as ineffective, there is no change to the amount required from the forward point determined at derivative execution. **(As such, requiring recognition at fair value, and the change of fair value, does not result with a presentation of the amount owed by the reporting entity.)**
- For a foreign currency swap with a cross-currency basis spread, the fair value changes are captured as part of the foreign currency periodic interest accruals. (A forward contract does not have periodic interest accruals, which is why the premium / forward point is proposed to be amortized under the prior example). Furthermore, regardless of if the derivative transaction continues to be effective, at the time of derivative maturity, the cross-currency basis spread is zero. The only time a reporting entity would be obligated to provide payment for a cross-currency basis spread is if the currency swap is terminated prior to maturity. Interested parties have noted that this is unlikely for the following reasons:
 - Most foreign bond exposures come through private investments that are generally more difficult to sell, providing a disincentive to selling the bond exposure.
 - The investment was originally acquired as the risk profile of the foreign bond was attractive to the reporting entity over the term of the investment. So, unless the bond issuer is having significant credit deterioration, it is unlikely an insurer will sell the bond.
 - In the event the foreign bond is terminated early, the derivative would also be terminated early. This will result in both items being removed from the balance sheet, and the offsetting economics would be recognized together in the same period. (So, in this situation, even if a cross-currency basis spread is obligated, it would be offset by the foreign currency impact of the bond.)

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- Industry representatives have identified that it would be even more unlikely for the derivative to be sold while retaining the foreign bond, however, if that was to occur, then the existing guidance for derivative termination would occur.

After considering the scenarios and industry comments for foreign currency excluded components, NAIC staff agrees that requiring these foreign currency excluded components to be reported at fair value, with changes in fair value recognized as unrealized gains / losses throughout the derivative term, results with financial statement impacts that are not reflective of the derivative transactions. Ultimately, the fair value recognition of these components creates surplus volatility / noise, that is not reflective of the intent, nor the final outcome of the derivative instrument. NAIC staff highlights that the key exception to this conclusion would be for scenarios in which a reporting entity was to elect to terminate a derivative in advance of the maturity date. Although existing guidance requires recognition at fair value with the impact in net income (realized gain/loss) at the time of such termination, NAIC staff believes it would be more appropriate to require recognition at fair value at the time that an entity has decided to terminate a hedging instrument prior to its maturity date. This would be consistent with other statutory accounting guidance that requires recognition at fair value (other than amortized cost) at the time such decisions are made. NAIC staff believe this would be appropriate in situations in which both the hedging instrument and hedged item would be terminated together and situations in which the hedging instrument is terminated while the hedged item continues to be held.

Although the prior discussion, and current industry comments, were focused on foreign currency excluded components, NAIC staff highlights that U.S. GAAP permits other elements to be excluded from the assessment of hedge effectiveness. These include the following:

- a. If the effectiveness of a hedge with an option is assessed based on changes in the option's intrinsic value, the change in the time value of the option would be excluded from the assessment of hedge effectiveness.
- b. If the effectiveness of a hedge with an option is assessed based on changes in the option's minimum value, that is, its intrinsic value plus the effect of discounting, the change in the volatility value of the contract shall be excluded from the assessment of hedge effectiveness.
- c. An entity may exclude any of the following components of the change in an option's time value from the assessment of hedge effectiveness:
 - i. The portion of the change in time value attributable to the passage of time (theta)
 - ii. The portion of the change in time value attributable to changes due to volatility (vega)
 - iii. The portion of the change in time value attributable to changes due to interest rates (rho).

Even if specific guidance is established for the foreign currency forward point and the cross-currency basis spread, statutory accounting guidance would still need clarification on the accounting and reporting for the other excluded components. If these excluded components are reported at fair value, with changes in unrealized gain/loss, NAIC staff highlights that the guidance should be clear in SSAP No. 86 and in the Schedule DB reporting instructions. Based on preliminary information, it seems current reporting for

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effective hedges is likely inconsistent for hedging instruments that have excluded components. NAIC staff has the impression that the following two options may currently be occurring:

- BACV reflects amortized cost. This would be consistent with SSAP No. 86, paragraph 23, but would be contrary to paragraph 40 and Exhibit B. (This would mean that the excluded components are not being recognized in the statutory financial statements.)
- BACV reflects a combination of amortized cost and fair value for the excluded components. This would be consistent with SSAP No. 86, paragraph 40 and Exhibit B, but would present an odd representation in Schedule DB as a derivative reported as an effective hedge would have an unrealized gain/loss, and the amount shown as an unrealized gain or loss would only be a specific portion of the change in fair value and could not be calculated from the information reported.

Unless subsequent information and discussion supports a different approach for the non-foreign currency excluded components detailed above, NAIC staff agrees that reporting these components at fair value, with fair value changes recognized through unrealized gains/losses is appropriate. In order to facilitate this recognition, NAIC staff recommends clarifications to SSAP No. 86 to specify the commingled reporting of BACV for effective hedges with excluded components, as well as revisions to Schedule DB to capture information on excluded components in new electronic-only columns. NAIC staff also recommends a new disclosure that captures information on all excluded components by classification type.

Proposed SSAP Revisions To Incorporate / Clarify Guidance for Excluded Components

Derivatives Used in Hedging Transactions

22. Derivative instruments used in hedging transactions that meet the criteria of a highly effective hedge shall be considered an effective hedge and are permitted to be valued and reported in a manner that is consistent with the hedged asset or liability (referred to as hedge accounting). For instance, assume an entity has a financial instrument on which it is currently receiving income at a variable rate but wishes to receive income at a fixed rate and thus enters into a swap agreement to exchange the cash flows. If the transaction qualifies as an effective hedge and a financial instrument on a statutory basis is valued and reported at amortized cost, then the swap would also be valued and reported at amortized cost. Derivative instruments used in hedging transactions that do not meet or no longer meet the criteria of an effective hedge, or that meet the required criteria but the entity has chosen not to apply hedge accounting, shall be accounted for at fair value and the changes in the fair value shall be recorded as unrealized gains or unrealized losses (referred to as fair value accounting)¹.

23. Entities shall not bifurcate the effectiveness of derivatives. A derivative instrument is either classified as an effective hedge or an ineffective hedge. Entities must account for the derivative using fair value accounting if it is deemed to be ineffective or becomes ineffective. [Derivative instruments classified as effective with excluded components in determining hedge effectiveness pursuant to Exhibit A, paragraph 8, shall account for the derivative and excluded components pursuant to the guidance in paragraph 40.](#) Entities may redesignate a derivative in a hedging relationship even though the derivative was used in a previous hedging relationship that proved to be ineffective. A change in the counterparty

¹ Pursuant to paragraph 19, the gross reported value of a derivative and the determination of unrealized gains or losses shall exclude the impact of financing premiums. Premiums payable or receivable from the acquisition or writing of a derivative shall not be reflected in the gross reporting of derivatives or in determining the fair value change in a derivative.

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to a derivative instrument that has been designated as the hedging instrument in an existing hedging relationship would not, in and of itself, be considered a termination of the derivative instrument. An entity shall prospectively discontinue hedge accounting for an existing hedge if any one of the following occurs:

- a. Any criterion in paragraphs 26-38 is no longer met;
- b. The derivative expires or is sold, terminated, or exercised (the effect is recorded as realized gains or losses or, for effective hedges of firm commitments or forecasted transactions, in a manner that is consistent with the hedged transaction – see paragraph 24);
- c. The entity removes the designation of the hedge; or
- d. The derivative is deemed to be impaired in accordance with paragraph 18. A permanent decline in a counterparty's credit quality/rating is one example of impairment required by paragraph 18, for derivatives used in hedging transactions.

Hedge Effectiveness

39. The measurement of hedge effectiveness for a particular hedging relationship shall be consistent with the entity's risk management strategy and the method of assessing hedge effectiveness that was documented at the inception of the hedging relationship, as discussed in paragraph 41.

40. The gain or loss on a derivative designated as a hedge and assessed to be effective is reported consistently with the hedged item. (Therefore, if the hedged item is reported at amortized cost, and the hedging instrument is consistent with that measurement method, fluctuations in fair value would not be recognized as unrealized gains or losses for either the hedging item or hedging instrument.) If an entity's defined risk management strategy for a particular hedging relationship excludes a specific component of the gain or loss, or related cash flows, on the hedging derivative from the assessment of hedge effectiveness (as discussed in Exhibit ~~BA~~, paragraph 8), specific accounting treatment shall be followed for the that excluded component: ~~of the gain or loss shall be recognized as an unrealized gain or loss. For example, if the effectiveness of a hedge with an option contract is assessed based on changes in the option's intrinsic value, the changes in the option's time value would be recognized in unrealized gains or losses. Time value is equal to the fair value of the option less its intrinsic value.~~

- a. If the excluded component pertains to the difference between a foreign currency spot price and the forward or future price (e.g., a forward spot rate), then this premium / discount shall be amortized into income over the life of the contract or hedged program. (This guidance addresses the excluded component in Exhibit A, paragraph 8d.)
- b. If the excluded component pertains to a foreign currency swap cross-currency basis spread, the impact of fair value changes shall be reflected as a component of the foreign currency swap's periodic interest accrual. (This guidance addresses the excluded component in Exhibit A, paragraph 8e.)
- c. For all other excluded components, the excluded component shall be measured and reported at fair value, with changes in fair value recognized as unrealized gains or losses. (This guidance shall be applied to excluded components detailed in Exhibit A, paragraphs 8a-8c.)

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41. Hedging instruments with excluded components shall be identified in the financial statement investment schedule (Schedule DB) and shall be disclosed pursuant to paragraph 41g.

Proposed New Disclosure Paragraph (This is proposed as a new subparagraph 41g with reordering of subsequent paragraphs.)

g. For hedging instruments with excluded components for determining hedge effectiveness:

i. In the investment schedule, identify hedging instruments with excluded components, and report the current fair value of the excluded component, the fair value of the excluded component that is reflected in the reported BACV for the hedging instrument (this item would not be applicable for foreign-currency forwards and currency swaps where the forward points or cross-currency basis, respectively, are the excluded component), and the change in fair value reported as an unrealized gains/loss. (Note – These items will be proposed in electronic columns to Schedule DB.)

ii. In the notes to the financial statements, provide information on the aggregate excluded components by category: Time Value, Intrinsic Value, Forward Points and Cross Currency Basis Spread. The aggregate amounts reported should include the following (as applicable): current fair value, recognized unrealized gain/loss, the fair value reflected in BACV, and for the excluded forward points (e.g., forward spot rates), the aggregate amount owed at maturity, along with current year and remaining amortization. (Note – These items will be captured in a blanks proposal / template.)

Proposed Edits to Exhibit C – Foreign Currency Swaps and Forwards

Note: Only Specific Excerpts Included

Specific hedge accounting procedures for derivative instruments are outlined below.

1. Call and Put Options, Warrants, Caps, and Floors:
 - a. Accounting at Date of Acquisition (purchase) or Issuance (written): The premium paid or received for purchasing or writing a call option, put option, warrant, cap or floor shall either be (i) recorded as an asset (purchase) or liability (written) on the Derivative line on the Assets (or) Liabilities pages or (ii) combined with the hedged item(s) individually or in the aggregate;
 - b. Statement Value:
 - i. Open derivatives hedging items recorded at amortized cost:
 - (a) Options, warrants, caps, and floors purchased or written shall be valued at amortized cost in a manner consistent with the hedged item. (Components of a hedging instrument excluded from the determination of hedge effectiveness shall be recognized at fair value, with changes in fair value recognized as unrealized gains/losses throughout the duration of the hedging instrument. These components are not captured within the guidance for effective hedges detailed within this section.);

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- (b) The amortization period and methods used shall result in a constant effective yield over the life of the hedged item or program. (For floating rate hedged items, the estimated effective yield shall be based on the current rate so the changes in yields attributable to changes in interest rates will be recognized in the period of change). Specific treatment includes:
- (1) Holdings in derivatives purchased or written within a year of maturity or expiry need not be amortized;
 - (2) For hedges of forecasted transactions or firm commitments, the derivative may be recorded at cost until the hedged transaction occurs or it is determined that the hedge was not effective (see (d) in this section 1.b.i.);
 - (3) For other derivatives, the amortization period is usually from date of acquisition (issuance) of the derivative to maturity of the hedged item or program.
- (c) For hedges where the cost of the derivative is combined with the hedged item, the statement value is zero. The fair value of the derivative and hedged item shall be determined and reported separately, either individually or in the aggregate;
- (d) For hedges of forecasted transactions or firm commitments, the derivative shall be recorded at cost until (1) the hedged transaction occurs or (2) it is determined that the hedge was not effective (when the derivative is valued in accordance with (e) in this section);
- (e) If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, valuation at amortized cost ceases and the derivative or the designated portion of the derivative shall be valued at its current fair value with gains and losses recognized in unrealized gains or unrealized losses to the extent it ceased to be an effective hedge.
- d. Gain/Loss on Termination of an option, warrant, cap or floor accounted for under hedge accounting (includes closing, exercise, maturity, and expiry):
- i. Exercise of an Option: The remaining book value of the derivative shall become an adjustment to the cost or proceeds of the hedged item(s) received or disposed of individually or in aggregate;
 - ii. Sale, maturity, expiry, or other closing transaction of a derivative which is an effective hedge—Any gain or loss on the transaction, except for excluded components, will adjust the basis (or proceeds) of the hedged item(s) individually or in aggregate. Alternatively, if the item being hedged is subject to IMR, the gain or loss on the terminated hedging derivative may be realized and shall be subject to IMR upon termination. For hedging instruments with excluded components in determining hedge effectiveness, the unrealized gain/loss from the change in fair value of the excluded component shall be realized upon the closing transaction.

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[This gain/loss shall not be used to adjust the basis or proceeds of the hedged item.](#)

- iii. Gain/loss on termination of derivatives will be recognized currently in net income (realized gain/loss) to the extent they ceased to be effective hedges.
 - iv. Upon the redesignation of a derivative from a currently effective hedging relationship:
 - (a) with an item(s) carried at amortized cost to another effective hedging relationship with an item(s) carried at amortized cost, the derivative shall continue to be recorded at amortized cost and no gain or loss on the derivative shall be recognized.
 - (b) with an item(s) carried at amortized cost or fair value to an effective relationship with an item(s) carried at fair value, the accounting for the derivative shall be consistent with (ii) above.
 - (c) with an item(s) carried at fair value to an effective relationship with an item(s) carried at amortized cost, the accounting for the derivative shall be consistent with (ii) above.
2. Swaps, Collars, and Forwards (see also discussion in Introduction above):
- a. Accounting at Date of Opening Position:
 - i. Any premium paid or received at date of opening shall either be (a) recorded on the Derivative line on the Assets (or) Liabilities pages or (b) combined with the hedged item(s), individually or in the aggregate;
 - b. Statement Value:
 - i. Open derivatives hedging items recorded at amortized cost:
 - (a) Swaps, collars, and forwards shall be valued at amortized cost in a manner consistent with hedged item. [\(Components of a hedging instrument excluded from the determination of hedge effectiveness not addressed in 2.b.iii shall be recognized at fair value, with changes in fair value of the excluded component recognized as unrealized gains/losses throughout the duration of the hedging instrument. These components are not captured within the guidance for effective hedges detailed within this section.\)](#)
 - (b) The amortization period and methods used shall result in a constant effective yield over the life of the hedged item or program. (For floating rate hedged items the estimated effective yield shall be based on the current rate so the changes in yields attributable to changes in interest rates will be recognized in the period of change.) Specific treatment includes:

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- (1) Holdings in derivatives purchased or written within a year of maturity or expiry need not be amortized;
 - (2) For hedges of forecasted transactions or firm commitments, the derivative shall be recorded at cost until (a) the hedged transaction occurs or (b) it is determined that the hedge was not effective (see (5) in this section 2.b.i.);
 - (3) For other derivatives the amortization period is usually from date of acquisition (issuance) of the derivative to maturity of the hedged item or program;
 - (4) For hedges where the cost of the derivative is combined with the hedged item, the statement value is zero. The fair value of the derivative and hedged item shall be determined and reported separately, either individually or in the aggregate;
 - (5) If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, valuation at amortized cost ceases and the derivative or a designated portion of the derivative shall be valued at its current fair value with gains and losses recorded in unrealized gains or unrealized losses to the extent that it ceased to be an effective hedge. Upon redesignation into an effective hedging relationship, the derivative's mark to fair value through unrealized gain or loss shall be reversed.
- ii. Open derivatives hedging items recorded at fair value (where gains and losses on the hedged item are recognized as adjustments to unassigned funds (surplus)):
 - (a) Swaps, collars, or forwards shall be valued at current fair value with changes in fair value recognized currently consistent with the hedged item; this will result in unrealized gain/loss treatment with adjustment to unassigned funds (surplus);
 - (b) For hedges where the derivative is combined with the hedged item, the fair value of the derivative and hedge item shall be determined and reported separately, either individually or in the aggregate. The cost (book value) basis used to figure gain/loss on the derivative is zero.
 - iii. Open foreign currency swap and forward contracts hedging foreign currency exposure on items denominated in a foreign currency and translated into U.S. dollars where fair value accounting is not being used:
 - (a) ~~The foreign exchange premium (discount) on the currency contract shall be amortized into income over the life of the contract or hedge program.~~ The foreign exchange premium (discount) is defined as the foreign currency (notional) amount to be received (paid) times the net of the forward rate minus the spot rate at the time the contract was opened. [For forward contracts, an excluded component representing a foreign](#)

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exchange premium (discount) (forward points) on the currency contract shall be amortized into income over the life of the contract or hedge program. Amortization is not required if the contract was entered into within a year of maturity. For foreign currency swaps, an excluded component representing a cross-currency basis spread, is recognized into income through the foreign currency swap's periodic interest accruals.

~~Amortization is not required if the contract was entered into within a year of maturity;~~

- (b) A foreign currency translation adjustment shall be reflected as an unrealized gain/loss (unassigned funds (surplus) adjustment) using the same procedures as done to translate the hedged item;
- (c) The unrealized gain/loss for the period equals the foreign currency (notional) amount to be received (paid) times the net of the current spot rate minus the prior period end spot rate;
- (d) The statement value of the derivative equals the amortized cost plus:
 - 1. For forward contracts, the amortized (premium) discount plus the cumulative unrealized gain/(loss) on the contract.
 - 2. For foreign currency swaps, ~~the~~ the cumulative unrealized gain/(loss) on the contract. The cross-currency basis spread is recorded through the Investment Income Due and Accrued or Other Liabilities, as a component of the foreign currency swap's periodic interest accrual.

The cumulative unrealized gain/loss equals the foreign currency (notional) amount to be received (paid) times the net of the current spot rate minus the spot rate at the time the contract was opened;
- (e) Recognition of unrealized gains/losses and amortization of foreign exchange premium/discount on derivatives hedging forecasted transactions or firm commitments shall be deferred until the hedged transaction occurs. These deferred gains/losses will adjust the basis or proceeds of the hedged transaction when it occurs;
- (f) For hedges where the cost of the foreign currency contract is combined with the hedged item, the statement value on Schedule DB is zero. The fair value of the derivative and hedged item shall be determined and reported separately, either individually or in the aggregate;
- (g) ~~If during the life of the currency contract it or a designated portion of the currency contract is not effective as a hedge,~~ The derivative shall be recorded at fair value and valuation at amortized cost shall cease. To the extent it ceased to be an effective hedge, a cumulative unrealized gain/loss (surplus adjustment) ~~will~~ shall be recognized equal to the difference between the carrying value of the derivative on the balance sheet and the fair value of the derivative if either of the following occur:

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1. During the life of the currency contract it or a designated portion of the currency contract is not effective as a hedge.

2. The entity decides to terminate the derivative in advance of scheduled maturity.

~~notional amount or designated notional amount times the difference between the forward rate available for the remaining maturity of the contract (i.e., the forward rate as of the balance sheet date) and the forward rate at the time it ceased to be an effective hedge.~~

- iv. Open derivatives hedging items recorded at fair value, where gains and losses on the hedged item are recognized currently in earnings: swaps, collars and forwards shall be valued at current fair value with changes in fair value recognized currently in earnings together with the gains and losses on the hedged item.
 - (a) If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, recognition of changes in fair value through earnings ceases. The derivative shall continue to be valued at its current fair value, but thereafter gains or losses shall be recognized in unrealized gains or unrealized losses to the extent it ceased to be an effective hedge.
- c. Cash Flows and Income:
 - i. Where the cost of the derivative is not combined with the hedged item:
 - (a) Amortization of premium paid or received on derivatives is an adjustment to net investment income or another appropriate caption within operating income consistent with the reporting of the hedged item;
 - (b) Periodic cash flows and accruals of income/expense are to be reported in a manner consistent with the hedged item, usually as net investment income or another appropriate caption within operating income.
 - ii. Where the cost of the derivative is combined with the hedged item, the cash flows and income of the derivative on Schedule DB is zero. All related amortization and cash flow accounting shall be reported with the hedged item instead of with the derivative.
- d. Gain/Loss on Termination of a swap, collar or forward accounted for under hedge accounting (includes closing, exercise, maturity, and expiry):
 - i. Exercise—The remaining book value of the derivative shall become an adjustment to the cost or proceeds of the hedged item(s) received or disposed of individually or in aggregate;
 - ii. Sale, maturity, expiry, or other closing transaction of a derivative which is an effective hedge—Any gain or loss on the transaction, except for excluded components, will adjust the basis (or proceeds) of the hedged item(s) individually or in aggregate. Alternatively, if the item being hedged is subject to IMR, the gain

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or loss on the terminated hedging derivative may be realized and shall be subject to IMR upon termination.

- iii. Gain/loss on termination of derivatives will be recognized currently in net income (realized gain/loss) to the extent they ceased to be effective hedges.
- iv. Upon the redesignation of a derivative from a currently effective hedging relationship-
 - (a) with an item(s) carried at amortized cost to another effective hedging relationship with an item(s) carried at amortized cost, the derivative shall continue to be recorded at amortized cost and no gain or loss on the derivative shall be recognized.
 - (b) with an item(s) carried at amortized cost or fair value to an effective relationship with an item(s) carried at fair value, the accounting for the derivative shall be consistent with (ii) above.
 - (c) with an item(s) carried at fair value to an effective relationship with an item(s) carried at amortized cost, the accounting for the derivative shall be consistent with (ii) above.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/AttOne-J_21-20_SSAP86.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/AttOne-J_21-20_SSAP86.docx)

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

Issue: SSAP No. 48 – Alternative Valuation of Minority Ownership Interests

Check (applicable entity):

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

Description of Issue: *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* establishes the statutory accounting principles for investments in joint ventures, partnerships, or limited liability companies (herein collectively referred to as SSAP No. 48 investments). This agenda item is presented to review the alternative valuation methods permitted in limited circumstances where the investee has a minor ownership interest (less than 10%) or lacks control as discussed in paragraphs 15 and 16 (see Authoritative Literature), and where audited U.S. GAAP basis financial statements are not available.

In general, SSAP No. 48 requires a financial statement audit for admission of investments with a more than minor ownership interest or where control is present. If an investee owns greater than 10% measured at the holding company level, or can exercise control, the SSAP No. 48 investment is to be reported using the equity method as defined in *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, which effectively directs the valuation based on the nature of the operations (e.g., requiring statutory accounting for insurance operations or U.S. GAAP accounting for other various entities). Embedded in SSAP No. 97, the proxy for SSAP No. 48 investments in which the investor owns greater than 10% or can exercise control, is the requirement for a statutory or a U.S. GAAP financial statement audit. (The requirement for audited financial statements in these instances is not proposed to be the subject of discussion.)

If insurer has less than 10% ownership (minor ownership interest) or lacks control the preference is to use audited U.S. GAAP financial statements. However, when audited U.S. GAAP financials statements are not available, paragraph 9 provides the following three alternatives, which includes: 1) investee’s audited foreign GAAP with an audited U.S. GAAP reconciliation footnote, 2) audited IFRS financial statements, or 3) audited U.S. tax equity financial statements. The permissible exceptions for when audited U.S. GAAP basis financials are not available are detailed in paragraph 9 below:

9. **If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16 may be recorded based on either of the valuation methodologies allowed under paragraphs 9.a. or 9.b.** If either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. is used to value the investment, documentation must be maintained regarding the reason that audited U.S. GAAP basis financial statements could not be provided.
 - a. Non U.S. joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10% and for which audited U.S. GAAP basis financial statements of the investee are not available, may be recorded based on:
 - i the U.S. GAAP basis equity as set forth in the audited footnote reconciliation of the investee's equity and income to U.S. GAAP within the investee's audited foreign GAAP prepared financial statements or,

- ii the IFRS basis equity as set forth in the investee's audited IFRS financial statements prepared in compliance, both annually and quarterly, with IFRS as issued by the International Accounting Standards Board (IASB).
- b. **If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10%, measured at the holding company level, may be recorded based on the underlying audited U.S. tax basis equity.** For investments recorded based on the underlying audited U.S. tax basis equity, the reporting entity shall review investments held by the joint venture, partnership or limited liability company in accordance with the impairment guidance in paragraphs 18 and 19. The reporting entity must first attempt to obtain audited U.S. GAAP basis financial statements and, if such financial statements are unavailable, must maintain documentation regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

NAIC staff believe the intent of the U.S. GAAP audit exceptions provided in paragraph 9 was meant to accommodate limited situations where an insurer has a minor ownership interest and or lacks control and therefore, they are unable to require or entice the entity to acquire a U.S. GAAP audit. NAIC staff note this distinction, as SSAP No. 48, paragraph 9 currently permits that if an insurer owns less than 10% **or** lacks control, they are permitted the exceptions which still require audits if audited U.S. GAAP basis financial statements are unavailable. It is important to note that technically SSAP No. 48, paragraph 16 could permit a significant ownership percentage and as long as an insurer has rebutted control of the investment, they would be permitted to use the paragraph 9 exceptions, that is if the insurer could articulate why audited U.S. GAAP basis financials statements were not available.

This agenda item has been drafted to propose two alternative clarifications to SSAP No. 48. The first option presented is to propose deletion of the U.S. GAAP audit exception provided in SSAP No. 48, paragraph 9.b as this exception does not appear to be utilized by insurers. The second option presented is to retain the U.S. GAAP audit exception in paragraph 9.b but clarify that the U.S. tax basis audit is to reside at the investee level – that is the investee must have an audit in order for this valuation be permitted for admission of the investment. This clarification would eliminate any ambiguity regarding the level at which the audit is required.

Existing Authoritative Literature: While a significant portion of the potentially impacted paragraphs have been included above, all relevant SSAP No. 48 guidance is included below, with pertinent items bolded for emphasis.

SCOPE OF STATEMENT

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

SUMMARY CONCLUSION

2. **Investments in joint ventures shall include investments in corporate joint ventures and unincorporated joint ventures** (also referred to as undivided interests in ventures). A corporate joint venture is defined as a corporation owned and operated by a small group (the joint venturers) as a separate and specific business or project for the mutual benefit of the members of the group. A corporate joint venture usually provides an arrangement under which each joint venturer may participate, directly or indirectly, in the overall management of the joint venture. Joint venturers thus have an interest or relationship other than as passive investors. An unincorporated joint venture is similar in its purpose but is not incorporated.

3. **Investments in partnerships shall include investments in general partnership interests and limited partnership interests.** A general partnership is defined as an association in which each partner has unlimited liability. Each partner assumes joint and several liability for all partnership debts. A limited partnership shall be defined as a partnership having two classes of partners: (a) general partners who manage the partnership, subject to the partnership agreement, and have personal liability for the general obligations of the partnership and (b) limited partners who are passive investors and have no personal liability beyond their investment.

4. A limited liability company is defined as a business organization which is a hybrid of a corporation and partnership whereby the owners have limited liability like a corporation and profits may pass through to the owners for tax purposes like a partnership if certain criteria are met. The owner's personal liability is limited to his own acts and the owners can fully participate in the management of the business with no adverse impact on their limited liability.

5. Investments in the ventures defined in paragraphs 2-4 meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement. Investments in joint ventures, partnerships, and limited liability companies shall be reported in Other Invested Assets in the financial statements.

6. **Investments in these ventures, except for joint ventures, partnerships and limited liability companies with a minor ownership interest, shall be reported using an equity method as defined in SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities, paragraphs 8.b.i. through 8.b.iv.** (The equity method calculation may result with a negative valuation of the investment; therefore, the SSAP No. 97 equity method calculation shall occur regardless of whether the investment is supported by an audit and the reporting entity will nonadmit the investment.) A reporting entity whose shares of losses in a SSAP No. 48 entity exceeds its investment in the SSAP No. 48 entity shall disclose the information required by SSAP No. 97, paragraph 35.a.

7. Investments reported using an equity method from SSAP No. 97, paragraph 8.b.ii. through 8.b.iv. may have fiscal year ends, not calendar year ends. To recognize a change to the reporting year-end of an equity method investee, including changes in, or the elimination of, previously existing differences (lag period) due to the reporting entity's ability to obtain financial results from a reporting period that is more consistent with, or the same as, that of the reporting entity's, the guidance included in *FASB Emerging Issues Task Force No. 06-9: Reporting a Change in (or the elimination of) a Previously Existing Difference Between the Fiscal Year-End of a Parent Company and That of a Consolidated Entity or Between the Reporting Period of an Investor and That of an Equity Method Investee* that defines such reporting period changes as a change in accounting principle in accordance with *SSAP No. 3—Accounting Changes and Corrections of Errors* shall be followed.

8. **Joint ventures, partnerships and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16, shall be recorded based on the underlying audited U.S. GAAP equity of the investee.** The investment shall be nonadmitted if the audited financial statements include substantial doubt about the entity's ability to

continue as a going concern. Additionally, the investment shall be nonadmitted on the basis/contents of the audit opinion as detailed in paragraph 21 of SSAP No. 97.

9. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16 may be recorded based on either of the valuation methodologies allowed under paragraphs 9.a. or 9.b. If either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. is used to value the investment, documentation must be maintained regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

- a. Non U.S. joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10% and for which audited U.S. GAAP basis financial statements of the investee are not available, may be recorded based on:**
 - i the U.S. GAAP basis equity as set forth in the audited footnote reconciliation of the investee's equity and income to U.S. GAAP within the investee's audited foreign GAAP prepared financial statements or,**
 - ii the IFRS basis equity as set forth in the investee's audited IFRS financial statements prepared in compliance, both annually and quarterly, with IFRS as issued by the International Accounting Standards Board (IASB).**
- b. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10%, measured at the holding company level, may be recorded based on the underlying audited U.S. tax basis equity. For investments recorded based on the underlying audited U.S. tax basis equity, the reporting entity shall review investments held by the joint venture, partnership or limited liability company in accordance with the impairment guidance in paragraphs 18 and 19. The reporting entity must first attempt to obtain audited U.S. GAAP basis financial statements and, if such financial statements are unavailable, must maintain documentation regarding the reason that audited U.S. GAAP basis financial statements could not be provided.**

10. The amount to be recorded shall be defined as the initial investment in an investee at cost (as defined in paragraph 3 of *SSAP No. 68—Business Combinations and Goodwill*) plus subsequent capital contributions to the investee. The carrying amount of the investment shall be adjusted for the amortization of the basis difference (difference between the cost and the underlying GAAP equity), as well as to recognize the reporting entity's share of: (i) the audited U.S. GAAP basis earnings or losses of the investee after the date of acquisition, adjusted for any distributions received, or (ii) if audited U.S. GAAP basis financial statements of the investee are not available, the earnings or losses of the investee after the date of acquisition, adjusted for any distributions received, based on either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. A reporting entity's share of adjustments, excluding changes in capital contributions to the investee, that are recorded directly to the investee's stockholders' equity shall also be recorded as adjustments to the carrying value of the investment with an offsetting amount recorded to unrealized capital gains and losses on investments.

11. **Entities may recognize their investment in joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest based on an unaudited basis for investment determination (i.e., foreign GAAP, IFRS, or tax basis as allowed under paragraph 9) if annual audited information is not complete as of the annual statement filing deadline.** The recorded investment shall be adjusted for annual audit adjustments, if any, as soon as annual audited information is available. If financial statements of an investee are not sufficiently timely for the reporting entity to apply an

equity method to the investee's current results of operations, the reporting entity shall record its share of the earnings or losses of an investee from the most recent available financial statements. A lag in reporting shall be consistent from period to period.

15. Control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the investee, whether through the (a) ownership of voting securities, (b) by contract other than a commercial contract for goods or nonmanagement services, (c) by common management, or (d) otherwise. Control shall be presumed to exist if a reporting entity and its affiliates directly or indirectly, own, control, hold with the power to vote, or hold proxies representing 10% or more of the voting interests of the entity.

16. Control as defined in paragraph 15 shall be measured at the holding company level. For example, if one member of an affiliated group has a 5% interest in an entity and a second member of the group has an 8% interest in the same entity, the total interest is 13% and therefore each member of the affiliated group shall be presumed to have control. This presumption will stand until rebutted by an evaluation of all the facts and circumstances relating to the investment based on the criteria in *FASB Interpretation No. 35, Criteria for Applying the Equity Method of Accounting for Investments in Common Stock, an Interpretation of APB Opinion No. 18*. The corollary is required to demonstrate control when a reporting entity owns less than 10% of the voting interests of an investee. The insurer shall maintain documents substantiating its determination for review by the domiciliary commissioner. Examples of situations where the presumption of control may be in doubt include the following:

- a. **Any limited partner investment in a Limited Partnership, unless the limited partner is affiliated with the general partner.**
- b. **An entity where the insurer owns less than 50% of an entity and there is an unaffiliated individual or group of investors who own a controlling interest.**
- c. **An entity where the insurer has given up participation rights as a shareholder to the investee.**

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

In May 2008, in agenda item 2007-34R: SSAP 48, the Working Group adopted revisions in SSAP No. 48 permitting the use of an audited U.S. tax basis equity valuation method in cases where the insurer is a minor interest or lacks control and audited U.S. GAAP financial statements of the investee were not available.

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

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

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose two possible options for the U.S. GAAP audit exception in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Option #1 proposes to delete the audited U.S. tax basis equity as a permissible valuation method as this method does not appear to be utilized by insurers. Option #2 proposes to retain the audited U.S. tax basis equity valuation method but clarifies that the audit must reside at the investee level.

Option 1: Delete the valuation method permitted in SSAP No. 48, paragraph 9b.

9. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16 may be recorded based on either of the valuation methodologies allowed under paragraphs 9.a. or 9.b. If either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. is used to value the investment, documentation must be maintained regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

- a. Non U.S. joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10% and for which audited U.S. GAAP basis financial statements of the investee are not available, may be recorded based on:
 - i the U.S. GAAP basis equity as set forth in the audited footnote reconciliation of the investee's equity and income to U.S. GAAP within the investee's audited foreign GAAP prepared financial statements or,
 - ii the IFRS basis equity as set forth in the investee's audited IFRS financial statements prepared in compliance, both annually and quarterly, with IFRS as issued by the International Accounting Standards Board (IASB).

~~b. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10%, measured at the holding company level, may be recorded based on the underlying audited U.S. tax basis equity. For investments recorded based on the underlying audited U.S. tax basis equity, the reporting entity shall review investments held by the joint venture, partnership or limited liability company in accordance with the impairment guidance in paragraphs 18 and 19. The reporting entity must first attempt to obtain audited U.S. GAAP basis financial statements and, if such financial statements are unavailable, must maintain documentation regarding the reason that audited U.S. GAAP basis financial statements could not be provided.~~

Option 2: Retain the alternative valuation method but clarify that the required U.S. tax basis equity audit is to reside at the investee level.

9. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16 may be recorded based on either of the valuation methodologies allowed under paragraphs 9.a. or 9.b. If either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. is used to value the investment, documentation must be maintained regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

- a. Non U.S. joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10% and for which audited U.S. GAAP basis financial statements of the investee are not available, may be recorded based on:
 - i the U.S. GAAP basis equity as set forth in the audited footnote reconciliation of the investee's equity and income to U.S. GAAP within the investee's audited foreign GAAP prepared financial statements or,
 - ii the IFRS basis equity as set forth in the investee's audited IFRS financial statements prepared in compliance, both annually and quarterly, with IFRS as issued by the International Accounting Standards Board (IASB).

- b. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10%, measured at the holding company level, may be recorded based on the underlying audited U.S. tax basis equity. [The U.S. tax basis equity audit shall occur at the investee level.](#) For investments recorded based on the underlying audited U.S. tax basis equity, the reporting entity shall review investments held by the joint venture, partnership or limited liability company in accordance with the impairment guidance in paragraphs 18 and 19. The reporting entity must first attempt to obtain audited U.S. GAAP basis financial statements and, if such financial statements are unavailable, must maintain documentation regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

Staff Review Completed by: Jim Pinegar– NAIC Staff, February 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed two possible options for the U.S. GAAP audit exception in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. The options are described below while the revisions are illustrated above in the recommended action.

Option #1 proposes to delete the audited U.S. tax basis equity as a permissible valuation method as this method does not appear to be utilized by insurers.

Option #2 proposes to retain the audited U.S. tax basis equity valuation method but clarifies that the audit must reside at the investee level.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions detailed in option #2, as illustrated below, to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. These revisions clarify that the audit of an entity utilizing the U.S. tax basis equity valuation exception shall occur at the investee level.

Adopted revisions to SSAP No. 48:

9. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest (i.e., less than 10%) or lacks control as stipulated in paragraphs 15 and 16 may be recorded based on either of the valuation methodologies allowed under paragraphs 9.a. or 9.b. If either one of the valuation methodologies allowed under paragraphs 9.a. or 9.b. is used to value the investment, documentation must be maintained regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

- a. Non U.S. joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10% and for which audited U.S. GAAP basis financial statements of the investee are not available, may be recorded based on:
- i the U.S. GAAP basis equity as set forth in the audited footnote reconciliation of the investee's equity and income to U.S. GAAP within the investee's audited foreign GAAP prepared financial statements or,
 - ii the IFRS basis equity as set forth in the investee's audited IFRS financial statements prepared in compliance, both annually and quarterly, with IFRS as issued by the International Accounting Standards Board (IASB).

- b. If audited U.S. GAAP basis financial statements of the investee are not available, joint ventures, partnerships, and limited liability companies in which the entity has a minor ownership interest of less than 10%, measured at the holding company level, may be recorded based on the underlying audited U.S. tax basis equity. [The U.S. tax basis equity audit shall occur at the investee level.](#) For investments recorded based on the underlying audited U.S. tax basis equity, the reporting entity shall review investments held by the joint venture, partnership or limited liability company in accordance with the impairment guidance in paragraphs 18 and 19. The reporting entity must first attempt to obtain audited U.S. GAAP basis financial statements and, if such financial statements are unavailable, must maintain documentation regarding the reason that audited U.S. GAAP basis financial statements could not be provided.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-K_22-02_SSAP48.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-K_22-02_SSAP48.docx)

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

Issue: Conceptual Framework – Updates

Check (applicable entity):

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

Description of Issue: In December 2021, the Financial Accounting Standards Board (FASB) issued two new chapters of its conceptual framework. The conceptual framework is a body of interrelated objectives and fundamentals that provides the FASB with a foundation for setting standards and concepts to consider when it resolves questions or develops/modifies accounting and reporting guidance.

It is important to note that the Statements of Financial Accounting Concepts are not authoritative and do not establish new or change existing U.S. GAAP. Per the FASB chair, these concepts are “a tool for the Board to use in setting standards that improve the understandability of information entities provide to existing and potential investors, lenders, donors, and other resource providers.”

This agenda item reviews and summarizes each of the two newly issued concept chapters and reviews their potential impact on statutory accounting. Again, while the conceptual framework statements are not authoritative, they are the guiding principles for standard setting and these new updates have superseded chapters currently referenced in the *Accounting Practices and Procedures Manual (AP&P Manual)*. In addition, and most notably, in the case of one of these chapters, FASB changed certain key fundamental definitions, specifically the definition of an asset and a liability, which have historically been mirrored by statutory accounting.

Update 1:

FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements* introduced updated definitions of certain key elements used in financial reporting – the definition of an asset and liability. The chapter states that assets and liabilities have conceptual and definitional primacy because assets and liabilities (and changes in those elements) are foundational to all the other items reported in the financial statements. To correctly identify and represent an asset or liability is the beginning basis for all financial reporting and due to their importance, updates to both financial statement elements have been adopted. A summary of each, comparing the historical and current definitions, is provided below:

Changes regarding the definition of an ASSET:

- **Historical definition:** a probable future economic benefit obtained or controlled by a particular entity as a result of past transactions or events.
- **Historical Characteristics: Three essential characteristics:**
 1. it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows,
 2. a particular enterprise can obtain the benefit and control others' access to it, and
 3. the transaction or other event giving rise to the enterprise's right to or control of the benefit has already occurred.

- **New Definition:** a present right of an entity to an economic benefit.
- **Current Characteristics: Two essential characteristics:**
 1. it is a present right, and
 2. the right is to an economic benefit.

The combination of these two characteristics allows an entity to obtain the economic benefit and control others' access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefit and the ability to restrict others' access to the benefit to which the entity is entitled. For clarity, an "economic benefit" represents services or other items of economic value and generally result in net cash inflows to the entity.

Commentary regarding definitional changes:

The current definition of an asset no longer includes the term *probable* or the phrases *future economic benefit* and *past transactions or events*. The FASB concluded that the term *probable* has historically been misunderstood as implying that a future benefit must be probable to a certain threshold before the definition of an asset was met. Thus, if the probability of a future benefit was low, an asset could not be recognized. FASB also struck the phrase *future economic benefit* as this phrase often was interpreted that the asset must represent a certain future economic benefit (such as eventual cash inflows), however with this update, FASB clarified that the asset represents the rights to the benefit, not the actual benefit itself – nor the probability of realization.

Finally, FASB struck the phrase as the result of *past transactions or events*. It was concluded that if the asset represents a *present right*, by default, the right must have occurred as the result of a past transaction or event and thus this phraseology was deemed redundant and unnecessary.

Changes regarding **the definition of a LIABILITY:**

- **Historical definition:** are [certain or] probable future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future as a result of past transactions or events.
- **Historical Characteristics: Three essential characteristics:**
 1. it embodies a present duty or responsibility to one or more other entities that entails settlement by probable future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand,
 2. the duty or responsibility obligates a particular enterprise, leaving it little or no discretion to avoid the future sacrifice, and
 3. the transaction or other event obligating the enterprise has already happened.
- **New Definition:** a present obligation of an entity to transfer an economic benefit.
- **Current Characteristics: Two essential characteristics:**
 1. it is a present obligation, and
 2. the obligation requires an entity to transfer or otherwise provide economic benefit to others. (For the purposes of this characteristic, *transfer* is typically used to describe obligations to pay cash or convey assets, while the term *provide* is used to describe obligations to provide services or stand by to do so).

Commentary regarding definitional changes:

The current definition of a liability no longer includes the term *probable* or the phrase *in the future as a result of past transactions or events*. The FASB concluded that the term *probable* has historically been understood as implying that a future obligation must meet a probability to a certain threshold before the definition of a liability was met. Thus, if the probability of a future transfer of an asset (or the requirement to provide a service) was low, a liability would likely not be recognized. In removing the term *probable* (and replacing it with “present obligation”), FASB concluded that in almost all situations, the presence of an obligation will be apparent. It stated that most present obligations are legally enforceable, including obligations arising from binding contracts, agreements, statutes, or other legal or contractual means. Chapter 4 also discusses the prevalence of certain business risks and how to assess if they result in the recognition of a liability. It concluded that while certain businesses pose risk of future events occurring that will cause them to transfer an economic benefit (an asset), the risk itself does not represent a present obligation because exposure to a potential negative consequence does not constitute a present obligation.

However, FASB also stated situations lacking clear legal or contractual evidence of a present obligation may pose particular challenges that may make it difficult to discern whether a present obligation exists. In these settings, the FASB stated that constructive obligations or other noncontractual obligations are created by circumstance rather than by explicit agreement. In the absence of an explicit agreement, sufficient information to distinguish a present obligation is likely only available at the specific standards level. Thus, the FASB concluded that the specific facts and circumstances at the standards level (or in the case of statutory accounting, at the SAP level) must be utilized to determine whether the entity has created a constructive obligation and must recognize a liability.

FASB also struck the phrase as the result of *past transactions or events*. It was concluded that if the liability represents a *present right*, by default, the right must have occurred as the result of a past transaction or event and thus this phraseology was deemed redundant and unnecessary.

Update 2:

FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation* identifies factors that the FASB will consider when deciding **how** items should be displayed on the financial statements. Chapter 7 describes the information to be included in the financial statements and how appropriate presentation can contribute to the objective of financial reporting – to communicate financial information about an entity that is useful to existing and potential investors, lenders, and other creditors in making decisions about providing resources (goods and services) to the entity. These decisions typically involve buying or selling of goods/services or holding equity and debt instruments as well as providing or settling loans or other forms of credit. This chapter articulates that the financial statements meet a “general purpose” and should not be considered to meet all purposes for possible users – and thus a common set of conceptual standards is appropriate.

Chapter 7 also describes the importance of financial statement notes, or supplementary information so that financial statement users are provided with a more complete picture of an entity’s accounting policy or any particular unique circumstance or event. In terms of general reporting, the conceptual statement relays that a distinction between nonhomogeneous items should be depicted in the financial statements with different reporting line items and subtotals and that the information should be provided based on recognition and measurement standards. In essence, reporting should be sufficiently aggregated, but not aggregated to a level in which the information is too consolidated for general use and understanding. Once reported, then any significant accounting policy or circumstance would further be defined with accompanying notes.

The chapter broadly states that to meet the objectives of financial reporting, line items should be distinct based on the information being provided – as the information should distinguish between various types of transactions/events and should assist users in their estimates in the amounts and timing of future cash flows or the entity’s ability to

provide other economic value. The financial statements should depict the results of different types of transactions, including changes in events or other circumstances that may vary the frequency or predictability of performance based on many items, including changes in economic conditions.

In summary, while Chapter 7 does supersede sections of *Statement of Financial Accounting Concept 5*, it did not result in fundamental changes to the principal concepts of financial reporting. The chapter articulates the need for complete financial reporting, describes the interconnectedness of a ‘complete set of financial statements’ and relays the importance of these documents as the information in the financial statements is the primary (and typically the sole) source for analyzing current and potential future performance of an organization and its ability to meet its long-term financial objectives. At a high level, the chapter discusses what information should broadly be categorized as revenues, expenses, gains, and losses and to the extent equity is impacted by operations as well as changes in owners’ equity through investments or distributions.

In terms of the impact to statutory accounting, the updated concepts in this chapter are not expected to modify current guidance, other than to update references to superseded accounting concepts.

Existing Authoritative Literature:

NAIC Staff Note – the Preamble contains reference to certain concept statements in footnotes 2 and 4 and have been bolded below for ease of identification. It is important to note that while these footnotes currently reference superseded conceptual statements, the conceptual statements noted do not represent adopted guidance - they are noted as reference for overarching guiding principles regarding financial reporting.

Preamble

IV. Statutory Accounting Principles Statement of Concepts

25. This document states the fundamental concepts on which statutory financial accounting and reporting standards are based. These concepts provide a framework to guide the National Association of Insurance Commissioners (NAIC) in the continued development and maintenance of statutory accounting principles (“SAP” or “statutory basis”) and, as such, these concepts and principles constitute an accounting basis for the preparation and issuance of statutory financial statements by insurance companies in the absence of state statutes and/or regulations.

26. The NAIC and state insurance departments are primarily concerned with statutory accounting principles that differ from GAAP reflective of the varying objectives of regulation. Recodification of areas where SAP and GAAP are parallel is an inefficient use of limited resources.

27. SAP utilizes the framework established by GAAP. **FN2** This document integrates that framework with objectives exclusive to statutory accounting. The NAIC’s guidance on SAP is comprehensive for those principles that differ from GAAP based on the concepts of statutory accounting outlined herein. Those GAAP pronouncements that are not applicable to insurance companies will not be adopted by the NAIC. For those principles that do not differ from GAAP, the NAIC must specifically adopt those GAAP Pronouncements to be included in statutory accounting. GAAP Pronouncements do not become part of SAP until and unless adopted by the NAIC.

28. The body of statutory accounting principles is prescribed in the statutory hierarchy of accounting guidance. This hierarchy provides the framework for judging the presentation of statutory financial statements in conformance with statutory accounting principles.

29. Statutory requirements vary from state to state. While it is desirable to minimize these variations, to the extent that they exist it is the objective of NAIC statutory accounting principles to provide the standard against which the exceptions will be measured and disclosed if material.

FN 2 - The GAAP framework applicable to insurance accounting is set forth in *Statements of Financial Accounting Concepts One, Two, Five, and Six*. These documents, promulgated by the Financial Accounting Standards Board, set forth the objectives and concepts which are used in developing accounting and reporting standards.

V. Statutory Hierarchy

42. The following Hierarchy is not intended to preempt state legislative and regulatory authority.

Level 1

SSAPs, including U.S. GAAP reference material to the extent adopted by the NAIC from the FASB Accounting Standards Codification (FASB Codification or GAAP guidance)

Level 2

Consensus positions of the Emerging Accounting Issues (E) Working Group as adopted by the NAIC (INTs adopted before 2016)

Interpretations of existing SSAPs as adopted by the Statutory Accounting Principles (E) Working Group (INTs adopted in 2016 or beyond)

Level 3

NAIC Annual Statement Instructions

Purposes and Procedures Manual of the NAIC Investment Analysis Office

Level 4

Statutory Accounting Principles Preamble and Statement of Concepts FN4

Level 5

Sources of nonauthoritative GAAP accounting guidance and literature, including: (a) practices that are widely recognized and prevalent either generally or in the industry, (b) FASB Concept Statements, (c) AICPA guidance not included in FASB Codification, (d) International Financial Reporting Standards, (e) Pronouncements of professional associations or regulatory agencies, (f) Technical Information Service Inquiries and Replies included in the AICPA Technical Practice Aids, and (g) Accounting textbooks, handbooks and articles

43. If the accounting treatment of a transaction or event is not specified by the SSAPs, preparers, regulators and auditors of statutory financial statements should consider whether the accounting treatment is specified by another source of established statutory accounting principles. If an established statutory accounting principle from one or more sources in Level 2 or 3 is relevant to the circumstances, the preparer, regulator or auditor should apply such principle. If there is a conflict between statutory accounting principles from one or more sources in Level 2 or 3, the preparer, regulator or auditor should follow the treatment specified by the source in the higher level—that is, follow Level 2 treatment over Level 3. Revisions to guidance in accordance with additions or revisions to the NAIC statutory hierarchy should be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*.

44. Because of developments such as new legislation or the evolution of a new type of business transaction, there sometimes are no established statutory accounting principles for reporting a specific transaction or event. In those instances, it might be possible to report the event or transaction on the basis of its substance by selecting a statutory accounting principle that appears appropriate when applied in a manner similar to the application of an established statutory principle to an analogous transaction or event. In the absence of a SSAP or another source of established statutory accounting principles, the preparer, regulator or auditor of statutory financial statements may consider other accounting literature, depending on its relevance in the circumstances. Other accounting literature includes the Statutory Accounting Principles Statement of Concepts and GAAP reference material and accounting literature identified in Level 5. The appropriateness of other accounting literature depends on its relevance to the particular circumstances, the specificity of the guidance, and the general recognition of the issuer or author as an authority. For example, the Statutory Accounting Principles Statement of Concepts would be more authoritative than any other sources of accounting literature. Similarly, FASB Concepts Statements would normally be more influential than other sources of nonauthoritative GAAP pronouncements.

FN 4 - The Statutory Accounting Principles Statement of Concepts incorporates by reference FASB Concepts Statements One, Two, Five and Six to the extent they do not conflict with the concepts outlined in the statement. However, for purposes of applying this hierarchy the FASB Concepts Statements shall be included in Level 5 and only those concepts unique to statutory accounting as stated in the statement are included in Level 4.

SSAP No. 4—Assets and Nonadmitted Assets

NAIC Staff Note – this SAP contains the definition of the financial statement element of an **Asset**. Relevant items have been bolded below for ease of identification.

2. For purposes of statutory accounting, **an asset shall be defined as: probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events. An asset has three essential characteristics: (a) it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows, (b) a particular entity can obtain the benefit and control others' access to it, and (c) the transaction or other event giving rise to the entity's right to or control of the benefit has already occurred.** These assets shall then be evaluated to determine whether they are admitted. The criteria used is outlined in paragraph 3.

3. As stated in the Statement of Concepts, "The ability to meet policyholder obligations is predicated on the existence of readily marketable assets available when both current and future obligations are due. Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet," and are, therefore, considered nonadmitted. For purposes of statutory accounting principles, a nonadmitted asset shall be defined as an asset meeting the criteria in paragraph 2, which is accorded limited or no value in statutory reporting, and is one which is:

- a. Specifically identified within the *Accounting Practices and Procedures Manual* as a nonadmitted asset; or
- b. Not specifically identified as an admitted asset within the *Accounting Practices and Procedures Manual*.

If an asset meets one of these criteria, the asset shall be reported as a nonadmitted asset and charged against surplus unless otherwise specifically addressed within the *Accounting Practices and Procedures Manual*. The asset shall be depreciated or amortized against net income as the estimated economic benefit expires. In accordance with the reporting entity's written capitalization policy, amounts less than a predefined threshold of furniture, fixtures, equipment, or supplies, shall be expensed when purchased.

4. Transactions which do not give rise to assets as defined in paragraph 2 shall be charged to operations in the period the transactions occur. Those transactions which result in amounts which may meet the definition of assets, but are specifically identified within the *Accounting Practices and Procedures Manual* as not giving rise to assets (e.g., policy acquisition costs), shall also be charged to operations in the period the transactions occur.

5. The reporting entity shall maintain a capitalization policy containing the predefined thresholds for each asset class to be made available for the department(s) of insurance.

FN1 - FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements, states: Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in FASB Statement No. 5, Accounting for Contingencies, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.

FN2 - If assets of an insurance entity are pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2(c), such assets shall not be recognized as an admitted asset on the balance sheet. Additional guidance for assets pledged as collateral is included in INT 01-31.

SSAP No. 5—Liabilities, Contingencies and Impairments of Assets

NAIC Staff Note – this SAP contains the definition of the financial statement element of a **Liability**. Relevant items have been bolded below for ease of identification.

2. A liability is defined as certain or probable FN1 future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or to provide services to other entities in the future as a result of a past transaction(s) or event(s).

3. A liability has three essential characteristics: (a) it embodies a present duty or responsibility to one or more other entities that entails settlement by probable FN1 future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, (b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened. This includes, but is not limited to, liabilities arising from policyholder obligations (e.g., policyholder benefits, reported claims and reserves for incurred but not reported claims). Liabilities shall be recorded on a reporting entity's financial statements when incurred.

4. Estimates (e.g., loss reserves) are required in financial statements for many ongoing and recurring activities of a reporting entity. The mere fact that an estimate is involved does not of itself constitute a loss contingency. For example, estimates of losses utilizing appropriate actuarial methodologies meet the definition of liabilities as outlined above and are not loss contingencies.

FN1 - FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements, states: Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in FASB Statement 5, Accounting for Contingencies, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.

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

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

Convergence with International Financial Reporting Standards (IFRS): While slightly different, the updated FASB asset & liability definitions do closer align with IFRS definitions. While IFRS retains the phrase “as a result of past events,” it also explicitly retains the term “control,” which is now implicit with the FASB updates. The elimination of the explicit term “control” was a deliberate action of the FASB as they noted that the notion of control has been historically misunderstood (control is to the right that gives rise to the economic benefit rather than to the economic benefits themselves). For reference *IFRS Chapter 4 – The Elements of Financial Statements*, defines an **asset** as a present economic resource controlled by the entity as a result of past events; with the economic resource representing a right that has the potential to produce economic benefits. Additionally, the chapter defines a **liability** as a present obligation of an entity to transfer an economic resource as a result of past events.

Staff Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to the Preamble, *SSAP No. 4—Assets and Nonadmitted Assets* and *SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets*, as illustrated below and in the issue papers, to incorporate updates from *Chapter 4, Elements of Financial Statements* and *Chapter 7, Presentation of the FASB’s Conceptual Framework for Financial Reporting*.

Proposed edits to the Preamble: proposed modifications reflect updates for superseded FASB Financial Accounting Concepts.

IV. Statutory Accounting Principles Statement of Concepts

25. This document states the fundamental concepts on which statutory financial accounting and reporting standards are based. These concepts provide a framework to guide the National Association of Insurance Commissioners (NAIC) in the continued development and maintenance of statutory accounting principles (“SAP” or “statutory basis”) and, as such, these concepts and principles constitute an accounting basis for the preparation and issuance of statutory financial statements by insurance companies in the absence of state statutes and/or regulations.

26. The NAIC and state insurance departments are primarily concerned with statutory accounting principles that differ from GAAP reflective of the varying objectives of regulation. Recodification of areas where SAP and GAAP are parallel is an inefficient use of limited resources.

27. SAP utilizes the framework established by GAAP. **FN2** This document integrates that framework with objectives exclusive to statutory accounting. The NAIC’s guidance on SAP is comprehensive for those principles that differ from GAAP based on the concepts of statutory accounting outlined herein. Those GAAP pronouncements that are not applicable to insurance companies will not be adopted by the NAIC. For those principles that do not differ from GAAP, the NAIC must specifically adopt those GAAP Pronouncements to be included in statutory accounting. GAAP Pronouncements do not become part of SAP until and unless adopted by the NAIC.

28. The body of statutory accounting principles is prescribed in the statutory hierarchy of accounting guidance. This hierarchy provides the framework for judging the presentation of statutory financial statements in conformance with statutory accounting principles.

29. Statutory requirements vary from state to state. While it is desirable to minimize these variations, to the extent that they exist it is the objective of NAIC statutory accounting principles to provide the standard against which the exceptions will be measured and disclosed if material.

FN 2 - The GAAP framework applicable to insurance accounting is set forth in *Statements of Financial Accounting Concepts* ~~One, Two, Five, and Six~~Eight. These documents, promulgated by the Financial Accounting Standards Board, set forth the objectives and concepts which are used in developing accounting and reporting standards.

V. Statutory Hierarchy

42. The following Hierarchy is not intended to preempt state legislative and regulatory authority.

Level 1

SSAPs, including U.S. GAAP reference material to the extent adopted by the NAIC from the FASB Accounting Standards Codification (FASB Codification or GAAP guidance)

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Level 4

*Statutory Accounting Principles Preamble and Statement of Concepts **FN4***

Level 5

Sources of nonauthoritative GAAP accounting guidance and literature, including: (a) practices that are widely recognized and prevalent either generally or in the industry, (b) FASB Concept Statements, (c) AICPA guidance not included in FASB Codification, (d) International Financial Reporting Standards, (e) Pronouncements of professional associations or regulatory agencies, (f) Technical Information Service Inquiries and Replies included in the AICPA Technical Practice Aids, and (g) Accounting textbooks, handbooks and articles

FN 4 - The Statutory Accounting Principles Statement of Concepts incorporates by reference FASB Concepts Statements ~~One, Two, Five and Six~~Eight to the extent they do not conflict with the concepts outlined in the statement. However, for purposes of applying this hierarchy the FASB Concepts Statements shall be included in Level 5 and only those concepts unique to statutory accounting as stated in the statement are included in Level 4.

Proposed edits SSAP No. 4—Assets and Nonadmitted Assets: proposed modifications reflect an updated definition of the term **Asset** – to match the newly issued definition in FASB Statement of Financial Accounting Concepts No. 8

2. For purposes of statutory accounting, an asset shall be defined as: a present right of an entity to an economic benefit, ~~probable **FN4** future economic benefits obtained or controlled by a particular entity as a result of past transactions or events~~. An asset has ~~two~~three essential characteristics: (a) it is a present right, ~~embodies a probable future benefit that involves a capacity, singly or in combination with other assets,~~

~~to contribute directly or indirectly to future net cash inflows, and (b) the right is to an economic benefit, a particular entity can obtain the benefit and control others' access to it **FN1 FN2**, and (c) the transaction or other event giving rise to the entity's right to or control of the benefit has already occurred.~~ These assets shall then be evaluated to determine whether they are admitted. The criteria used is outlined in paragraph 3.

3. As stated in the Statement of Concepts, "The ability to meet policyholder obligations is predicated on the existence of readily marketable assets available when both current and future obligations are due. Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet," and are, therefore, considered nonadmitted. For purposes of statutory accounting principles, a nonadmitted asset shall be defined as an asset meeting the criteria in paragraph 2, which is accorded limited or no value in statutory reporting, and is one which is:

- a. Specifically identified within the *Accounting Practices and Procedures Manual* as a nonadmitted asset; or
- b. Not specifically identified as an admitted asset within the *Accounting Practices and Procedures Manual*.

If an asset meets one of these criteria, the asset shall be reported as a nonadmitted asset and charged against surplus unless otherwise specifically addressed within the *Accounting Practices and Procedures Manual*. The asset shall be depreciated or amortized against net income as the estimated economic benefit expires. In accordance with the reporting entity's written capitalization policy, amounts less than a predefined threshold of furniture, fixtures, equipment, or supplies, shall be expensed when purchased.

4. Transactions which do not give rise to assets as defined in paragraph 2 shall be charged to operations in the period the transactions occur. Those transactions which result in amounts which may meet the definition of assets, but are specifically identified within the *Accounting Practices and Procedures Manual* as not giving rise to assets (e.g., policy acquisition costs), shall also be charged to operations in the period the transactions occur.

5. The reporting entity shall maintain a capitalization policy containing the predefined thresholds for each asset class to be made available for the department(s) of insurance.

FN1 - *FASB Statement of Financial Accounting Concepts No. 86, Elements of Financial Statements*, states that the combination of these two characteristics allows an entity to obtain the economic benefit and control others' access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefit and the ability to restrict others' access to the benefit to which the entity is entitled. ~~Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in *FASB Statement No. 5, Accounting for Contingencies*, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.~~

FN2 - If assets of an insurance entity are pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2(c), such assets shall not be recognized as an admitted asset on the balance sheet. Additional guidance for assets pledged as collateral is included in INT 01-31.

Relevant Literature

9. This statement ~~incorporates the definition of an asset from~~ ~~adopts~~ *FASB Statement of Financial Accounting Concepts No. 86, Chapter 4, Elements of Financial Statements*, paragraphs ~~E16-E18~~ ~~25-33~~.

References**Relevant Issue Papers**

Issue Paper No. 4—Definition of Assets and Nonadmitted Assets

Issue Paper No. 119—Capitalization Policy, An Amendment to SSAP Nos. 4, 19, 29, 73, 79 and 82

[*Issue Paper No. 16X -Updates to the Definition of an Asset*](#)

SSAP No. 5—Liabilities, Contingencies and Impairments of Assets: proposed modifications reflect an updated definition of the term **Liability** – to match the newly issued definition in FASB Statement of Financial Accounting Concepts No. 8

2. A liability is defined as [a present obligation of an entity to transfer an economic benefit](#). ~~certain or probable FN1 future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or to provide services to other entities in the future as a result of a past transaction(s) or event(s).~~

3. A liability has ~~three~~ [two](#) essential characteristics: (a) it [is a present obligation](#) ~~embodies a present duty or responsibility to one or more other entities that entails settlement by probable FN1 future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, and~~ (b) the [obligation requires an entity to transfer or otherwise provide economic benefit to others](#) ~~duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and~~ (c) ~~the transaction or other event obligating the entity has already happened.~~ This includes, but is not limited to, liabilities arising from policyholder obligations (e.g., policyholder benefits, reported claims and reserves for incurred but not reported claims). Liabilities shall be recorded on a reporting entity's financial statements when incurred.

4. Estimates (e.g., loss reserves) are required in financial statements for many ongoing and recurring activities of a reporting entity. The mere fact that an estimate is involved does not of itself constitute a loss contingency. For example, estimates of losses utilizing appropriate actuarial methodologies meet the definition of liabilities as outlined above and are not loss contingencies.

~~FN1—FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements, states: Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in FASB Statement 5, Accounting for Contingencies, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.~~

Relevant Literature

39. This statement adopts *FASB Statement No. 5, Accounting for Contingencies* (FAS 5), *FASB Statement 114, Accounting by Creditors for Impairment of a Loan* only as it amends in part FAS 5 ~~and paragraphs 35 and 36 of FASB Statement of Financial Accounting Concepts No. 6—Elements of Financial Statements~~. *FASB Interpretation No. 14, Reasonable Estimation of the Amount of a Loss, An Interpretation of FASB Statement No. 5* (FIN No. 14) is adopted with the modification to accrue the loss

amount as the midpoint of the range rather than the minimum as discussed in paragraph 3 of FIN No. 14. This statement adopts with modification *ASU 2013-04, Obligations Resulting from Joint and Several Liability Arrangements for Which the Total Amount of the Obligation is Fixed at the Reporting Date* with the same statutory modification adopted for FIN 14. [This statement incorporates the definition of a liability from FASB Statement of Financial Accounting Concepts No. 8, Chapter 4, Elements of Financial Statements, paragraphs E37 and E38.](#)

References

Relevant Issue Papers

Issue Paper No. 5—Definition of Liabilities, Loss Contingencies and Impairments of Assets

Issue Paper No. 20—Gain Contingencies

Issue Paper No. 135—Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others

[Issue Paper No. 16X – Updates to the Definition of a Liability](#)

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to the Preamble, SSAP No. 4—Assets and Nonadmitted Assets and SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets, as illustrated in the agenda item and in the draft issue papers, to incorporate updates from Chapter 4, Elements of Financial Statements and Chapter 7, Presentation of the FASB’s Conceptual Framework for Financial Reporting.

Staff Review Completed by: Jim Pinegar– NAIC Staff, January – 2022

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to the Preamble, SSAP No. 4—Assets and Nonadmitted Assets and SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets to incorporate 1) updates from FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation* which identifies factors to consider when deciding how items should be displayed on the financial statements, and 2) Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*, which updates the definitions of an asset and a liability. The Working Group also exposed two draft issue papers for historical documentation of these SAP clarifications.

On August 10, 2022, the Statutory Accounting Principles (E) Working Group adopted, as final, the exposed revisions, as illustrated above, to the Preamble and SSAP No. 4—Assets and Nonadmitted Assets. The revisions incorporate updates from FASB Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 7, Presentation*, which identifies factors to consider when deciding how items should be displayed on the financial statements, and Concepts Statement No. 8, *Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*, which updates the definition of an asset. In addition, the Working Group adopted *Issue Paper No. 166—Updates to the Definition of an Asset*, which documents the revisions to SSAP No. 4.

Additionally, on August 10, 2022, the Working Group re-exposed the proposed revisions and draft issue paper related to the definition change of a liability in SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets.

This exposure intends to provide additional time for industry to review the changes in accordance with statutory accounting statements. These revisions are also shown above under the SSAP No. 5R heading.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att One-L_22-01_Preamble_SSAP4.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/1_SAPWG/Minutes/Att%20One-L_22-01_Preamble_SSAP4.docx)

Statutory Issue Paper No. 166

Updates to the Definition of an Asset

STATUS

Finalized – August 10, 2022

Original and Current Authoritative Guidance: SSAP No. 4

Type of Issue:

Common Area

SUMMARY OF ISSUE

1. This issue paper documents the SAP clarification revisions to *SSAP No. 4—Assets and Nonadmitted Assets*. The intent of the revisions is to align current statutory accounting guidance, specifically the definition of an “asset,” with the term utilized by the Financial Accounting Standards Board (FASB).

SUMMARY CONCLUSION

2. The statutory accounting principle clarifications to SSAP No. 4 (illustrated in Exhibit A), reflect that for the purposes of statutory accounting, an asset shall be defined as: a present right of an entity to an economic benefit. An asset has two essential characteristics: (1) it is a present right, and (2) the right is to an economic benefit. The combination of these two characteristics allows an entity to obtain the economic benefit and control others’ access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefit and the ability to restrict others’ access to the benefit to which the entity is entitled. For clarity, an “economic benefit” represents services or other items of economic value and generally result in net cash inflows to the entity. Pursuant to current guidance, assets are then evaluated, as outlined in paragraph 3 below, to determine whether they are admitted for statutory accounting purposes.

3. Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet, and are, therefore, considered nonadmitted. For purposes of statutory accounting principles, a nonadmitted asset shall be defined as an asset meeting the criteria in paragraph 2, which is accorded limited or no value in statutory reporting, and is one which is:

- a. Specifically identified within the *Accounting Practices and Procedures Manual* as a nonadmitted asset; or
- b. Not specifically identified as an admitted asset within the *Accounting Practices and Procedures Manual*.

If an asset meets one of these criteria, the asset shall be reported as a nonadmitted asset and charged against surplus unless otherwise specifically addressed within the *Accounting Practices and Procedures Manual*. The asset shall be depreciated or amortized against net income as the estimated economic benefit expires. In accordance with the reporting entity's written capitalization policy, amounts less than a predefined threshold of furniture, fixtures, equipment, or supplies, shall be expensed when purchased.

4. Transactions which do not give rise to assets as defined in paragraph 2 shall be charged to operations in the period the transactions occur. Those transactions which result in amounts which may meet the definition of assets but are specifically identified within the *Accounting Practices and Procedures*

Manual as not giving rise to assets (e.g., policy acquisition costs), shall also be charged to operations in the period the transactions occur.

5. The reporting entity shall maintain a capitalization policy containing the predefined thresholds for each asset class to be made available for the department(s) of insurance.

DISCUSSION

6. In December 2021, FASB issued *Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements*, which introduced updated definitions of certain key elements used in financial reporting – most notably updating the fundamental definition of an asset. Through the FASB’s adoption of Concept Statement No. 8, the original Concept Statement No. 6 has been superseded. As statutory accounting currently reflects FASB’s historical definition, this issue paper is to review the prior concept definition (currently utilized by statutory accounting) and compare it to FASB’s updated concept definition and assess whether the revised concept definition shall be reflected in statutory accounting.

7. FASB concept statements do not reflect authoritative U.S. GAAP guidance. Rather concept statements are intended to set forth objectives and fundamental concepts that will be the basis for development of financial accounting and reporting guidance. The term “asset” is not captured or defined in the FASB Accounting Standards Codification (which is the source of authoritative U.S. GAAP.) Furthermore, although the concept statement is intended to be used as a guide in establishing authoritative U.S. GAAP, the FASB is not restricted to the concepts when developing guidance, and the FASB may issue U.S. GAAP which may be inconsistent with the objectives and fundamental concepts set forth in Concept Statements. A change in a FASB Concept Statement does not 1) require a change in existing U.S. GAAP, 2) amend, modify or interpret the Accounting Standards Codification, or 3) justify either changing existing generally accepted accounting and reporting practices or interpreting the Accounting Standards Codification based on personal interpretations of the objectives and concepts in the concepts statement.

8. Under the prior FASB concept statement, which was reflected in SSAP No. 4, an asset was defined as a probable future economic benefit obtained or controlled by a particular entity as a result of past transactions or events. In addition, the historical definition possessed three essential characteristics in that (1) it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows, (2) a particular enterprise can obtain the benefit and control others' access to it, and (3) the transaction or other event giving rise to the enterprise's right to or control of the benefit has already occurred.

9. Pursuant to the prior concept statement, and as incorporated in SSAP No. 4, *probable*, as referenced both in the definition and essential characters, was used in a usual general meaning, rather than in a specific accounting or technical sense and referred to which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.

10. With the new FASB conceptual framework chapter, an asset is now defined as a present right of an entity to an economic benefit. In addition, the current definition only has two essential characteristics in that the asset is (1) a present right, and (2) the right is to an economic benefit. The combination of these two characteristics allows an entity to obtain the economic benefit and control others’ access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefit and the ability to restrict others’ access to the benefit to which the entity is entitled. For clarity, an “economic benefit” represents services or other items of economic value to the asset holder and generally result in net cash inflows to the entity.

11. The updated asset definition from Concept Statement No. 8 no longer includes the term *probable* or the phrases *future economic benefit* and *as a result of past transactions or events*. The FASB concluded that the term *probable* has historically been misunderstood as implying that a future benefit must be probable to a certain threshold before the definition of an asset was met. Thus, if the probability of a future benefit was low, an asset could not be recognized. The FASB also struck the phrase *future economic benefit* as this phrase often was interpreted that the asset must represent a certain future economic benefit (such as eventual cash inflows), however with this action, the FASB clarified that the asset represents the rights to the benefit, not the actual benefit itself – nor the probability of realization. Finally, FASB struck the phrase *as the result of past transactions or events*. It was concluded that if the asset represents a *present right*, by default, the right must have occurred as the result of a past transaction or event and thus this phraseology was deemed redundant and unnecessary.

12. To meet the definition of an asset, the right must be a “present right,” that is the right must exist at the financial statement date, not a right that is expected to occur in the future. The existence of a present right at the financial statement date means that the right and therefore the reasons why that asset was obtained, must have arisen from a past transaction or event. A right entitles its holder to have or obtain something, or act in a certain manner. Rights can be obtained in various ways and are often obtained through legal ownership. Legal ownership gives the owner access to the economic benefits, including the ability to possess, use, and enjoy the right. However, legally enforceable rights to economic benefits can also be obtained without legal ownership of the underlying property. This occurs in cases where the underlying benefit itself, as is the example in the right of use or rights to specified cashflows in contract provisions, are possessed by an entity other than the legal title holder. One important aspect of the change in definition is the removal of the term “control.” The FASB clarified that while the term control has been removed, the notion of control has been maintained in the updated definition. In the prior definition, control was a required element and thus without control, an asset was not recognized. However, control often refers to the ability to direct, manage, or have power over something. The FASB stated that in many instances, constituents misunderstood the notion of control by 1) believing it represented a probable future economic benefit, or 2) failing to properly identify what was specifically controlled. An example provided was a trade receivable – the definition of control might be misapplied to mean the successful collection; however, the correct application should refer to the rights of collection – not the successful collection itself. Citing this as an example, the FASB concluded that while the notion of control was an important aspect, the explicit term did not sufficiently add to the definition – thus the term “control” was removed.

13. When reviewing the substance of the revisions, the FASB concluded that the updated definition resulted in a clearer and more precise definition and it did not fundamentally change the historical concept of an asset, nor should the revisions result in any material changes in instrument reclassification (e.g., items now being classified as an asset when previously they were not considered assets). For statutory accounting purposes, the updated definition should be viewed similarly, that is it does not change fundamental concepts, change current practices, or introduce a new, original or a modified accounting principle. The revisions to the definition of an asset clarify the definitional language and do not modify the original intent of SSAP No. 4 and thus the changes are deemed to be a statutory accounting principle clarification.

14. One concept articulated in SSAP No. 4, and one that is not proposed for revision, is the concept of nonadmitted assets. As revisions are not proposed to this concept, further discussion is not included in this issue paper.

Actions of the Statutory Accounting Principles (E) Working Group

15. During the Spring 2022 National Meeting, the Working Group exposed this issue paper for public comment.

16. During the Summer 2022 National Meeting, the Working Group adopted the exposed revisions to SSAP No. 4 and affirmed the SAP clarification classification of these revisions.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

17. Relevant excerpts of SSAP No. 4, paragraphs 2-5 regarding the definition of an asset and a nonadmitted asset (nonadmitted asset as it is referenced in definition of an asset paragraph) utilized by statutory accounting is:

2. For purposes of statutory accounting, an asset shall be defined as: probable¹ future economic benefits obtained or controlled by a particular entity as a result of past transactions or events. An asset has three essential characteristics: (a) it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows, (b) a particular entity can obtain the benefit and control others' access to it², and (c) the transaction or other event giving rise to the entity's right to or control of the benefit has already occurred. These assets shall then be evaluated to determine whether they are admitted. The criteria used is outlined in paragraph 3.

3. As stated in the Statement of Concepts, "The ability to meet policyholder obligations is predicated on the existence of readily marketable assets available when both current and future obligations are due. Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet," and are, therefore, considered nonadmitted. For purposes of statutory accounting principles, a nonadmitted asset shall be defined as an asset meeting the criteria in paragraph 2, which is accorded limited or no value in statutory reporting, and is one which is:

- a. Specifically identified within the *Accounting Practices and Procedures Manual* as a nonadmitted asset; or
- b. Not specifically identified as an admitted asset within the *Accounting Practices and Procedures Manual*.

If an asset meets one of these criteria, the asset shall be reported as a nonadmitted asset and charged against surplus unless otherwise specifically addressed within the *Accounting Practices and Procedures Manual*. The asset shall be depreciated or amortized against net income as the estimated economic benefit expires. In accordance with the reporting entity's written capitalization policy, amounts less than a predefined threshold of furniture, fixtures, equipment, or supplies, shall be expensed when purchased.

4. Transactions which do not give rise to assets as defined in paragraph 2 shall be charged to operations in the period the transactions occur. Those transactions which result in amounts

¹ FASB Statement of Financial Accounting Concepts No. 6, *Elements of Financial Statements*, states:

Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in *FASB Statement No. 5, Accounting for Contingencies*, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.

² If assets of an insurance entity are pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2(c), such assets shall not be recognized as an admitted asset on the balance sheet. Additional guidance for assets pledged as collateral is included in INT 01-31.

which may meet the definition of assets, but are specifically identified within the *Accounting Practices and Procedures Manual* as not giving rise to assets (e.g., policy acquisition costs), shall also be charged to operations in the period the transactions occur.

5. The reporting entity shall maintain a capitalization policy containing the predefined thresholds for each asset class to be made available for the department(s) of insurance.

Generally Accepted Accounting Principles

18. Relevant paragraphs from *Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements* have been included below:

Assets

E16. An asset is a present right of an entity to an economic benefit.

Characteristics of Assets

E17. An asset has the following two essential characteristics: a. It is a present right. b. The right is to an economic benefit.

The combination of those two characteristics allows an entity to obtain the economic benefit and control others' access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefit and the ability to restrict others' access to the benefit to which the entity is entitled.

E19. Essential to the definition of an asset is a right to an "economic benefit"—the capacity to provide services or benefits to the entities that use them. Generally, in a business entity, that economic benefit eventually results in potential net cash inflows to the entity. In a not-for-profit entity, that economic benefit is used to provide desired or needed goods or services to beneficiaries or other constituents, which may or may not directly result in net cash inflows to the entity. Some not-for-profit entities rely significantly on contributions or donations of cash to supplement selling prices or to replace cash or other assets used in providing goods and services. The relationship between the economic benefit of an entity's assets and net cash inflows to that entity can be indirect in both business entities and not-for-profit entities.

E22. A right entitles its holder to have or obtain something or to act in a certain manner. Rights can be obtained in various ways. Often, rights are obtained by legal ownership, for example, owning a building. Legal ownership gives the owner access to economic benefits, including the ability to possess, use, and enjoy the right; to sell, donate, or exchange the right; or to exploit the right's value by, for example, pledging it as a security for borrowing.

E23. Legally enforceable rights to economic benefits can be obtained without legal ownership of the underlying benefit itself as is the case, for example, when property is leased or intellectual property is licensed or when an entity has the rights to specified certain cash flows, as in the case of a contract providing rights only to interest flows from a specified debt instrument. Other legally enforceable rights that give rise to assets include the right to require other parties to make payments or render services and the right to use a patent or a trademark. Legally enforceable rights include, among other rights, contractual rights (for example, rights from options held).

E31. Another essential characteristic of an asset is that the right of an entity must be to an economic benefit. An asset of an entity might be represented by rights to a particular property (such as the right to possess, use, and enjoy a parcel of land) or by rights to some or all the economic benefits derived from the property.

19. One of the most notable changes to the definitional change was the explicit removal of the term *control*, however the notion of control was retained. *Chapter 4, Elements of Financial Statements* included commentary regarding the FASB's rationale of the change.

BC4.17. The definition of an asset in Concepts Statement 6 associated assets with a particular entity by inclusion of the term control. Control often refers to the ability to direct, manage, or have power over something to obtain or access benefits or to increase, maintain, or protect those benefits. Control goes beyond legal rights and includes the ability to obtain and control the benefit in other ways, including restricting, or otherwise prohibiting, the access of others to the economic benefit of the asset.

BC4.18. In applying the definition of an asset in Concepts Statement 6, however, many constituents misunderstood the notion of control. Some improperly viewed control of a probable future economic benefit in the same manner as described in business combinations or consolidation accounting. Additionally, in applying the term control, some failed to properly identify that which was controlled under the asset definition. For example, in the instance of trade receivables, the definition could be misunderstood to indicate that what is controlled is the successful collection of the receivable in the future. When applied appropriately, however, the definition in Concepts Statement 6 would conclude that the present right to collection is what is controlled. Similarly, if an entity has an option to acquire an asset, the present right of that entity is to the option itself, not the underlying asset that the option provides the right to acquire. Thus, control references the existing right that has the ability to generate economic benefits, or potential economic benefits, and to restrict others' access to those benefits.

BC4.19. While the Board concluded that the notion of control was an important aspect of the asset definition, it was not clear to the Board whether the explicit term control added anything significant to the definition of an asset. Those considerations are addressed by including the term present right in the definition in this chapter. If an entity has a present right to an economic benefit, that would seem to be sufficient to establish the fact that the asset is an asset of that entity. 37 Indeed, if an entity has exclusive rights, it presumably can deny or regulate access to that benefit by others, thereby implying control

BC4.22. The Board redeliberated the issue and decided that the term control should not be used in the definition of an asset for the following reasons:

- a. It eliminates redundancy. If an entity has a present right, that would seem to be sufficient to establish the fact that the asset is an asset of that entity. In fact, the Board used the phrase of the entity in the definition of an asset to clarify that point. Indeed, if an entity has exclusive rights, it presumably can deny or regulate access to that benefit by others.
- b. It eliminates misunderstanding of the term. The term control has two issues in the existing definition of an asset. First, many have a different definition of the term control. Second, many associate the term control with whether one has control of the economic benefit. The Board notes that what is controlled is the existing right that gives rise to economic benefits, or potential economic benefits, rather than the economic benefits themselves. The Board's reasoning for removing the term control is the same as removing other terms, such as future and probable, from the definition of an asset.
- c. It avoids confusion with the IASB's Conceptual Framework use and meaning of the term. The IASB defines an asset as "a present economic resource controlled by the entity as a result of past events." In the basis for conclusions to the IASB's Conceptual Framework's discussion on control, footnote 19 references both IFRS 10, Consolidated Financial Statements, and IFRS 15, Revenue from Contracts with Customers. The Board is concerned about the references to IFRS 10 and

IFRS 15 because those standards refer to control of an economic benefit, not control of the right. The Board notes that convergence with the IASB's asset definition on this point is not critical because it could perpetuate the misunderstanding discussed above.

20. Other changes regarding the definition of an asset included removal of the term *probable* and the phrases *future economic benefit* and *past transactions of events*. Rationale for these changes were documented in *Chapter 4, Elements of Financial Statements* commentary as follows:

BC4.11. The definitions of both an asset and a liability in Concepts Statement 6 include the term *probable* and the phrases *future economic benefit* and *past transactions or events*. The term *probable* in the definitions in Concepts Statement 6 has been misunderstood as implying that a future economic benefit or a future sacrifice of economic benefit must be probable to a certain threshold before the definition of an asset or a liability is met. In other words, if the probability of future economic benefit is low, the asset definition is not met under that interpretation. A similar interpretation could be made for liabilities. The footnotes to the Concepts Statement 6 definition of assets and liabilities also were not helpful in clarifying the application of the term *probable* as used in the definitions of assets and liabilities. Accordingly, the Board decided to eliminate that term from the definitions of both assets and liabilities.

BC4.12. The term *future* in the definitions in Concepts Statement 6 focused on identifying a future flow of economic benefits to demonstrate that an asset exists or identifying a future transfer of economic benefits to demonstrate that a liability exists. The definitions in Concepts Statement 6 were often misunderstood as meaning that the asset (liability) is the ultimate future inflow (outflow). For example, in the instance of trade receivables, the definition in Concepts Statement 6 could be misunderstood to indicate that the asset is the successful collection of the receivable in the future. When applied appropriately, however, the definition would conclude that the asset is the present right to collection. Similar misunderstandings occurred in applying the liability definition. As a result, the Board concluded that a focus on the term *present* would appropriately shift the focus from identifying a future occurrence. Therefore, the Board decided to include the term *present right* to demonstrate that an asset exists and emphasize the term *present obligation* to demonstrate that a liability exists.

BC4.13. The definitions of assets and liabilities in Concepts Statement 6 both include the phrase *past transactions or events*. The Board concluded that if an entity has a present right or a present obligation, one can reasonably assume that it was obtained from some past transaction or event. Therefore, that phrase is considered redundant and has been eliminated from the definitions.

RELEVANT LITERATURE

Statutory Accounting

- Statutory Accounting Principles Statement of Concepts and Statutory Hierarchy

Generally Accepted Accounting Principles

- FASB Statement of Financial Accounting Concepts No. 8, Conceptual Framework for Financial Reporting – Chapter 4, Elements of Financial Statements

Effective Date

21. As issue papers are not authoritative and are not represented in the Statutory Hierarchy (see Section V of the Preamble), the consideration and adoption of this issue paper will not have any impact on the SAP clarifications adopted to SSAP No. 4 by the Working Group on August 10, 2022.

EXHIBIT A – SAP Clarification Revisions to SSAP No. 4—Assets and Nonadmitted Assets**Statement of Statutory Accounting Principles No. 4****Assets and Nonadmitted Assets**

SCOPE OF STATEMENT

1. This statement establishes the definition of an “asset” for use in statutory accounting and establishes the criteria for consistent treatment of nonadmitted assets.

SUMMARY CONCLUSION

2. For purposes of statutory accounting, an asset shall be defined as: a present right of an entity to an economic benefit~~probable³ future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.~~ An asset has three~~two~~ essential characteristics: (a) it is a present right~~embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows,~~ and (b) the right is to an economic benefit, a particular entity can obtain the benefit and control others’ access to it⁴⁵, and (c) ~~the transaction or other event giving rise to the entity’s right to or control of the benefit has already occurred.~~ These assets shall then be evaluated to determine whether they are admitted. The criteria used is outlined in paragraph 3.

3. As stated in the Statement of Concepts, "The ability to meet policyholder obligations is predicated on the existence of readily marketable assets available when both current and future obligations are due. Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet," and are, therefore, considered nonadmitted. For purposes of statutory accounting principles, a nonadmitted asset shall be defined as an asset meeting the criteria in paragraph 2, which is accorded limited or no value in statutory reporting, and is one which is:

- a. Specifically identified within the *Accounting Practices and Procedures Manual* as a nonadmitted asset; or
- b. Not specifically identified as an admitted asset within the *Accounting Practices and Procedures Manual*.

¹ ~~FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements, states:~~

~~Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in FASB Statement No. 5, Accounting for Contingencies, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.~~

² FASB Statement of Financial Accounting Concepts No. 8, Elements of Financial Statements, states that the combination of these two characteristics allows an entry to obtain the economic benefit and control others’ access to the benefit. A present right of an entity to an economic benefit entitles the entity to the economic benefits and the ability to restrict other’s access to the benefit to which the entity is entitled.

⁵ If assets of an insurance entity are pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, pursuant to paragraph 2(c), such assets shall not be recognized as an admitted asset on the balance sheet. Additional guidance for assets pledged as collateral is included in INT 01-31.

If an asset meets one of these criteria, the asset shall be reported as a nonadmitted asset and charged against surplus unless otherwise specifically addressed within the *Accounting Practices and Procedures Manual*. The asset shall be depreciated or amortized against net income as the estimated economic benefit expires. In accordance with the reporting entity's written capitalization policy, amounts less than a predefined threshold of furniture, fixtures, equipment, or supplies, shall be expensed when purchased.

4. Transactions which do not give rise to assets as defined in paragraph 2 shall be charged to operations in the period the transactions occur. Those transactions which result in amounts which may meet the definition of assets, but are specifically identified within the *Accounting Practices and Procedures Manual* as not giving rise to assets (e.g., policy acquisition costs), shall also be charged to operations in the period the transactions occur.

5. The reporting entity shall maintain a capitalization policy containing the predefined thresholds for each asset class to be made available for the department(s) of insurance.

Assets Pledged as Collateral or Otherwise Restricted

6. Assets that are pledged to others as collateral or otherwise restricted (not under the exclusive control of the insurer, subject to a put option contract, etc.) shall be identified in the investment schedules pursuant to the codes in the annual statement instructions, disclosed in accordance with *SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures*, reported in the general interrogatories, and included in any other statutory schedules or disclosure requirements requesting information for assets pledged as collateral or otherwise restricted. Restricted assets should be reviewed to determine admitted or nonadmitted assets status in the statutory financial statements per the terms of their respective SSAPs. Asset restrictions may be a factor in determining the admissibility of an asset under a respective SSAP⁶. However, determining that a restricted asset is an admitted asset does not eliminate the statutory requirements to document and identify the asset as one that is pledged as collateral or otherwise restricted.

7. Assets pledged as collateral are one example of assets that are not under the exclusive control of the insurer, and are therefore restricted, even if the assets are admitted under statutory accounting guidelines (e.g., the asset is substitutable and/or other related SSAP conditions are met). As such, the asset shall be coded as pledged in the investment schedules pursuant to the annual statement instructions, disclosed in accordance with *SSAP No. 1*, reported in the general interrogatories, and included in any other statutory schedules or disclosure requirements requesting information for assets pledged as collateral or otherwise restricted.

Disclosure

8. The financial statements shall disclose if the written capitalization policy and the resultant predefined thresholds changed from the prior period and the reason(s) for such change.

Relevant Literature

9. This statement [incorporates the definition of an asset from ~~adopts~~ FASB Statement of Financial Accounting Concepts No. 86, Chapter 4, Elements of Financial Statements](#), paragraphs [E16-E18](#)~~25-33~~.

Effective Date and Transition

10. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with *SSAP No.*

⁶ An example of such a situation is detailed in footnote 2 pertaining to assets restricted by the action of a related party. This is only a single example and each restricted asset would need to be reviewed to ensure it qualifies as an admitted asset.

Ref # 2022-01

3—*Accounting Changes and Corrections of Errors*. Guidance reflected in paragraphs 3, 5 and 8, incorporated from SSAP No. 87, was originally effective for years beginning on and after January 1, 2004. The guidance in footnote 2 to paragraph 2 was originally contained within *INT 01-03: Assets Pledged as Collateral or Restricted for the Benefit of a Related Party* and was effective June 11, 2001.

REFERENCES

Relevant Issue Papers

- *Issue Paper No. 4—Definition of Assets and Nonadmitted Assets*
- *Issue Paper No. 119—Capitalization Policy, An Amendment to SSAP Nos. 4, 19, 29, 73, 79 and 82*
- [*Issue Paper No. 166—Updates to the Definition of an Asset*](#)

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MEMORANDUM

TO: Dale Bruggeman (MO), Chair, Statutory Accounting Principles (E) Working Group
Kevin Clark, (IA), Vice Chair, Statutory Accounting Principles (E) Working Group

FROM: Mike Boerner (TX), Chair, Life Actuarial (A) Task Force,
Craig Chupp (VA), Vice Chair, Life Actuarial (A) Task Force

DATE: July 27, 2022

RE: Life Actuarial (A) Task Force Coordination with the Statutory Accounting Principles (E) Working Group
Summer 2022

The Statutory Accounting Principles (E) Working Group charges requires the Working Group to *coordinate with the Life Actuarial (A) Task Force on changes to the AP&P Manual related to the Valuation Manual VM-A, Requirements, and VM-C, Actuarial Guidelines, as well as other Valuation Manual requirements. This process will include the receipt of periodic reports on changes to the Valuation Manual on items that require coordination.* To facilitate the coordination, the Task Force will provide to the Working Group a memorandum of Valuation Manual amendments, actuarial guidelines and valuation related NAIC model revisions prior to each NAIC National Meeting. This memorandum provides the Working Group updates to the publications since the 2021 NAIC Summer Meeting.

Valuation Manual – Attachment A to this memo includes a detailed listing of the amendments made to the Valuation Manual since the 2021 NAIC Summer Meeting. The amendments were adopted by the Life Insurance and Annuities (A) Committee on July 20, 2022. The amendments will be considered for adoption by the Executive (EX) Committee and Plenary at the 2022 NAIC Summer Meeting.

Actuarial Guidelines – Since the 2021 NAIC Summer Meeting the Task Force has created or revised the actuarial guidelines created listed below:

Actuarial Guideline XXV – Calculation of Minimum Reserves and Minimum Nonforfeiture Values for Policies with Guaranteed Increasing Death Benefits Based on an Index
Life Insurance and Annuities (A) Committee adoption – Dec. 15, 2021
Executive (EX) Committee and Plenary adoption – Dec. 16, 2021

Actuarial Guideline LIII – Application of the Valuation Manual for Testing the Adequacy of Life Reserves
Life Insurance and Annuities (A) Committee adoption - July 20, 2022
Executive (EX) Committee and Plenary consideration at the 2022 NAIC Summer Meeting.

NAIC Models – The Task Force has not created or revised any models since the 2021 NAIC Summer Meeting

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LATF VM Amendment	Valuation Manual Reference	Valuation Manual Amendment Proposal Descriptions	LATF Adoption Date
2020-12	VM-01, VM-20, VM-21, VM-31	Create consistency between CDHS determination in VM-20 and VM-21. Revise hedge modeling to only require CDHS if modeling future hedging reduces the reserves under VM-20 or TAR under VM-21.	6/9/22
2021-11	VM-21, section 12 and various others	Add a section for other assumptions requirement in VM-21 which covers general guidance and requirements for assumptions, and expense assumptions.	2/3/22
2021-12	VM-21 Section 6.B.3.a, VM-21 Section 6.B.6.a, VM-21 Section 6.B.6.b, VM-21 Section 6.C.4, VM-21 Section 6.C.10, VM-21 Section 6.C.11	Correct CSMP reference and clarify requirements for VA contracts with no minimum guaranteed benefits in Additional Standard Projection Amount in VM-21 Section 6.C. These three prescribed assumptions are Partial Withdrawal, Account Value Depletion, and Other Voluntary Contract Termination.	11/18/21
2021-13	VM-20 Sect. 9.C.6.e, VM-20 Sect. 9.C.7, VM-31 Sect. 3.D.3.o.	It has been observed that adding the prescribed mortality margins for some Life/LTC combination products cause modeled reserves to decrease rather than increase.	11/4/21
2022-01	VM-20 Section 8.C.18	Clarifying the Valuation Manual treatment of the pre-reinsurance ceded reserve and the reserve credit for retrocessions	3/10/22
2022-02	VM-31	Revise language and add an explicit cross-reference to the VM-21 section since it has further details on how to demonstrate compliance	3/31/22
2022-03	VM-20, VM-21, VM-31	General cleanup, including updating cross-references, better consistency between VM-20 and VM-21, where reasonable, and making clarifying edits.	3/31/22
2022-04	VM-20 Section 9.F.8, App 2.F, App 2.G	LIBOR transition to the Secured Overnight Financing Rate (SOFR) - Updated VM-20 prescribed swap spreads guidance to facilitate the LIBOR transition to SOFR.	6/30/22
2022-05	VM-51 App 1, App 4	Add dividend plan code & Covid-19 indicator; change field identifier; correct Appendix 1 reference.	5/12/22

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To: Dale Bruggeman, Statutory Accounting Principles (E) Working Group Chair, Kevin Clark, Statutory Accounting Principles (E) Working Group Co-Vice Chair, and Carrie Mears, Statutory Accounting Principles (E) Working Group Co-Vice Chair

From: Marlene Caride, Commissioner, Financial Stability (E) Task Force Chair and Justin Schrader, Macroprudential (E) Working Group Chair

CC: NAIC Support Staff: Julie Gann/Robin Marcotte/Jim Pinegar/Jake Stultz/Jason Farr

Date: July 21, 2022

Re: Referral from the Plan for the List of MWG Considerations

The NAIC Macroprudential (E) Working Group (MWG) of the Financial Stability (E) Task Force (FSTF) was charged with coordinating the various NAIC activities related to private equity (PE) owned insurers. As an initial step, the MWG developed a list of 13 regulatory considerations. These considerations are frequently referenced as private equity (PE) concerns, but the Working Group developed the list with an activities-based frame of mind, recognizing that any ownership type and/or corporate structure could participate in these activities, including but not limited to PE owned insurers. The MWG members discussed detailed elements of the considerations and potential regulatory work, including explicit reference to the 2013 guidance added to the NAIC Financial Analysis Handbook for Form A reviews when a private equity owner was involved, and interested parties added useful comments to these during an exposure period. The MWG and FSTF adopted a final plan for addressing each of the 13 considerations, including many referrals to other NAIC committee groups.

The Financial Condition E Committee adopted this plan with no changes made during its virtual meeting on July 21, 2022. NAIC staff support drafted this referral letter to accomplish the actions captured in the adopted plan. It is unlikely any further modifications will occur to the adopted plan when it is considered for adoption by the full Plenary, but it is a possibility. Please begin work to address these referrals, recognizing the adoption by Plenary is still outstanding.

Each MWG consideration referred to your group is listed below. The summarized notes from the MWG regulator-only discussions follow the consideration in blue font and any interested party comments are also provided in purple font. Please consider these discussion points and comments in addition to your own discussion ideas when developing proposals to address the MWG consideration.

NAIC staff support for the MWG will follow the work your group performs and summarize your activities for reporting up to the FSTF. If you have any questions or need further direction, please contact Todd Sells (tsells@naic.org).

MWG Consideration Items Referred:

12. The trend of life insurers in pension risk transfer (PRT) business and supporting such business with the more complex investments outlined above. (Enhanced reporting in 2021 Separate

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Accounts blank will specifically identify assets backing PRT liabilities.) Considerations have also been raised regarding the RBC treatment of PRT business.

- a. **LATF has exposed an Actuarial Guideline** to achieve a primary goal of ensuring claims-paying ability even if the complex assets (often private equity-related) did not perform as the company expects, and a secondary goal to require stress testing and best practices related to valuation of non-publicly traded assets (note – LATF’s considerations are not limited to PRT). Comment period for the 2nd exposure draft ends on May 2.

Regulator discussion results:

- Regulators focused on the need to have disclosures on the risks to the General Account from the Separate Account PRT business – for guarantees but also reporting/tracking when the Separate Account is not able to support its own liabilities. Regulators noted the need to address the differences between buy in PRT transactions and buy out.
- Regulators are comfortable LATF is addressing the reserve considerations. *To address the disclosure considerations, regulators support sending a referral to the Statutory Accounting Principles (E) Working Group since regulators suggested it be an item in the Notes to Financial Statements.* (Regulators noted it might help to discuss such disclosure concepts with LATF’s Valuation Manual 22 (A) Working Group.)
 - While the exposed AG is not limited to PRT, and general disclosures may be helpful, regulators recognized additional and/or more specific disclosures may be needed for PRT business.

(Consideration 3 has been referred to the Risk-Focused Surveillance (E) Working Group. A copy follows since the Statutory Accounting Principles (E) Working Group (SAPWG) is referenced in the regulator discussion.)

3. The material terms of the IMA and whether they are arm’s length or include conflicts of interest –including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.

Regulator discussion results:

- Refer this item to the NAIC Risk-Focused Surveillance (E) Working Group. Regulators recognized similar dynamics to the first two considerations, but this Working Group was selected because it is already currently focused on a project involving affiliated agreements and Form D filings. Items discussed:
 - o Consider training and examples, such as unique termination clauses and use of sub-advisors with the potential for additive fees, and strategies to address these.
 - This included addressing pushback on obtaining sub-advisor agreements as Form D disclosures and some optional disclosures for the Form A.
 - o Given the increasing prevalence of bespoke agreements, does it make sense to tie this work in to the work of the NAIC Valuation of Securities (E) Task Force and/or the NAIC Securities Valuation Office? If yes, how best to do so?
 - o Surplus Notes and appropriate interest rates given their special regulatory treatment, including whether floating rates are appropriate; *follow any Statutory Accounting Principles (E) Working Group projects related to this topic and provide comments needed.*

Risk & Regulatory Consulting (RRC) Comment: “With respect to an Investment Management Agreement, RRC encourages an approach that includes a thorough review of the IMA to ensure it is fair and reasonable to the insurer. In addition to the specific items noted for consideration:

- ♣ Are there detailed and reasonable investment guidelines?
- ♣ Is there sufficient expertise at the insurer and on the insurer’s Board to properly assess the performance and compliance of the investment manager?
- ♣ Is the investment manager registered as such under the Investment Advisers Act of 1940, and recognizes the standard of care as a fiduciary?

AIC Comments on “Conflict of Interest, Fees, and Termination” (3 individual comments):

Conflict of Interest

As a general matter, the terms of a contractual agreement should not be viewed as giving rise to a conflict of interest when the agreement is negotiated on an arm’s length basis. Notwithstanding the foregoing, current law provides an established process to address potential conflicts (for example, requirements to appoint independent directors and traditional corporate law processes to ensure fairness and, under certain circumstances, review of transactions by regulators pursuant to Form D filings). Accordingly, investments sourced and allocated by alternative asset managers on behalf of insurance company clients should not, absent other factors, be viewed as presenting a potential conflict of interest, particularly where insurers retain full control over asset allocation (for example, insurers retain control over the asset classes in which they invest, as well as the amounts and periods of time over which such asset exposure is achieved).

Fees

Importantly, as an initial consideration, any fees paid to investment managers cannot be considered in isolation, rather they should be considered on a “net” basis - i.e., on the basis of total return (after fees are taken into account). Sophisticated institutional investors (including insurers) have a successful history of investing in a range of strategies despite certain investment products generally having higher fees than other available investment opportunities. On a net basis, private equity has consistently outperformed more traditional asset classes such as publicly traded stocks and public mutual funds⁸ Net-of-fees private debt funds have also consistently outperformed bond and equity market benchmarks.⁹ Insurers continue to recognize the value of investment opportunities that outperform when considered on a net basis.¹⁰ This approach has enabled the consistent delivery of industry leading investment results, which ultimately leads to a high level of financial strength.

Termination

Asset managers often dedicate extensive resources at the outset of a new arrangement in support of managing an insurer’s general account assets (e.g., dedicating or reassigning existing personnel, hiring new employees, investing in information technology systems, expanding office space, further enhancing compliance and regulatory processes). As such, and because, in our experience, insurers have the right to terminate their investment management agreements (e.g., upon 30 days’ notice), the desire for external asset managers to seek contractual protections (subject to arms’ length negotiations) should an insurer decide to terminate the arrangement earlier than was originally anticipated by the parties is entirely appropriate.

(Similarly, Considerations 7, 8 and 9 are included because of reference to SAPWG work related to these considerations and the MWG regulators' decision to forward an RRC comment to the SAPWG due to its work related to these three considerations.)

7. The lack of identification of related party-originated investments (including structured securities). This may create potential conflicts of interests and excessive and/or hidden fees in the portfolio structure, as assets created and managed by affiliates may include fees at different levels of the value chain. For example, a CLO which is managed or structured by a related party.
 - a. *An agenda item and blanks proposal are being re-exposed by SAPWG.* Desire for 2022 year-end reporting to include disclosures identifying related-party issuance/acquisition.

Regulator discussion results:

- Regulators are comfortable the SAPWG's work is sufficient as a first step since it involves code disclosures to identify various related party issues. They also recognize that existing and/or referred work at the Risk-Focused Surveillance (E) Working Group may address some items in this consideration. *Once regulators work with these SAPWG disclosures and other regulatory enhancement, further regulatory guidance may be considered as needed.)*
8. Though the blanks include affiliated investment disclosures, it is not easy to identify underlying affiliated investments and/or collateral within structured security investments. Additionally, transactions may be excluded from affiliated reporting due to nuanced technicalities. Regulatory disclosures may be required to identify underlying related party investments and/or collateral within structured security investments. This would include, for example, loans in a CLO issued by a corporation owned by a related party.
 - a. *An agenda item and blanks proposal are being re-exposed by SAPWG.* The concept being used for investment schedule disclosures is the use of code indicators to identify the role of the related party in the investment, e.g., a code to identify direct credit exposure as well as codes for relationships in securitizations or similar investments.

Regulator discussion results:

- Like the previous consideration, regulators are looking forward to using these code disclosures to help target areas for further review. However, specific to CLO/structured security considerations, regulators support a referral to the Examination Oversight (E) Task Force. Specific items discussed include:
 - o Since investors in CLOs obtain monthly collateral reports, regulators should consider asking for such reports when concerns exist regarding a company's potential exposure to affiliated entities within their CLO holdings.
 - o Regulators would like to have more information regarding the underlying portfolio companies affiliated with a CLO manager to help quantify potential exposure between affiliates and related parties.
 - o Regulators request NAIC staff to consider their ability to provide tools and/or reports to help regulators target CLOs/structured securities to consider more closely.

RRC Comments on "collateralized loan obligations (CLOs) as a source of concern and therefore a focus for additional disclosure. "While there has been a continuing level of concern about CLOs in general, RRC encourages the working group to take a broader view as well. As a general matter, investments in

CLOs are at least subject to disclosure and conflicts of interest standards under various securities laws and regulations. On the other hand, there are other potentially problematic investments that do not benefit from that regulatory oversight.

- ♣ Private funds – Some of the issues noted with respect to concerns about overlapping interests in CLOs may also be prevalent in various kinds of funds, especially privately placed funds that are reported on Schedule BA. Such investment vehicles may have significant areas that have the potential for a conflict of interest that would not be captured by securities laws. Such investment vehicles may also include substantial management fees for management of the fund.
 - ♣ Collateral Loans – The U.S. insurance industry’s reported exposure to Collateral Loans that are reported on Schedule BA has grown substantially in the last ten years. In addition to the same potential conflicts, it may be appropriate to revisit valuation and reporting guidance.
9. Broader considerations exist around asset manager affiliates (not just PE owners) and disclaimers of affiliation avoiding current affiliate investment disclosures. A new Schedule Y, Pt 3, has been adopted and is in effect for year-end 2021. This schedule will identify all entities with greater than 10% ownership – regardless of any disclaimer of affiliation – and whether there is a disclaimer of control/disclaimer of affiliation. It will also identify the ultimate controlling party.
- a. Additionally, SAPWG is developing a proposal to revamp Schedule D reporting, with primary concepts to use principles to determine what reflects a qualifying bond and to identify different types of investments more clearly. For example, D1 may include issuer credits and traditional ABS, while a sub-schedule of D1 could be used for additional disclosures for equity-based issues, balloon payment issues, etc. This is a much longer-term project, 2024 or beyond.

Regulator discussion results:

- Regulators recognize the new Schedule Y, Part 3, will give them more insights for owners of greater than 10%, but it does not provide insights for owners of less than 10%. However, regulators also recognize that existing and/or referral work of the Risk-Focused Surveillance (E) Working Group may help with some of this dynamic. Additionally, since the SAPWG 2022 code project and its longer-term Schedule D revamp project will help provide further disclosures that will assist with this consideration, regulators are comfortable waiting to see if further regulatory guidance is needed after using the resulting disclosures and other enhancements from these projects.
 - o Specific to owners of less than 10%, regulators discussed the April 19, 2022, Insurance Circular Letter No. 5 (2022) sent by the New York Department of Financial Services to all New York domiciled insurers and other interested parties. This letter highlights that avoiding the levels deemed presumption of control, e.g., greater than 10% ownership, does not create a safe harbor from a control determination and the related regulatory requirements. The circular letter was distributed to all MWG members and interested regulators.

For Considerations 7, 8, and 9 above, the following RRC comment was directed to the SAPWG for its work related to these considerations:

RRC Comments on “collateralized loan obligations (CLOs) as a source of concern and therefore a focus for additional disclosure. “While there has been a continuing level of concern about CLOs in general, RRC encourages the working group to take a broader view as well. As a general matter, investments in CLOs are at least subject to disclosure and conflicts of interest standards under various securities laws

and regulations. On the other hand, there are other potentially problematic investments that do not benefit from that regulatory oversight.

- ♣ Private funds – Some of the issues noted with respect to concerns about overlapping interests in CLOs may also be prevalent in various kinds of funds, especially privately placed funds that are reported on Schedule BA. Such investment vehicles may have significant areas that have the potential for a conflict of interest that would not be captured by securities laws. Such investment vehicles may also include substantial management fees for management of the fund.
- ♣ Collateral Loans – The U.S. insurance industry’s reported exposure to Collateral Loans that are reported on Schedule BA has grown substantially in the last ten years. In addition to the same potential conflicts, it may be appropriate to revisit valuation and reporting guidance.

(For Consideration 10, referrals were made to the Examination Oversight (E) Task Force and the RBC Investment Risk and Evaluation (E) Working Group. A copy is included below due to a reference to SAPWG’s Schedule D revamp project.)

10. The material increases in privately structured securities (both by affiliated and non-affiliated asset managers), which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. (The NAIC Capital Markets Bureau continues to monitor this and issue regular reports, but much of the work is complex and time-intensive with a lot of manual research required. The NAIC Securities Valuation Office will begin receiving private rating rationale reports in 2022; these will offer some transparency into these private securities.)
- a. LATF’s exposed AG includes disclosure requirements for these risks as well as how the insurer is modeling the risks.
 - b. SVO staff have proposed to VOSTF a blanks proposal to add market data fields (e.g., market yields) for private securities. If VOSTF approves, a referral will be made to the Blanks WG.

Regulator discussion results:

- Regulators focused on the need to assess whether the risks of these investments are adequately included in insurers’ results and whether the insurer has the appropriate governance and controls for these investments. Regulators discussed the potential need for analysis and examination guidance on these qualifications.
- To assist regulators in identifying concerns in these investments, regulators expressed support for the VOSTF proposal to obtain market yields to allow a comparison with the NAIC Designation. Once such data is available, regulators ask NAIC staff to develop a tool or report to automate this type of initial screening. *Also, regulators again recognized the SAPWG Schedule D revamp work will help in identifying other items for initial screening.*
- The regulators discussed LATF’s exposed AG, noting the Actuarial Memorandum disclosures that would be required for these privately structured securities along with the actuarial review work, and recognizing how those would be useful for analysts and examiners when reviewing these investments. Additionally, the Valuation and Analysis (E) Working Group would be able to serve as a resource for some of these insights for states without in house actuaries.
- As a result of the above discussions, regulators agreed to a referral to the Examination Oversight (E) Task Force to address the disclosures that will be available from LATF’s exposed AG. *They agreed to wait for any further work or referral until they have an opportunity to work with the results of the VOSTF proposal and the SAPWG Schedule D revamp project.*

- Since reserves are not intended to capture tail risk, refer this item to the NAIC RBC Investment Risk and Evaluation (E) Working Group and monitor the Working Group’s progress. (Regulators adopted this recommendation from the RRC comment letter.)

RRC Comments on “privately structured securities which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency.”

- ♣ While the lack of available public data does present a significant issue and does mean there is in theory a lower degree of liquidity, we caution at being overly concerned about the private nature of such transactions.
 - Any highly structured transaction is going to lack liquidity.
 - The NAIC had at one time a disclosure for Structured Notes. This allowed regulators to see when that represented an excessive risk. We encourage the reinstatement of that disclosure.
- ♣ A potential consideration related to complex asset structures would be to incorporate this risk factor into the criteria for additional liquidity risk analysis outlined in the NAIC 2021 Liquidity Stress Test Framework (Framework). Considering the amount of effort spent on developing the Framework, it may be helpful to leverage its requirements for situations in which significant complex securities are used to back insurer liabilities.

AIC Comment on “Privately Structured Securities” (the comment and its 6 bullets follow) – *Regulators asked the AIC to follow the work of the NAIC Examination Oversight (E) Task Force and the NAIC Valuation of Securities (E) Task Force and provide comments on specific recommendations if needed.*

Insurers are increasingly seeking the services of alternative asset managers with significant asset origination capabilities and private credit expertise to manage a portion of their assets, which provide a number of benefits to the insurer and their policyholders. Those benefits include:

- ♣ A natural alignment between the long-dated insurance liabilities and the long-term investment approach taken by alternative asset managers, including in the private credit space;
- ♣ Alternative asset managers have the ability to source, underwrite and execute private credit transactions that require skill sets, experience, and scale that many insurance companies do not possess in-house;
- ♣ Private equity and private credit firms also provide an opportunity for smaller and midsized insurers to access these asset classes, which historically have been the primary purview of large insurers that have the scale to afford in-house asset management functions that can originate these assets, making the industry more competitive to the ultimate benefit of policyholders;
- ♣ Engaging asset managers with differentiated capabilities can be more cost efficient than making significant investments in an internal asset management function. By availing themselves of these advantages, insurers can benefit from cost-effective sourcing and origination capabilities in attractive asset classes, resulting in enhanced long-term adequacy margins for policyholders, increased spread/earnings, and more competitive product pricing that inures to the benefit of policyholders;
- ♣ Asset-backed security default rates are substantially similar to corporate investment grade debt default rates while CLO default rates are substantially lower than corporate default rates; and
- ♣ The focus on private investments is belied by the fact that institutions with higher allocations to private investments have outperformed (with less volatility) those with less.



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meetings

BLANKS (E) WORKING GROUP

June 8, 2022 / May 25, 2022

Summary Report

The Blanks (E) Working Group conducted an e-vote that concluded on June 8, 2022 (Attachment Two-A), to adopt:

1. 2022-13BWG – Modifies life blank Five-Year Historical Data questions 68 and 69 to reference group comprehensive and questions 70 and 71 to reflect the inclusion of all health lines of business other than group comprehensive. The crosschecks for these questions are being modified accordingly. Interested parties requested an annual 2022 effective date.

The Blanks (E) Working Group met May 25, 2022 (Attachment Two-B). During this meeting, the Working Group:

1. Adopted its Spring National Meeting minutes (*see NAIC Proceedings – Spring 2022, Accounting Practices and Procedures (E) Task Force, Attachment Two*).
2. Adopted the following proposals:
 - A. 2021-22BWG – Add a new reporting requirement in the investment schedules for investment transactions with related parties. In addition to capturing direct loans in related parties, it will also capture information involving securitizations (or other similar investments) where the related party is a sponsor/originator along with whether the underlying investment is in a related party.
 - B. 2022-01BWG – Add new questions to General Interrogatories Part 1 asking if the reporting entity accepts cryptocurrency for payment of premiums, which cryptocurrencies are accepted, and whether they are held for investment or immediately converted to U.S. dollars (2021-24 SAPWG).
 - C. 2022-02BWG – Add four new electronic-only columns to Schedule D, Part 6, Section 1, for Prior Year Book/Adjusted Carrying Value (BACV) (Column 16), Prior Year Nonadmitted Amount (Column 17), Prior Year Sub-2 Verified Value (Column 18), and Prior Year VISION Filing Number (Column 19) (2021-22 SAPWG).
 - D. 2022-03BWG – Split Line 5 of the Quarterly Part 1 – Loss Experience and Part 2 – Direct Premiums Written into Line 5.1 – Commercial multiple peril (non-liability portion) and Line 5.2 – Commercial multiple peril (liability portion).
 - E. 2022-04BWG – Add a new supplement to capture premium and loss data for Annual Statement Line 17.1, 17.2, and 17.3 of the Exhibit of Premiums and Losses (State Page) – Other Liability by more granular lines of business.
 - F. 2022-05BWG – Add line numbers to the status data points in the Life/Fraternal, Health, and Property/Casualty (P/C) Schedule T footnote.
 - G. 2022-06BWG – Revise the Health Annual Statement Test language in the annual statement instructions.



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

- H. 2022-07BWG – Modify the Health Actuarial Opinion Instructions. Add definitions of “actuarial asset” and “actuarial liability.” Modify Section 4 – Identification, Section 5 – Scope, and Section 7 – Opinion to clarify that the actuary’s opinion covers actuarial assets, as well as actuarial liabilities. Modify Section 9 to clarify that the guidance related to the type of opinion rendered by an appointed actuary covers both actuarial assets and actuarial liabilities.
 - I. 2022-08BWG – Modify the instructions in Section 1, Section 3, and Section 8 of the Property/Casualty (P/C) Actuarial Opinion Instructions to reflect the changes adopted by the Actuarial Opinion (C) Working Group.
 - J. 2022-09BWG – Changes to the Life/Fraternal VM-20, Requirements for Principle-Based Reserves for Life Products, Reserves Supplement blank.
 - K. 2022-10BWG – Add instructions to Schedule T, State pages and the Accident and Health (A&H) Policy Experience Exhibit to clarify guidance for reporting premium adjustments by jurisdiction.
 - L. 2022-11BWG Modified – Update the life/fraternal blank asset valuation reserve (AVR) factors to correspond with the adopted risk-based capital (RBC) factors for the expanded bond designation categories.
- 3. Adopted its editorial listing.
 - 4. Deferred proposal:
 - A. 2021-18BWG – Modify the Life Insurance (State Page) to include the line of business detail reported on the Analysis of Operations by Lines of Business pages.
 - 5. Exposed two new proposals for a public comment period ending Oct. 25.
 - 6. Received a Property and Casualty Risk-Based Capital (E) Working Group memorandum.

Draft: 6/9/22

Blanks (E) Working Group
E-Vote
June 8, 2022

The Blanks (E) Working Group of the Accounting Practices and Procedures (E) Task Force conducted an e-vote that concluded June 8, 2022. The following Working Group members participated: Pat Gosselin, Chair (NH); Kim Hudson, Vice Chair (CA); Kevin Richard (AK); Michael Shanahan (CT); N. Kevin Brown (DC); Daniel Mathis (IA); Roy Eft (IN); Dan Schaefer (MI); Debbie Doggett (MO); John Sirovetz (NJ); Diane Carter (OK); Jake Garn (UT); Steve Drutz (WA); and Jamie Taylor (WV).

1. Adopted Proposal 2022-13BWG

The Working Group held an e-vote for proposal 2022-13BWG, which modifies life blank Five-Year Historical Data questions 68 and 69 to reference group comprehensive and questions 70 and 71 to reflect the inclusion of all health lines of business other than group comprehensive. The crosschecks for these questions are being modified accordingly. Interested parties requested an annual 2022 effective date. That change and the wording order on the lines has been modified within the proposal to address the comments received.

Mr. Eft made a motion, seconded by Mr. Mathis, to adopt proposal 2022-13BWG with the modifications (Attachment Two-A1). The motion passed unanimously.

Having no further business, the Blanks (E) Working Group adjourned.

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/apptf/2022summernm/2_bwg/minutes/att2a_bwg_6_08_2022 e-vote minutes.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/apptf/2022summernm/2_bwg/minutes/att2a_bwg_6_08_2022%20e-vote%20minutes.docx)

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>04/29/2022</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Jacob W. Garn</u></p> <p>TITLE: <u>Director, Financial Regulation & Licensing</u></p> <p>AFFILIATION: <u>Utah Insurance Department</u></p> <p>ADDRESS: <u>4315 South 2700 West, Ste. 2300</u> <u>Taylorsville, UT 84129</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-13BWG MOD</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>06/08/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input checked="" type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Modify Five-Year Historical Data questions 68 and 69 to reference group comprehensive and modify questions 70 and 71 to reflect inclusion of all health lines of business other than group comprehensive. Crosschecks for these questions are being modifies accordingly.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of the proposal is to make changes to the Five-Year Historical Data questions 68 through 71 to reflect the changes to the lines of business captured on Schedule H.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL

FIVE-YEAR HISTORICAL DATA



Detail Eliminated to Conserve Space

A & H Claim Reserve Adequacy

Line 68 – Incurred Losses on Prior Years’ Claims – ~~Group Comprehensive Health~~ Comprehensive Group Health

2022 through current year Schedule H, Part 3, Line 3.1, Column 3

~~2022..... Should be consistent with business reported on Schedule H, Part 3, Line 3.1, Column 2 in 2021~~

~~2018 through 2021 Schedule H, Part 3, Line 3.1, Column 2~~

Line 69 – Prior Years’ Claim Liability and Reserve – ~~Group Comprehensive Health~~ Comprehensive Group Health

2022 through current year Schedule H, Part 3, Line 3.2, Column 3

~~2022..... Should be consistent with business reported on Schedule H, Part 3, Line 3.2, Column 2 in 2021~~

~~2018 through 2021 Schedule H, Part 3, Line 3.2, Column 2~~

Line 70 – Incurred Losses on Prior Years’ Claims – Health Other than ~~Group Comprehensive~~ Comprehensive Group Health

2022 through current year Schedule H, Part 3, Line 3.1, Column 1 less Column 3

~~2022..... Should be consistent with business reported on Schedule H, Part 3, Line 3.1, Column 1 less Column 2 in 2021~~

~~2018 through 2021 Schedule H, Part 3, Line 3.1, Column 1 less Column 2~~

Line 71 – Prior Years’ Claim Liability and Reserve – Health Other than ~~Group Comprehensive~~ Comprehensive Group Health

2022 through current year Schedule H, Part 3, Line 3.2, Column 1 less Column 3

~~2022..... Should be consistent with business reported on Schedule H, Part 3, Line 3.2, Column 1 less Column 2 in 2021~~

~~2018 through 2021 Schedule H, Part 3, Line 3.2, Column 1 less Column 2~~



Detail Eliminated to Conserve Space

ANNUAL STATEMENT BLANK – LIFE\FRATERNAL

FIVE-YEAR HISTORICAL DATA
 (Continued)

	1 2022	2 2021	3 2020	4 2019	5 2018
A & H Claim Reserve Adequacy					
68. Incurred losses on prior years' claims- group-comprehensive comprehensive group health (Sch. H, Part 3, Line 3.1, Col. 3).....			XXX	XXX	XXX
69. Prior years' claim liability and reserve- group-comprehensive comprehensive group health (Sch. H, Part 3, Line 3.2, Col. 3).....			XXX	XXX	XXX
70. Incurred losses on prior years' claims-health other than group comprehensive comprehensive group health (Sch. H, Part 3, Line 3.1, Col. 1 less Col. 3).....			XXX	XXX	XXX
71. Prior years' claim liability and reserve-health other than group comprehensive comprehensive group health (Sch. H, Part 3, Line 3.2, Col. 1 less Col. 3).....			XXX	XXX	XXX



Detail Eliminated to Conserve Space



https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2A1_2022-13BWG_Modified.docx

Draft: 6/7/22

Blanks (E) Working Group
Virtual Meeting
May 25, 2022

The Blanks (E) Working Group of the Accounting Practices and Procedures (E) Task Force met May 25, 2022. The following Working Group members participated: Pat Gosselin, Chair (NH); Kim Hudson, Vice Chair (CA); Kevin Richard (AK); Michael Shanahan (CT); N. Kevin Brown (DC); Tom Hudson (DE); Jason Reynolds (FL); Kevin Clark and Daniel Mathis (IA); Roy Eft (IN); Dan Schaefer (MI); Lindsay Crawford (NE); John Sirovetz (NJ); Dale Bruggeman and Tracy Snow (OH); Kim Lopez (OK); Melissa Greiner (PA); Miriam Fisk and Jamie Walker (TX); Jake Garn (UT); Steve Drutz (WA); Adrian Jaramillo (WI); and Jamie Taylor (WV).

1. Adopted its March 29 Minutes

Ms. Gosselin referenced the Blanks (E) Working Group's March 29 minutes, where the sponsor withdrew the previously exposed agenda item 2021-13BWG. During this meeting, the Working Group took the following action: 1) deferred proposal 2021-18BWG to allow for additional discussion; 2) re-exposed proposal 2021-22BWG related to the concurrent Statutory Accounting Principles (E) Working Group exposure; 3) adopted items previously exposed; 4) exposed 11 new proposals for a public comment period ending April 25; 5) adopted its editorial listing; and 6) received the Statutory Accounting Principles (E) Working Group memorandum.

Mr. Snow made a motion, seconded by Mr. Eft, to adopt the Working Group's March 29 minutes (*see NAIC Proceedings – Spring 2022, Accounting Practices and Procedures (E) Task Force, Attachment Two*). The motion passed unanimously.

2. Item Previously Deferred

a. Agenda Item 2021-18BWG

Ms. Walker stated that this proposal modifies the Life Insurance exhibit (State Page) to capture information by lines of business to align with the Analysis of Operations by Lines of Business pages. Since the March 29 meeting, she stated that she had discussions with interested parties to better understand their concerns. At that time, they discussed an overall approach and will consider possible changes to this proposal. Ms. Walker stated that more time is needed to address regulatory needs without creating overly burdensome reporting for industry. She asked others that want to join the discussions to contact her or NAIC staff.

Ms. Walker made a motion, seconded by Mr. Eft, to defer the proposal for further discussions between state insurance regulators, interested parties and NAIC staff. The motion passed unanimously.

3. Adopted Items Previously Re-Exposed

a. Agenda Item 2021-22BWG – Effective 12/31/2022

Mr. Bruggeman stated that this blanks agenda item is in response to the Statutory Accounting Principles (E) Working Group agenda item 2021-21 regarding related party reporting, which the Working Group adopted on May 24. He stated that the agenda item had two main goals: 1) to clarify reporting of affiliate transactions within existing reporting lines in the investment schedules, and 2) to incorporate new reporting requirements for Investment transactions with related parties. Pursuant to recent discussions, state insurance regulators desired

additional information on investment transactions involving related parties, regardless of whether the related party is “affiliated” pursuant to the *Insurance Holding Company System Regulatory Act* (#440). The identification of certain investments/transactions would be identified using a reporting code in the 2022 year-end investment schedules.

Mr. Bruggeman stated that the Statutory Accounting Principles (E) Working Group affirmed that the related party electronic column is effective for year-end 2022 reporting. He also stated that in response to requesting clarity on reporting schedules, the Working Group affirmed that the new code is effective for the following investments reported, in any reporting line, on Schedule B - Mortgage Loans, Schedule D - Bonds, Schedule DB - Derivatives, Schedule BA - Other Invested Assets, Schedule DA – Short-Term Investments, Schedule E Part 2 - Cash Equivalents and Schedule DL – Securities Lending. He stated that while the Blanks (E) Working Group interested parties suggested that the scope should be limited to Schedule D and Schedule BA, the Statutory Accounting Principles (E) Working Group affirmed that all these schedules have sufficient investments which warrant identification of related party involvement. He stated that in terms of the comments received regarding the recently exposed Code 6 which indicates no related party relationship, the Statutory Accounting Principles (E) Working Group supported this option to eliminate potential confusion on whether a “blank” field represents an incomplete reporting or a non-related party relationship. This is intended to help eliminate any ambiguity that occurs currently with other disclosures or schedules that have “null reporting.”

Mr. Bruggeman stated that this proposal will assist in capturing information in response to the Macroprudential (E) Working Group’s regulatory considerations and will specifically address the identification of related party investments which is numbers 7 and 8 in the Macroprudential exposure.

Mr. Bruggeman made a motion, seconded by Ms. Crawford, to adopt the modifications to the proposal. The motion passed unanimously. Mr. Bruggeman made a motion, seconded by Mr. Drutz, to adopt the modified proposal (Attachment Two-B1). The motion passed unanimously.

4. Adopted Items Previously Exposed

a. Agenda Item 2022-01BWG – Effective 12/31/2022

Mr. Bruggeman stated that this blanks proposal is in response to the Statutory Accounting Principles (E) Working Group agenda item 2021-24, which was adopted during the 2022 Spring National Meeting. The proposal adds a new general interrogatory within the annual reporting blanks, specific to the use or acceptance of cryptocurrencies. Mr. Bruggeman stated that there are examples of inquiries within the interrogatory, including the identification regarding whether: 1) cryptocurrencies are held by an insurance reporting entity, and if so, which reporting schedules are the cryptocurrencies reported; and 2) cryptocurrencies are accepted for the payment of premiums. This general interrogatory was requested by state insurance regulators after the Statutory Accounting Principles (E) Working Group’s May 2021 adoption of *Interpretation (INT) 21-01: Accounting for Cryptocurrencies*, which established that directly held cryptocurrencies do not meet the definition of an admitted asset for statutory accounting.

Mr. Bruggeman made a motion, seconded by Mr. Hudson, to adopt the proposal (Attachment Two-B2). The motion passed unanimously.

b. Agenda Item 2022-02BWG – Effective 12/31/2022

Mr. Bruggeman stated that this blanks proposal is in response to Statutory Accounting Principles (E) Working Group agenda item 2021-22, which was adopted during the 2022 Spring National Meeting. This agenda item expands, through electronic-only columns, the reporting on Schedule D, Part 6 Section 1: Valuation of Shares of Subsidiary, Controlled or Affiliated Entities. Schedule D-6-1 captures investments, which are defined in *Statement of Statutory Accounting Principles (SSAP) No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*. The expansion in reporting captures items consistent with current requirements in SSAP No. 97 and includes items such as the prior year's book/adjusted carrying value (BACV), nonadmitted amount, sub-2 verified value, and VISION filing number. The addition of these items to the Schedule D-6-1 tables were proposed, as they will assist state insurance regulators in: 1) ensuring that Sub 1 and Sub 2 filings are being submitted by reporting entities; and 2) identifying situations where the NAIC approved value varies significantly from the value reported on Schedule D-6-1.

Mr. Bruggeman stated that interested parties recommended two minor editorial adjustments updating column references, which were agreed to and are reflected in the final proposal. In addition, interested parties sought additional background on this agenda item, specifically why the electronic-only columns capture prior-year data. During a phone call with interested parties on May 17, NAIC staff provided additional background indicating that these new data elements will assist state insurance regulators in the review of the subsidiary, controlled, and affiliated (SCA) process, and the SCA review process occurs in arrears, sometimes more than a year in arrears, which is why the new electronic columns capture relevant prior-year data.

Mr. Bruggeman made a motion, seconded by Mr. Hudson, to adopt the modifications to the proposal. The motion passed unanimously. Mr. Bruggeman made a motion, seconded by Mr. Hudson to adopt the modified proposal (Attachment Two-B3). The motion passed unanimously.

c. Agenda Item 2022-03BWG – Effective 1/01/2023

Mary Caswell (NAIC) stated that this proposal is intended to fix the reporting of line 5 to be reported as line 5.1 – commercial multiple peril (non-liability portion) and line 5.2 – commercial multiple peril (liability portion) on the quarterly Part 1 and Part 2 pages to be consistent with the annual reporting. There were no interested party comments.

Mr. Hudson made a motion, seconded by Mr. Sirovets, to adopt the proposal (Attachment Two-B4). The motion passed unanimously.

d. Agenda Item 2022-04BWG – Effective 12/31/2023

Ms. Gosselin stated that this proposal adds a new supplement to capture premium and loss data for Annual Statement Lines 17.1, 17.2 and 17.3 of the Exhibit of Premiums and Losses (State Page) – Other Liability by more granular lines of business. She stated that there was a minor word correction which has been made. Interested parties are interested in evaluating the results of this exhibit with state insurance regulators and NAIC staff in 2024 to better understand if the results are what state insurance regulators had expected.

Ms. Gosselin made a motion, seconded by Mr. Drutz, to adopt the proposal with the minor modification of a word correction from “or” to “of” (Attachment Two-B5). The motion passed unanimously.

e. Agenda Item 2022-05BWG – Effective 12/31/2022

Ms. Caswell stated that this proposal adds line numbers to the status data points in the Life/Fraternal, Health, and Property/Casualty (P/C) Schedule T footnote for ease in electronic data capture of the lines and clarification of reporting.

Mr. Hudson made a motion, seconded by Mr. Drutz, to adopt the modifications to the proposal. The motion passed unanimously. Mr. Hudson made a motion, seconded by Mr. Snow to adopt the modified proposal (Attachment Two-B6). The motion passed unanimously.

f. Agenda Item 2022-06BWG – Effective 12/31/2022

Mr. Drutz stated that the purpose of the change was to encourage those filers who write predominantly health business and file on the life blank to begin filing on the health blank. There were some clarifications and reference corrections requested by interested parties, which have been incorporated in the modifications. The primary purpose was to remove the requirement that life and P&C companies had to write in five states or less and write 75% of premiums in their domiciliary state to pass the health test.

Mr. Drutz stated that the Health Test Ad Hoc Group of the Health Risk-Based Capital (E) Working Group continues to discuss and review any potential modifications to the premium and reserve ratios. The ad hoc group will continue to evaluate if there should be a change, and if so, what those changes should be, and present to the Blanks (E) Working Group for consideration at a future date.

Mr. Drutz made a motion, seconded by Ms. Crawford, to adopt the modifications to the proposal. The motion passed unanimously. Mr. Drutz made a motion, seconded by Mr. Garn, to adopt the modified proposal (Attachment Two-B7). The motion passed unanimously.

g. Agenda Item 2022-07BWG – Effective 12/31/2022

Ms. Gosselin stated that this proposal modifies the Health Actuarial Opinion Instructions to add definitions of “actuarial asset” and “actuarial liability” and modifies Section 4—Identification, Section 5—Scope, and Section 7—Opinion to clarify that the actuary’s opinion covers actuarial assets as well as actuarial liabilities. It modifies Section 9 to clarify that the guidance related to the type of opinion rendered by an appointed actuary covers both actuarial assets and actuarial liabilities. Ms. Gosselin stated that no interested party comments were received.

Mr. Eft made a motion, seconded by Mr. Hudson, to adopt the proposal (Attachment Two-B8). The motion passed unanimously.

h. Agenda Item 2022-08BWG – Effective 12/31/2022

Ms. Fisk stated that this proposal makes minor changes to the Property/Casualty Actuarial Opinion instructions. The changes were adopted by the Actuarial Opinion (C) Working Group on March 1. She stated that the proposal deletes the paragraph on continuing education (CE) log procedures because this is no longer needed, as the Casualty Actuarial and Statistical (C) Task Force has ended its project of studying the CE logs. The proposal adds guidance on documenting the review of the qualification documentation for companies that are part of a larger group. It adds an additional requirement in the Identification paragraph for appointed actuaries to confirm that qualification documentation has been provided to the board of directors, as well as clarification on the signature block requirements that they apply only to the Statement of Actuarial Opinion (SAO), and the information should be provided in the actuarial report but does not have to be in the same format.

Ms. Greiner made a motion, seconded by Mr. Hudson, to adopt the proposal (Attachment Two-B9). The motion passed unanimously.

i. Agenda Item 2022-09BWG– Effective 12/31/2022

Jennifer Frasier (NAIC) stated that this proposal is effective for annual 2022. She stated that this change allows for an ongoing statement of assumptions meaning that if a filed statement of exemption is not rejected, then subsequent filings are not required as long as the company continues to qualify for the exemption. To address the ongoing statement of exemption, the Life Actuarial (A) Task Force suggested three changes for the blanks. A question 8 was also added to the Supplemental Exhibits and Schedules Interrogatories asking if the principles-based reserves (PBR) statement of exemption is going to be filed. She stated that instructions were also added to help the company in responding.

Ms. Frasier stated that for the reserve supplement, a question was added to Part 2 asking about the use of an ongoing exemption. This is where the company would indicate the year a live exemption was filed and then provide confirmation that the company continues to qualify for the exemption. Clarifying language was also added to describe the PBR exemption as being “allowed” rather than “granted.” The intent of the wording change is that “allowed” would be a broader term to encompass “granted,” “acknowledged,” and “not rejected.”

Mr. Hudson made a motion, seconded by Mr. Garn, to adopt the proposal (Attachment Two-B10). The motion passed unanimously.

j. Agenda Item 2022-10BWG – Effective 12/31/2022

Mr. Bruggeman stated that this proposal is in response to the Statutory Accounting Principles (E) Working Group agenda item 2022-03 adopted on May 24. He stated that the item was drafted to propose blanks instructional changes primarily to Schedule T, which reflects premiums allocated by states and territories. NAIC staff received inquiries from three states in the fourth quarter of 2021 regarding a minor number of entities, roughly 20, that primarily wrote health business related to the federal Affordable Care Act (ACA), which are believed to have not properly allocated premium adjustments by jurisdiction on the statutory financial statement. In summary, the agenda item directs that all premium adjustments (both increases and decreases), including, but not limited to, the ACA premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

Mr. Bruggeman made a motion, seconded by Mr. Drutz, to adopt the proposal (Attachment Two-B11). The motion passed unanimously.

k. Agenda Item 2022-11BWG – Effective 12/31/2022

Ms. Gosselin stated that this proposal updates the Life/Fraternal asset valuation reserve (AVR) factors to correspond with the adopted risk-based capital (RBC) factors for the expanded bond designation categories. This is strictly a mechanical update. The maximum reserve factor is set to the after-tax RBC factor, and the basic contribution and reserve objective factors are a percentage of those updated maximum reserve factors.

Mr. Bruggeman made a motion, seconded by Mr. Hudson, to adopt the proposal (Attachment Two-B12). The motion passed unanimously.

5. Exposed New Items

a. Agenda Item 2022-12BWG

Mr. Drutz stated that this proposal creates a “health supplement” for the life/fraternal blank, combining the Health Analysis of Operations by Lines of Business Supplement page and the Health Care Receivable Supplement pages (Exhibits 3 and 3A), similar to the life supplement in the health blank.

Hearing no objection, Ms. Gosselin stated that the proposal will be considered exposed with a public comment period ending of Oct. 14.

b. Agenda Item 2022-13BWG

Mr. Garn stated that this proposal modifies the Five-Year Historical Data questions 68 and 69 on the life/fraternal blank to reference group comprehensive and modifies questions 70 and 71 to reflect inclusion of all health lines of business other than group comprehensive. He stated that interested parties have asked again to change the effective date to be annual 2022 rather than annual 2023 to coincide with the changes made to Schedule H. To accommodate this request, Mr. Garn suggested a one-week exposure period followed by an e-vote to consider adoption.

Hearing no objection to the shortened exposure period, Ms. Gosselin stated that the proposal will be considered exposed with a public comment period ending June 1 and subsequent e-vote.

6. Adopted the Editorial Listing

Mr. Garn made a motion, seconded by Mr. Hudson, to adopt the Blanks (E) Working Group editorial listing (Attachment Two-B13). The motion passed unanimously.

7. Received the Property and Casualty Risk-Based Capital (E) Working Group Memorandum

Ms. Gosselin stated that a memorandum has been received from the Property and Casualty Risk-Based Capital (E) Working Group. She stated that when the reinsurance recoverable credit risk charge was implemented in 2018, a load of operational risk was embedded in the charge. Now that the operational risk is separately addressed in RBC as a standard-alone capital add-on, it results with duplication of the operational risk charge on the reinsurance recoverable component in the RBC report. An RBC proposal was developed to remove the embedded 2% operational risk contained in the R3 credit risk component, and it was adopted during the Capital Adequacy (E) Task Force meeting on March 28. The factor changes referenced in the memorandum should be made to the Annual Statement, Schedule F, Part 3, as the R3 charge is derived from the Schedule F, Part 3, Columns 35 and 36, Line 9999999.

Mr. Drutz made a motion, seconded by Mr. Snow, to receive the Property and Casualty Risk-Based Capital (E) Working Group memorandum (Attachment Two-B14). The motion passed unanimously.

Having no further business, the Blanks (E) Working Group adjourned.

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/apptf/2022summernm/2_bwg/minutes/att2b_05 25 2022 blanks.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/apptf/2022summernm/2_bwg/minutes/att2b_05%2025%202022%20blanks.docx)

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>12/16/2021</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Dale Bruggeman</u></p> <p>TITLE: <u>Chair SAPWG</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50W. Town St., 3rd Fl., Ste. 300</u> <u>Columbus, OH 43215</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2021-22BWG MOD</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input checked="" type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input checked="" type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

This item proposes new reporting requirements for investment transactions with related parties. In addition to capturing direct loans in related parties, it will also capture information involving securitizations (or other similar investments) where the related party is a sponsor / originator along with whether the underlying investment is in a related party.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

Pursuant to recent discussions, regulators desire additional information on investment transactions involving related parties, regardless of whether the related party is “affiliated” pursuant to Model #440. To preserve the affiliate definition and reporting categories for affiliated investments, these additional proposed reporting elements will be captured outside of the current affiliate reporting requirements. The new electronic columns will capture investments issued by a related party or acquired through a related party transaction or arrangement, regardless if the specific affiliate definition has been met or if there has been a disclaimer of affiliation / control.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL, HEALTH, PROPERTY AND TITLE

SCHEDULE BA – PART 1

OTHER LONG-TERM INVESTED ASSETS OWNED DECEMBER 31 OF CURRENT YEAR

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 ==**Detail Eliminated to Conserve Space**====

** Columns 21 through ~~26~~27 will be electronic only. **

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Column 27 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

- 1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
- 2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
- 3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
- 4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
- 5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
- 6. The investment does not involve a related party.

NAIC Designation Category Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category that represents the amount in reported in Column 12.

SCHEDULE BA – PART 2

OTHER LONG-TERM INVESTED ASSETS ACQUIRED AND ADDITIONS MADE DURING THE YEAR

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X **Detail Eliminated to Conserve Space** ===== X

** Columns 12 through 15-16 will be electronic only. **

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X **Detail Eliminated to Conserve Space** ===== X

Column 15 – Maturity Date

Use only for securities included in the following subtotal lines.

Non-Registered Private Funds with Underlying Assets Having Characteristics of:

Mortgage Loans

Unaffiliated.....	1199999
Affiliated.....	1299999

State the date the mortgage loan matures.

Column 16 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE BA – PART 3

OTHER LONG-TERM INVESTED ASSETS DISPOSED, TRANSFERRED OR REPAID DURING THE YEAR

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** Columns 21 through 24-25 will be electronic only. **

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 Detail Eliminated to Conserve Space
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Column 24 – Maturity Date

Use only for securities included in the following subtotal lines.

Non-Registered Private Funds with Underlying Assets Having Characteristics of:

Mortgage Loans

Unaffiliated.....	1199999
Affiliated.....	1299999

State the date the mortgage loan matures.

Column 25 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE D – PART 1

LONG-TERM BONDS OWNED DECEMBER 31 OF CURRENT YEAR



Detail Eliminated to Conserve Space

** Columns 23 through ~~34~~35 will be electronic only. **



Detail Eliminated to Conserve Space

Column 35 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

NAIC Designation Category Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category that represents the amount reported in Column 11.

The sum of the amounts reported for each NAIC Designation Category in the footnote should equal Line 2509999999.

SCHEDULE D – PART 2 – SECTION 1

PREFERRED STOCKS OWNED DECEMBER 31 OF CURRENT YEAR

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 Detail Eliminated to Conserve Space
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** Columns 22 through ~~27~~28 will be electronic only. **

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Column 28 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

NAIC Designation Category Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category that represents the amount reported in Column 8.

The sum of the amounts reported for each NAIC Designation Category in the footnote should equal the sum of Lines 401999999 and 402999999.

SCHEDULE D – PART 2 – SECTION 2

COMMON STOCKS OWNED DECEMBER 31 OF CURRENT YEAR

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Detail Eliminated to Conserve Space
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** Columns 19 through 24-25 will be electronic only. **

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Detail Eliminated to Conserve Space
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Column 25 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.



Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.



NAIC Designation Category Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category that represents the amount reported in Column 6.

SCHEDULE D – PART 3**LONG-TERM BONDS AND STOCKS ACQUIRED DURING CURRENT YEAR**


Detail Eliminated to Conserve Space


**** Columns 10 through ~~14~~15 will be electronic only. ****


Detail Eliminated to Conserve Space


Column 14 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.

Column 15 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE D – PART 4

**LONG-TERM BONDS AND STOCKS SOLD, REDEEMED OR OTHERWISE DISPOSED OF
 DURING CURRENT YEAR**

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 Detail Eliminated to Conserve Space
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** Columns 22 through 26-27 will be electronic only. **

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 Detail Eliminated to Conserve Space
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Column 26 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.



Column 27 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.



Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE D – PART 5**LONG-TERM BONDS AND STOCKS ACQUIRED DURING THE YEAR AND FULLY DISPOSED OF
DURING CURRENT YEAR**


Detail Eliminated to Conserve Space


** Columns 22 through ~~26~~27 will be electronic only. **


Detail Eliminated to Conserve Space


Column 26 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.

Column 27 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DA – PART 1

SHORT-TERM INVESTMENTS OWNED DECEMBER 31 OF CURRENT YEAR

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** Columns 21 ~~and~~ through 22-23 will be electronic only. **

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Column 23 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

NAIC Designation Category Equivalent Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category Equivalent that represents the amount reported in Column 7.

The sum of the amounts reported for each NAIC Designation Category Equivalent in the footnote should equal Line 2509999999.

SCHEDULE DL – PART 1**SECURITIES LENDING COLLATERAL ASSETS**

Reinvested Collateral Assets Owned December 31 Current Year
(Securities lending collateral assets reported in aggregate on Line 10 of the asset page
and not included on Schedules A, B, BA, D, DB and E.)

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

** Columns 8 through ~~11~~12 will be electronic only. **

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Column 12 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

The code reported for this column should be determined in a manner consistent with the instructions of other schedules for the lines shown below:

- Lines 001999999 through 250999999 Schedule D, Part 1, Column 35
- Lines 401999999 through 450999999 Schedule D, Part 2, Section 1, Column 28
- Lines 501999999 through 598999999 Schedule D, Part 2, Section 2, Column 25
- Line 930999999 Schedule B, Part 1, Column 20
- Line 940999999 Schedule BA, Part 1, Column 27
- Line 950999999 Schedule DA, Part 1, Column 23
- Line 970999999 Schedule E, Part 2, Column 12

The column should be left blank for the following lines:

- Real Estate (Schedule A type) 920999999
- Cash (Schedule E, Part 1 type)..... 960999999
- Other Assets..... 980999999

General Interrogatories:

1. The total activity for the year represents the net increase (decrease) from the prior year-end to the current year-end.
2. The average balance for the year is the average daily balance.

Average daily balance: Total of daily balances divided by the number of days. Always calculate based on a 365/366 day year. If data is missing for a given date (e.g., weekend, holiday), count the previous day’s value multiple times. The actual day count for the year (365/366) would serve as the denominator in the average calculation.

3. NAIC Designation Category:

Provide the total book/adjusted carrying value amount by NAIC Designation Category that represents the amount reported in Column 6.

SCHEDULE DL – PART 2

SECURITIES LENDING COLLATERAL ASSETS

Reinvested Collateral Assets Owned December 31 Current Year
 (Securities lending collateral assets included on Schedules A, B, BA, D, DB and E
 and not reported in aggregate on Line 10 of the asset page.)

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

** Columns 8 through ~~11~~12 will be electronic only. **

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Column 12 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

The code reported for this column should be same for the security as reported in other schedules for the lines shown below:

- Lines 0019999999 through 2509999999 Schedule D, Part 1, Column 35
- Lines 4019999999 through 4509999999 Schedule D, Part 2, Section 1, Column 28
- Lines 5019999999 through 5989999999 Schedule D, Part 2, Section 2, Column 25
- Line 9309999999 Schedule B, Part 1, Column 20
- Line 9409999999 Schedule BA, Part 1, Column 27
- Line 9509999999 Schedule DA, Part 1, Column 23
- Line 9709999999 Schedule E, Part 2, Column 12

The column should be left blank for the following lines:

- Real Estate (Schedule A) 9209999999
- Cash (Schedule E, Part 1) 9609999999
- Other Assets 9809999999

General Interrogatories:

1. The total activity for the year represents the net increase (decrease) from the prior year-end to the current year-end.
2. The average balance for the year is the average daily balance.

Average daily balance: Total of daily balances divided by the number of days. Always calculate based on a 365/366 day year. If data is missing for a given date (e.g., weekend, holiday), count the previous day’s value multiple times. The actual day count for the year (365/366) would serve as the denominator in the average calculation.

SCHEDULE E – PART 2 – CASH EQUIVALENTS

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** Columns 10 ~~and~~ through 11-12 will be electronic only. **

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Column 12 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

- 1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
- 2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
- 3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
- 4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
- 5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
- 6. The investment does not involve a related party.

NAIC Designation Category Equivalent Footnote:

Provide the total book/adjusted carrying value amount by NAIC Designation Category Equivalent that represents the amount reported in Column 7.

The sum of the amounts reported for each NAIC Designation Category Equivalent in the footnote should equal Line 2509999999.

SCHEDULE B – PART 1

MORTGAGE LOANS OWNED DECEMBER 31 OF CURRENT YEAR



Detail Eliminated to Conserve Space

Column 5 – Loan Type

If the loan was made to an officer or director of the reporting entity/subsidiary/affiliate, enter “E”. If the loan was made directly to a subsidiary or affiliate enter “S.” [If the loan was made directly to a related party that doesn’t meet the affiliate definition or the reporting entity has received domiciliary state approval to disclaim control/affiliation, enter “R.”](#) Otherwise, leave the column blank.



Detail Eliminated to Conserve Space

** Columns 16 through ~~19~~20 will be electronic only. **



Detail Eliminated to Conserve Space

Column 19 – Maturity Date

State the date the mortgage loan matures.

Column 20 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE B – PART 2**MORTGAGE LOANS ACQUIRED AND ADDITIONS MADE DURING YEAR**

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Detail Eliminated to Conserve Space

Column 4 – Loan Type

If the loan was made to an officer or director of the reporting entity/subsidiary/affiliate, enter “E”. If the loan was made directly to a subsidiary or affiliate, enter “S.” [If the loan was made directly to a related party that doesn’t meet the affiliate definition or the reporting entity has received domiciliary state approval to disclaim control/affiliation, enter “R.”](#) Otherwise, leave the column blank.

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Detail Eliminated to Conserve Space

** Columns 10 through ~~13~~-14 will be electronic only. **

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Detail Eliminated to Conserve Space

Column 13 – Maturity Date

State the date the mortgage loan matures.

[Column 14 – Investments Involving Related Parties](#)

[Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.](#)

[Enter one of the following codes to identify the role of the related party in the investment.](#)

1. [Direct loan or direct investment \(excluding securitizations\) in a related party, for which the related party represents a direct credit exposure.](#)
2. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
3. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% \(including 0%\) of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
4. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.](#)
5. [The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.](#)
6. [The investment does not involve a related party.](#)

SCHEDULE B – PART 3

MORTGAGE LOANS DISPOSED, TRANSFERRED OR REPAID DURING THE YEAR



Detail Eliminated to Conserve Space



Column 4 – Loan Type

If the loan was made to an officer or director of the reporting entity/subsidiary/affiliate, enter “E.”
 If the loan was made directly to a subsidiary or affiliate enter “S.” If the loan was made directly to a related party that doesn’t meet the affiliate definition or the reporting entity has received domiciliary state approval to disclaim control/affiliation, enter “R.” Otherwise, leave the column blank.



Detail Eliminated to Conserve Space



** Columns 19 through ~~22~~ 23 will be electronic only. **



Detail Eliminated to Conserve Space



Column 22 – Maturity Date

State the date the mortgage loan matures.

Column 23 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART A – SECTION 1

OPTIONS, CAPS, FLOORS, COLLARS, SWAPS AND FORWARDS OPEN
DECEMBER 31 OF CURRENT YEAR

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

** Columns 24 through ~~32~~33 will be electronic only. **

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Column 32 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) applying the provisions of SSAP No. 108 reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

Purchased Options	Lines 0089999999 through 0139999999
Written Options	Lines 0579999999 through 0629999999
Swaps	Lines 1059999999 through 1099999999
Forwards	Line 1429999999

Column 33 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART A – SECTION 2

**OPTIONS, CAPS, FLOORS, COLLARS, SWAPS AND FORWARDS TERMINATED
DURING CURRENT YEAR**

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↓ ↑ **Detail Eliminated to Conserve Space** =====

** Column 26 through ~~31~~32 will be electronic only. **

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↓ ↑ **Detail Eliminated to Conserve Space** =====

Column 31 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) applying the provisions of SSAP No. 108 reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

- Purchased Options Lines 0089999999 through 0139999999
- Written Options Lines 0579999999 through 0629999999
- Swaps Lines 1059999999 through 1099999999
- Forwards Line 1429999999

Column 32 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART B – SECTION 1

FUTURES CONTRACTS OPEN
DECEMBER 31 OF CURRENT YEAR

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**** Columns 23 through ~~30~~31 will be electronic only. ****

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Column 30 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) applying the provisions of SSAP No. 108 reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

- Long Futures Line 1529999999
- Short Futures Line 1599999999

Column 31 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART B – SECTION 2

**FUTURES CONTRACTS TERMINATED
DURING CURRENT YEAR**

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Detail Eliminated to Conserve Space
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** Column 21 through ~~26~~27 will be electronic only. **

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Detail Eliminated to Conserve Space
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Column 26 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) applying the provisions of SSAP No. 108 reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

- Long Futures Line 1529999999
- Short Futures Line 1599999999

Column 27 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART D – SECTION 1**COUNTERPARTY EXPOSURE FOR DERIVATIVE INSTRUMENTS OPEN
DECEMBER 31 OF CURRENT YEAR****Detail Eliminated to Conserve Space****** Columns 14 and 15 will be electronic only. ****

Column 14 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for any counterparty as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

Column 15 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART D – SECTION 2

**COLLATERAL FOR DERIVATIVE INSTRUMENTS OPEN
 DECEMBER 31 OF CURRENT YEAR**



Detail Eliminated to Conserve Space

**** Columns [10](#) and [11](#) will be electronic only. ****

Column 10 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for counterparty as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

[Column 11](#) – [Investments Involving Related Parties](#)

[Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.](#)

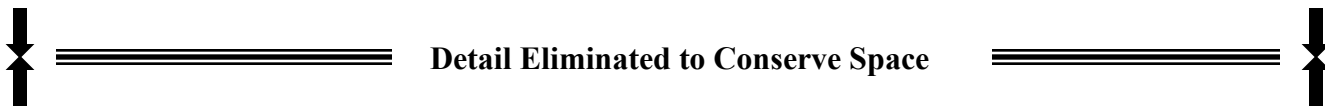
[Enter one of the following codes to identify the role of the related party in the investment.](#)

- [1. Direct loan or direct investment \(excluding securitizations\) in a related party, for which the related party represents a direct credit exposure.](#)
- [2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% \(including 0%\) of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.](#)
- [5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.](#)
- [6. The investment does not involve a related party.](#)

SCHEDULE DB – PART E**DERIVATIVES HEDGING VARIABLE ANNUITY GUARANTEES AS OF DECEMBER 31 OF CURRENT YEAR**

(This schedule is specific for the derivatives and the hedging programs captured in SSAP No. 108.)

See *SSAP No. 108—Derivatives Hedging Variable Annuities Guarantees* for additional accounting guidance.



Detail Eliminated to Conserve Space

Column 19 – Ending Deferred Balance

Specific CDHS Deferred Liability (Asset) balance at end of current reporting period.

**** Column 20 will be electronic only. ****

Column 20 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART C – SECTION 1

**REPLICATION (SYNTHETIC ASSET) TRANSACTIONS (RSATs) OPEN
 ON DECEMBER 31 OF CURRENT YEAR**



Detail Eliminated to Conserve Space

Column 16 – Fair Value of Cash Instrument(s) Held

Enter the fair value of cash instrument(s) used in the RSAT.

**** Column 17 will be electronic only. ****

Column 17 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

QUARTERLY STATEMENT INSTRUCTIONS – LIFE/FRATERNAL, HEALTH, PROPERTY AND TITLE

SCHEDULE BA – PART 2

OTHER LONG-TERM INVESTED ASSETS ACQUIRED
AND ADDITIONS MADE DURING THE CURRENT QUARTER

↓		Detail Eliminated to Conserve Space		↓
↑				↑
↓				↓
↑				↑

** Columns 14 through ~~17~~18 will be electronic only. **

Column 17 – Maturity Date

Use only for securities included in the following subtotal lines.

Non-Registered Private Funds with Underlying Assets Having Characteristics of:

Mortgage Loans

Unaffiliated..... 1199999

Affiliated..... 1299999

State the date the mortgage loan matures.

Column 18 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE BA – PART 3

**OTHER LONG-TERM INVESTED ASSETS DISPOSED, TRANSFERRED OR REPAID
DURING THE CURRENT QUARTER**

	Detail Eliminated to Conserve Space				
** Columns 21 through 24-25 will be electronic only. **					
	Detail Eliminated to Conserve Space				

Column 24 – Maturity Date

Use only for securities included in the following subtotal lines.

Non-Registered Private Funds with Underlying Assets Having Characteristics of:

Mortgage Loans

Unaffiliated.....	1199999
Affiliated.....	1299999

State the date the mortgage loan matures.



Column 25 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.



Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE D – PART 3**LONG-TERM BONDS AND STOCKS ACQUIRED DURING THE CURRENT QUARTER**


Detail Eliminated to Conserve Space


** Columns 11 through ~~15~~16 will be electronic only. **


Detail Eliminated to Conserve Space


Column 15 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.



Column 16 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.



Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE D – PART 4**LONG-TERM BONDS AND STOCKS SOLD, REDEEMED OR OTHERWISE
DISPOSED OF DURING THE CURRENT QUARTER**


Detail Eliminated to Conserve Space


** Columns 23 through ~~27~~28 will be electronic only. **


Detail Eliminated to Conserve Space


Column 27 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.

Column 28 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

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2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DL – PART 1

SECURITIES LENDING COLLATERAL ASSETS

Reinvested Collateral Assets Owned Current Statement Date
 (Securities lending collateral assets reported in aggregate on Line 10 of the asset page
 and not included on Schedules A, B, BA, D, DB and E.)

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

** Columns 8 ~~and~~ through 9-10 will be electronic only. **

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Column 10 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

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2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

The code reported for this column should be determined in a manner consistent with the instructions of other schedules for the lines shown below:

- Lines 001999999 through 250999999 Schedule D, Part 1, Column 35
- Lines 401999999 through 450999999 Schedule D, Part 2, Section 1, Column 28
- Lines 501999999 through 598999999 Schedule D, Part 2, Section 2, Column 25
- Line 930999999 Schedule B, Part 1, Column 20
- Line 940999999 Schedule BA, Part 1, Column 27
- Line 950999999 Schedule DA, Part 1, Column 23
- Line 970999999 Schedule E, Part 2, Column 12

The column should be left blank for the following lines:

- Real Estate (Schedule A type) 9209999999
- Cash (Schedule E, Part 1 type)..... 9609999999
- Other Assets..... 9809999999

General Interrogatories:

1. The total activity for the year to date represents the net increase (decrease) from the prior year-end to the current statement date.
2. The average balance for the year to date is the average daily balance.

Average daily balance: Total of daily balances divided by the number of days that have passed in the year as of the reporting date. If data is missing for a given date (e.g., weekend, holiday), count the previous day’s value multiple times. The actual day count for the year to date would serve as the denominator in the average calculation.

SCHEDULE DL – PART 2

SECURITIES LENDING COLLATERAL ASSETS

Reinvested Collateral Assets Owned Current Statement Date
 (Securities lending collateral assets included on Schedules A, B, BA, D, DB and E
 and not reported in aggregate on Line 10 of the asset page.)

↓ **====** Detail Eliminated to Conserve Space **====** ↓

** Columns 8 ~~and~~ through 9-10 will be electronic only. **

↓ **====** Detail Eliminated to Conserve Space **====** ↓

Column 10 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

The code reported for this column should be same for the security as reported in other schedules for the lines shown below:

- Lines 0019999999 through 2509999999 Schedule D, Part 1, Column 35
- Lines 4019999999 through 4509999999 Schedule D, Part 2, Section 1, Column 28
- Lines 5019999999 through 5989999999 Schedule D, Part 2, Section 2, Column 25
- Line 9309999999 Schedule B, Part 1, Column 20
- Line 9409999999 Schedule BA, Part 1, Column 27
- Line 9509999999 Schedule DA, Part 1, Column 23
- Line 9709999999 Schedule E, Part 2, Column 12

The column should be left blank for the following lines:

- Real Estate (Schedule A) 9209999999
- Cash (Schedule E, Part 1) 9609999999
- Other Assets 9809999999

General Interrogatories:

1. The total activity for the year to date represents the net increase (decrease) from the prior year-end to the current statement date.
2. The average balance for the year to date is the average daily balance.

Average daily balance: Total of daily balances divided by the number of days that have passed in the year as of the reporting date. If data is missing for a given date (e.g., weekend, holiday), count the previous day’s value multiple times. The actual day count for the year to date would serve as the denominator in the average calculation.

SCHEDULE E – PART 2 – CASH EQUIVALENTS**INVESTMENTS OWNED END OF CURRENT QUARTER**

**** Columns 10 and 11 will be electronic only. ****

Column 10 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for any issuer as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

Column 11 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
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4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE B – PART 2

MORTGAGE LOANS ACQUIRED AND ADDITONS MADE DURING THE CURRENT QUARTER



Detail Eliminated to Conserve Space



Column 4 – Loan Type

If the loan was made to an officer or director of the reporting entity/subsidiary/affiliate, enter “E.” If the loan was made directly to a subsidiary or affiliate, enter “S.” [If the loan was made directly to a related party that doesn’t meet the affiliate definition or the reporting entity has received domiciliary state approval to disclaim control/affiliation, enter “R.”](#) Otherwise, leave the column blank.



Detail Eliminated to Conserve Space



** Columns 10 through ~~13~~ 14 will be electronic only. **



Detail Eliminated to Conserve Space



Column 13 – Maturity Date

State the date the mortgage loan matures.

[Column 14 – Investments Involving Related Parties](#)

[Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.](#)

[Enter one of the following codes to identify the role of the related party in the investment.](#)

- [1. Direct loan or direct investment \(excluding securitizations\) in a related party, for which the related party represents a direct credit exposure.](#)
- [2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% \(including 0%\) of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.](#)
- [5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.](#)
- [6. The investment does not involve a related party.](#)

SCHEDULE B – PART 3

MORTGAGE LOANS DISPOSED, TRANSFERRED OR REPAYED DURING THE CURRENT QUARTER


Detail Eliminated to Conserve Space

Column 4 – Loan Type

If the loan was made to an officer or director of the reporting entity/subsidiary/affiliate, enter “E.” If the loan was made directly to a subsidiary or affiliate, enter “S.” [If the loan was made directly to a related party that doesn’t meet the affiliate definition or the reporting entity has received domiciliary state approval to disclaim control/affiliation, enter “R.”](#) Otherwise, leave the column blank.


Detail Eliminated to Conserve Space

** Columns 19 through ~~22~~23 will be electronic only. **


Detail Eliminated to Conserve Space

Column 22 – Maturity Date

State the date the mortgage loan matures.

[Column 23 – Investments Involving Related Parties](#)

[Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.](#)

[Enter one of the following codes to identify the role of the related party in the investment.](#)

- [1. Direct loan or direct investment \(excluding securitizations\) in a related party, for which the related party represents a direct credit exposure.](#)
- [2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% \(including 0%\) of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
- [4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.](#)
- [5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.](#)
- [6. The investment does not involve a related party.](#)

SCHEDULE DB – PART A – SECTION 1

OPTIONS, CAPS, FLOORS, COLLARS, SWAPS AND FORWARDS OPEN



Detail Eliminated to Conserve Space



** Columns 24 through ~~32~~33 will be electronic only. **



Detail Eliminated to Conserve Space



Column 32 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

Purchased Options	Lines 0089999999 through 0139999999
Written Options	Lines 0579999999 through 0629999999
Swaps	Lines 1059999999 through 1099999999
Forwards	Lines 1429999999

Column 33 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART B – SECTION 1

FUTURES CONTRACTS OPEN


Detail Eliminated to Conserve Space


** Column 23 through [28-29](#) will be electronic only. **


Detail Eliminated to Conserve Space


Column 28 – CDHS Identifier

Provide a unique identifier for each Clearly Defined Hedging Strategy (CDHS) reported on this schedule (e.g., 001, 002, etc.). This identifier will also be used for reporting of the CDHS in Column 1 of Schedule DB, Part E.

This column should only be used for the following line numbers:

- | | |
|---------------|-----------------|
| Long Futures | Line 1529999999 |
| Short Futures | Line 1599999999 |

Column 29 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART D – SECTION 1

**COUNTERPARTY EXPOSURE FOR DERIVATIVE INSTRUMENTS OPEN
 AS OF CURRENT STATEMENT DATE**



Detail Eliminated to Conserve Space

**** Columns 14 and 15 will be electronic only. ****

Column 14 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for counterparty as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

Column 15 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART D – SECTION 2**COLLATERAL FOR DERIVATIVE INSTRUMENTS OPEN
AS OF CURRENT STATEMENT DATE****Detail Eliminated to Conserve Space****** Columns 10 and 11 will be electronic only.****

Column 10 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for counterparty as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

Column 11 – [Investments Involving Related Parties](#)

[Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.](#)

[Enter one of the following codes to identify the role of the related party in the investment.](#)

1. [Direct loan or direct investment \(excluding securitizations\) in a related party, for which the related party represents a direct credit exposure.](#)
2. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
3. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% \(including 0%\) of the underlying collateral represents investments in or direct credit exposure to related parties.](#)
4. [Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.](#)
5. [The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.](#)
6. [The investment does not involve a related party.](#)

SCHEDULE DB – PART E

DERIVATIVES HEDGING VARIABLE ANNUITY GUARANTEES AS OF CURRENT QUARTER

This schedule is specific for the derivatives and the hedging programs captured in SSAP No. 108.

See *SSAP No. 108—Derivatives Hedging Variable Annuities Guarantees* for additional accounting guidance.



Detail Eliminated to Conserve Space

Column 19 – Ending Deferred Balance

Specific CDHS Deferred Liability (Asset) balance at end of current reporting period.

**** Column 20 will be electronic only.****

Column 20 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

SCHEDULE DB – PART C – SECTION 1**REPLICATION (SYNTHETIC ASSET) TRANSACTIONS (RSATs) OPEN AT CURRENT STATEMENT DATE****Detail Eliminated to Conserve Space**

Column 16 – Fair Value of Cash Instrument(s) Held

Enter the fair value of cash instrument(s) used in the RSAT.

**** Column 17 will be electronic only.****Column 17 – Investments Involving Related Parties

Required for all investments involving related parties including, but not limited to, those captured as affiliate investments. This disclosure intends to capture information on investments held that reflect interactions involving related parties, regardless of whether the related party meets the affiliate definition, or the reporting entity has received domiciliary state approval to disclaim control/affiliation.

Enter one of the following codes to identify the role of the related party in the investment.

1. Direct loan or direct investment (excluding securitizations) in a related party, for which the related party represents a direct credit exposure.
2. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer, or other similar influential role and for which 50% or more of the underlying collateral represents investments in or direct credit exposure to related parties.
3. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies involving a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role and for which less than 50% (including 0%) of the underlying collateral represents investments in or direct credit exposure to related parties.
4. Securitization or similar investment vehicles such as mutual funds, limited partnerships and limited liability companies in which the structure reflects an in-substance related party transaction but does not involve a relationship with a related party as sponsor, originator, manager, servicer or other similar influential role.
5. The investment is identified as related party, but the role of the related party represents a different arrangement than the options provided in choices 1-4.
6. The investment does not involve a related party.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B01_2021-22BWG_Modified.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B01_2021-22BWG_Modified.docx)

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>12/17/2021</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Dale Bruggeman</u></p> <p>TITLE: <u>Chair SAPWG</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50W. Town St., 3rd Fl., Ste. 300</u> <u>Columbus, OH 43215</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-01BWG</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input checked="" type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Add new questions to General Interrogatories Part 1 on whether the reporting entity accepts cryptocurrency for payment of premiums, which cryptocurrencies are accepted and whether they are held for investment or immediately converted to U.S. dollars.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

Per the Statutory Accounting Principles (E) Working Group’s (SAPWG) related agenda item (Ref 2021-24), the proposal adds a new general interrogatory to get some additional information on the when cryptocurrencies are directly held or permitted for the remittance of premiums, and to better understand if and how cryptocurrencies are being utilized by insurance companies.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

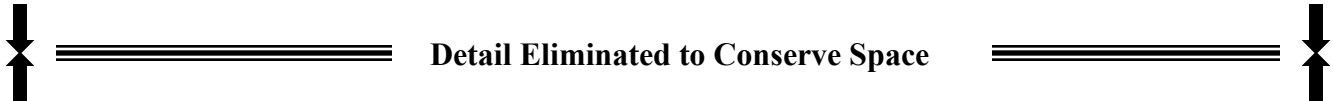
Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL, HEALTH, PROPERTY AND TITLE

GENERAL INTERROGATORIESPART 1 – COMMON INTERROGATORIESGENERAL

- 1.2 N/A is an acceptable response only if Interrogatory 1.1 was answered NO.

INVESTMENT

25. For the purposes of this interrogatory, “exclusive control” means that the company has the exclusive right to dispose of the investment at will, without the necessity of making a substitution thereof. For purposes of this interrogatory, securities in transit and awaiting collection, held by a custodian pursuant to a custody arrangement or securities issued subject to a book entry system are considered to be in actual possession of the company.

If bonds, stocks and other securities owned December 31 of the current year, over which the company has exclusive control are: (1) securities purchased for delayed settlement, or (2) loaned to others, the company should respond “NO” to 25.01 and “YES” to 26.1.



33. This interrogatory applies to any investment required to be filed with the SVO (or that would have been required if not exempted in the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*), whether in the general account or separate accounts.

The existence of Z securities does not mean that a reporting entity is not complying with the procedures. As long as the entity has filed its Z securities with the SVO within 120 days of purchase, compliance with the procedures has been met. If an entity wishes to provide the counts of Z securities, include those counts in the explanation lines. An explanation is only expected if the answer to the compliance question is NO.

38.1 [Answer “YES” if the company directly owns cryptocurrencies. Answer “NO” if the company does not directly own cryptocurrencies or only holds cryptocurrencies indirectly through funds \(ETFs, Mutual Funds, etc.\)](#) *INT 21-01: Accounting for Cryptocurrencies* established that directly held cryptocurrencies do not meet the definition of cash or an admitted asset and are therefore considered to be a nonadmitted asset for statutory accounting.

38.2 [If the answer to 38.1 is “YES”, specify on which schedule they are reported. \(e.g., Schedule BA, etc.\)](#)

39.2 [If the answer to 39.1 is “YES”, indicate if it is the policy of the reporting entity to directly hold cryptocurrency accepted as payment for premiums or immediately convert to U.S. dollars. Select “YES” for both questions if some cryptocurrencies are held directly and others are immediately converted to U.S. dollars.](#)

39.21 [Answer “YES” if it is the policy of the reporting entity to directly hold cryptocurrency that was accepted as payment for premiums.](#)

39.22 Answer “YES” if it is the policy of the reporting entity to immediately convert cryptocurrency accepted as payment for premiums to U.S. dollars.

39.3 If the answer to 38.1 or 39.1 is “YES”, complete Columns 1 through 3 for each cryptocurrency accepted for payments of premiums or held directly.

Name of Cryptocurrency:

Provide the name of each cryptocurrency accepted for payments of premiums or held directly.

Immediately Converted to USD, Directly Held, or Both:

For each cryptocurrency listed, provide one of the following responses:

- Immediately converted to USD
- Directly held,
- Both.

Accepted for Payment of Premiums:

If the cryptocurrencies are accepted for the payment of premiums provide the response of “YES” in the column otherwise the response in the column should be “NO”.

OTHER

3840. The purpose of this General Interrogatory is to capture information about payments to any trade association, service organization, and statistical or rating bureau. A “service organization” is defined as every person, partnership, association or corporation that formulates rules, establishes standards, or assists in the making of rates or standards for the information or benefit of insurers or rating organizations.

3941. The purpose of this General Interrogatory is to capture information about legal expenses paid during the year. These expenses include all fees or retainers for legal services or expenses, including those in connection with matters before administrative or legislative bodies. It excludes salaries and expenses of company personnel, legal expenses in connection with investigation, litigation and settlement of policy claims, and legal fees associated with real estate transactions, including mortgage loans on real estate. Do not include amounts reported in General Interrogatories No. 3840 and No. 4042.

4042. The purpose of this General Interrogatory is to capture information about expenditures in connection with matters before legislative bodies, officers or departments of government paid during the year. These expenses are related to general legislative lobbying and direct lobbying of pending and proposed statutes or regulations before legislative bodies and/or officers or departments of government. Do not include amounts reported in General Interrogatories No. 3840 and No. 3941.

ANNUAL STATEMENT BLANK – LIFE/FRATERNAL, HEALTH, PROPERTY AND TITLE

GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

GENERAL

⌵
⌶

Detail Eliminated to Conserve Space

25.01 Were all the stocks, bonds and other securities owned December 31 of current year, over which the reporting entity has exclusive control, in the actual possession of the reporting entity on said date? (other than securities lending programs addressed in 25.03) Yes [] No []

⌵
⌶

Detail Eliminated to Conserve Space

37. By rolling/renewing short-term or cash equivalent investments with continued reporting on Schedule DA, Part 1 or Schedule E Part 2 (identified through a code (%) in those investment schedules), the reporting entity is certifying to the following:

- a. The investment is a liquid asset that can be terminated by the reporting entity on the current maturity date.
- b. If the investment is with a nonrelated party or nonaffiliate, then it reflects an arms-length transaction with renewal completed at the discretion of all involved parties.
- c. If the investment is with a related party or affiliate, then the reporting entity has completed robust re-underwriting of the transaction for which documentation is available for regulator review.
- d. Short-term and cash equivalent investments that have been renewed/rolled from the prior period that do not meet the criteria in 37.a -37.c are reported as long-term investments.

Has the reporting entity rolled/renewed short-term or cash equivalent investments in accordance with these criteria? Yes [] No [] N/A []

38.1 Does the reporting entity directly hold cryptocurrencies? Yes [] No []

38.2 If the response to 38.1 is yes, on what schedule are they reported?

39.1 Does the reporting entity directly or indirectly accept cryptocurrencies as payments for premiums on policies? Yes [] No []

39.2 If the response to 39.1 is yes, are the cryptocurrencies held directly or are they immediately converted to U.S. dollars?

39.21 Held directly Yes [] No []

39.22 Immediately converted to U.S. dollars Yes [] No []

39.3 If the response to 38.1 or 39.1 is yes, list all cryptocurrencies accepted for payments of premiums or that are held directly.

1 Name of Cryptocurrency	2 Immediately Converted to USD, Directly Held, or Both	3 Accepted for Payment of Premiums

GENERAL INTERROGATORIES

OTHER

~~3840~~.1 Amount of payments to trade associations, service organizations and statistical or rating bureaus, if any? \$ _____

~~3840~~.2 List the name of the organization and the amount paid if any such payment represented 25% or more of the total payments to trade associations, service organizations, and statistical or rating bureaus during the period covered by this statement.

1 Name	2 Amount Paid
	\$
	\$
	\$
	\$

~~3941~~.1 Amount of payments for legal expenses, if any? \$ _____

~~3941~~.2 List the name of the firm and the amount paid if any such payment represented 25% or more of the total payments for legal expenses during the period covered by this statement.

1 Name	2 Amount Paid
	\$
	\$
	\$
	\$

~~4042~~.1 Amount of payments for expenditures in connection with matters before legislative bodies, officers, or departments of government, if any? \$ _____

~~4042~~.2 List the name of the firm and the amount paid if any such payment represented 25% or more of the total payment expenditures in connection with matters before legislative bodies, officers, or departments of government during the period covered by this statement.

1 Name	2 Amount Paid
	\$
	\$
	\$
	\$

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B02_2022-01BWG.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B02_2022-01BWG.docx)

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>12/17/2021</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Dale Bruggeman</u></p> <p>TITLE: <u>Chair SAPWG</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50W. Town St., 3rd Fl., Ste. 300</u> <u>Columbus, OH 43215</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-02BWG MOD</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input checked="" type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Add four new electronic only columns to Schedule D, Part 6, Section 1 for Prior Year Book/Adjusted Carrying Value (Column 16), Prior Year Nonadmitted Amount (Column 17), Prior Year Sub-2 Verified Value (Column 18) and Prior Year VISION Filing Number (Column 19).

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

Per the Statutory Accounting Principles (E) Working Group’s (SAPWG) related agenda item (Ref 2021-22), the addition of these electronic only columns will help regulators 1) ensure Sub-1 and Sub-2 filings are being submitted by reporting entities, and 2) identify situations where the NAIC approved value varies significantly from the value reported on Schedule D, Part 6, Section 1.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL, HEALTH, PROPERTY AND TITLE

SCHEDULE D – PART 6 – SECTION 1

VALUATION OF SHARES OF SUBSIDIARY, CONTROLLED OR AFFILIATED COMPANIES

If a reporting entity has any common stock or preferred stock reported for any of the following required categories or subcategories, it shall report the subtotal amount of the corresponding category or subcategory, with the specified subtotal line number appearing in the same manner and location as the pre-printed total or grand total line and number:

↓ **=====
↑** **Detail Eliminated to Conserve Space** **=====
↓**

**** Column 12 through [15-19](#) will be electronic only. ****

Column 12 – Legal Entity Identifier (LEI)

Provide the 20-character Legal Entity Identifier (LEI) for any issuer as assigned by a designated Local Operating Unit. If no LEI number has been assigned, leave blank.

↓ **=====
↑** **Detail Eliminated to Conserve Space** **=====
↓**

Column 15 – ISIN Identification

The International Securities Identification Numbering (ISIN) system is an international standard set up by the International Organization for Standardization (ISO). It is used for numbering specific securities, such as stocks, bonds, options and futures. ISIN numbers are administered by a National Numbering Agency (NNA) in each of their respective countries, and they work just like serial numbers for those securities. Record the ISIN number only if no valid CUSIP, CINS or PPN exists to report in Column 1.

[Column 16 – Prior Year Book/Adjusted Carrying Value](#)

[This should equal the Book/Adjusted Carrying Value \(Column 7\) amount reported in the prior year annual statement for each specific security.](#)

[Column 17 – Prior Year Nonadmitted Amount](#)

[This should equal the Nonadmitted Amount \(Column 9\) amount, if any, reported in the prior year annual statement for each specific security. ~~Provide the amount nonadmitted, if any, included in Column 10 of the prior year Annual Statement.~~](#)

[Column 18 – Prior Year Sub-2 Verified Value](#)

[If per SSAP No. 97 or by direction of the domiciliary regulator, the SCA is required to be filed with the NAIC, provide the prior year’s Sub-2 “Total Value Claimed.”](#)

[Column 19 – Prior Year VISION Filing Number](#)

[If per SSAP No. 97 or by direction of the domiciliary regulator, the SCA is required to be filed with the NAIC, provide the prior year NAIC VISION filing number.](#)

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2B03_2022-02BWG_Modified.docx

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>01/19/2022</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Mary Caswell and Calvin Ferguson</u></p> <p>TITLE: _____</p> <p>AFFILIATION: <u>NAIC</u></p> <p>ADDRESS: _____</p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-03BWG</u> Year <u>2023</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;">DISPOSITION</p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|--|---|--------------------------------------|
| <input type="checkbox"/> ANNUAL STATEMENT | <input type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input checked="" type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: 1st Quarter 2023

IDENTIFICATION OF ITEM(S) TO CHANGE

Split Line 5 of the Quarterly Part 1 – Loss Experience and Part 2 – Direct Premiums Written into Line 5.1 – Commercial multiple peril (non-liability portion) and Line 5.2 – Commercial multiple peril (liability portion).

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of this proposal is to fix the reporting of Line 5 to be reported as Line 5.1 – Commercial multiple peril (non-liability portion) and Line 5.2 – Commercial multiple peril (liability portion) on the Quarterly Part 1 and Part 2 to be consistent with the annual reporting. This change was missed on proposal 2020-33BWG.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

QUARTERLY STATEMENT BLANK – PROPERTY

PART 1 – LOSS EXPERIENCE and PART 2 – DIRECT PREMIUMS WRITTEN

Line of Business	
1.	Fire.....
2.1	Allied lines.....
2.2	Multiple peril crop.....
2.3	Federal flood.....
2.4	Private crop.....
2.5	Private flood.....
3.	Farmowners multiple peril.....
4.	Homeowners multiple peril.....
5.1	Commercial multiple peril (non-liability portion).....
5.2	Commercial multiple peril (liability portion).....
6.	Mortgage guaranty.....
8.	Ocean marine.....
9.	Inland marine.....
10.	Financial guaranty.....
11.1.	Medical professional liability -occurrence.....
11.2.	Medical professional liability -claims made.....
12.	Earthquake.....
13.1	Comprehensive (hospital and medical) individual.....
13.2	Comprehensive (hospital and medical) group.....
14.	Credit accident and health.....
15.1	Vision only.....
15.2	Dental only.....
15.3	Disability income.....
15.4	Medicare supplement.....
15.5	Medicaid Title XIX.....
15.6	Medicare Title XVIII.....
15.7	Long-term care.....
15.8	Federal employees health benefits plan.....
15.9	Other health.....
16.	Workers' compensation.....
17.1.	Other liability occurrence.....
17.2.	Other liability-claims made.....
17.3.	Excess Workers' Compensation.....
18.1.	Products liability-occurrence.....
18.2.	Products liability-claims made.....
19.1	Private passenger auto no-fault (personal injury protection).....
19.2	Other private passenger auto liability.....
19.3	Commercial auto no-fault (personal injury protection).....
19.4	Other commercial auto liability.....
21.1	Private passenger auto physical damage.....
21.2	Commercial auto physical damage.....
22.	Aircraft (all perils).....
23.	Fidelity.....
24.	Surety.....
26.	Burglary and theft.....
27.	Boiler and machinery.....
28.	Credit.....
29.	International.....
30.	Warranty.....
31.	Reinsurance-Nonproportional Assumed Property.....
32.	Reinsurance-Nonproportional Assumed Liability.....
33.	Reinsurance-Nonproportional Assumed Financial Lines.....
34.	Aggregate write-ins for other lines of business.....
35.	TOTALS
DETAILS OF WRITE-INS	
3401.	.....
3402.	.....
3403.	.....
3498.	Sum. of remaining write-ins for Line 34 from overflow page.....
3499.	Totals (Lines 3401 through 3403 plus 3498) (Line 34)

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2B04_2022-03BWG.docx

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>02/01/2022</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Patricia Gosselin</u></p> <p>TITLE: _____</p> <p>AFFILIATION: <u>New Hampshire Insurance Department</u></p> <p>ADDRESS: <u>215 S. Fruit St., Ste. 14</u> <u>Concord, NH 03301</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-04BWG</u> Year <u>2023</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input checked="" type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2023

IDENTIFICATION OF ITEM(S) TO CHANGE

Add a new supplement to capture premium and loss data for Annual Statement Lines 17.1, 17.2 & 17.3 of the Exhibit of Premiums and Losses (State Page) – Other Liability by more granular lines of business.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of this proposal is to provide regulators more granular detail of the premium and losses of the diverse lines of business reported on Annual Statement Lines 17.1, 17.2 & 17.3 of the Exhibit of Premiums and Losses (State Page).

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – PROPERTY

Exhibit of Other Liabilities by Lines of Business
As Reported on Line 17 of The Exhibit of Premiums and Losses

All reporting entities reporting “Other Liability” on Line 17 of the Exhibit of Premiums and Losses must prepare this exhibit. The exhibit is to be prepared and filed by all reporting entities no later than March 1 of each year.

The purpose of the Exhibit of Other Liabilities by Lines of Business is to provide more information on the diverse lines of business filed on Annual Statement Line 17. The exhibit should be reported on a direct basis (before assumed and ceded reinsurance).

Column 1 – Prior Year Written Premium

Line 12 should equal Exhibit of Premiums and Losses Grand Total Page Column 1, Line 17.1 + Line 17.2 + Line 17.3 from the prior year annual statement.

Column 2 – Current Year Written Premium

Line 12 should equal Exhibit of Premiums and Losses Grand Total Page Column 1, Line 17.1 + Line 17.2 + Line 17.3 from the current year annual statement.

Column 3 – Current Year Losses Paid (Deducting Salvage)

Line 12 should equal Exhibit of Premiums and Losses Grand Total Page Column 5, Line 17.1 + Line 17.2 + Line 17.3 from the current year annual statement.

Column 4 – Current Year Losses Unpaid (Case Base)

Line 12 should equal Underwriting and Investment Exhibit, Part 2A Column 1, Line 17.1 + Line 17.2 + Line 17.3 from the current year annual statement.

Line 1 – Completed Operations

For definitions of lines of business, see the appendix of these instructions.

Line 2 – Errors & Omissions (E&O)

Include: Errors and Omissions Liability Professional Liability Other Than Medical

Professional Errors and Omissions Liability

Fiduciary Liability

For definitions of lines of business, see the appendix of these instructions.

Line 3 – Directors & Officers (D&O)

For definitions of lines of business, see the appendix of these instructions.

Line 4 – Environmental LiabilityInclude: Environmental Pollution LiabilityNuclear Energy LiabilityFor definitions of lines of business, see the appendix of these instructions.Line 5 – Excess Workers' CompensationFor definitions of lines of business, see the appendix of these instructions.Column 1 should equal Exhibit of Premiums and Losses Grand Total Page Column 1, Line 17. 3 from the prior year annual statement.Column 2 should equal Exhibit of Premiums and Losses Grand Total Page Column 1, Line 17. 3 from the current year annual statement.Column 3 should equal Exhibit of Premiums and Losses Grand Total Page Column 5, Line 17. 3 from the current year annual statement.Column 4 should equal Underwriting and Investment Exhibit, Part 2A Column 1, Line 17. 3 from the current year annual statement.Line 6 – Commercial Excess & UmbrellaInclude: Commercial portion of excess and umbrella liabilityExclude: Personal umbrella liability reported on Line 7For definitions of lines of business, see the appendix of these instructions.Line 7 – Personal UmbrellaInclude: Personal umbrella liabilityExclude: Commercial portion of excess and umbrella liability reported on Line 6For definitions of lines of business, see the appendix of these instructions.Line 8 – Employment LiabilityInclude: Contingent LiabilityEmployee Benefit LiabilityEmployers' LiabilityEmployment Practices LiabilityFor definitions of lines of business, see the appendix of these instructions.Line 9 – Aggregate Write-ins for Facilities & Premises (CGL)Enter the total of the write-ins listed in schedule Details of Write-ins Aggregated at Line 9 for Facilities & Premises (CGL).

Line 10 – Internet & Cyber

Include: Internet Liability

Cyber Liability

For definitions of lines of business, see the appendix of these instructions.

Line 11 – Aggregate Write-ins for Other

Enter the total of the write-ins listed in schedule Details of Write-ins Aggregated at Line 11 for Other.

Line 12 – Total

Should equal the sum of Lines 1 through 11.

Details of Write-ins Aggregated at Line 9 for Facilities & Premises (CGL)

List separately each category of Facilities & Premises (CGL).

Include: Construction and Alteration Liability

Contractual Liability

Elevators and Escalators Liability

Liquor Liability

Personal Injury Liability

Premises and Operations Liability

Commercial General Liability (CGL)

Comprehensive Personal Liability

Day Care Centers

Fire Legal Liability

Municipal Liability

Veterinarian

For definitions of lines of business, see the appendix of these instructions.

If the total of Line 9 is less than 10% of the total reported on Line 12 then the aggregate amount can be reported as a lump sum. The description used should be “Aggregate of facilities & premises (CGL) lines of business less than 10% of category”.

If the total of Line 9 is 10% or greater of the total reported on Line 12 then each line of business (shown above) that is 10% or greater of the total reported on Line 9 should be listed separately. The description used should be one of the lines of business shown above.

All lines of business less than 10% of the total reported on Line 9 can be reported as a lump sum. The description used should be “Aggregate of facilities & premises (CGL) lines of business less than 10% of category”.

Example 1:

	<u>Amount</u>	<u>Percent</u>
<u>Current Year Direct Written Premium</u>		
<u>Total Line 12</u>	<u>\$1,000,000</u>	
<u>Total Line 9</u>	<u>\$400,000</u>	<u>40.00%</u>
<u>10% of Line 12</u>	<u>\$100,000</u>	
<u>10% of Line 9</u>	<u>\$40,000</u>	
<u>Lines of Business in Line 9</u>		
<u>Commercial General Liability</u>	<u>\$250,000</u>	<u>62.50%</u>
<u>Personal Injury Liability</u>	<u>\$100,000</u>	<u>25.00%</u>
<u>Municipal Liability</u>	<u>\$25,000</u>	<u>6.25%</u>
<u>Day Care Centers</u>	<u>\$15,000</u>	<u>3.75%</u>
<u>Elevators and Escalators Liability</u>	<u>\$10,000</u>	<u>2.50%</u>
<u>Total</u>	<u>\$400,000</u>	<u>100.0%</u>

In this example the total reported on Line 9 is \$400,000 and is 10% or greater of the total reported on Line 12 passing the initial threshold of reporting detail of the lines of business reported on Line 9.

The detail of the lines of business reported on Line 9 shows five lines of business reported on the line. Two of those lines (Commercial General Liability and Personal Injury Liability) are 10% or greater of the total reported on Line 9 and three of those lines of business (Municipal Liability, Day Care Centers and Elevators and Escalators Liability) are less than 10% of the total reported on Line 9.

Commercial General Liability and Personal Injury Liability pass the threshold for reporting as a separate item in the aggregate write-ins and would be reported individually and not aggregated with any other lines of business.

Municipal Liability, Day Care Centers and Elevators and Escalators Liability do not pass the threshold for reporting as a separate item in the aggregate write-ins and would be aggregated together with the line description “Aggregate of facilities & premises (CGL) lines of business less than 10% of category”.

Example 2:

	<u>Amount</u>	<u>Percent</u>
<u>Current Year Direct Written Premium</u>		
<u>Total Line 12</u>	<u>\$5,000,000</u>	
<u>Total Line 9</u>	<u>\$400,000</u>	<u>8.00%</u>
<u>10% of Line 12</u>	<u>\$500,000</u>	
<u>10% of Line 9</u>	<u>\$40,000</u>	
<u>Lines of Business in Line 9</u>		
<u>Commercial General Liability</u>	<u>\$250,000</u>	<u>62.50%</u>
<u>Personal Injury Liability</u>	<u>\$100,000</u>	<u>25.00%</u>
<u>Municipal Liability</u>	<u>\$25,000</u>	<u>6.25%</u>
<u>Day Care Centers</u>	<u>\$15,000</u>	<u>3.75%</u>
<u>Elevators and Escalators Liability</u>	<u>\$10,000</u>	<u>2.50%</u>
<u>Total</u>	<u>\$400,000</u>	<u>100.0%</u>

In this example the total reported on Line 9 is \$400,000 and is less than 10% of the total reported on Line 12 failing the initial threshold of reporting detail of the lines of business reported on Line 9.

All the lines of business reported on Line 9 would aggregated together and reported in the write-ins with the line description “Aggregate of facilities & premises (CGL) lines of business less than 10% of category”.

Details of Write-ins Aggregated at Line 11 for Other

List separately each category of other not included in Lines 1 through 10 for which there is no pre-printed line.

For definitions of lines of business, see the appendix of these instructions.

If the total of Line 11 is less than 10% of the total reported on Line 12 then the aggregate amount can be reported as a lump sum. The description used should be “Aggregate of other lines of business less than 10% of category”.

If the total of Line 11 is 10% or greater of the total reported on Line 12 then each line of business that is 10% or greater of the total reported on Line 11 should be listed separately.

All lines of business less than 10% of the total reported on Line 11 can be reported as a lump sum. The description used should be “Aggregate of other lines of business less than 10% of category”.

Example 1:

	<u>Amount</u>	<u>Percent</u>
<u>Current Year Direct Written Premium</u>		
<u>Total Line 12</u>	<u>\$1,000,000</u>	
<u>Total Line 11</u>	<u>\$100,000</u>	<u>10.00%</u>
<u>10% of Line 12</u>	<u>\$100,000</u>	
<u>10% of Line 11</u>	<u>\$10,000</u>	
<u>Lines of Business in Line 11</u>		
<u>Other LOB #1</u>	<u>\$45,000</u>	<u>45.00%</u>
<u>Other LOB #2</u>	<u>\$30,000</u>	<u>30.00%</u>
<u>Other LOB #3</u>	<u>\$9,000</u>	<u>9.00%</u>
<u>Other LOB #4</u>	<u>\$8,000</u>	<u>8.00%</u>
<u>Other LOB #5</u>	<u>\$8,000</u>	<u>8.00%</u>
<u>Total</u>	<u>\$100,000</u>	<u>100.0%</u>

In this example the total reported on Line 11 is \$100,000 and is 10% or greater of the total reported on Line 12 passing the initial threshold of reporting detail of the lines of business reported on Line 11.

The detail of the lines of business reported on Line 11 shows five lines of business reported on the line. Two of those lines (Other LOB #1 and Other LOB #2) are 10% or greater of the total reported on Line 11 and three of those lines of business (Other LOB #3, Other LOB #4 and Other LOB #5) are less than 10% of the total reported on Line 11.

Other LOB #1 and Other LOB #2 pass the threshold for reporting as a separate item in the aggregate write-ins and would be reported individually and not aggregated with any other lines of business.

Other LOB #3, Other LOB #4 and Other LOB #5 do not pass the threshold for reporting as a separate item in the aggregate write-ins and would be aggregated together with the line description “Aggregate of other lines of business less than 10% of category”.

Example 2:

	<u>Amount</u>	<u>Percent</u>
<u>Current Year Direct Written Premium</u>		
<u>Total Line 12</u>	<u>\$5,000,000</u>	
<u>Total Line 11</u>	<u>\$100,000</u>	<u>2.00%</u>
<u>10% of Line 12</u>	<u>\$500,000</u>	
<u>10% of Line 11</u>	<u>\$10,000</u>	
<u>Lines of Business in Line 11</u>		
<u>Other LOB #1</u>	<u>\$45,000</u>	<u>45.00%</u>
<u>Other LOB #2</u>	<u>\$30,000</u>	<u>30.00%</u>
<u>Other LOB #3</u>	<u>\$9,000</u>	<u>9.00%</u>
<u>Other LOB #4</u>	<u>\$8,000</u>	<u>8.00%</u>
<u>Other LOB #5</u>	<u>\$8,000</u>	<u>8.00%</u>
<u>Total</u>	<u>\$100,000</u>	<u>100.0%</u>

In this example the total reported on Line 11 is \$100,000 and is less than 10% of the total reported on Line 12 failing the initial threshold of reporting detail of the lines of business reported on Line 11.

All the lines of business reported on Line 11 would aggregated together and reported in the write-ins with the line description “Aggregate of other lines of business less than 10% of category”.

ANNUAL STATEMENT BLANK – PROPERTY

SUPPLEMENT FOR THE YEAR OF THE

.....
Affix Bar Code Above

EXHIBIT OF OTHER LIABILITIES BY LINES OF BUSINESS
AS REPORTED ON LINE 17 OF THE EXHIBIT OF PREMIUMS AND LOSSES
(To Be Filed by March 1)

NAIC Group Code NAIC Company Code

Company Name

	Direct Business Only			
	Prior Year	Current Year		
	<u>1</u> Written Premium	<u>2</u> Written Premium	<u>3</u> Losses Paid (deducting salvage)	<u>4</u> Losses Unpaid (Case Base)
1. Completed Operations.....
2. Errors & Omissions (E&O).....
3. Directors & Officers (D&O).....
4. Environmental Liability.....
5. Excess Workers' Compensation.....
6. Commercial Excess & Umbrella.....
7. Personal Umbrella.....
8. Employment Liability.....
9. Aggregate write-ins for Facilities & Premises (CGL).....
10. Internet & Cyber Liability.....
11. Aggregate write-ins for other.....
12. Total ASL 17 – Other Liability (Sum of Lines 1 through 11)
<u>DETAILS OF WRITE-INS</u>				
0901.....
0902.....
0903.....
0998. Summary of remaining write-ins for Line 9 from overflow page.....
0999. Totals (Lines 0901 through 0903 plus 0998) (Line 9 above)
1101.....
1102.....
1103.....
1198. Summary of remaining write-ins for Line 11 from overflow page.....
1199. Totals (Lines 1101 through 1103 plus 1198) (Line 11 above)

**SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES**

REQUIRED FILINGS

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of WAIVED to the specific interrogatory will be accepted in lieu of filing a “NONE” report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason, enter SEE EXPLANATION and provide an explanation following the interrogatory questions.

MARCH FILING

RESPONSES

- 1. Will an actuarial opinion be filed by March 1?



SUPPLEMENTAL FILINGS

The following supplemental reports are required to be filed as part of your statement filing **if your company is engaged in the type of business covered by the supplement. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of NO to the specific interrogatory will be accepted in lieu of filing a “NONE” report and a bar code will be printed below.** If the supplement is required of your company but is not being filed for whatever reason, enter SEE EXPLANATION and provide an explanation following the interrogatory questions.

MARCH FILING

- 11. Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1?
- 12. Will the Financial Guaranty Insurance Exhibit be filed by March 1?
- 13. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1?
- 14. Will Supplement A to Schedule T (Medical Professional Liability Supplement) be filed by March 1?
- 15. Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1?
- 16. Will the Premiums Attributed to Protected Cells Exhibit be filed by March 1?
- 17. Will the Reinsurance Summary Supplemental Filing for General Interrogatory 9 be filed with the state of domicile and the NAIC by March 1?
- 18. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1?
- 19. Will the confidential Actuarial Opinion Summary be filed with the state of domicile, if required, by March 15 (or the date otherwise specified)?
- 20. Will the Reinsurance Attestation Supplement be filed with the state of domicile and the NAIC by March 1?
- 21. Will the Exceptions to the Reinsurance Attestation Supplement be filed with the state of domicile by March 1?
- 22. Will the Bail Bond Supplement be filed with the state of domicile and the NAIC by March 1?
- 23. Will the Director and Officer Insurance Coverage Supplement be filed with the state of domicile and the NAIC by March 1?
- 24. Will an approval from the reporting entity’s state of domicile for relief related to the five-year rotation requirement for lead audit partner be filed electronically with the NAIC by March 1?
- 25. Will an approval from the reporting entity’s state of domicile for relief related to the one-year cooling off period for independent CPA be filed electronically with the NAIC by March 1?
- 26. Will an approval from the reporting entity’s state of domicile for relief related to the Requirements for Audit Committees be filed electronically with the NAIC by March 1?
- 27. Will the Supplemental Schedule for Reinsurance Counterparty Reporting Exception – Asbestos and Pollution contracts be filed with the state of domicile and the NAIC by March 1?
- 28. [Will the Exhibit of Other Liabilities by Lines of Business be filed with the state of domicile and the NAIC by March 1?](#)

APRIL FILING

- [2829.](#) Will the Credit Insurance Experience Exhibit be filed with the state of domicile and the NAIC by April 1?
- [2930.](#) Will the Long-term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1?
- [3031.](#) Will the Accident and Health Policy Experience Exhibit be filed by April 1?
- [3432.](#) Will the Supplemental Health Care Exhibit (Parts 1, 2 and 3) be filed with the state of domicile and the NAIC by April 1?
- [3233.](#) Will the regulator-only (non-public) Supplemental Health Care Exhibit’s Allocation Report be filed with the state of domicile and the NAIC by April 1?
- [3334.](#) Will the Cybersecurity and Identity Theft Insurance Coverage Supplement be filed with the state of domicile and the NAIC by April 1?
- [3435.](#) Will the Life, Health & Annuity Guaranty Association Assessable Premium Exhibit – Parts 1 and 2 be filed with the state of domicile and the NAIC by April 1?
- [3536.](#) Will the Private Flood Insurance Supplement be filed with the state of domicile and the NAIC by April 1?
- [3637.](#) Will the Mortgage Guaranty Insurance Exhibit be filed with the state of domicile and the NAIC by April 1?

AUGUST FILING

- [3738.](#) Will Management’s Report of Internal Control Over Financial Reporting be filed with the state of domicile by August 1?

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B05_2022-04BWG.doc](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att2B05_2022-04BWG.doc)

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>02/10/2022</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Mary Caswell and Calvin Ferguson</u></p> <p>TITLE: _____</p> <p>AFFILIATION: <u>NAIC</u></p> <p>ADDRESS: _____</p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-05BWG MOD</u></p> <p>Year <u>2022</u></p> <p>Changes to Existing Reporting [X]</p> <p>New Reporting Requirement []</p> <hr/> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X]</p> <p>Modifies Required Disclosure []</p> <hr/> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment</p> <p>[] Referred To Another NAIC Group</p> <p>[] Received For Public Comment</p> <p>[X] Adopted Date <u>05/25/2022</u></p> <p>[] Rejected Date _____</p> <p>[] Deferred Date _____</p> <p>[] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input checked="" type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input checked="" type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Add line numbers to the status data points in the Schedule T footnote.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of this proposal is to clarify the line numbers each status is to be reported.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

ANNUAL STATEMENT BLANK – HEALTH

SCHEDULE T – PREMIUMS AND OTHER CONSIDERATIONS
Allocated by States and Territories

State, Etc.	1 Active Status (a)	Direct Business Only							
		2 Accident & Health Premiums	3 Medicare Title XVIII	4 Medicaid Title XIX	5 CHIP Title XXI	6 Federal Employees Health Benefits Plan Premiums	7 Life & Annuity Premiums & Other Considerations	8 Property/ Casualty/ Premiums	9 Total Columns 2 Through 8	10 Deposit- Type Contracts



DETAILS OF WRITE-INS										
58001.	XXX									
58002.	XXX									
58003.	XXX									
58998. Summary of remaining write-ins for Line 58 from overflow page	XXX									
58999. Totals (Lines 58001 through 58003 plus 58998) (Line 58 above)	XXX									

(a) Active Status Counts:

L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	R - Registered - Non-domiciled RRGs
E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	Q - Qualified - Qualified or accredited reinsurer
N - None of the above - Not allowed to write business in the state	
1. L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	4. Q - Qualified - Qualified or accredited reinsurer
2. R - Registered - Non-domiciled RRGs	5. N - None of the above - Not allowed to write business in the state
3. E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	
3. E - Eligible - Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile - See DSLI)	5. N - None of the above - Not allowed to write business in the state
3. R - Registered - Non-domiciled RRGs	

(b) Explanation of basis of allocation by states, premiums by state, etc.

ANNUAL STATEMENT BLANK – LIFE/FRATERNAL

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS
Allocated by States and Territories

States, Etc.	1 Active Status (a)	Direct Business Only					
		Life Contracts		4 Accident and Health Insurance Premiums, Including Policy, Membership and Other Fees	5 Other Considerations	6 Total Columns 2 through 5 (b)	7 Deposit -Type Contracts
		2 Life Insurance Premiums	3 Annuity Considerations				



DETAILS OF WRITE-INS							
58001.	XXX						
58002.	XXX						
58003.	XXX						
58998. Summary of remaining write-ins for Line 58 from overflow page	XXX						
58999. Total (Lines 58001 through 58003 + 58998) (Line 58 above)	XXX						
9401.	XXX						
9402.	XXX						
9403.	XXX						
9498. Summary of remaining write-ins for Line 94 from overflow page	XXX						
9499. Total (Lines 9401 through 9403 + 9498) (Line 94 above)	XXX						

(a) Active Status Counts:

L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	R - Registered - Non-domiciled RRGs
E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	Q - Qualified - Qualified or accredited reinsurer
N - None of the above - Not allowed to write business in the state	
1. L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	4. Q - Qualified - Qualified or accredited reinsurer
2. R - Registered - Non-domiciled RRGs	5. N - None of the above - Not allowed to write business in the state
3. E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	
3. E - Eligible - Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile - See DSLI)	5. N - None of the above - Not allowed to write business in the state
3. R - Registered - Non-domiciled RRGs	

(b) Explanation of basis of allocation by states, etc., of premiums and annuity considerations

(c) Column 4 should balance with Exhibit I, Lines 6.4, 10.4 and 16.4, Cols. 8, 9 and 10, or with Schedule H, Part I, Column 1, Line 1 indicate which; _____

ANNUAL STATEMENT BLANK – PROPERTY

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN
Allocated By States And Territories

Table with 9 columns: States, etc.; Active Status (a); Direct Premiums Written; Direct Premiums Earned; Dividends Paid or Credited to Policyholders on Direct Business; Direct Losses Paid (Deducting Salvage); Direct Losses Incurred; Direct Losses Unpaid; Finance and Service Charges Not Included in Premiums; Direct Premium Written for Federal Purchasing Groups (Included in Col. 2).

Detail Eliminated to Conserve Space

DETAILS OF WRITE-INS table with columns for line numbers (58001-58999) and corresponding values in columns 2-9.

(a) Active Status Counts:

Legend table for Active Status Counts with 6 columns and 6 rows of codes and descriptions.

(b) Explanation of basis of allocation of premiums by states, etc.

ANNUAL STATEMENT BLANK – TITLE

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN
By States and Territories

Table with 10 columns: States, etc.; Active Status (a); Premium Rate (b); Direct Premiums Written Agency Operations (Direct Operations, Non-affiliated Agencies, Affiliated Agencies); Other Income; Net Premiums Earned; Direct Losses and Allocated Loss Adjustment Expenses Paid; Direct Losses and Allocated Loss Adjustment Expenses Incurred; Direct Known Claim Reserve.

Detail Eliminated to Conserve Space

DETAILS OF WRITE-INS table with columns for line numbers (58001-58999) and corresponding values in columns 2-10.

(a) Active Status Counts:

Legend table for Active Status Counts with 6 columns and 6 rows of codes and descriptions.

(b) Each type of rate must be coded with a combination of the five activity codes (R, S, X, C, and/or E) listed in the instructions. Use the code combination corresponding to the state's statutory definitions of title insurance premium. If more than one combination of activities is indicated in the statutory definition, all relevant combinations must be listed. See the Schedule T instructions.

QUARTERLY STATEMENT BLANK – HEALTH

SCHEDULE T – PREMIUMS AND OTHER CONSIDERATIONS
Current Year to Date – Allocated by States and Territories

State, Etc.	1 Active Status (a)	Direct Business Only								
		2 Accident & Health Premiums	3 Medicare Title XVIII	4 Medicaid Title XIX	5 CHIP Title XXI	6 Federal Employees Health Benefits Program Premiums	7 Life & Annuity Premiums & Other Considerations	8 Property/Casualty Premiums	9 Total Columns 2 Through 8	10 Deposit-Type Contracts

Detail Eliminated to Conserve Space

DETAILS OF WRITE-INS										
58001.	XXX	.....	.....	.....	.....	.....	.....	.....	.....	.....
58002.	XXX	.....	.....	.....	.....	.....	.....	.....	.....	.....
58003.	XXX	.....	.....	.....	.....	.....	.....	.....	.....	.....
58998. Summary of remaining write-ins for Line 58 from overflow page.....	XXX	.....	.....	.....	.....	.....	.....	.....	.....	.....
58999. Totals (Lines 58001 through 58003 plus 58998) (Line 58 above)	XXX	.....	.....	.....	.....	.....	.....	.....	.....	.....

(a) Active Status Counts:

1 - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	R - Registered - Non-domiciled RRGs
2 - Eligible - Reporting entities eligible or approved to write surplus lines in the state	Q - Qualified - Qualified or accredited reinsurer
3 - None of the above - Not allowed to write business in the state	
1 - L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	4 - Q - Qualified - Qualified or accredited reinsurer
2 - R - Registered - Non-domiciled RRGs	5 - N - None of the above - Not allowed to write business in the state
3 - E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	
4 - E - Eligible - Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile - See DSLI)	5 - N - None of the above - Not allowed to write business in the state
5 - R - Registered - Non-domiciled RRGs	

QUARTERLY STATEMENT BLANK – LIFE\FRATERNAL

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS
Current Year To Date - Allocated by States and Territories

States, Etc.	1 Active Status (a)	Direct Business Only				
		Life Contracts		4 Accident and Health Insurance Premiums, Including Policy, Membership and Other Fees	5 Other Considerations	6 Total Columns 2 Through 5	7 Deposit-Type Contracts
2 Life Insurance Premiums	3 Annuity Considerations					

Detail Eliminated to Conserve Space

DETAILS OF WRITE-INS							
58001.	XXX	.....	.....	.....	.....	.....	.....
58002.	XXX	.....	.....	.....	.....	.....	.....
58003.	XXX	.....	.....	.....	.....	.....	.....
58998. Summary of remaining write-ins for Line 58 from overflow page.....	XXX	.....	.....	.....	.....	.....	.....
58999. Total (Lines 58001 through 58003 + 58998) (Line 58 above)	XXX	.....	.....	.....	.....	.....	.....
9401.	XXX	.....	.....	.....	.....	.....	.....
9402.	XXX	.....	.....	.....	.....	.....	.....
9403.	XXX	.....	.....	.....	.....	.....	.....
9498. Summary of remaining write-ins for Line 94 from overflow page.....	XXX	.....	.....	.....	.....	.....	.....
9499. Total (Lines 9401 through 9403 + 9498) (Line 94 above)	XXX	.....	.....	.....	.....	.....	.....

(a) Active Status Counts:

1 - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	R - Registered - Non-domiciled RRGs
2 - Eligible - Reporting entities eligible or approved to write surplus lines in the state	Q - Qualified - Qualified or accredited reinsurer
3 - None of the above - Not allowed to write business in the state	
1 - L - Licensed or Chartered - Licensed insurance carrier or domiciled RRG	4 - Q - Qualified - Qualified or accredited reinsurer
2 - R - Registered - Non-domiciled RRGs	5 - N - None of the above - Not allowed to write business in the state
3 - E - Eligible - Reporting entities eligible or approved to write surplus lines in the state	
4 - E - Eligible - Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile - See DSLI)	5 - N - None of the above - Not allowed to write business in the state
5 - R - Registered - Non-domiciled RRGs	

QUARTERLY STATEMENT BLANK – PROPERTY

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN
Current Year to Date – Allocated by States and Territories

States, etc.	1 Active Status (a)	Direct Premiums Written		Direct Losses Paid (Deducting Salvage)		Direct Losses Unpaid	
		2 Current Year To Date	3 Prior Year To Date	4 Current Year To Date	5 Prior Year To Date	6 Current Year To Date	7 Prior Year To Date



DETAILS OF WRITE-INS							
58001.	XXX	.....	.....	.....	.....	.....	.....
58002.	XXX	.....	.....	.....	.....	.....	.....
58003.	XXX	.....	.....	.....	.....	.....	.....
58998. Summary of remaining write-ins for Line 58 from overflow page	XXX	.....	.....	.....	.....	.....	.....
58999. TOTALS (Lines 58001 through 58003 plus 58998) Line 58 above)	XXX	.....	.....	.....	.....	.....	.....

(a) Active Status Counts:

L – Licensed or Chartered – Licensed insurance carrier or domiciled RRG	R – Registered – Non-domiciled RRGs
E – Eligible – Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile – See DSLI)	Q – Qualified – Qualified or accredited reinsurer
D – Domestic Surplus Lines Insurer (DSLII) – Reporting entities authorized to write surplus lines in the state of domicile	N – None of the above – Not allowed to write business in the state
1. L – Licensed or Chartered – Licensed insurance carrier or domiciled RRG	4. Q – Qualified – Qualified or accredited reinsurer
2. R – Registered – Non-domiciled RRGs	5. D – Domestic Surplus Lines Insurer (DSLII) – Reporting entities authorized to write surplus lines in the state of domicile
3. E – Eligible – Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile – See DSLI)	6. N – None of the above – Not allowed to write business in the state
1. L – Licensed or Chartered – Licensed insurance carrier or domiciled RRG	4. R – Registered – Non-domiciled RRGs
2. E – Eligible – Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile – See DSLI)	5. Q – Qualified – Qualified or accredited reinsurer
3. D – Domestic Surplus Lines Insurer (DSLII) – Reporting entities authorized to write surplus lines in the state of domicile	6. N – None of the above – Not allowed to write business in the state

QUARTERLY STATEMENT BLANK – TITLE

SCHEDULE T—EXHIBIT OF PREMIUMS WRITTEN
Current Year to Date – By States and Territories

States, etc.	1 Active Status (a)	Direct Premiums Written		Direct Losses and Allocated Loss Adjustment Expenses Paid (Deducting Salvage)		Direct Known Claim Reserve	
		2 Current Year To Date	3 Prior Year To Date	4 Current Year To Date	5 Prior Year To Date	6 Current Year To Date	7 Prior Year To Date



DETAILS OF WRITE-INS							
58001.	XXX	.....	.....	.....	.....	.....	.....
58002.	XXX	.....	.....	.....	.....	.....	.....
58003.	XXX	.....	.....	.....	.....	.....	.....
58998. Summary of remaining write-ins for Line 58 from overflow page	XXX	.....	.....	.....	.....	.....	.....
58999. TOTALS (Lines 58001 through 58003 plus 58998) Line 58 above)	XXX	.....	.....	.....	.....	.....	.....

(a) Active Status Counts:

L – Licensed or Chartered – Licensed insurance carrier or domiciled RRG	R – Registered – Non-domiciled RRGs
E – Eligible – Reporting entities eligible or approved to write surplus lines in the state	Q – Qualified – Qualified or accredited reinsurer
N – None of the above – Not allowed to write business in the state	
1. L – Licensed or Chartered – Licensed insurance carrier or domiciled RRG	4. Q – Qualified – Qualified or accredited reinsurer
2. R – Registered – Non-domiciled RRGs	5. N – None of the above – Not allowed to write business in the state
3. E – Eligible – Reporting entities eligible or approved to write surplus lines in the state	
4. E – Eligible – Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile – See DSLI)	5. N – None of the above – Not allowed to write business in the state
5. R – Registered – Non-domiciled RRGs	

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2B06_2022-05BWG_Modified.docx

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>02/28/2022</u></p> <p>CONTACT PERSON: <u>Crystal Brown</u></p> <p>TELEPHONE: <u>816-783-8146</u></p> <p>EMAIL ADDRESS: <u>cbrown@naic.org</u></p> <p>ON BEHALF OF: <u>Health Risk-Based Capital (E) WG</u></p> <p>NAME: <u>Steve Drutz</u></p> <p>TITLE: <u>Chair</u></p> <p>AFFILIATION: <u>WA Office of the Insurance Commissioner</u></p> <p>ADDRESS: _____</p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-06BWG MOD</u></p> <p>Year <u>2022</u></p> <p>Changes to Existing Reporting [X]</p> <p>New Reporting Requirement []</p> <hr/> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact [X]</p> <p>Modifies Required Disclosure []</p> <hr/> <p style="text-align: center;">DISPOSITION</p> <p>[] Rejected For Public Comment</p> <p>[] Referred To Another NAIC Group</p> <p>[] Received For Public Comment</p> <p>[X] Adopted Date <u>05/25/2022</u></p> <p>[] Rejected Date _____</p> <p>[] Deferred Date _____</p> <p>[] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|--------------------------------------|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Revise the Health Annual Statement Test language

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of the change is to move those filers who write predominantly health business and file on the life blank to begin filing on the health blank.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

The Health Test Ad Hoc Group of the Health Risk-Based Capital (E) Working Group continues to discuss and review any potential modifications to premium and reserve ratios. The group will continue to evaluate if there should be changes and if so, will propose this to the Blanks (E) Working Group in a separate proposal for consideration in future years.

The references to the Life & Property & Casualty General Interrogatories were changed from pulling from RBC to instead pull from the Analysis of Operations By Lines of Business – Accident and Health and Underwriting & Investment Exhibit, Part 1B, respectively. The life General Interrogatory references will be further updated if proposal 2021-17BWG is adopted.

12-16-21 – Exposed to the Health and Life Risk-Based Capital (E) Working Groups for 40 days.

1-5-22 – Revised Health Annual Statement Instructions – General Interrogatories – Line 2.1 – Premium Numerator for additional clarity.

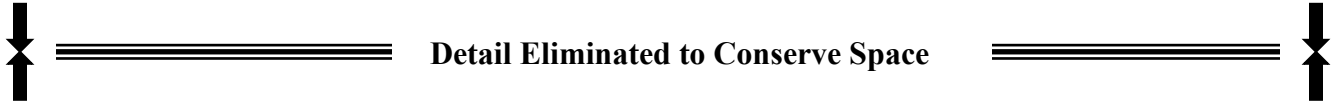
1-27-22 – Revised the Life and P/C Annual Statement Instructions – General Interrogatories for the Reserve Numerator.

1-28-22 – Two comment letters received. Re-exposed to the Health and Life Risk-Based Capital (E) Working Groups for changes to the Reserve Numerator for 15 days. Comments due 2-14-22.

2-14-22 – No comments were received.

2-25-22 – Health Risk-Based Capital Working Group agreed to refer the proposal to the Blanks (E) Working Group for exposure and consideration.

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – HEALTH**INSTRUCTIONS****For Completing Health Annual Statement Blank****Detail Eliminated to Conserve Space****GENERAL**

The annual statement is to be completed in accordance with the *Annual Statement Instructions* and *Accounting Practices and Procedures Manual* except to the extent that state law, rules or regulations are in conflict with these publications. In cases of conflict, the health annual statement will be filed pursuant to such state's filing requirements. The domiciliary state's insurance regulatory authority shall maintain full discretion in determining which NAIC annual statement blank must be filed. The annual statement blank filed with the domiciliary state shall be the blank submitted to, and maintained by, the NAIC, and barring conflict as described above, should be filed with all jurisdictions in which the reporting entity is licensed.

1. Health Statement Test:

If a reporting entity completes the health annual statement for the reporting year, the reporting entity must complete the Health Statement Test.

The Health Statement Test is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers' compensation, accidental death and dismemberment policies and long-term care policies.

Passing the Test:

A reporting entity is deemed to have passed the Health Statement Test if the values for the premium and reserve ratios in the Health Statement Test equal or exceed 95% for both the reporting and prior year [and will continue to report on the Health Statement](#).

Failing the Test:

If a reporting entity, licensed as a life, accident and health or property and casualty insurer in its domiciliary state, is required to file the health annual statement for the reporting year and does not pass the Health Statement Test in the reporting year, it will revert to the annual statement form and risk-based capital report associated with the type of license held in its domestic state in the first quarter of the second year following the reporting year. If a reporting entity, licensed as a health insurer in its domiciliary state, is required to file the health annual statement for the reporting year and does not pass the Health Statement Test in the reporting year, it should continue to file the health annual statement.

Variations from following these instructions:

If a reporting entity’s domestic regulator requires the reporting entity to complete an annual statement form and risk-based capital report that differs from these instructions, the domestic regulator shall notify the reporting entity in writing by June 1 of the year following the reporting year in which a Health Statement Test is submitted.

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Detail Eliminated to Conserve Space
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GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

=====
Detail Eliminated to Conserve Space
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PART 2 – HEALTH INTERROGATORIES

=====
Detail Eliminated to Conserve Space
=====

- This General Interrogatory is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers’ compensation, accidental death and dismemberment policies and long-term care policies.

All reporting entities should file the test.

Premium and reserve information is obtained from the annual statement sources referenced on the form or from the related risk-based capital report for the corresponding premium descriptions relating to the current and prior reporting periods.

Item	Description	Reporting Year Annual Statement Data	Prior Year Annual Statement Data
2.1	Premium Numerator	Health Premium values listed in the Analysis of Operations by Lines of Business (Gain and Loss Exhibit) , Line 1, Column 24 through Column 89 plus Line 1, Column 9 in part (in part excluding for credit A&H and dread disease coverage, LTC, Disability Income), Column 10 of the reporting year’s annual statement of the reporting year’s annual statement.	Health Premium values listed in the Analysis of Operations by Lines of Business (Gain and Loss Exhibit) , Line 1, Column 24 through Column 8 plus Line 1, Column 9 in part 9 (excluding in part for credit A&H and dread disease coverage, LTC, Disability Income) Column 10 of the reporting year’s annual statement of the reporting year’s annual statement.
2.2	Premium Denominator	Net Premium Income Premium and Annuity Considerations (Page 4, Line 2, Column 2) of the reporting year’s annual statement.	Premium and Annuity Considerations Net Premium Income (Page 4, Line 2, Column 2) of the prior year’s annual statement.
2.3	Premium Ratio	2.1/2.2	2.1/2.2

2.4 (a)	Reserve Numerator	Health Reserve – Underwriting and Investment Exhibit, Part 2B (Column 3 + 4, Line 13 minus Line 11) exclude Line 10 health care receivables, dread disease coverage, and credit A&H + Part 2D (Line 8, Column 1 minus Column 9) include stand-alone health care related plans only (i.e. stand-alone prescription drug plans, etc.), exclude dread disease coverage, credit A&H, LTC, Disability Income, etc. of the reporting year’s annual statement.	Health Reserve – Underwriting and Investment Exhibit, Part 2B (Column 3 + 4, Line 13 minus Line 11) exclude Line 10 health care receivables, dread disease coverage, and credit A&H + Part 2D (Line 8, Column 1 minus Column 9) include stand-alone health care related plans only (i.e. stand-alone prescription drug plans, etc.), exclude dread disease coverage, credit A&H, LTC, Disability Income, etc. of the reporting year’s annual statement.
2.5	Reserve Denominator	Claims Unpaid and Aggregate Reserves (Page 3, Column 3, Lines 1 + 2 + 4 + 7) of the reporting year’s annual statement.	Claims Unpaid and Aggregate Reserves (Page 3, Column 3, Lines 1 + 2 + 4 + 7) of the prior year’s annual statement.
2.6	Reserve Ratio	2.4/2.5	2.4/2.5

- (a) Alternative Reserve Numerator – Alternative Reserve Numerator – Company records may be used to adjust the reserve numerator to provide consistency between the values reported in the reserve numerator (2.4) and the premium numerator (2.1).

DRAFTING NOTE: The Prior Year Annual Statement Data column will go in to affect Annual 2023


Detail Eliminated to Conserve Space

ANNUAL STATEMENT INSTRUCTIONS – LIFE\FRATERNAL**INSTRUCTIONS****For Completing Life, Accident and Health Companies/Fraternal Benefit Societies Annual Statement Blank****FOREWORD**

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Detail Eliminated to Conserve Space
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GENERAL

The annual statement is to be completed in accordance with the *Annual Statement Instructions* and *Accounting Practices and Procedures Manual* except to the extent that state law, rules or regulations are in conflict with these publications. In cases of conflict, the life, accident and health annual statement will be filed pursuant to such state's filing requirements. The domiciliary state's insurance regulatory authority shall maintain full discretion in determining which NAIC annual statement blank must be filed. The annual statement blank filed with the domiciliary state shall be the blank submitted to, and maintained by, the NAIC, and barring conflict as described above, should be filed with all jurisdictions in which the reporting entity is licensed.

1. Health Statement Test:

If a reporting entity is licensed as a life and health insurer and completes the life, accident and health annual statement for the reporting year, the reporting entity must complete the Health Statement Test. However, a reporting entity that is required to also file the Separate Accounts Statement is not subject to the results of the Health Statement Test, and should continue to complete the life, accident and health/fraternal blank.

The Health Statement Test is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers' compensation, accidental death and dismemberment policies and long-term care policies.

Passing the Test:

A reporting entity is deemed to have passed the Health Statement Test if:

The values for the premium and reserve ratios in the Health Statement Test equal or exceed 95% for both the reporting and prior year.

~~AND~~

~~The entity passing Health Statement Test is licensed and actively issuing and/or renewing business in five states or less.~~

~~AND~~

~~At least seventy five percent (75%) of the entity's current year premiums are written in its domiciliary state.~~

~~OR~~

~~The values for the premium and reserve ratios in the Health Statement Test equal 100% for both the reporting and prior year, regardless of the number of states in which the entity is licensed.~~

If a reporting entity is a) licensed as a life and health insurer; b) completes the Life, Accident and Health annual statement for the reporting year; and c) passes the Health Statement Test (as described above), the reporting entity must complete the health statement beginning with the first quarter’s statement for the second year following the reporting year in which the reporting entity passes the Health Statement Test and must also file the corresponding risk-based capital report and the life supplements for that year-end.

Variations from following these instructions:

If a reporting entity’s domestic regulator requires the reporting entity to complete an annual statement form and risk-based capital report that differs from these instructions, the domestic regulator shall notify the reporting entity in writing by June 1 of the year following the reporting year in which a Health Statement Test is submitted.

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===== **Detail Eliminated to Conserve Space** =====
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GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

↓
===== **Detail Eliminated to Conserve Space** =====
↑

PART 2 – LIFE ACCIDENT HEALTH COMPANIES/FRATERNAL BENEFIT SOCIETIES INTERROGATORIES

↓
===== **Detail Eliminated to Conserve Space** =====
↑

- 2. This General Interrogatory is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers compensation, accidental death and dismemberment policies and long-term care policies.

All reporting entities should file the test; [however, a reporting entity that is required to also file the Separate Accounts Statement is not subject to the results of the Health Statement Test, and should continue to complete the life, accident and health/fraternal blank.](#)

Premium and reserve information is obtained from the annual statement sources referenced on the form or from the related risk-based capital report for the corresponding premium descriptions relating to the current and prior reporting periods.

Item	Description	Reporting Year Annual Statement Data	Prior Year Annual Statement Data
2.1	Premium Numerator	<p>Health Premium values listed in the<u>the</u> Analysis of Operations By Lines of Business – Accident and Health: statement value column (Column 1) of the reporting year’s Life RBC report:</p> <p>Individual Lines: Usual and Customary Major Medical and Hospital Comprehensive (Individual & Group) (Columns 1 & 2, Line 1) Medicare Supplement (Column 4, Line 1) Medicare Part D (Column 13 (in part), Line 1) Dental and Vision (Columns 5 & 6, Line 1) Medicare (Column 8, Line 1) Medicaid (including Medicaid Pass-Through Payments Reported as Premium) (Column 9, Line 1)</p> <p>Group Lines: Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium (Column 13 (in part), Line 1) Dental and Vision Federal Employee Health and Benefit Plan (Column 7, Line 1) Line 1, Columns 2-9 (Column 9 Medicaid should include Medicaid Pass-Through Payments Reported as Premium) Line 1, Column 13 in part (include only Medicare Part D and Stop Loss and Minimum Premium)</p>	<p>Health Premium values listed in the statement value column (Column 1) of the reporting year’s Life RBC report<u>Analysis of Operations By Lines of Business – Accident and Health:</u></p> <p>Individual Lines: Comprehensive (Individual & Group) (Columns 1 & 2, Line 1)<u>Usual and Customary Major Medical and Hospital Medicare Supplement (Column 4, Line 1)</u> Medicare Part D (Column 13 (in part), Line 1) Dental and Vision (Columns 5 & 6, Line 1) Medicare (Column 8, Line 1) Medicaid (including Medicaid Pass-Through Payments Reported as Premium) (Column 9, Line 1)</p> <p>Group Lines: Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium (Column 13 (in part), Line 1) Dental and Vision Federal Employee Health and Benefit Plan (Column 7, Line 1) Line 1, Columns 2-9 (Column 9 Medicaid should include Medicaid Pass-Through Payments Reported as Premium) Line 1, Column 13 in part (include only Medicare Part D and Stop Loss and Minimum Premium)</p>
2.2	Premium Denominator	Premium and Annuity Considerations (Page 4, Line 1) of the reporting year’s annual statement	Premium and Annuity Considerations (Page 4, Line 1) of the prior year’s annual statement
2.3	Premium Ratio	2.1/2.2	2.1/2.2
2.4(a)	Reserve Numerator	Net A&H Policy and Contract Claims without Credit Health (Exhibit 8, Part 1, Line 4.4, Columns 9 and Column <u>11 (excluding Dread Disease, Disability Income and Long-Term Care)</u>) plus Aggregate Reserves for A&H Policies without Credit Health (Exhibit 6, Column 1 less Columns 10, 11, 12 and Dread Disease included in Column 13 <u>10, 11, 12 and Dread Disease included in Column 13</u>) for Unearned Premiums (Line 1) and Future Contingent Benefits (Line 4)	Net A&H Policy and Contract Claims without Credit Health (Exhibit 8, Part 1, Line 4.4, Columns 9 and Column <u>11 (excluding Dread Disease, Disability Income, and Long-Term Care)</u>) plus Aggregate Reserves for A&H Policies without Credit Health (Exhibit 6, Column 1 less Column s 10, 11, 12 and Dread Disease included in Column 13 <u>s 10, 11, 12 and Dread Disease included in Column 13</u>) for Unearned Premiums (Line 1) and Future Contingent Benefits (Line 4)
2.5	Reserve Denominator	Aggregate Reserve (Page 3, Column 1, Lines 1+2+4.1+4.2) minus additional actuarial reserves (Exhibit 6, Column 1, Lines 3+11 plus Exhibit 5, Misc. Reserves Section, Line 0799999)	Aggregate Reserve (Page 3, Column 1, Lines 1+2+4.1+4.2) minus additional actuarial reserves (Exhibit 6, Column 1, Lines 3+11 plus Exhibit 5, Misc. Reserves Section, Line 0799999)
2.6	Reserve Ratio	2.4/2.5	2.4/2.5

(a) Alternative Reserve Numerator – Company records may be used to adjust the reserve numerator to provide consistency between the values reported in the reserve numerator (2.4) and the premium numerator (2.1).

DRAFTING NOTE: The Prior Year Annual Statement Data column will go in to affect Annual 2023

ANNUAL STATEMENT INSTRUCTIONS – PROPERTY**INSTRUCTIONS****For Completing Property and Casualty Annual Statement Blank****FOREWORD****Detail Eliminated to Conserve Space****GENERAL**

The annual statement is to be completed in accordance with the *Annual Statement Instructions* and *Accounting Practices and Procedures Manual* except to the extent that state law, rules or regulations are in conflict with these publications. In cases of conflict, the property and casualty annual statement will be filed pursuant to such state's filing requirements. The domiciliary state's insurance regulatory authority shall maintain full discretion in determining which NAIC annual statement blank must be filed. The annual statement blank filed with the domiciliary state shall be the blank submitted to, and maintained by, the NAIC, and barring conflict as described above, should be filed with all jurisdictions in which the reporting entity is licensed.

1. Health Statement Test:

If a reporting entity is licensed as a property and casualty insurer and completes the property and casualty annual statement for the reporting year, the reporting entity must complete the Health Statement Test. However, a reporting entity that is required to also file the Protected Cell Statement is not subject to the results of the Health Statement Test and should continue to complete the property blank.

The Health Statement Test is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers' compensation, accidental death and dismemberment policies and long-term care policies.

Passing the Test:

A reporting entity is deemed to have passed the Health Statement Test if:

The values for the premium and reserve ratios in the Health Statement Test equal or exceed 95% for both the reporting and prior year.

AND

~~The entity passing Health Statement Test is licensed and actively issuing and/or renewing business in five states or less.~~

AND

~~At least seventy-five percent (75%) of the entity's current year premiums are written in its domiciliary state.~~

OR

~~The values for the premium and reserve ratios in the Health Statement Test equal 100% for both the reporting and prior year, regardless of the number of states in which the entity is licensed.~~

If a reporting entity is a) licensed as a property and casualty insurer; b) completes the property and casualty annual statement for the reporting year; and c) passes the Health Statement Test (as described above), the reporting entity must complete the health statement beginning with the first quarter’s statement for the second year following the reporting year in which the reporting entity passes the Health Statement Test and must also file the corresponding risk-based capital report and the property/casualty supplements for that year-end.

Variations from following these instructions:

If a reporting entity’s domestic regulator requires the reporting entity to complete an annual statement form and risk-based capital report that differs from these instructions, the domestic regulator shall notify the reporting entity in writing by June 1 of the year following the reporting year in which a Health Statement Test is submitted.

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GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

PART 2 – PROPERTY AND CASUALTY INTERROGATORIES

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- 2. This General Interrogatory is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers compensation, accidental death and dismemberment policies and long-term care policies.

All reporting entities should file the test; [however, a reporting entity that is required to also file the Protected Cell Statement is not subject to the results of the Health Statement Test, and should continue to complete the property blank.](#)

Premium and reserve information is obtained from the annual statement sources referenced on the form or from the related risk-based capital report for the corresponding premium descriptions relating to the current and prior reporting periods.

Item	Description	Reporting Year Annual Statement Data	Prior Year Annual Statement Data
2.1	Premium Numerator	<p>Health Premium values listed in the statement value-Net Premiums Written column (Column 146) of the reporting year's P&C RBC report U&I Part 1B:</p> <p>Individual Lines: Usual and Customary Major Medical and Hospital Comprehensive (hospital and medical) (individual and group) (Lines 13.1 and 13.2) Medicare Supplement (Line 15.4) Medicare Part D (Line 15.9, in part) Dental and Vision (Lines 15.1 and 15.2) Medicare (Line 15.6) Medicaid (including Medicaid Pass-Through Payments Reported as Premium) (Line 15.5)</p> <p>Group Lines: Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium (Line 15.9, in part) Dental and Vision Federal Employee Health and Benefit Plan (Line 15.8) Lines 13.1 and 13.2 Lines 15.1, 15.2, 15.4, 15.6, and 15.8 Line 15.5 (should include Medicare Pass-Through Payments Reported as Premium) Line 15.9 in part (include only Medicare Part D and Stop Loss and Minimum Premium)</p>	<p>Health Premium values as listed in the statement value column (Column 1) of the prior year's P&C RBC report:</p> <p>Individual Lines Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Dental and Vision</p> <p>Group Lines Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium Dental and Vision Federal Employee Health and Benefit Plan Lines 13.1 and 13.2 Lines 15.1, 15.2, 15.4, 15.6, and 15.8 Line 15.5 (should include Medicare Pass-Through Payments Reported as Premium) Line 15.9 in part (include only Medicare Part D and Stop Loss and Minimum Premium)</p>
2.2	Premium Denominator	Premiums Earned (Page 4, Line 1) of the reporting year's annual statement	Premium Earned (Page 4, Line 1) of the prior year's annual statement
2.3	Premium Ratio	2.1/2.2	2.1/2.2
2.4(a)	Reserve Numerator	Part 2A, Unpaid Losses and Loss Adjustment Expenses (Columns 8+9, Lines 13+15 (excluding Line 15.3 Disability Income, Line 15.7 Long-Term Care), Line 15.9 Other Health – Dread Disease only in part (include only Medicare Part D and Stop Loss and Minimum Premium)) plus Part 1A, Recapitulation of all Premiums (Columns 1+2, Lines 13+15 (excluding Line 15.3 Disability Income, Line 15.7 Long-Term Care), Line 15.9 Other Health – Dread Disease only in part (include only Medicare Part D and Stop Loss and Minimum Premium)) of the reporting year's annual statement.	Part 2A, Unpaid Losses and Loss Adjustment Expenses (Columns 8+9, Lines 13+15 (excluding Line 15.3 Disability Income, Line 15.7 Long-Term Care), Line 15.9 Other Health – Dread Disease only in part (include only Medicare Part D and Stop Loss and Minimum Premium)) plus Part 1A, Recapitulation of all Premiums (Columns 1+2, Lines 13+15 (excluding Line 15.3 Disability Income, Line 15.7 Long-Term Care), Line 15.9 Other Health – Dread Disease only in part (include only Medicare Part D and Stop Loss and Minimum Premium)) of the prior year's annual statement.
2.5	Reserve Denominator	Unpaid Loss and LAE (Page 3, Column 1, Lines 1+2+3) plus Part 1A, Recapitulation of all Premiums (Line 35, Columns 1+2) of the reporting year's annual statement.	Unpaid Loss and LAE (Page 3, Column 1, Lines 1+2+3) plus Part 1A, Recapitulation of all Premiums (Line 35, Columns 1+2) of the prior year's annual statement.
2.6	Reserve Ratio	2.4/2.5	2.4/2.5

- (a) Alternative Reserve Numerator – Company records may be used to adjust the reserve numerator to provide consistency between the values reported in the reserve numerator (2.4) and the premium numerator (2.1).

DRAFTING NOTE: The Prior Year Annual Statement Data column will go in to affect Annual 2023

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2B07_2022-06BWG_Modified.doc

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>03/02/2022</u></p> <p>CONTACT PERSON: <u>Eric King</u></p> <p>TELEPHONE: <u>816-708-7982</u></p> <p>EMAIL ADDRESS: <u>eking@naic.org</u></p> <p>ON BEHALF OF: <u>ASOP 28 Task Force, ASB</u></p> <p>NAME: <u>Annette James, Chair, ASOP 28 Task Force</u></p> <p>TITLE: _____</p> <p>AFFILIATION: _____</p> <p>ADDRESS: _____</p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-07BWG</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

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|--|---|--------------------------------------|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Instructions to Annual Health Statement Blank, Actuarial Opinion (Actuarial Opinion Instructions):

Modify section 1A. (Definitions), of the actuarial opinion instructions to add definitions of “actuarial asset” and “actuarial liability”.

Modify sections 4 (Identification section), section 5 (Scope section), and section 7 (Opinion section) of the actuarial opinion instructions to ensure that the opinion’s prescribed wording clearly indicates that the actuary’s opinion covers actuarial assets as well as actuarial liabilities.

Modify section 9 of the actuarial opinion instructions to ensure that guidance related to the type of opinion rendered by an appointed actuary covers both actuarial assets and actuarial liabilities.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of this proposal is to revise the language in sections 1A 4, 5, 7 and 9 of the orange blank annual statement instructions related to the actuarial opinion to ensure that all items (actuarial assets and liabilities) within the scope of the statement of actuarial opinion are treated consistently. Currently, reserves and liabilities are referenced in sections 1A 4, 5, 7 and 9 of the orange blank annual statement instructions. Since actuarial assets are included in the scope of the actuarial opinion, it is important that these instructions provide guidance to appointed actuaries that apply to all actuarial items, assets as well as liabilities, included in the scope of the actuarial opinion.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

Revised 7/18/2018

ANNUAL STATEMENT INSTRUCTIONS – HEALTH

ACTUARIAL OPINION



Detail Eliminated to Conserve Space

1A. Definitions

“Insurer” means an entity authorized to write accident and health contracts under the laws of any state and which files on the Health Blank.

“Actuarial Memorandum” means a document or other presentation prepared as a formal means of conveying the appointed actuary’s professional conclusions and recommendations, of recording and communicating the methods and procedures, of assuring that the parties addressed are aware of the significance of the appointed actuary’s opinion or findings and that documents the analysis underlying the opinion. The expected content of the memorandum is further described in Section 1C.

[“Actuarial asset” means an actuarial item presented as an asset in the annual statement and included in the scope of the Statement of Actuarial Opinion.](#)

[“Actuarial liability” means an actuarial item presented as a liability in the annual statement and included in the scope of the Statement of Actuarial Opinion.](#)



Detail Eliminated to Conserve Space

- 4. The IDENTIFICATION section should specifically indicate the appointed actuary’s relationship to the company, qualifications for acting as appointed actuary, date of appointment, and should specify that the appointment was made by the Board of Directors, or its equivalent or by a committee of the Board.

A person who is not a Member of the American Academy of Actuaries but is recognized by the Academy as qualified must attach, each year, a copy of the approval letter from the Academy.

This section should contain only one of the following:

For a Member of the American Academy of Actuaries who is an employee of the organization, the opening paragraph of the opinion should contain all the following sentences if the appointed actuary is using the prescribed wording:

“I, (name and title of actuary), am an employee of (named organization) and a member of the American Academy of Actuaries. I was appointed on [date of appointment] in accordance with the requirements of the annual statement instructions. I meet the Academy qualification standards for rendering the opinion.”

For a consultant who is a Member of the American Academy of Actuaries, the opening paragraph of the opinion should contain all the following sentences if the appointed actuary is using the prescribed wording:

“I, (name and title of consultant), am associated with the firm of (name of firm). I am a member of the American Academy of Actuaries and have been retained by the (name of organization) to render an opinion with regard to loss reserves, actuarial liabilities, [actuarial assets](#) and related items. I was appointed on [date of appointment] in accordance with the requirements of the annual statement instructions. I meet the Academy qualification standards for rendering the opinion.”

For an employee other than a member of the American Academy of Actuaries, the opening paragraph of the opinion should contain both the following sentences if the appointed actuary is using the prescribed wording:

“I, (name and title), am an employee of (name of organization) and am recognized by the American Academy of Actuaries as qualified to perform actuarial valuations for organizations of this kind. I was appointed on [date of appointment] in accordance with the requirements of the annual statement instructions.”

For a consultant other than a member of the American Academy of Actuaries, the opening paragraph of the opinion should contain all the following sentences if the appointed actuary is using the prescribed wording:

“I, (name and title of consultant), am associated with the firm of (name of firm). I am recognized by the American Academy of Actuaries as qualified to perform actuarial valuations for organizations of this kind and have been retained by the (name of organization) with regard to such valuation. I was appointed on [date of appointment] in accordance with the requirements of the annual statement instructions.”

Detail Eliminated to Conserve Space

5. The SCOPE section should contain only the following statement (including all specified lines even if the value is zero) if the appointed actuary is using the prescribed wording:

“I have examined the assumptions and methods used in determining loss reserves, actuarial liabilities, [actuarial assets](#), and related items listed below, as shown in the annual statement of the organization as prepared for filing with state regulatory officials, as of December 31, 20__.

- A. Claims unpaid (Page 3, Line 1);
- B. Accrued medical incentive pool and bonus payments (Page 3, Line 2);
- C. Unpaid claims adjustment expenses (Page 3, Line 3);
- D. Aggregate health policy reserves (Page 3, Line 4) including unearned premium reserves, premium deficiency reserves and additional policy reserves from the Underwriting and Investment Exhibit, Part 2D;
- E. Aggregate life policy reserves (Page 3, Line 5);
- F. Property/casualty unearned premium reserves (Page 3, Line 6);
- G. Aggregate health claim reserves (Page 3, Line 7);
- H. Any other loss reserves, actuarial liabilities, or related items presented as liabilities in the annual statement; and
- I. Specified actuarial items presented as assets in the annual statement.”

Items H and I are not intended to include the liabilities and assets associated with benefits provided to employees of the organization, or the organization’s directors or trustees, except to the extent that such benefits are provided through insurance or annuity contracts of a type that the organization is authorized to issue in the ordinary course of its business. For example, liabilities for employee pensions generally would not be within the scope of the Actuarial Opinion. However, if the organization is licensed to issue life insurance, then liabilities arising from life insurance policies or certificates issued by the organization to its employees would be within the scope of the Actuarial Opinion just as would the comparable liabilities arising from policies or contracts issued to unrelated parties.

If there are any items included in items H or I, they should be listed using appropriate annual statement captions and line references. The phrase “Not Applicable” should be placed under the item description for either item H or I if there is nothing to be listed. Any listings under items H and I do not constitute either “additional wording” or “revised wording” for purposes of the Table of Key Indicators.

If for either item H or item I there is more than one line item to be listed, the line items under the general H or I heading should be numbered sequentially.

The amounts of any assets listed under item I should be the gross amount of the asset (Page 2, Column 1 of the Annual Statement), not the net admitted amount (Page 2, Column 3).

For items A through G listed in the SCOPE section and each sub-line for items H and I, the item label should be followed by the amount of that item as reported in the annual statement. These stated amounts do not constitute either “additional wording” or “revised wording” for purposes of the Table of Key Indicators. Where the phrase “Not Applicable” is used in item H or item I, it means that there are no such items to be included in the Opinion, so there should be no value shown as a stated amount.

For example:

- I. Specified actuarial items presented as assets in the annual statement, as follows:
 - 1. Accrued retrospective premiums (Page 2, line 15.3, column 1)



- 7. The OPINION section should include only the following statement if the appointed actuary is using the prescribed wording:

“In my opinion, the amounts carried in the balance sheet on account of the items identified above:

- A. Are in accordance with accepted actuarial standards consistently applied and are fairly stated in accordance with sound actuarial principles;
- B. Are based on actuarial assumptions relevant to contract provisions and appropriate to the purpose for which the statement was prepared;
- C. Meet the requirements of the Insurance Laws and regulations of the state of [state of domicile] and:

(Use of one the following phrases, as appropriate, is considered prescribed wording. Replacing “[list states]” with an actual list of states in parentheses is also considered prescribed wording.)

[the loss reserves and actuarial liabilities](#) are at least as great as the minimum aggregate amounts required by any state,

or

[the loss reserves and actuarial liabilities](#) are at least as great as the minimum aggregate amounts required by any state with the exception of the following states [list states]. For each listed state a separate statement of actuarial opinion was submitted to that state that complies with the requirements of that state;

- D. Make a good and sufficient provision for all unpaid claims and other actuarial liabilities of the organization under the terms of its contracts and agreements;
- E. Make a reasonable provision for all actuarial assets of the organization under the terms of its contracts and agreements;
- F. On a combined basis, make a reasonable provision for all actuarial assets and actuarial liabilities of the organization under moderately adverse conditions;
- ~~GE.~~ Are computed on the basis of assumptions and methods consistent with those used in computing the corresponding items in the annual statement of the preceding year-end; and
- ~~HF.~~ Include appropriate provision for all actuarial items that ought to be established.

The Underwriting and Investment Exhibit, Part 2B was reviewed for reasonableness and consistency with the applicable Actuarial Standards of Practice.

Actuarial methods, considerations, and analyses used in forming my opinion conform to the relevant Standards of Practice as promulgated from time to time by the Actuarial Standards Board, which standards form the basis of this statement of opinion.”

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Detail Eliminated to Conserve Space
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9. If the appointed actuary is able to form an opinion that is not qualified, adverse or inconclusive as those terms are defined below, he or she should issue a statement of unqualified opinion. If the opinion is adverse, qualified or inconclusive, the appointed actuary should issue an adverse, qualified or inconclusive opinion explicitly stating the reason(s) for such opinion. In all circumstances the category of opinion should be explicitly identified in the TABLE of KEY INDICATORS section of the Actuarial Opinion.

An adverse opinion is an actuarial opinion in which the appointed actuary determines that the reserves and liabilities are not good and sufficient, actuarial assets are not reasonable, or the actuarial assets and actuarial liabilities on a combined basis are not reasonable under moderately adverse conditions. (An adverse opinion does not meet one or more of items D, E, or F of Section 7.)

When, in the actuary’s opinion, the reserves or actuarial assets included in the scope of the opinion for a certain item or items are in question because they cannot be reasonably estimated or the actuary is unable to render an opinion on those items, the actuary should issue a qualified opinion. Such a qualified opinion should state whether the stated reserve amount makes a good and sufficient provision for the actuarial liabilities associated with the specified reserves, actuarial assets are reasonable, and combined actuarial assets and actuarial liabilities are reasonable under moderately adverse conditions except for the item or items to which the qualification relates. The actuary is not required to issue a qualified opinion if the actuary reasonably believes that the item or items in question are not likely to be material. (A qualified opinion does not meet one or more of the items A, B, C or ~~HF~~ of Section 7.)

The actuary’s ability to give an opinion is dependent upon data, analyses, assumptions and related information that are sufficient to support a conclusion. If the actuary cannot reach a conclusion due to deficiencies or limitations in the data, analyses, assumptions or related information, then the actuary should issue an inconclusive opinion. An inconclusive opinion shall include a description of the reasons a conclusion could not be reached.

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Detail Eliminated to Conserve Space
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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>03/01/2022</u></p> <p>CONTACT PERSON: <u>Kris DeFrain</u></p> <p>TELEPHONE: <u>816-783-8229</u></p> <p>EMAIL ADDRESS: <u>kdefrain@naic.org</u></p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Anna Krylova</u></p> <p>TITLE: <u>Chair</u></p> <p>AFFILIATION: <u>Actuarial Opinion Working Group</u></p> <p>ADDRESS: <u>Anna.Krylova@state.nm.us</u> <u>505-470-3580</u></p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-08BWG</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;">DISPOSITION</p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

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|--|---|--------------------------------------|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title _____ |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Changes and clarifying guidance in Sections 1, 3, and 8 of the Actuarial Opinion Instructions.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

See next page for details

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE

Proposed changes include some clean-up and clarifications in the P/C Statement of Actuarial Opinion Instructions. Changes were adopted by Actuarial Opinion (C) Working Group on 3/1/2022.

Section 1:

- Guidance on continuing education (CE) logs is no longer required because the Casualty Actuarial and Statistical (C) Task Force's CE Log project will not be reoccurring. Actuaries will refer to their respective societies for guidance on CE Logs.
- Additional guidance is provided on documentation of the board review of Qualification Documentation (QD) for companies that are part of a group whose parent board reviews QD on behalf of all subsidiaries. Guidance on this question has been requested by the industry and the Working Group has consulted the Financial Examination Handbook (E) Technical Group on the appropriate response.

Section 3: An additional requirement is added in the IDENTIFICATION paragraph for Appointed Actuaries to confirm that qualification documentation has been provided to the Board of Directors. This statement in the IDENTIFICATION paragraph will assist regulators in determining whether this requirement has been met.

Section 8: Clarification that the signature block requirements apply to the Statement of Actuarial Opinion only. The Actuarial Report should reproduce the same information, though not necessarily in the same format. It has been reported that Appointed Actuaries often provide the required information in a slightly different format within the Actuarial Report, necessitating Financial Examiners to create meaningless findings/objections just because the information doesn't follow the exact format. The Working Group members agree that the prescribed format is applicable to the Actuarial Opinion only and the format in the Actuarial Report may vary.

ANNUAL STATEMENT INSTRUCTIONS – PROPERTY**ACTUARIAL OPINION**

1. There is to be included with or attached to Page 1 of the Annual Statement the statement of the Appointed Actuary, entitled “Statement of Actuarial Opinion” (Actuarial Opinion), setting forth his or her opinion relating to reserves specified in the SCOPE paragraph. The Actuarial Opinion, both the narrative and required Exhibits, shall be in the format of and contain the information required by this section of the *Annual Statement Instructions – Property and Casualty*.

Upon initial engagement, the Appointed Actuary must be appointed by the Board of Directors by Dec. 31 of the calendar year for which the opinion is rendered. The Company shall notify the domiciliary commissioner within five business days of the initial appointment with the following information:

- a. Name and title (and, in the case of a consulting actuary, the name of the firm).
- b. Manner of appointment of the Appointed Actuary (e.g., who made the appointment and when).
- c. A statement that the person meets the requirements of a Qualified Actuary (or was approved by the domiciliary commissioner) and that documentation was provided to the Board of Directors.

Once this notification is furnished, no further notice is required with respect to this person unless the Board of Directors takes action to no longer appoint or retain the actuary or the actuary no longer meets the requirements of a Qualified Actuary.

If subject to the *U.S. Qualification Standards*, the Appointed Actuary shall annually attest to having met the continuing education requirements under Section 3 of the *U.S. Qualification Standards* for issuing Actuarial Opinions. As agreed with the actuarial organizations, the Casualty Actuarial Society (CAS) and Society of Actuaries (SOA) will determine the process for receiving the attestations for their respective members and make available the attestations to the public. An Appointed Actuary subject to the *U.S. Qualification Standards* and not a member of the CAS or SOA shall select one of the above organizations to submit their attestation.

~~In accordance with the CAS and SOA’s continuing education review procedures, an Appointed Actuary who is subject to the *U.S. Qualification Standards* and selected for review shall submit a log of their continuing education in a form determined by the CAS and SOA. The log shall include categorization of continuing education approved for use by the Casualty Actuarial and Statistical Task Force. As agreed with the actuarial organizations, the CAS and SOA will provide an annual consolidated report to the NAIC identifying the types and subject matter of continuing education being obtained by Appointed Actuaries. An Appointed Actuary subject to the *U.S. Qualification Standards* and not a member of the CAS or SOA shall follow the review procedures for the organization in which they submitted their attestation.~~

The Appointed Actuary shall provide to the Board of Directors qualification documentation on occasion of their appointment, and on an annual basis thereafter, directly or through company management. The documentation should include brief biographical information and a description of how the definition of “Qualified Actuary” is met or expected to be met (in the case of continuing education) for that year. The documentation should describe the Appointed Actuary’s responsible experience relevant to the subject of the Actuarial Opinion. The Board of Directors shall document ~~the company’s~~ their review of those materials and any other information they may deem relevant, including information that may be requested directly from the Appointed Actuary. It is generally expected that the review of the Appointed Actuary’s qualification documentation should take place at the level within a holding company structure that is responsible for overseeing insurance operations. If a statutory entity is a subsidiary or a non-lead pool member with an Appointed Actuary whose qualifications were reviewed by the pool lead or principal’s Board, the statutory entity’s Board can satisfy the review requirement by acknowledging the parent Board’s review. This can be done by noting in the meeting minutes the name of the principal or lead entity and the date the parent Board reviewed the qualification documentation, or by attaching a copy of the parent Board’s meeting minutes reflecting their review of the qualification documentation. The qualification documentation shall be considered workpapers and be available for inspection upon regulator request or during a financial examination.

If an actuary who was the Appointed Actuary for the immediately preceding filed Actuarial Opinion is replaced by an action of the Board of Directors, the Insurer shall within five (5) business days notify the Insurance Department of the state of domicile of this event. The Insurer shall also furnish the domiciliary commissioner with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former Appointed Actuary regarding the content of the opinion on matters of the risk of material adverse deviation, required disclosures, scope, procedures, type of opinion issued, substantive wording of the opinion or data quality. The disagreements required to be reported in response to this paragraph include both those resolved to the former Appointed Actuary's satisfaction and those not resolved to the former Appointed Actuary's satisfaction. The letter should include a description of the disagreement and the nature of its resolution (or that it was not resolved). Within this same ten (10) business days, the Insurer shall in writing also request such former Appointed Actuary to furnish a letter addressed to the Insurer stating whether the Appointed Actuary agrees with the statements contained in the Insurer's letter and, if not, stating the reasons for which he or she does not agree. The former Appointed Actuary shall provide a written response to the insurer within ten (10) business days of such request, and the Insurer shall furnish such responsive letter from the former Appointed Actuary to the domiciliary commissioner together with its own responses.

The Appointed Actuary must report to the Board of Directors each year on the items within the scope of the Actuarial Opinion. The Actuarial Opinion and the Actuarial Report must be made available to the Board of Directors. The minutes of the Board of Directors should indicate that the Appointed Actuary has presented such information to the Board of Directors and identify the manner of presentation (e.g., webinar, in-person presentation, written). A separate Actuarial Opinion is required for each company filing an Annual Statement. When there is an affiliated company pooling arrangement, one Actuarial Report for the aggregate pool is sufficient, but there must be addendums to the Actuarial Report to cover non-pooled reserves for individual companies.

The Actuarial Opinion and the supporting Actuarial Report and workpapers should be consistent with the appropriate Actuarial Standards of Practice (ASOPs), including, but not limited to, ASOP No. 23, ASOP No. 36, ASOP No. 41 and ASOP No. 43, as promulgated by the Actuarial Standards Board.

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1C. Reporting Requirements for Pooled Companies

For each company in the pool, the Appointed Actuary shall include a description of the pool, identification of the lead company and a listing of all companies in the pool, their state of domicile and their respective pooling percentages.

Exhibits A and B for each company in the pool should represent the company's share of the pool and should reconcile to the financial statement for that company.

The following paragraph applies to companies that have a 0% share of the pool (no reported Schedule P data). The company shall submit an Actuarial Opinion that reads similar to that provided for the lead company. For example, the IRIS ratio and risk of material adverse deviation discussions, and other relevant comments shall relate to the risks of the lead company in the pool. The Exhibit B responses to question 5 should be \$0 and to question 6 should be "not applicable." Exhibits A and B of the lead company should be attached as an addendum to the PDF file and/or hard copy being filed (but would not be reported by the 0% companies in their data capture).

2. The Actuarial Opinion must consist of an IDENTIFICATION paragraph identifying the Appointed Actuary; a SCOPE paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the Appointed Actuary's work; an OPINION paragraph expressing his or her opinion with respect to such subjects; and one or more additional RELEVANT COMMENTS paragraphs. These four sections must be clearly designated.

- 3. The IDENTIFICATION paragraph should indicate the Appointed Actuary’s relationship to the Company, qualifications for acting as Appointed Actuary and date of appointment and specify that the appointment was made by the Board of Directors. Additionally, the IDENTIFICATION paragraph should include a statement asserting that the Appointed Actuary has complied with the requirement to provide qualification documentation to the Board of Directors, either directly or through company management.

If the Appointed Actuary was approved by the Academy to be a “Qualified Actuary,” with or without limitation, or if the Appointed Actuary is not a Qualified Actuary but was approved by the domiciliary commissioner, the company must attach, each year, the approval letter and reference such in the identification paragraph.



Detail Eliminated to Conserve Space

- 8. The Actuarial Opinion ~~and the Actuarial Report~~ should conclude with the signature of the Appointed Actuary responsible for providing the Actuarial Opinion and the ~~respective dates~~ date when the Actuarial Opinion was rendered ~~and the Actuarial Report finalized~~. The signature and date should appear in the following format:

 Signature of Appointed Actuary
 Printed name of Appointed Actuary
 Employer’s name
 Address of Appointed Actuary
 Telephone number of Appointed Actuary
 Email address of Appointed Actuary
 Date opinion was rendered

The same information should be reproduced within the Actuarial Report, along with the date the Actuarial Report was finalized.



Detail Eliminated to Conserve Space

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>03/03/2022</u></p> <p>CONTACT PERSON: <u>Pat Allison</u></p> <p>TELEPHONE: <u>816-783-8528</u></p> <p>EMAIL ADDRESS: <u>pallison@naic.org</u></p> <p>ON BEHALF OF: <u>LATF</u></p> <p>NAME: <u>Mike Boerner, Chair</u></p> <p>TITLE: _____</p> <p>AFFILIATION: _____</p> <p>ADDRESS: _____</p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-09BWG</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <p style="text-align: center;"><u>REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</u></p> <p>No Impact [X] Modifies Required Disclosure []</p> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|--------------------------------------|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input checked="" type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input checked="" type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

See next page for details of changes to the VM-20 Reserves Supplement and Supplemental Exhibits and Schedules Interrogatories (Quarterly Statement).

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

Changing the reporting for the Life PBR Exemption, corresponding to changes in the Life PBR Exemption in the Valuation Manual.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

IDENTIFICATION OF ITEM(S) TO CHANGE

VM-20 Reserves Supplement Blank:

- Part 2: Add Question 3, a disclosure of the year that the Life PBR Exemption was actively filed and a confirmation of the eligibility criteria in the case of ongoing exemptions. Also, correct references to a state “granting” an exemption, since this is often not the case (e.g., the exemption may be allowed).

VM-20 Reserves Supplement Instructions:

- Add instructions for the new disclosure item, Question 3. Also, correct references to a state “granting” an exemption, since this is often not the case (e.g., the exemption may be allowed).

Supplemental Exhibits and Schedules Interrogatories (Quarterly Statement):

- For Question 8, add instructions for how to respond if the company is utilizing the ongoing exemption. The same instructions can also be found in the *Valuation Manual*, Section II, Subsection 1.G.1.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL

VM-20 RESERVES SUPPLEMENT – PART 2**Life PBR Exemption**

This section of the Supplement should be completed by a company that ~~has filed~~ was allowed and been granted a Life PBR Exemption ~~from~~ by its state of domicile. Depending on state requirements, “allowed” may mean “granted”, “acknowledged”, “not rejected”, or similar language.

If a company ~~has~~ was allowed a Life PBR Exemption by its state of domicile ~~been granted a Life PBR Exemption~~, the company must indicate the source of the Life PBR Exemption, which could be defined in a state statute, a state regulation or in the NAIC-adopted *Valuation Manual*. If the source of the ~~granted~~ Life PBR Exemption is not the NAIC-adopted *Valuation Manual*, the company must disclose the criteria of the state’s Life PBR Exemption that the company has met, and the company must disclose the minimum reserve requirements that are required by the state of domicile. If the minimum reserve requirements of the state of domicile are the same as those specified in the NAIC-adopted *Valuation Manual*, the company may indicate: “Same as NAIC VM”. If the criteria for the Life PBR Exemption is the same as or substantially similar to the NAIC-adopted *Valuation Manual*, the company must also disclose the calendar year that the Life PBR Exemption was filed with and allowed by its state of domicile. If that calendar year is prior to the year of the annual statement, then the company must confirm that they meet the criteria for an ongoing exemption.

Companies whose individual ordinary life business is exempted from the requirements of VM-20 pursuant to a Life PBR Exemption are not required to complete Part 1 of this VM-20 Supplement.

VM-20 RESERVES SUPPLEMENT – PART 2
Life PBR Exemption
For The Year Ended December 31, 20__
(To Be Filed by March 1)

Life PBR Exemption as defined in the NAIC adopted Valuation Manual (VM)

1. Has the company ~~been allowed~~ ~~filed and been granted~~ a Life PBR Exemption from the reserve requirements of VM-20 of the Valuation Manual by their state of domicile? Yes [] No []

2. If the response to Question 1 is "Yes", then check the source of the ~~granted~~ "Life PBR Exemption" definition? (Check either 2.1, 2.2 or 2.3)

2.1 NAIC Adopted VM []

2.2 State Statute (SVL) [] Complete items "a" and "b", as appropriate.

a. Is the criteria in the State Statute (SVL) different from the NAIC adopted VM? Yes [] No []

b. If the answer to "a" above is "Yes", provide the criteria the state has used to ~~grant~~ allow the Life PBR Exemption (e.g., Group/Legal Entity criteria) and the minimum reserve requirements that are required by the state of domicile (if the minimum reserve requirements are the same as the Adopted VM, write SAME AS NAIC VM):

.....
.....
.....
.....

2.3 State Regulation [] Complete items "a" and "b", as appropriate.

a. Is the criteria in the State Regulation different from the NAIC adopted VM? Yes [] No []

b. If the answer to "a" above is "Yes", provide the criteria of the state's Life PBR Exemption that the company has met ~~the state has used to grant the Life PBR Exemption (e.g., Group/Legal Entity criteria)~~ and the minimum reserve requirements that are required by the state of domicile (if the minimum reserve requirements are the same as the Adopted VM, write SAME AS NAIC VM):

.....
.....
.....
.....

3. If the criteria for the "Life PBR Exemption" is the same as or substantially similar to the NAIC adopted VM (i.e., Question 2.1 is checked or Question 2.2.a is "No" or Question 2.3.a is "No"), then provide the most recent year that the company filed a statement of exemption that was allowed. If such calendar year is not the current calendar year for this statement, also provide confirmation that the company meets the criteria for utilizing an ongoing statement of exemption, meaning that none of the following apply: 1) the company fails to meet either of the conditions in VM Section II, Subsection 1.G.2.2) the policies exempted contain those in VM Section II, Subsection 1.G.3, or 3) the domiciliary commissioner contacted the company prior to Sept. 1 and notified them that the statement of exemption was not allowed:

.....

QUARTERLY STATEMENT BLANK – LIFE/FRATERNAL

SUPPLEMENTAL EXHIBITS AND SCHEDULES INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a “NONE” report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

Response



8. Will the Life PBR Statement of Exemption be filed with the state of domicile by July 1st and electronically with the NAIC with the second quarterly filing per the Valuation Manual (by August 15)? (2nd Quarter Only) The response for 1st and 3rd quarters should be N/A. A NO response resulting with a bar code is only appropriate in the 2nd quarter. [In the case of an ongoing statement of exemption, enter “SEE EXPLANATION” and provide as an explanation that the company is utilizing an ongoing statement of exemption.](#)

AUGUST FILING

9. Will the regulator-only (non-public) Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile and electronically with the NAIC (as a regulator-only non-public document) by August 1? The response for 1st and 3rd quarters should be N/A. A NO response resulting with a bar code is only appropriate in the 2nd quarter.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/APPTF/2022SummerNM/2_BWG/Minutes/Att 2B10_2022-09BWG.docx

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>03/03/2022</u></p> <p>CONTACT PERSON: _____</p> <p>TELEPHONE: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ON BEHALF OF: _____</p> <p>NAME: <u>Dale Bruggeman</u></p> <p>TITLE: <u>Chair SAPWG</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50W. Town St., 3rd Fl., Ste. 300</u> <u>Columbus, OH 43215</u></p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-10BWG</u> Year <u>2022</u> Changes to Existing Reporting [X] New Reporting Requirement []</p> <hr/> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact [X] Modifies Required Disclosure []</p> <hr/> <p style="text-align: center;">DISPOSITION</p> <p>[] Rejected For Public Comment [] Referred To Another NAIC Group [] Received For Public Comment [X] Adopted Date <u>05/25/2022</u> [] Rejected Date _____ [] Deferred Date _____ [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|--|---|--------------------------------------|
| <input type="checkbox"/> ANNUAL STATEMENT | <input type="checkbox"/> INSTRUCTIONS | <input type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Add instructions to Schedule T, State pages and Accident and Health Policy Experience Exhibit to clarify guidance for reporting premium adjustments by jurisdiction.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The purpose of this proposal is to clarify the reporting premium adjustments by jurisdiction due to an issue identified in reporting of Affordable Care Act (ACA) premium adjustments not being reported by jurisdiction. A minority of companies put premium adjustments in aggregate other alien instead of allocating by jurisdiction. Although ACA premium was the issue identified, the reporting instructions revisions are for premium adjustments.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

Proposal being exposed concurrently with SAPWG.

** This section must be completed on all forms.

ANNUAL STATEMENT INSTRUCTIONS – HEALTH

EXHIBIT OF PREMIUMS, ENROLLMENT AND UTILIZATION

A schedule must be prepared and submitted to the state of domicile for each jurisdiction in which the company has written direct business, or has direct amounts paid, incurred or unpaid for provisions of health care services. In addition, a schedule must be prepared and submitted that contains the grand total (GT) for the company. To other states in which the company is licensed it should submit a schedule for that state.

Written premium is defined as the contractually determined amount charged by the reporting entity to the policyholder for the effective period of the contract based on the expectation of risk, policy benefits, and expenses associated with the coverage provided by the terms of the insurance contract. For health contracts without fixed contract periods, premiums written will be equal to the amount collected during the reporting period plus uncollected premiums at the end of the period less uncollected premiums at the beginning of the period.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

SCHEDULE T – PREMIUMS AND OTHER CONSIDERATIONS

ALLOCATED BY STATES AND TERRITORIES

Premiums are reported on a written basis, gross of reinsurance.

Written premium is defined as the contractually determined amount charged by the reporting entity to the policyholder for the effective period of the contract based on the expectation of risk, policy benefits, and expenses associated with the coverage provided by the terms of the insurance contract. For health contracts without fixed contract periods, premiums written will be equal to the amount collected during the reporting period plus uncollected premiums at the end of the period less uncollected premiums at the beginning of the period.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” All U.S. business shall be allocated by state regardless of license status.

Line 60 – Reporting Entity Contributions for Employee Benefit Plans

Report the reporting entity’s share of costs for employee benefit plans. Exclude any premiums paid by employees; these should be allocated to the states as above.

Line 61 – Total (Direct Business)

The sum of Column 2, 3, 4, 5, 6, 7 and 8, Line 61 should equal the Underwriting and Investment Exhibit, Part 1, Column 1, Line 12.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL

STATE PAGE

A schedule should be prepared and submitted to the state of domicile for each jurisdiction in which the company has written direct business, has direct losses paid or direct losses incurred. To other states in which the company is licensed it should submit only a schedule for that state.

Direct premiums by state may be estimated by formula on the basis of countrywide ratios for the respective lines of business except where adjustments are required to recognize special situations.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Company’s participation in the FEGLI and SGLI policies is shown in this exhibit as direct business.

This exhibit should be shown excluding reinsurance assumed. Reinsurance ceded should not be deducted.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS

ALLOCATED BY STATES AND TERRITORIES

This schedule is intended to exhibit the amount of premium and annuity considerations, and deposit-type contracts allocated to each state. For Life Companies only, this Schedule also provides: (a) the starting point for the calculation of state premium taxes, and (b) the starting point for the calculation of premium-based, state guaranty association assessments. (The basis for such assessments is developed in the Life, Health and Annuity Guaranty Association Assessable Premium Exhibit, not in Schedule T.) See the instructions to the Life, Health and Annuity Guaranty Association Assessable Premium Exhibit for allocated and unallocated annuities reported in Columns 3, 5, and 7.

Report premiums and annuity considerations for life and health contracts and deposit-type contracts for direct business. Exclude contract proceeds left with the reporting entity, such as amounts for supplemental contracts, dividend or refund accumulations and other similar items. Dividends or refunds on contracts that are used to pay renewal life and accident and health insurance premiums or annuity considerations should be included in the amounts allocated to the states and territories in Columns 2, 3, 4 and 5.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Refer to *SSAP No. 50—Classifications of Insurance or Managed Care Contracts* for life, accident and health and deposit-type contract definitions, *SSAP No. 51R—Life Contracts* and *SSAP No. 52—Deposit-Type Contracts* for accounting guidance.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” All U.S. business must be allocated by state regardless of license status.



Detail Eliminated to Conserve Space

Details of Write-ins Aggregated on Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.



Detail Eliminated to Conserve Space

ANNUAL STATEMENT INSTRUCTIONS – PROPERTY

EXHIBIT OF PREMIUMS AND LOSSES

DIRECT BUSINESS IN THE STATE OF...

(Statutory Page 14 Data)

A schedule should be prepared and submitted to the state of domicile for each jurisdiction in which the company has written direct business, has direct losses paid, direct losses incurred or direct losses unpaid. To other states in which the company is licensed it should submit only a schedule for that state.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

For definitions of lines of business, see the appendix of these instructions.

Data for Annual Statement Line 30 – Warranty should be reported prospectively (i.e., prior-year amounts need not be restated) starting with the 2008 reporting year.

Data for Annual Statement Line 29 – International should be reported on the page for “Other Alien” and the “Grand Total” page.

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===== **Detail Eliminated to Conserve Space** =====
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SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN

ALLOCATED BY STATES AND TERRITORIES

This schedule is intended to report premiums, losses and other items allocated to each state or territory during the current reporting period, regardless of the reporting entity’s license status in that state or territory. Allocation of premiums and the other items reported on this schedule should be based on the physical location of the insured risk (except individual and group health insurance). Amounts reported as losses should be assigned to the state in which the associated premium has been allocated.

All U.S. business must be allocated by state regardless of license status.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

↓
===== **Detail Eliminated to Conserve Space** =====
↓

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in Schedule Details of Write-ins Aggregated at Line 58 for Other Alien. All U.S. business must be allocated by state regardless of license status.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

Explanation of basis of allocation of premiums by states, etc

Provide a detailed explanation of the by-state and territory allocation of premium and other considerations used by the reporting entity. The explanation should be detailed enough to determine compliance with state laws and regulations.

Footnote (a):

Provide the total of each active status code in Column 1. The sum of all the counts of all active status codes should equal 57.

ANNUAL STATEMENT INSTRUCTIONS – LIFE/FRATERNAL, HEALTH AND PROPERTY

SCHEDULE T – PART 2

**INTERSTATE COMPACT – EXHIBIT OF PREMIUMS WRITTEN
ALLOCATED BY STATES AND TERRITORIES**

This exhibit is to be completed by all reporting entities. The purpose of the Interstate Compact is to promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products through establishing a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact pursuant to adopted uniform product standards. The Interstate Compact uses premium volume information statutorily reported to the NAIC for several purposes including the composition of the Compact Commission Management Committee. Data to be reported on this schedule should include all premiums for that line of business, not just for those policies that apply to the Compact.

Report direct business only.

Report premiums based on the instructions for allocating premiums between lines of business and jurisdictions for Schedule T.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Line 58 – Aggregate Other Alien

Enter the total of all alien business in the appropriate columns. Details by countries are not required.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

Life and Fraternal

Line 59 – Totals

Column 1 amount should equal Schedule T, Line 59, Column 2.

Column 2 amount should equal Schedule T, Line 59, Column 3.

Column 5 amount should equal Schedule T, Line 59, Column 7.

ACCIDENT AND HEALTH POLICY EXPERIENCE EXHIBIT

This exhibit is required to be filed no later than April 1.

A schedule must be prepared and submitted to the state of domicile for each jurisdiction in which the company has Written Premium (Direct), Earned Premium (Direct, Assumed and Ceded) or Incurred Claims (Direct, Assumed and Ceded). In addition, a schedule must be prepared and submitted that contains the grand total (GT) for the company.

1. The name of the company must be clearly shown at the top of each page or pages.
2. The Exhibit will show information concerning direct business on policy forms approved for use in the United States with a final total for all policy forms (including non-U.S. policy forms) on the bottom line of the Exhibit.

The Exhibit will show information for each listed product for Individual, Group, and Other business categories. Subtotals by product within the individual category are required for all columns.

3. This Exhibit should not include any data pertaining to double indemnity, waiver of premiums and other disability benefits embodied in life contracts.
4. Include membership charges, modal loadings, and policy fees, if any, with premiums earned (Column 2).

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)



Detail Eliminated to Conserve Space



QUARTERLY STATEMENT INSTRUCTIONS – HEALTH

SCHEDULE T – PREMIUMS AND OTHER CONSIDERATIONS

CURRENT YEAR TO DATE – ALLOCATED BY STATES AND TERRITORIES

All U.S. business must be allocated by state regardless of license status. Premiums are reported on a year-to-date written basis, gross of reinsurance.

Written premium is defined as the contractually determined amount charged by the reporting entity to the policyholder for the effective period of the contract based on the expectation of risk, policy benefits and expenses associated with the coverage provided by the terms of the insurance contract. For health contracts without fixed contract periods, premiums written will be equal to the amount collected during the reporting period plus uncollected premiums at the end of the period less uncollected premiums at the beginning of the period.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.



Detail Eliminated to Conserve Space

- Line 58 – Aggregate Other Alien
 Enter the total of write-ins listed in schedule Details of Write-ins Aggregated at Line 58 for Other Alien. All U.S. business shall be allocated by state regardless of license status.
- Line 60 – Reporting Entity Contributions for Employee Benefit Plans
 Report the reporting entity’s share of costs for employee benefit plans. Exclude any premiums paid by employees; these should be allocated to the states as above.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of the annual statement instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

Footnote (a):

Provide the total of each active status code in Column 1. The sum of all the counts of all active status codes should equal 57.

QUARTERLY STATEMENT INSTRUCTIONS – LIFE\FRATERNAL

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS

CURRENT YEAR TO DATE – ALLOCATED BY STATES AND TERRITORIES

This schedule is intended to exhibit the amount of premium and annuity considerations, and deposit-type contracts allocated to each state. All U.S. business must be allocated by state regardless of license status. Report year-to-date premiums and annuity considerations for life and accident and health contracts and deposit-type contracts for direct business. Exclude contract proceeds left with the reporting entity, such as amounts for supplemental contracts, dividend or refund accumulations and other similar items. Dividends or refunds on contracts that are used to pay renewal life and accident and health insurance premiums or annuity considerations should be included in the amounts allocated to the states and territories in Columns 2, 3, 4 and 5.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Refer to *SSAP No. 50—Classifications of Insurance or Managed Care Contracts*, for life, accident and health and deposit-type contract definitions; *SSAP No. 51R—Life Contracts*; and *SSAP No. 52—Deposit-Type Contracts*, for accounting guidance.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” All U.S. business must be allocated by state regardless of license status.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

Details of Write-ins Aggregated on Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of the annual statement instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

↓ **====** **Detail Eliminated to Conserve Space** **====** ↓

QUARTERLY STATEMENT INSTRUCTIONS – PROPERTY

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN

CURRENT YEAR TO DATE – ALLOCATED BY STATES AND TERRITORIES

This schedule is intended to report premiums, losses and other items allocated to each state or territory during the current reporting period, regardless of the reporting entity’s license status in that state or territory. Allocation of premiums and the other items reported on this schedule should be based on the physical location of the insured risk (except individual and group health insurance). Amounts reported as losses should be assigned to the state in which the associated premium has been allocated.

All U.S. business must be allocated by state regardless of license status.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.



Detail Eliminated to Conserve Space

Line 58 – Aggregate Other Alien

Enter the total of write-ins listed in schedule Details of Write-ins Aggregated at Line 58 for Other Alien. All U.S. business shall be allocated by state regardless of license status.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of the annual statement instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

Footnote (a):

Provide the total of each active status code in Column 1. The sum of all the counts of all active status codes should equal 57.

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>3/10/2022</u></p> <p>CONTACT PERSON: <u>Dave Fleming</u></p> <p>TELEPHONE: <u>816-783-8121</u></p> <p>EMAIL ADDRESS: <u>dfleming@naic.org</u></p> <p>ON BEHALF OF: <u>Life Risk-Based Capital (E) Working Group</u></p> <p>NAME: <u>Philip Barlow</u></p> <p>TITLE: <u>Chair</u></p> <p>AFFILIATION: <u>District of Columbia</u></p> <p>ADDRESS: _____</p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # <u>2022-11BWG MOD</u></p> <p>Year <u>2022</u></p> <p>Changes to Existing Reporting <input checked="" type="checkbox"/> [X]</p> <p>New Reporting Requirement <input type="checkbox"/> []</p> <hr/> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact <input type="checkbox"/> []</p> <p>Modifies Required Disclosure <input type="checkbox"/> []</p> <hr/> <p style="text-align: center;">DISPOSITION</p> <p><input type="checkbox"/> [] Rejected For Public Comment</p> <p><input type="checkbox"/> [] Referred To Another NAIC Group</p> <p><input type="checkbox"/> [] Received For Public Comment</p> <p><input checked="" type="checkbox"/> [X] Adopted Date <u>05/25/2022</u></p> <p><input type="checkbox"/> [] Rejected Date _____</p> <p><input type="checkbox"/> [] Deferred Date _____</p> <p><input type="checkbox"/> [] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> [X] ANNUAL STATEMENT | <input type="checkbox"/> [] INSTRUCTIONS | <input type="checkbox"/> [] CROSSCHECKS |
| <input type="checkbox"/> [] QUARTERLY STATEMENT | <input checked="" type="checkbox"/> [X] BLANK | |
| <input checked="" type="checkbox"/> [X] Life, Accident & Health/Fraternal | <input checked="" type="checkbox"/> [X] Separate Accounts | <input type="checkbox"/> [] Title |
| <input type="checkbox"/> [] Property/Casualty | <input type="checkbox"/> [] Protected Cell | <input type="checkbox"/> [] Other _____ |
| <input type="checkbox"/> [] Health | <input type="checkbox"/> [] Health (Life Supplement) | |

Anticipated Effective Date: Annual 2022

IDENTIFICATION OF ITEM(S) TO CHANGE

Update the AVR factors to correspond with the adopted RBC factors for the expanded bond designation categories.

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The AVR factors are linked to the after-tax RBC factors. The Life Risk-Based Capital (E) Working Group adopted changes to the life and fraternal RBC factors for the expanded NAIC Designation Categories for bonds for 2021 yearend reporting. The AVR factors will need to be adjusted where the RBC factors have been changed.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

A worksheet showing comparison of AVR and after-tax RBC factors for 2017, the changes made for the 2018 tax changes and the AVR factors being proposed for 2022 is posted at the Life Risk-Based Capital (E) Working Group website.

The AVR maximum reserve factors were updated to reflect the existing relationship to the RBC after-tax factors. The AVR basic contribution and reserve object factors were updated to reflect the existing relationships to the maximum reserve factors.

** This section must be completed on all forms.

ANNUAL STATEMENT BLANK –LIFE\FRATERNAL AND SEPARATE ACCOUNTS
ASSET VALUATION RESERVE
BASIC CONTRIBUTION, RESERVE OBJECTIVE AND MAXIMUM RESERVE CALCULATIONS
DEFAULT COMPONENT

Line Number	NAIC Designation	Description	1 Book/ Adjusted Carrying Value	2 Reclassify Related Party Encumbrances	3 Add Third Party Encumbrances	4 Balance for AVR Reserve Calculations (Cols. 1+2+3)	5 Basic Contribution		6 Reserve Objective		8 Amount (Cols. 4-7)	9 Factor	10 Amount (Cols. 4-9)
							Factor	Amount (Cols. 4-5)	Factor	Amount (Cols. 4-7)			
LONG-TERM BONDS													
1		Exempt Obligations.....						0.0000	0.0000			0.0000	
2.1	1	NAIC Designation Category 1.A.....		XXX	XXX			0.0000	0.0000			0.0000	
2.2	1	NAIC Designation Category 1.B.....		XXX	XXX			0.0000	0.0000			0.0000	
2.3	1	NAIC Designation Category 1.C.....		XXX	XXX			0.0000	0.0000			0.0000	
2.4	1	NAIC Designation Category 1.D.....		XXX	XXX			0.0000	0.0000			0.0000	
2.5	1	NAIC Designation Category 1.E.....		XXX	XXX			0.0000	0.0000			0.0000	
2.6	1	NAIC Designation Category 1.F.....		XXX	XXX			0.0000	0.0000			0.0000	
2.7	1	NAIC Designation Category 1.G.....		XXX	XXX			0.0000	0.0000			0.0000	
2.8		Subtotal NAIC 1 (2.1+2.2+2.3+2.4+2.5+2.6+2.7).....		XXX	XXX			0.0000	0.0000			0.0000	
3.1	2	NAIC Designation Category 2.A.....		XXX	XXX			0.0000	0.0000			0.0000	
3.2	2	NAIC Designation Category 2.B.....		XXX	XXX			0.0000	0.0000			0.0000	
3.3	2	NAIC Designation Category 2.C.....		XXX	XXX			0.0000	0.0000			0.0000	
3.4		Subtotal NAIC 2 (3.1+3.2+3.3).....		XXX	XXX			0.0000	0.0000			0.0000	
4.1	3	NAIC Designation Category 3.A.....		XXX	XXX			0.0000	0.0000			0.0000	
4.2	3	NAIC Designation Category 3.B.....		XXX	XXX			0.0000	0.0000			0.0000	
4.3	3	NAIC Designation Category 3.C.....		XXX	XXX			0.0000	0.0000			0.0000	
4.4		Subtotal NAIC 3 (4.1+4.2+4.3).....		XXX	XXX			0.0000	0.0000			0.0000	
5.1	4	NAIC Designation Category 4.A.....		XXX	XXX			0.0000	0.0000			0.0000	
5.2	4	NAIC Designation Category 4.B.....		XXX	XXX			0.0000	0.0000			0.0000	
5.3	4	NAIC Designation Category 4.C.....		XXX	XXX			0.0000	0.0000			0.0000	
5.4		Subtotal NAIC 4 (5.1+5.2+5.3).....		XXX	XXX			0.0000	0.0000			0.0000	
6.1	5	NAIC Designation Category 5.A.....		XXX	XXX			0.0000	0.0000			0.0000	
6.2	5	NAIC Designation Category 5.B.....		XXX	XXX			0.0000	0.0000			0.0000	
6.3	5	NAIC Designation Category 5.C.....		XXX	XXX			0.0000	0.0000			0.0000	
6.4		Subtotal NAIC 5 (6.1+6.2+6.3).....		XXX	XXX			0.0000	0.0000			0.0000	
7	6	NAIC 6.....		XXX	XXX			0.0000	0.0000			0.0000	
8		Total Unrated Multi-Class Securities Acquired by Conversion.....		XXX	XXX			0.0000	0.0000			0.0000	
9		Total Long-Term Bonds (Sum of Lines 1+2,8+3,4+4.1+5,4+6,4+7+8)		XXX	XXX			0.0000	0.0000			0.0000	
PREFERRED STOCKS													
10	1	Highest Quality.....		XXX	XXX			0.0005	0.0016			0.0033	
11	2	High Quality.....		XXX	XXX			0.0021	0.0064			0.0106	
12	3	Medium Quality.....		XXX	XXX			0.0099	0.0263			0.0376	
13	4	Low Quality.....		XXX	XXX			0.0245	0.0572			0.0817	
14	5	Lower Quality.....		XXX	XXX			0.0630	0.1128			0.1880	
15	6	In or Near Default.....		XXX	XXX			0.0000	0.0000			0.2370	
16		Affiliated Life with AVR.....		XXX	XXX			0.0000	0.0000			0.0000	
17		Total Preferred Stocks (Sum of Lines 10 through 16)		XXX	XXX			0.0000	0.0000			0.0000	

**ASSET VALUATION RESERVE (Continued)
BASIC CONTRIBUTION, RESERVE OBJECTIVE AND MAXIMUM RESERVE CALCULATIONS
DEFAULT COMPONENT**

Line Number	NAIC Designation	Description	1 Book/ Adjusted Carrying Value	2 Reclassify Related Party Encumbrances	3 Add Third Party Encumbrances	4 Balance for AVR Reserve Calculations (Cols. 1+2+3)	5 Basic Contribution		6 Amount (Cols. 4+5)		7 Reserve Objective		8 Amount (Cols. 4+7)		9 Maximum Reserve		10 Amount (Cols. 4+9)	
							Factor	Amount	Factor	Amount	Factor	Amount	Factor	Amount				
18		Exempt Obligations					0.0000				0.0000							
19.1	1	NAIC Designation Category 1.A	XXX	XXX	XXX		0.0000				0.0000							
19.2	1	NAIC Designation Category 1.B	XXX	XXX	XXX		0.0000				0.0000							
19.3	1	NAIC Designation Category 1.C	XXX	XXX	XXX		0.0000				0.0000							
19.4	1	NAIC Designation Category 1.D	XXX	XXX	XXX		0.0000				0.0000							
19.5	1	NAIC Designation Category 1.E	XXX	XXX	XXX		0.0000				0.0000							
19.6	1	NAIC Designation Category 1.F	XXX	XXX	XXX		0.0000				0.0000							
19.7	1	NAIC Designation Category 1.G	XXX	XXX	XXX		0.0000				0.0000							
19.8		Subtotal NAIC 1 (19.1+19.2+19.3+19.4+19.5+19.6+19.7)					XXX				XXX							
20.1	2	NAIC Designation Category 2.A	XXX	XXX	XXX		0.0021				0.0021							
20.2	2	NAIC Designation Category 2.B	XXX	XXX	XXX		0.0021				0.0021							
20.3	2	NAIC Designation Category 2.C	XXX	XXX	XXX		0.0021				0.0021							
20.4		Subtotal NAIC 2 (20.1+20.2+20.3)					XXX				XXX							
21.1	3	NAIC Designation Category 3.A	XXX	XXX	XXX		0.0099				0.0099							
21.2	3	NAIC Designation Category 3.B	XXX	XXX	XXX		0.0099				0.0099							
21.3	3	NAIC Designation Category 3.C	XXX	XXX	XXX		0.0099				0.0099							
21.4		Subtotal NAIC 3 (21.1+21.2+21.3)					XXX				XXX							
22.1	4	NAIC Designation Category 4.A	XXX	XXX	XXX		0.0052				0.0052							
22.2	4	NAIC Designation Category 4.B	XXX	XXX	XXX		0.0052				0.0052							
22.3	4	NAIC Designation Category 4.C	XXX	XXX	XXX		0.0052				0.0052							
22.4		Subtotal NAIC 4 (22.1+22.2+22.3)					XXX				XXX							
23.1	5	NAIC Designation Category 5.A	XXX	XXX	XXX		0.0063				0.0063							
23.2	5	NAIC Designation Category 5.B	XXX	XXX	XXX		0.0063				0.0063							
23.3	5	NAIC Designation Category 5.C	XXX	XXX	XXX		0.0063				0.0063							
23.4		Subtotal NAIC 5 (23.1+23.2+23.3)					XXX				XXX							
24	6	NAIC 6	XXX	XXX	XXX		0.2370				0.2370							
25		Total Short-Term Bonds (18+19.8+20.4+21.4+22.4+23.4+24)					XXX				XXX							
26		Exchange Traded																
27	1	Highest Quality	XXX	XXX	XXX		0.0005				0.0005							
28	2	High Quality	XXX	XXX	XXX		0.0005				0.0005							
29	3	Medium Quality	XXX	XXX	XXX		0.0021				0.0021							
30	4	Low Quality	XXX	XXX	XXX		0.0245				0.0245							
31	5	Lower Quality	XXX	XXX	XXX		0.0630				0.0630							
32	6	In or Near Default	XXX	XXX	XXX		0.0000				0.0000							
33		Total Derivative Instruments					XXX				XXX							
34		Total (Lines 9+ 17+ 25+ 33)					XXX				XXX							

ASSET VALUATION RESERVE (Continued)
BASIC CONTRIBUTION, RESERVE OBJECTIVE AND MAXIMUM RESERVE CALCULATIONS
DEFAULT COMPONENT

Line Number	NAIC Designation	Description	1 Book/ Adjusted Carrying Value	2 Reclassify Related Party Encumbrances	3 Add Third Party Encumbrances	4 Balance for AVR Reserve Calculations (Cols. 1-2+3)	5 Basic Contribution Amount (Cols. 4+5)		7 Reserve Objective Amount (Cols. 4+7)		8 Maximum Reserve Amount (Cols. 4+9)	
							Factor	Amount	Factor	Amount	Factor	Amount
		MORTGAGE LOANS										
		In Good Standing:										
35		Farm Mortgages – CM1 – Highest Quality.....			XXX		0.0011	0.0057	0.0074			
36		Farm Mortgages – CM2 – High Quality.....			XXX		0.0040	0.0114	0.0149			
37		Farm Mortgages – CM3 – Medium Quality.....			XXX		0.0069	0.0200	0.0257			
38		Farm Mortgages – CM4 – Low Medium Quality.....			XXX		0.0120	0.0343	0.0428			
39		Farm Mortgages – CM5 – Low Quality.....			XXX		0.0183	0.0486	0.0628			
40		Residential Mortgages – Insured or Guaranteed.....			XXX		0.0003	0.0007	0.0011			
41		Residential Mortgages – All Other.....			XXX		0.0015	0.0034	0.0046			
42		Commercial Mortgages – Insured or Guaranteed.....			XXX		0.0003	0.0007	0.0011			
43		Commercial Mortgages – All Other – CM1 – Highest Quality.....			XXX		0.0011	0.0057	0.0074			
44		Commercial Mortgages – All Other – CM2 – High Quality.....			XXX		0.0040	0.0114	0.0149			
45		Commercial Mortgages – All Other – CM3 – Medium Quality.....			XXX		0.0069	0.0200	0.0257			
46		Commercial Mortgages – All Other – CM4 – Low Medium Quality.....			XXX		0.0120	0.0343	0.0428			
47		Commercial Mortgages – All Other – CM5 – Low Quality.....			XXX		0.0183	0.0486	0.0628			
		Overdue, Not in Process:										
48		Farm Mortgages.....			XXX		0.0480	0.0868	0.1371			
49		Residential Mortgages – Insured or Guaranteed.....			XXX		0.0006	0.0014	0.0023			
50		Residential Mortgages - All Other.....			XXX		0.0029	0.0066	0.0103			
51		Commercial Mortgages - Insured or Guaranteed.....			XXX		0.0006	0.0014	0.0023			
52		Commercial Mortgages - All Other.....			XXX		0.0480	0.0868	0.1371			
		In Process of Foreclosure:										
53		Farm Mortgages.....			XXX		0.0000	0.1942	0.1942			
54		Residential Mortgages – Insured or Guaranteed.....			XXX		0.0000	0.0046	0.0046			
55		Residential Mortgages - All Other.....			XXX		0.0000	0.0149	0.0149			
56		Commercial Mortgages - Insured or Guaranteed.....			XXX		0.0000	0.0046	0.0046			
57		Commercial Mortgages - All Other.....			XXX		0.0000	0.1942	0.1942			
58		Total Schedule B Mortgages (Sum of Lines 35 through 57).....			XXX		XXX	XXX	XXX			
59		Schedule DA Mortgages.....			XXX		0.0034	0.0114	0.0149			
60		Total Mortgage Loans on Real Estate (Lines 58 + 59)			XXX		XXX	XXX	XXX			

**Blanks (E) Working Group
Editorial Revisions to the Blanks and Instructions
(presented at the May 25, 2022, Meeting)**

Statement Type:

H = Health; **L/F** = Life/Fraternal Combined; **P/C** = Property/Casualty; **SA** = Separate Accounts; **T** = Title

Effective	Table Name	Description	Statement Type	Filing Type
2022	Asset Valuation Reserve-Equity	CHANGE TO BLANK Change line 93, columns 5, 7 and 9 to block data entry on percentage columns. Missed on proposal 2021-23BWG.	L/F	Annual
2022	Underwriting and Investment Exhibit, Part 2A	CHANGE TO BLANK Footnote reference inadvertently removed from column 8 when accident and health lines of business were expanded. Reference (a) added to column 8 for all lines 13 and 15. 2020-33BWG	P	Annual
2022	Exhibit 7	CHANGE TO BLANK Make changes to the line description or Lines 1, 2, 5 and 6 of the footnote. (a) FHLB Funding Agreements 1. Reported as + GICs (captured in column 2): 2. Reported as + Annuities Certain (captured in column 3): 3. Reported as Supplemental Contracts (captured in column 4): 4. Reported as Dividend Accumulations or Refunds (captured in column 5) 5. <u>Reported as Premium or Other Deposit Funds (captured in column 6):</u> 6. <u>Total Reported as Deposit-Type Contracts (captured in column 1): (Sum of Lines 1 through 6)</u>	L\F	Annual
2022	Insurance Expense Exhibit, Parts II and III Exhibit of Premiums and Losses Underwriting and Investment Exhibits Quarterly: Part I and Part 2	CHANGE TO BLANK For line 15.8 – Federal Employees Health Benefit Plan, Proposal 2020-33BWG included the word “premium” after the FEHBP line description. Many of these tables also cover losses, reserves, etc. Therefore, the premium reference is misleading and/or unnecessary. This also makes the row label consistent with the 2022 quarterly blank.	P	Quarterly/ Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Five-Year Historical Data	<p>CHANGE TO BLANK</p> <p>Crosschecks for Lines 68 through 71 as they are no longer valid for 2022.</p> <p><u>A & H Claim Reserve Adequacy</u></p> <p>68. Incurred losses on prior years' claims-group health (Sch. H, Part 3, Line 3.1, Col. 2)</p> <p>69. Prior years' claim liability and reserve-group health (Sch. H, Part 3, Line 3.2, Col. 2)</p> <p>70. Incurred losses on prior years' claims-health other than group (Sch. H, Part 3, Line 3.1, Col. 1 less Col. 2)</p> <p>71. Prior years' claim liability and reserve-health other than group (Sch. H, Part 3, Line 3.2, Col. 1 less Col. 2)</p>	L/F	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Five-Year Historical Data	<p>CHANGE TO INSTRUCTION</p> <p>Crosschecks for Lines 68 through 71 as they are no longer valid for 2022.</p> <p><u>A & H Claim Reserve Adequacy</u></p> <p>Line 68 – Incurred Losses on Prior Years’ Claims – Group Health</p> <p><u>2022</u>.....Should be consistent with business reported on <u>Schedule H, Part 3, Line 3.1, Column 2 in 2021</u></p> <p><u>2018 through 2021 All years</u>..... Schedule H, Part 3, Line 3.1, Column 2</p> <p>Line 69 – Prior Years’ Claim Liability and Reserve – Group Health</p> <p><u>2022</u>.....Should be consistent with business reported on <u>Schedule H, Part 3, Line 3.2, Column 2 in 2021</u></p> <p><u>2018 through 2021 All years</u>..... Schedule H, Part 3, Line 3.2, Column 2</p> <p>Line 70 – Incurred Losses on Prior Years’ Claims – Health Other than Group</p> <p><u>2022</u>.....Should be consistent with business reported on <u>Schedule H, Part 3, Line 3.1, Column 1 less Column 2 in 2021</u></p> <p><u>2018 through 2021 All years</u>..... Schedule H, Part 3, Line 3.1, Column 1 less Column 2</p> <p>Line 71 – Prior Years’ Claim Liability and Reserve – Health Other than Group</p> <p><u>2022</u>.....Should be consistent with business reported on <u>Schedule H, Part 3, Line 3.2, Column 1 less Column 2 in 2021</u></p> <p><u>2018 through 2021 All years</u>..... Schedule H, Part 3, Line 3.2, Column 1 less Column 2</p>	LAF	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Insurance Expense Exhibit, Part II	<p>CHANGE TO INSTRUCTION</p> <p>Add instruction to clarify reporting of Agent Balances in Column 19 as shown below.</p> <p>Column 41 should equal Part II Column 37 + Column 39.</p> <p>Column 21 should agree with Annual Statement, Assets Page, Line 15.1 plus Line 15.2, Column 3, net of balances relating to reinsurance.</p> <p>Line 30 – Warranty</p> <p>Data for this line should be reported prospectively (i.e., prior-year amounts need not be restated) starting with the 2008 reporting year.</p>	P/C	Annual
2022	LOB Definitions in Appendix	<p>CHANGE TO INSTRUCTION</p> <p>Remove reference to disability and long-term care because they are reported separately starting in 2022.</p> <p>Other (Specify):</p> <p>Coverage provided by entities that do not fall within any of the other categories, including stop loss, disability and long-term care. Indemnity plans where the insured person is reimbursed for covered expenses would fall within this area.</p>	H	Annual
2022	Underwriting & Expense Exhibit, Part I	<p>CHANGE TO INSTRUCTION</p> <p>Remove the reference to “premium” in the line description for ASL 15.8 – Federal Employees Health Benefits Plan</p> <p>Line 15.8 – Federal Employees Health Benefits Plan Premium</p> <p>Column 4 should agree with Schedule H, Part 1, Line 2 minus Line 6, Column 13.</p>	P/C	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Underwriting & Expense Exhibit, Part 1A	<p>CHANGE TO INSTRUCTION</p> <p>Remove the reference to “premium” in the line description for ASL 15.8 – Federal Employees Health Benefits Plan</p> <p>Line 15.8 – Federal Employees Health Benefits Plan Premium</p> <p>Column 1 plus Column 2 should agree with Schedule H, Part 2, Line A1, Columns 7.</p>	P\C	Annual
2022	Underwriting & Expense Exhibit, Part 1B	<p>CHANGE TO INSTRUCTION</p> <p>Remove the reference to “premium” in the line description for ASL 15.8 – Federal Employees Health Benefits Plan</p> <p>Line 15.8 – Federal Employees Health Benefits Plan Premium</p> <p>Column 2 plus Column 3 should agree with Schedule H, Part 4, Line A1, Columns 7.</p> <p>Column 4 plus Column 5 should agree with Schedule H, Part 4, Line B1, Columns 7.</p> <p>Column 6 should agree with Schedule H, Part 1, Line 1, Columns 13.</p>	P\C	Annual
2022	Underwriting & Expense Exhibit, Part 2	<p>CHANGE TO INSTRUCTION</p> <p>Remove the reference to “premium” in the line description for ASL 15.8 – Federal Employees Health Benefits Plan</p> <p>Line 15.8 – Federal Employees Health Benefits Plan Premium</p> <p>Column 4 should agree with Schedule H, Part 3, Line 1.1 plus Line 1.2, Column 7.</p> <p>Column 5 should agree with Schedule H, Part 3, Line 2.1 plus Line 2.2, Column 7.</p> <p>Column 6 should agree with Schedule H, Part 2, Line C2, Column 7.</p> <p>Column 7 should agree with Schedule H, Part 1, Line 3, Column 13.</p>	P\C	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Underwriting & Expense Exhibit, Part 2A	<p>CHANGE TO INSTRUCTION</p> <p>Remove the reference to “premium” in the line description for ASL 15.8 – Federal Employees Health Benefits Plan</p> <p>Line 15.8 – Federal Employees Health Benefits Plan Premium</p> <p>Column 8 should agree with Schedule H, Part 2, Line C1, Columns 7.</p>	P/C	Annual
2022	Exhibit 1, Part 1	<p>CHANGE TO INSTRUCTION</p> <p>Replace existing crosscheck to individual columns on Exhibit 1, Part 1 to Schedule H with one crosscheck to the total A&H due to change in LOB reporting on Schedule H.</p> <p>Line 4 – Advance Premiums and Considerations First Year (Other Than Single) and Line 14 – Advance Premiums and Considerations Renewal</p> <p>Include: Premiums and considerations on certificates in force received by the reporting entity prior to the valuation date but that are due on or after the next certificate anniversary date.</p> <p>Reporting entities may include here unearned premiums on accident and health business.</p> <p>The total of these lines, excluding A&H unearned premium reserve, must balance to Page 3, Line 8, or to this item prior to deduction of discount depending upon the basis used for crediting advance premiums to the premium account.</p> <p>The sum of Columns 8 through 10 should equal Schedule H, Part 2, Line A2, Column 1.</p> <p>Column 8 should agree with Schedule H, Part 2, Line A2, Column 2.</p> <p>Column 9 should agree with Schedule H, Part 2, Line A2, Column 3.</p> <p>Column 10 should agree with Schedule H, Part 2, Line A2, Columns 4 through 9.</p>	LAF	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Exhibit 1, Part 2	<p>CHANGE TO INSTRUCTION</p> <p>Replace existing crosscheck to individual columns on Exhibit 1, Part 1 to Schedule H with one crosscheck to the total A&H due to change in LOB reporting on Schedule H.</p> <p>Line 26.1 – Reinsurance Ceded</p> <p><u>The sum of Columns 8 through 10 should equal Schedule H, Part 4, Line B4, Column 1.</u></p> <p>Column 8 should agree with Schedule H, Part 4, Line B4, Column 2.</p> <p>Column 9 should agree with Schedule H, Part 4, Line B4, Column 3.</p> <p>Column 10 should agree with Schedule H, Part 4, Line B4, Columns 4 through 9.</p> <p>Line 26.2 – Reinsurance Assumed</p> <p><u>The sum of Columns 8 through 10 should equal Schedule H, Part 4, Line A4, Column 1.</u></p> <p>Column 8 should agree with Schedule H, Part 4, Line A4, Column 2.</p> <p>Column 9 should agree with Schedule H, Part 4, Line A4, Column 3.</p> <p>Column 10 should agree with Schedule H, Part 4, Line A4, Columns 4 through 9.</p>	LAF	Annual

Effective	Table Name	Description	Statement Type	Filing Type
2022	Insurance Expense Exhibit, Parts II and III	<p>CHANGE TO BLANK</p> <p>Lines 11.1, 11.2, 18.1, 18.2, 19.1, 19.2, 21.1, 21.2, 31, 32, 33 and 34 from proposal 2020-33BWG would not fit in the column width available on one page of the forms. To keep uniform between the tables, the row descriptions have been abbreviated as follows:</p> <ul style="list-style-type: none"> 11.1 Med Prof Liab—Occurrence 11.2 Med Prof Liab—Claims-Made 18.1 Products Liab—Occurrence 18.2 Products Liab—Claims-Made 19.1 Priv Passenger Auto No-Fault 19.2 Other Priv Passenger Auto Liab 21.1 Priv Passenger Auto Phys Damage 21.2 Commercial Auto Phys Damage 31. Reins-Nonproportional Assumed Property 32. Reins-Nonproportional Assumed Liab 33. Reins-Nonproportional Assumed Fin Lines 34. Aggr Write-Ins for Other Lines of Bus 	P/C	Annual
2022	Schedule DA, Part 1	<p>CHANGE TO INSTRUCTION</p> <p>Remove line number for Unaffiliated Certificates of Deposit. Certificates of deposit are not reported on Schedule DA.</p> <p>Unaffiliated Bank Loans</p> <ul style="list-style-type: none"> Unaffiliated Bank Loans – Issued..... 1819999999 Unaffiliated Bank Loans – Acquired..... 1829999999 Subtotals – Unaffiliated Bank Loans 1909999999 Unaffiliated Certificates of Deposit..... 2019999999 <p>Total Bonds</p> <ul style="list-style-type: none"> Subtotals – Issuer Obligations 2419999999 Subtotals – Residential Mortgage-Backed Securities 2429999999 Subtotals – Commercial Mortgage-Backed Securities 2439999999 Subtotals – Other Loan-Backed and Structured Securities 2449999999 Subtotals – SVO Identified Funds 2459999999 Subtotals – Affiliated Bank Loans..... 2469999999 	H, L/F, P/C, T	Annual

Effective	Table Name	Description	Statement Type	Filing Type																																										
2022	Schedule F, Part 3	<p>Subtotals – Unaffiliated Bank Loans2479999999</p> <p>Subtotals – Unaffiliated Certificates of Deposit2489999999</p> <p>Subtotals – Bonds2509999999</p>	PIC	Annual																																										
		<p>CHANGE TO INSTRUCTION</p> <p>Updating factors per memo from Property and Casualty Risk-Based Capital (E) Working Group.</p> <p>Column 35 – Credit Risk on Collateralized Recoverables</p> <p>Following is a table of factors applicable to the respective reinsurer designation equivalent categories in Column 34</p> <table border="1" data-bbox="673 604 771 1312"> <thead> <tr> <th>Code</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> </tr> </thead> <tbody> <tr> <td>Factor</td> <td>3.6%</td> <td>4.4%</td> <td>4.8%</td> <td>5.0%</td> <td>5.0%</td> <td>5.0%</td> </tr> <tr> <td></td> <td>1.6%</td> <td>2.1%</td> <td>2.8%</td> <td>3.0%</td> <td>3.0%</td> <td>3.0%</td> </tr> </tbody> </table> <p>Column 36 – Credit Risk on Uncollateralized Recoverables</p> <p>Following is a table of factors applicable to the respective reinsurer designation equivalent categories in Column 34</p> <table border="1" data-bbox="938 604 1036 1312"> <thead> <tr> <th>Code</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> </tr> </thead> <tbody> <tr> <td>Factor</td> <td>3.6%</td> <td>4.4%</td> <td>4.8%</td> <td>5.3%</td> <td>7.1%</td> <td>14.0%</td> </tr> <tr> <td></td> <td>1.6%</td> <td>2.1%</td> <td>2.8%</td> <td>3.3%</td> <td>5.1%</td> <td>12.0%</td> </tr> </tbody> </table>	Code	1	2	3	4	5	6	Factor	3.6%	4.4%	4.8%	5.0%	5.0%	5.0%		1.6%	2.1%	2.8%	3.0%	3.0%	3.0%	Code	1	2	3	4	5	6	Factor	3.6%	4.4%	4.8%	5.3%	7.1%	14.0%		1.6%	2.1%	2.8%	3.3%	5.1%	12.0%		
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MEMORANDUM

TO: Pat Gosselin (NH), Chair of the Blanks (E) Working Group

FROM: Tom Botsko (OH), Chair of the Property and Casualty Risk-Based Capital (E) Working Group

DATE: April 1, 2022

RE: Reinsurer Designation Equivalent Rating Factors

When the reinsurance recoverable credit risk charge was implemented in 2018, a load of operational risk was embedded in the charge. Now that the operational risk is separately addressed in risk-based capital (RBC) as a standard-alone capital add-on, it results with duplication of the operational risk charge on the reinsurance recoverable component in the RBC report. An RBC proposal was developed to remove the embedded 2% operational risk contained in the R3 credit risk component, and it was adopted during the Capital Adequacy (E) Task Force meeting on March 28. The following factor changes should be made to the Annual Statement, Schedule F, Part 3, as the R3 charge is derived from the Schedule F, Part 3, Columns 35 and 36, Line 9999999.

Description	Secure 1	Secure 2	Secure 3	Secure 4	Secure 5	Vulnerable 6 or Unrated
AM Best	A++	A+	A	A-	B++, B+	B, B-, C++, C+, C, C-, D, E, F
Standard & Poor's	AAA	AA+, AA, AA-	A+, A	A-	BBB+, BBB, BBB-	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R
Moody's Investors Service	Aaa	Aa1, Aa2, Aa3	A1, A2	A3	Baa1, Baa2, Baa3	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C
Fitch Ratings	AAA	AA+, AA, AA-	A+, A	A-	BBB+, BBB, BBB-	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R
Collateralized Amounts Factors	1.6%	2.1%	2.8%	3%	3%	3%
Uncollateralized Amounts Factors	1.6%	2.1%	2.8%	3.3%	5.1%	12%

If you have any questions regarding the suggested modification, please contact Eva K. Yeung at eyeung@naic.org.

cc: Mary K. Caswell, Eva K. Yeung

Washington, DC 444 North Capitol Street NW, Suite 700, Washington, DC 20001-1509 p | 202 471 3990

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**PROPOSED 2023 CHARGES OF THE
ACCOUNTING PRACTICES AND PROCEDURES (E) TASK FORCE
(Unchanged from the 2022 Charges)**

The mission of the Accounting Practices and Procedures (E) Task Force is to identify, investigate and develop solutions to accounting problems with the ultimate goal of guiding insurers in properly accounting for various aspects of their operations; modify the *Accounting Practices and Procedures Manual* (AP&P Manual) to reflect changes necessitated by Task Force action; and study innovative insurer accounting practices that affect the ability of state insurance regulators to determine the true financial condition of insurers.

Ongoing Support of NAIC Programs, Products or Services

1. The **Accounting Practices and Procedures (E) Task Force** will:
 - A. Oversee the activities of the Blanks (E) Working Group and the Statutory Accounting Principles (E) Working Group.
2. The **Blanks (E) Working Group** will:
 - A. Consider improvements and revisions to the various annual/quarterly statement blanks to:
 1. Conform these blanks to changes made in other areas of the NAIC to promote uniformity in reporting of financial information by insurers.
 2. Develop reporting formats for other entities subject to the jurisdiction of state insurance departments.
 3. Conform the various NAIC blanks and instructions to adopted NAIC policy.
 4. Oversee the development of additional reporting formats within the existing annual financial statements as needs are identified.
 - B. Continue to monitor state filing checklists to maintain current filing requirements.
 - C. Continue to monitor and improve the quality of financial data filed by insurance companies by recommending improved or additional language for the *Annual Statement Instructions*.
 - D. Continue to monitor and review all proposals necessary for the implementation of statutory accounting guidance to ensure proper implementation of any action taken by the Accounting Practices and Procedures (E) Task Force affecting annual financial statements and/or instructions.
 - E. Continue to coordinate with other task forces of the NAIC to ensure proper implementation of reporting and instructions changes as proposed by these taskforces.
 - F. Coordinate with the Life Actuarial (A) Task Force to use any special reports developed and avoid duplication of reporting.
 - G. Review requests for investment schedule blanks and instructions changes in connection with the work being performed by the Capital Adequacy (E) Task Force and its working groups.
 - H. Review changes requested by the Valuation of Securities (E) Task Force relating to its work on other invested assets reporting for technical consistency within the investment reporting schedules and instructions.
3. The **Statutory Accounting Principles (E) Working Group** will:
 - A. Maintain codified statutory accounting principles by providing periodic updates to the guidance that address new statutory issues and new generally accepted accounting principles (GAAP) pronouncements. Provide authoritative responses to questions of application and clarifications for existing statutory accounting principles. Report all actions and provide updates to the Accounting Practices and Procedures (E) Task Force.
 - B. At the discretion of the Working Group chair, develop comments on exposed GAAP and International Financial Reporting Standards (IFRS) pronouncements affecting financial accounting and reporting. Any comments are subject to review and approval by the chairs of the Accounting Practices and Procedures (E) Task Force and the Financial Condition (E) Committee.
 - C. Coordinate with the Life Actuarial (A) Task Force on changes to the AP&P Manual related to the *Valuation Manual* VM-A, Requirements, and VM-C, Actuarial Guidelines, as well as other *Valuation Manual* requirements. This process will include the receipt of periodic reports on changes to the *Valuation Manual* on items that require coordination.
 - D. Obtain, analyze and review information on permitted practices, prescribed practices or other accounting treatments suggesting that issues or trends occurring within the industry may compromise the consistency and uniformity of statutory accounting, including, but not limited to, activities conducted by insurers for which there is currently no statutory accounting guidance or where the states have prescribed statutory accounting that differs from the guidance issued by the NAIC. Use this information to consider possible changes to statutory accounting.

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Draft: 8/17/22

Capital Adequacy (E) Task Force
Portland, Oregon
August 11, 2022

The Capital Adequacy (E) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Judith L. French, Chair, represented by Tom Botsko and Dale Bruggeman (OH); Doug Ommen, Vice Chair, represented by Mike Yanacheak (IA); Lori K. Wing-Heier represented by David Phifer (AK); Mark Fowler represented by Sheila Travis and Jennifer Li (AL); Ricardo Lara represented by Thomas Reedy (CA); Andrew N. Mais represented by Wanchin Chou (CT); Trinidad Navarro represented by Charles Santana (DE); Karima M. Woods represented by Philip Barlow; David Altmaier represented by Jane Nelson (FL); Dana Popish Severinghaus represented by Bruce Sartain (IL); Vicki Schmidt represented by Tish Becker; Sharon P. Clark represented by Bill Clark (KY); Kathleen A. Birrane represented by Dmitriy Valekha (MD); Chlora Lindley-Myers represented by John Rehagen and Debbie Dogget (MO); Edward M. Deleon Guerrero represented by Charlette C. Borja (MP); Troy Downing represented by Kari Leonard (MT); Mike Causey represented by Jackie Obusek (NC); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride (NJ); Michael Wise represented by Tom Baldwin (SC); Cassie Brown represented by Jamie Walker (TX); Mike Kreidler represented by Steve Drutz (WA); and Nathan Houdek (WI).

1. Adopted its June 30, April 28, and Spring National Meeting Minutes

Mr. Botsko said the Task Force met June 30, April 28, and March 28. During these meetings, the Task Force took the following action: 1) adopted proposals 2022-02-P, 2022-05-L, 2022-06-L, 2021-17-CR MOD, 2022-01-P, 2022-03-L; and 2) discussed affiliated investments.

Mr. Yanacheak made a motion, seconded by Mr. Chou, to adopt the Task Force's June 30 (Attachment One), April 28 (Attachment Two), and March 28 (*see NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Working Groups

a. Health Risk-Based Capital (E) Working Group

Mr. Drutz said that the Health Risk-Based Capital (E) Working Group met July 21 and took the following action: 1) adopted its May 11, May 4, and April 20 minutes; 2) adopted its working agenda; 3) adopted its 2022 newsletter; 4) adopted the 2021 health risk-based capital (RBC) statistics; 5) referred the health affiliated investment instructions and blanks to the Capital Adequacy (E) Task Force for discussion; and 6) exposed the American Academy of Actuaries' (Academy) response letter on its recommendation and timeline for the H2 – Underwriting Risk review for a 31-day public comment period ending Aug. 22.

b. Life Risk-Based Capital (E) Working Group

Mr. Barlow said the Life Risk-Based Capital (E) Working Group met July 27 and took the following action: 1) adopted its June 17, June 3, April 22, April 7, and Spring National Meeting minutes; 2) adopted its 2022 newsletter; 3) adopted the 2021 life and fraternal RBC statistics; and 4) adopted its working agenda.

c. Property and Casualty Risk-Based Capital (E) Working Group and Catastrophe Risk (E) Subgroup

Mr. Botsko said the Property and Casualty Risk-Based Capital (E) Working Group met Aug. 9 in joint sessions with the Catastrophe Risk (E) Subgroup and took the following action: 1) adopted Subgroup's June 14 and April 19 minutes; 2) adopted the Working Group's June 24, June 7, and April 26 minutes; 3) referred the property/casualty (P/C) affiliated investment instructions and blanks to the Capital Adequacy (E) Task Force for discussion; 4) adopted proposal 2022-04-CR, which included the 2013–2021 U.S. and non-U.S. lists of wildfire events; 5) adopted its 2022 newsletter; 6) exposed proposal 2022-07-P, which modified the PR035 lines of business categories to be consistent with the Annual Statement, Underwriting and Investment Exhibit, Part 1B categories for a 30-day public comment period ending Sept. 8; 7) exposed proposal 2022-08-CR, which provided further clarification of the independent model review instructions for a 30-day public comment period ending Sept. 8; 8) heard updates from the Academy regarding current P/C RBC projects; 9) adopted the 2021 P/C RBC statistics; 10) adopted the P/C working agenda; 11) discussed other catastrophe risks for possible inclusion in the Rcat component; and 12) heard a presentation from the National Oceanic and Atmospheric Administration (NOAA) regarding forecasting and resilience of severe thunderstorms .

d. Risk-Based Capital Investment Risk and Evaluation (E) Working Group

Mr. Barlow said that the Risk-Based Capital Investment Risk and Evaluation (E) Working Group met Aug. 11 and took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted its working agenda; 3) received updates from the Valuation of Securities (E) Task Force and the Statutory Accounting Principles (E) Working Group; and 4) discussed the Working Group's next steps.

Mr. Drutz made a motion, seconded by Mr. Yanacheak, to adopt the reports of the Health Risk-Based Capital (E) Working Group (Attachment Three), the Life Risk-Based Capital (E) Working Group (Attachment Four), the Catastrophe Risk (E) Subgroup and the Property and Casualty Risk-Based Capital (E) Working Group (Attachment Five), and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group (Attachment Six). The motion passed.

3. Adopted Proposal 2022-04-CR (2013-2021 Wildfire Event Lists)

Mr. Botsko said the wildfire peril has been adopted for informational purposes only in the 2022 RBC formula. He stated that NAIC staff developed the U.S. and non-U.S. lists of wildfire events based on the variable sources of information. Mr. Botsko said the Subgroup received one comment letter from Swiss Re America during the exposure period. It believed that the insurance direct incurred losses for the Southern California Woolsey wildfires should be \$2.9 billion based on the reports from the California Department of Insurance (DOI). Mr. Botsko said the Subgroup agreed; the incurred losses amount for this event has been updated in the event list.

Mr. Chou made a motion, seconded by Mr. Rehagen, to adopt proposal 2022-04-CR (Attachment Seven). The motion passed unanimously.

4. Exposed Proposal 2022-09-CA (Revised Affiliated Investments Structures and Instructions)

Mr. Botsko said the Property and Casualty Risk-Based Capital (E) Working Group and Health Risk-Based Capital (E) Working Group exposed the affiliated investment instructions for a 60-day and 61-day comment period, respectively. He also stated that no comments were received during the exposure period. Mr. Botsko also said the Life Risk-Based Capital (E) Working received one comment from the American Council of Life Insurers (ACLI) on issue regarding the non-admission. Brian Bayerle (ACLI) said the current exposed guidance requires reporting insurers to include the carrying values and RBC requirements for all directly owned subsidiaries even if they are non-admitted. He asked the Task Force to consider sending a referral to Statutory Accounting Principles (E)

Working Group to consider aligning between the statutory accounting and the RBC. Mr. Bruggeman believed that reporting insurers should carry some liabilities on the non-admitted subsidiaries as they do not go through the audit processes. Mr. Botsko said the Task Force welcomes any comments during the exposure period.

The Task Force agreed to expose proposal 2022-09-CA (Attachment Eight) for a 60-day public comment period ending Oct. 10.

5. Adopted its Working Agenda

Mr. Drutz said the only added priority #1 item for the Health Risk-Based Capital (E) Working Group in 2022 working agenda is the evaluation of the affiliated investment changes. Mr. Barlow said the Life Risk-Based Capital (E) Working Group updated item #7 to “work with the Academy on creating guidance for the adopted C-2 mortality treatment for 2022 and next steps for 2023.” He also stated that the Risk-Based Capital Investment Risk and Evaluation (E) Working Group added a new item to “evaluate the appropriate RBC treatment of Residual Tranches” with the expected completion date as 2023 or later. Mr. Botsko said the Catastrophe Risk (E) Subgroup changed the following items: 1) the expected completion date for items #15 and #20 to year-end 2023; 2) eliminated the items of a) “implement wildfire peril in the Rcat component”; and b) “evaluate the possibility of modifying exemption criteria for different cat perils in the PR027 interrogatories.” He also said the Working Group: 1) added a new item of “changing the RBC PR035 Line of Business categories”; and 2) eliminated the “remove the trend test footnote in PR033” items from the 2022 working agenda.

Mr. Houdek made a motion, seconded by Mr. Drutz, to adopt the revised 2022 working agenda (Attachment Nine). The motion passed unanimously.

6. Discussed Other Matters

Mr. Botsko said the Property and Casualty Risk-Based Capital (E) Working Group received a request from the Restructuring Mechanisms (E) Subgroup earlier to ask the Working Group to take the lead in addressing the charge of “considering the need to make changes to the RBC formula to better assess the minimum surplus requirements for companies in runoff.” He said one of the recommendations that the Working Group has is to share its findings with the other two RBC working groups as each line of business has its unique condition of runoff companies. Mr. Botsko said the referral from the RMSG and the recommendations from the Property and Casualty Risk-Based Capital (E) Working Group will be shared with the Health Risk-Based Capital (E) Working Group and the Life Risk-Based Capital (E) Working Group in the near future. Lastly, Mr. Botsko said the Task Force will have a more in-depth discussions on this issue during its upcoming meetings.

Having no further business, the Capital Adequacy (E) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E Cmte/CADF/2022-2-Summer

Draft: 7/15/22

Capital Adequacy (E) Task Force
Virtual Meeting
June 30, 2022

The Capital Adequacy (E) Task Force met June 30, 2022. The following Task Force members participated: Judith L. French, Chair, represented by Tom Botsko (OH); Doug Ommen, Vice Chair, represented by Mike Yanacheak (IA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Ahmad Kamil (CA); Andrew N. Mais represented by Wanchin Chou (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Adrienne Lupo and Steve Kinion (DE); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); Kathleen A. Birrane represented by Lynn Beckner (MD); Chlora Lindley-Myers represented by William Leung (MO); Mike Causey represented by Jackie Obusek (NC); Eric Dunning represented by Lindsay Crawford (NE); Elizabeth Kelleher Dwyer represented by Ted Hurley (RI); Michael Wise represented by Tom Baldwin (SC); Cassie Brown represented by Jamie Walker (TX); Mike Kreidler represented by Steve Drutz (WA); and Nathan Houdek represented by Amy Malm (WI).

1. Adopted Proposal 2022-02-P (Underwriting Risk Line 1 Factors)

Mr. Botsko said the purpose of this proposal is to provide a routine annual update to the Line 1 premium and reserve industry underwriting factors in the property/casualty (P/C) risk-based capital (RBC) formula. He stated that the Property and Casualty Risk-Based Capital (E) Working Group received a comment letter from Connecticut regarding proposing the new factors for reserves and premiums on an international line during the initial exposure period. The Working Group agreed to re-expose the proposal with the alternative factors proposed by Connecticut for another 10-day public comment period during its June 7 meeting. The Working Group members agreed to adopt the original calculated factors because: 1) the factors do not have a material impact to most companies; and 2) the Working Group received no other comments during the re-exposure period.

Mr. Chou made a motion, seconded by Mr. Drutz, to adopt proposal 2022-02-P (Attachment One-A). The motion passed unanimously.

2. Adopted Proposal 2022-05-L (Residual)

Mr. Barlow said the intent of proposal 2022-05-L is to update the instruction for Line 49.2 to include the total of residual tranches on Life RBC formula page LR008, as the Annual Statement, Schedule BA and the Asset Valuation Reserve (AVR) were both modified for year-end 2022 to isolate residual tranches.

Mr. Barlow made a motion, seconded by Mr. Leung, to adopt proposal 2022-05-L (Attachment One-B). The motion passed unanimously.

3. Adopted Proposal 2022-06-L (C-2 Mortality Instructions)

Mr. Barlow said the purpose of this proposal is to update the C-2 mortality instructions and factors as the structure to expand the categories for 2023 reporting, which was adopted during the Task Force's April 28 meeting. He said the Life Risk-Based Capital (E) Working Group adopted two motions during its June 17 meeting: 1) the instructions that were developed by the American Academy of Actuaries (Academy) with the alternative updated mortality factors that were previously included in one of the Academy sensitivity runs; and 2) the phase-in approach to reduce the impact on ceding insurers. He stated that after reviewing the impact of the phase-in with the approved

factors, it suggested that the need for a phase-in for the adopted factors is unnecessary. He also stated that he received no objections from the Working Group on eliminating the phase-in approach. Therefore, he asked the Task Force to accept the adoption of the new factors and instructions but reject the adoption of the phase-in approach.

Mr. Barlow made a motion, seconded by Mr. Yanacheak, to adopt proposal 2022-06-L but reject the adoption of the phase-in approach from the Life Risk-Based Capital (E) Working Group to adopt proposal 2022-06-L (Attachment One-C). The motion passed unanimously.

4. Discussed Other Matters

Mr. Botsko said the results of the Affiliated Investment Ad Hoc Group have been shared with the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, and the Property and Casualty Risk-Based Capital (E) Working Group. The Health Risk-Based Capital (E) Working Group and the Life Risk-Based Capital (E) Working Group have exposed the proposed changes ending July 5 and July 20, respectively. The Property and Casualty Risk-Based Capital (E) Working Group ended its exposure period on June 25, and no comments were received during the exposure period. Mr. Botsko said he hopes the Life Risk-Based Capital (E) Working Group and the Health Risk-Based Capital (E) Working Group will discuss comments during their next meetings prior to the Task Force considering the changes at the Summer National Meeting.

Mr. Botsko also said the RBC Investment Risk and Evaluation (E) Working Group is working on its charges and will provide periodic updates to the Task Force starting at the Summer National Meeting.

Having no further business, the Capital Adequacy (E) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/June 30 CADTF minutes.docx

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Operational Risk (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input checked="" type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |

DATE: <u>4/26/22</u>	<u>FOR NAIC USE ONLY</u>
CONTACT PERSON: <u>Eva Yeung</u>	Agenda Item # <u>2022-02-P</u>
TELEPHONE: <u>816-783-8407</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>eveung@naic.org</u>	<u>DISPOSITION</u>
ON BEHALF OF: <u>P/C RBC (E) Working Group</u>	<input checked="" type="checkbox"/> ADOPTED <u>TF 6-30-22</u>
NAME: <u>Tom Botsko</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Chair</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>Ohio Department of Insurance</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____
ADDRESS: <u>50 West Town Street, Suite 300</u>	<input checked="" type="checkbox"/> EXPOSED <u>4/26/22</u>
<u>Columbus, OH 43215</u>	<input checked="" type="checkbox"/> OTHER (SPECIFY) <u>Re-exposed 6/7/22</u>

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|--|--|
| <input type="checkbox"/> Health RBC Blanks | <input checked="" type="checkbox"/> Property/Casualty RBC Blanks | <input type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

The proposed change would update the Line 1 Factors for PR017 and PR018.

REASON OR JUSTIFICATION FOR CHANGE **

The proposed change would provide routine annual update of the industry underwriting factors (premium and reserve) in the PCRBC formula.

Additional Staff Comments:

4/26/22 – the Working Group exposed this proposal for a 30-day public comment period ending 5/26.
 5/22/22 – CT submitted alternative proposal.
 6/7/22 – the Working Group re-exposed this proposal with CT alternative factors for a 10-day public comment period ending 6/16.
 6/24/22 – the Working Group adopted the proposal.
 6/30/22 – the Capital Adequacy (E) Task Force adopted at their 6/30/22 meeting.

** This section must be completed on all forms.

Revised 2-2019

PRO17 Line 1 Reserves

Schedule P Line of Business	LOB	Proposed for Adoption - 2022 Industry Average Development Ratio	2021 Industry Average Development		2020 Industry Average Development		2019 Industry Average Development		2018 Industry Average Development		2017 Industry Average Development		2016 Industry Average Development		2015 Industry Average Development		2014 Industry Average Development		2013 Industry Average Development		2012 Industry Average Development		2011 Industry Average Development		2010 Industry Average Development		2009 Industry Average Development		2008 Industry Average Development		2007 Industry Average Development				
			Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development	Average	Development			
H/F			0.998	0.993	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989	0.984	0.989				
PFA	A		1.025	1.035	1.026	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022	1.012	1.022				
CA	B		1.083	1.078	1.087	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060	1.034	1.060				
WC	C		1.012	0.916	0.955	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971	0.952	0.971			
CMP	D		0.999	1.016	0.992	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967	0.956	0.967		
MM Occurrence	E		0.874	0.861	0.864	0.871	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871	0.868	0.871		
MM Clms Made	F1		0.973	0.940	0.907	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886	0.854	0.886		
SL	F2		0.976	0.963	0.938	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933	0.926	0.933		
OL	G		0.964	0.968	0.971	0.968	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966	0.952	0.966		
Fidelity / Surety	H		0.915	0.907	0.995	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	0.971	1.016	
Special Property	I		0.978	0.977	0.972	0.971	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	0.971	0.982	
Auto Physical Damage	J		0.989	0.993	0.996	1.000	1.000	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	0.995	1.001	
Other (Credit, A&H)	K		0.965	0.971	0.973	0.976	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	0.976	0.981	
Financial / Mortgage Guaranty	L		0.723	0.682	0.788	0.870	0.870	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820	0.855	0.855	0.820
Int'l	M		1.104	1.162	1.037	0.851	0.851	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897	0.855	0.897
Rein. Property & Financial Lines	NP		0.893	0.866	0.872	0.884	0.884	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	0.814	
Rein. Liability	O		0.989	0.985	0.955	0.945	0.945	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	0.896	0.914	
PL	R		0.879	0.900	0.913	0.921	0.921	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937	0.935	0.937
Warranty	T		1.007	1.013	1.017	1.015	1.015	0.989	0.977	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	0.977	0.989	n/a	

PRO18 Line 1 Premiums

Schedule P Line of Business	LOB	2021 Industry Average Loss & Expense Ratio	2020 Industry Average Loss & Expense Ratio	2019 Industry Average Loss & Expense Ratio	2018 Industry Average Loss & Expense Ratio	2017 Industry Average Loss & Expense Ratio	2016 Industry Average Loss & Expense Ratio	2015 Industry Average Loss & Expense Ratio	2014 Industry Average Loss & Expense Ratio	2013 Industry Average Loss & Expense Ratio	2012 Industry Average Loss & Expense Ratio	2011 Industry Average Loss & Expense Ratio	2010 Industry Average Loss & Expense Ratio	2009 Industry Average Loss & Expense Ratio	2008 Industry Average Loss & Expense Ratio	2007 Industry Average Loss & Expense Ratio
H/F	A	0.681	0.678	0.681	0.687	0.688	0.701	0.701	0.713	0.725	0.728	0.726	0.736	0.737	0.742	0.750
PPA	B	0.795	0.810	0.810	0.806	0.800	0.792	0.786	0.780	0.784	0.792	0.804	0.815	0.821	0.831	0.836
CA	C	0.761	0.737	0.684	0.724	0.706	0.689	0.684	0.676	0.668	0.669	0.679	0.705	0.737	0.763	0.784
WC	D	0.682	0.705	0.726	0.744	0.751	0.752	0.751	0.749	0.750	0.755	0.766	0.78	0.805	0.83	0.847
CMP	E	0.673	0.672	0.666	0.648	0.647	0.648	0.655	0.652	0.653	0.644	0.654	0.674	0.695	0.710	0.727
MM Occurrence	F1	0.731	0.726	0.730	0.780	0.777	0.767	0.880	0.883	0.874	0.916	0.952	1.031	1.104	1.195	1.231
MM Clms.Made	F2	0.821	0.797	0.768	0.747	0.722	0.691	0.697	0.680	0.695	0.718	0.771	0.860	0.928	1.003	1.091
SL	G	0.893	0.603	0.893	0.833	0.867	0.572	0.630	0.645	0.649	0.597	0.599	0.582	0.673	0.709	0.732
Fidelity / Surety	H	0.635	0.639	0.638	0.417	0.430	0.464	0.462	0.473	0.496	0.528	0.555	0.584	0.586	0.583	0.582
Special Property	I	0.559	0.553	0.554	0.563	0.555	0.559	0.571	0.572	0.574	0.562	0.559	0.565	0.575	0.590	0.568
Auto Physical Damage	J	0.726	0.732	0.730	0.732	0.727	0.711	0.703	0.686	0.681	0.683	0.681	0.692	0.697	0.705	0.716
Other (Credit, A&H)	K	0.693	0.684	0.682	0.709	0.712	0.699	0.706	0.754	0.778	0.794	0.786	0.691	0.697	0.737	0.789
Financial / Mortgage Guaranty	L	0.252	0.513	0.811	1.099	1.175	1.293	1.096	1.242	1.271	1.206	1.142	0.937	0.954	0.930	0.874
Int'l	M	0.762	0.758	0.795	0.584	0.565	0.607	1.150	1.131	1.093	0.931	0.805	0.828	0.924	0.977	0.994
Rein. Property & Financial Lines	NP	0.558	0.534	0.522	0.486	0.459	0.512	0.723	0.764	0.766	0.757	0.805	0.828	0.924	1.107	1.164
Rein. Liability	O	0.713	0.708	0.679	0.666	0.609	0.600	0.600	0.748	0.782	0.841	0.915	1.010	1.107	1.165	1.164
PL	R	0.617	0.645	0.656	0.671	0.670	0.684	0.715	0.716	0.683	0.697	0.714	0.747	0.780	0.802	0.822
Warranty	T	0.681	0.691	0.695	0.732	0.645	0.611	0.799	0.789	0.864	0.862	0.916	0.860	0.800	n/a	n/a

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input checked="" type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Operational Risk (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |

DATE: <u>4/22/2022</u>	FOR NAIC USE ONLY
CONTACT PERSON: <u>Dave Fleming</u>	Agenda Item # <u>2022-05-L</u>
TELEPHONE: <u>816-783-8121</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>dfleming@naic.org</u>	DISPOSITION
ON BEHALF OF: <u>Life Risk-Based Capital (E) Working Group</u>	<input checked="" type="checkbox"/> ADOPTED <u>6/3/22, TF 6/30/22</u>
NAME: <u>Philip Barlow, Chair</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Associate Commissioner of Insurance</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>District of Columbia</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP
ADDRESS: <u>1050 First Street, NE Suite 801</u>	<input type="checkbox"/> EXPOSED _____
<u>Washington, DC 20002</u>	<input type="checkbox"/> OTHER (SPECIFY) _____

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|---|---|
| <input type="checkbox"/> Health RBC Blanks | <input type="checkbox"/> Property/Casualty RBC Blanks | <input checked="" type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

This proposal adds instruction for line 49.2 on LR008 to include the total of residual tranches.

REASON OR JUSTIFICATION FOR CHANGE **

Schedule BA and the Asset Valuation Reserve (AVR) were both modified for year end 2022 to isolate residual tranches. This proposal adds instruction to include the total of those reported in the AVR in line 49.2 on LR008.

Additional Staff Comments:

- 4/22/22: Proposal was exposed for comments (DBF)
- 6/3/22 : Adopted by the Working Group.
- 6/30/22: Capital Adequacy (E) Task Force adopted at their meeting on 6/30/22.

** This section must be completed on all forms.

Revised 2-2019

OTHER LONG-TERM ASSETS

LR008

Basis of Factors

Recognizing the diverse nature of Schedule BA assets, the RBC is calculated by assigning different risk factors according to the different type of assets. Assets with underlying characteristics of bonds and preferred stocks designated by the NAIC Capital Markets and Investment Analysis Office have different factors according to the NAIC assigned classification. Unrated fixed-income securities will be treated the same as Other Schedule BA Assets and assessed a 30 percent pre-tax charge. Rated surplus and capital notes have the same factors applied as Schedule BA assets with the characteristics of preferred stock. Where it is not possible to determine the RBC classification of an asset, a 30 percent pre-tax factor is applied.

*Specific Instructions for Application of the Formula*Line (49.1)

Schedule BA affiliated common stock – all other should be included in C-1cs. Specifically this means that all subs with an affiliate code 13 in the current life-based framework and “holding company in excess of indirect subsidiaries” or subsidiaries with affiliate code 7 are to be included in C-1cs.

Line (49.2)

New lines were added for yearend 2022 reporting to Schedule BA and the AVR Equity Component to capture amounts related to residual tranches or interest. For yearend 2022 life RBC reporting, AVR Equity Component, Column 1, Line 93 will be included in Line (49.2).

Line (57)

Total Schedule BA assets [LR008 Other Long-Term Assets Column (1) Line (57) plus LR007 Real Estate Column (1) Line (14) plus Lines (17) through Line (21) plus LR009 Schedule BA Mortgages Column (1) Line (20)] should equal the total Schedule BA assets reported in the Annual Statement Page 2, Column 3, Line 8.

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input checked="" type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | |

DATE: <u>4/22/22</u>	<u>FOR NAIC USE ONLY</u>
CONTACT PERSON: <u>Ryan Fleming, MAAA, FSA</u>	Agenda Item # <u>2022-06-L</u>
TELEPHONE: <u>(414) 665-5020</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>ryanfleming@northerstermutual.com</u>	<u>DISPOSITION</u>
ON BEHALF OF: <u>AAA C-2 Mortality Work Group</u>	<input checked="" type="checkbox"/> ADOPTED <u>6/17/22, TF 6/30/22</u>
NAME: <u>Ryan Fleming, MAAA, FSA</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Vice Chairperson</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>American Academy of Actuaries</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____
ADDRESS: <u>1850 M Street NW, Suite 300</u>	<input checked="" type="checkbox"/> EXPOSED <u>4/22/22</u>
<u>Washington, DC 20036</u>	<input type="checkbox"/> OTHER (SPECIFY) _____

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|---|---|
| <input type="checkbox"/> Health RBC Blanks | <input type="checkbox"/> Property/Casualty RBC Blanks | <input checked="" type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

Instructional changes and factors for LR025.

REASON OR JUSTIFICATION FOR CHANGE **

Structural changes necessary to facilitate the implementation of updated C-2 life mortality factors and expanded categories were adopted by the Working Group 4/22/22. This proposal provides the instruction and factor changes to complete implementation of the update to the treatment of C-2.

Additional Staff Comments:

Exposed for comment by the Working Group 4/22/22
 Re-exposed for comment by the Working Group along with an alternative version with modified factors 6/3/22
 Adopted with the alternative factors by the Working Group 6/17/22
 6/30/22 – The Capital Adequacy (E) Task Force adopted at their 6/30/22 meeting.

** This section must be completed on all forms.

LIFE INSURANCE - OPTION 2

LR025

Basis of Factors

The factors developed represent surplus needed to provide for life insurance mortality risk, which is defined as adverse variance in life insurance deaths (i.e., insureds dying sooner than expected) over the remaining lifetime of a block of business while appropriately reflecting the pricing flexibility to adjust current mortality rates for emerging experience. The mortality risks included in the development of the factors were volatility, level, trend, and catastrophe. The factors were developed by stochastically simulating the run-off of in force life insurance blocks typical of U.S. life insurers.

The capital need, expressed as a dollar amount, is determined as the greatest present value of accumulated deficiencies at the 95th percentile of the stochastic distribution of scenarios over the remaining lifetime of a block of business while appropriately reflecting the pricing flexibility to adjust current mortality rates. Statutory losses are defined as the after-tax quantification of gross death benefits minus reserves released minus mortality margin present in reserves. The after-tax statutory losses are discounted to the present by using 20-year averages for U.S. swap rates. By selecting the largest present value accumulated loss across all projection years, the solved for capital ensures non-negative capital at all projection periods. Earlier period losses are not allowed to be offset by later period gains to reduce capital. The 95th percentile is the commonly accepted statistical safety level used for Life RBC C-2 mortality risk to identify weakly capitalized companies. The after-tax capital needs are translated to a factor expressed as a percentage of the net amount at risk (NAR). The pre-tax factor is determined by taking the after-tax factor divided by (1 minus the tax rate).

The factors are differentiated between individual & industrial life and group & credit life, and by in force block size. Within individual & industrial life, the factors are differentiated into categories by contract type depending on the degree of pricing flexibility. Within group & credit life, the factors are differentiated into categories by the remaining length of the premium rate term by group contract. There are distinct factors for contracts that have remaining premium rate terms 36 months and under and for contracts that have remaining premium rate terms over 36 months. The Federal Employees' Group Life Insurance (FELI) and Servicemembers' Group Life Insurance (SGLI) receive a separate factor applied to the amounts in force.

Specific Instructions for Application of the Formula

Lines 2, 5 and 21-41 are not applicable to Fraternal Benefit Societies.

The NAR is derived for each of the factor categories using annual statement sources and company records. In Force and Reserves amounts are net of reinsurance throughout. The In Force amounts throughout derived from company records need to be consistent with the Exhibit of Life Insurance. The Reserves amounts throughout derived from company records need to be consistent with Exhibit 5, Separate Accounts Exhibit, and Schedule S.

The NAR size bands apply to the total amounts for individual & industrial life and group term & credit life. The size bands are allocated proportionately to the NAR for each of the factor categories. Size band 1 is for NAR amounts up to \$500 million. Size band 2 is for NAR amounts greater than \$500 million and up to \$25 billion. Size band 3 is for NAR amounts greater than \$25 billion.

Pricing Flexibility for Individual Life Insurance is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years and reflecting typical business practices. For the purposes of assessing whether business is categorized as having "Pricing Flexibility", grouping of gross amounts may be done at either the contract level or at a cohort level consistent with grouping for pricing purposes. Direct insurers may assess pricing flexibility for gross amounts at either the contract level or at the cohort level used to make pricing decisions. The categorization for ceded amounts for direct insurers should be based on the terms of each reinsurance treaty. Non-affiliated reinsurers are to assess the flexibility to adjust rates on in force contracts based on the terms of each reinsurance treaty and constraints based on typical business practices. For example, if a non-affiliated reinsurer has historical precedent for changing in force rates, then that may provide support for assigning policies to the category with pricing flexibility. Affiliated reinsurers are to assign the factor category based on the direct policies. In force contracts may move between categories throughout their remaining lifetime if the degree of pricing flexibility changes as of each valuation date. A material rate adjustment is defined as the

ability to recover, on a present value basis, the difference in mortality provided for in the factors below for contracts with and without pricing flexibility. These differences in factors are shown in the Line (13) table below in the Permanent Life Flexibility Factor and Term Life Flexibility Factor columns. The flexibility factor for each category multiplied by the NAR results in the minimum dollar margin needed for a material rate adjustment, which can then be compared against margins available to adjust rates. In force contracts that have margin available that is greater than or equal to the minimum dollar margin needed may be assigned to the category for policies with pricing flexibility. Insurers may choose to assign contracts to the categories without pricing flexibility if the evaluation of margins is not completed or if the degree of pricing flexibility is uncertain.

Lines (11) and (12) Life Policies with Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren't limited to, participating whole life insurance, universal life insurance without secondary guarantees, and yearly renewable term insurance where scheduled premiums may be changed on an annual basis from the date of issue. The table below illustrates the RBC requirement calculation embedded in Line (13) for Life Policies with Pricing Flexibility.

Line (13)	Life Policies with Pricing Flexibility	(1) Statement Value	Factor	(2) RBC Requirement	Permanent Life Flexibility Factor	Term Life Flexibility Factor
	Allocation of First \$500 Million		X 0.00190 = .00220		0.0020000230	0.0008000110
	Allocation of Next \$24,500 Million		X 0.00075 = .00105		0.0009900120	0.0003500065
	Allocation of Over \$25,000 Million		X 0.00050 = .00080		0.0006000085	0.0002500055
	Total Life Policies with Pricing Flexibility Net Amount at Risk					

Lines (14) and (15) Term Life Policies without Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren't limited to, level term insurance with guaranteed level premiums and yearly renewable term insurance where scheduled premiums may not be changed. The table below illustrates the RBC requirement calculation embedded in Line (16) for Term Life Policies without Pricing Flexibility.

Line (16)	Term Life Policies without Pricing Flexibility	(1) Statement Value	Factor	(2) RBC Requirement
	Allocation of First \$500 Million		X 0.00270 = .00280	
	Allocation of Next \$24,500 Million		X 0.00140 = .00120	
	Allocation of Over \$25,000 Million		X 0.00075 = .00085	
	Total Term Life Policies without Pricing Flexibility Net Amount at Risk			

Lines (17) and (18) Permanent Life Policies without Pricing Flexibility In Force and Reserves are derived from the aggregate amounts derived in lines (1) to (10) minus the amounts recorded in the other individual life categories. Examples of products intended for this category include, but aren't limited to, universal life with secondary guarantees and non-participating whole life insurance. Policies that aren't recorded in the other individual life categories default to this category which has the highest factors. The table below illustrates the RBC requirement calculation embedded in Line (19) for Permanent Life Policies without Pricing Flexibility.

Line (19)	Permanent Life Policies without Pricing Flexibility	(1) Statement Value	Factor	(2) RBC Requirement
	Allocation of First \$500 Million		X 0.00390	

<u>Allocation of Next \$24,500 Million</u>		
	<u>00400 =</u>	
	X <u>0.400165</u>	
<u>Allocation of Over \$25,000 Million</u>		
	<u>00175 =</u>	
	X <u>0.400110</u>	
	<u>00120 =</u>	
Total Permanent Life Policies without Pricing Flexibility Net Amount at Risk		

Lines (35) and (36) Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under are derived from company records. This category includes group contracts where the premium terms have 36 months or fewer until expiration or renewal. Insurers may choose to assign contracts to the category for remaining rate terms over 36 months if the evaluation of remaining rate terms is not completed. The in force amount classified in this category needs to be consistent with the Exhibit of Life Insurance. The reserves amount classified in this category needs to be consistent with Exhibit 5 used for Lines (28) and (29), Separate Accounts Exhibit used for Line (30), and Schedule S used for Lines (31) and (32). Federal Employees' Group Life Insurance (FEGLI) and Servicemembers' Group Life Insurance (SGLI) contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (37) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under.

Line (37)	(1)	(2)
<u>Group & Credit Life with Remaining Rate Terms 36 Months and Under</u>	<u>Statement Value</u>	<u>RBC Requirement</u>
<u>Allocation of First \$500 Million</u>		
		X <u>0.400130</u>
<u>Allocation of Next \$24,500 Million</u>		<u>00140 =</u>
		X <u>0.400045</u>
		<u>00055 =</u>
<u>Allocation of Over \$25,000 Million</u>		X <u>0.400030</u>
		<u>00040 =</u>
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under		

Lines (38) and (39) Group & Credit Life In Force and Reserves with Remaining Rate Terms Over 36 Months are derived from the aggregate amounts derived in lines (21) to (34) minus the Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under in lines (35) and (36). FEGLI and SGLI contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (40) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months.

Line (40)	(1)	(2)
<u>Group & Credit Life with Remaining Rate Terms Over 36 Months</u>	<u>Statement Value</u>	<u>RBC Requirement</u>
<u>Allocation of First \$500 Million</u>		
		X <u>0.400180</u>
<u>Allocation of Next \$24,500 Million</u>		<u>00190 =</u>
		X <u>0.400070</u>
		<u>00080 =</u>
<u>Allocation of Over \$25,000 Million</u>		X <u>0.400045</u>
		<u>00055 =</u>
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months		

Line (41) FEGLI/SGLI In Force amounts are retrieved from the Exhibit of Life Insurance. The capital factor assigned is the same as the largest size band for group & credit life contracts with remaining rate terms 36 months and under.

<u>Line (41)</u>	<u>FEGLI/SGLI</u>			
	In Force			
	(1)	Factor	(2)	
	<u>Statement Value</u>	X	<u>RBC Requirement</u>	
	_____	0.40030	_____	
		00040 =		

All amounts should be entered as required. The risk-based capital software will calculate the RBC requirement for individual and industrial and for group and credit.

Draft: 5/3/22

Capital Adequacy (E) Task Force
Virtual Meeting
April 28, 2022

The Capital Adequacy (E) Task Force met April 28, 2022. The following Task Force members participated: Judith L. French, Chair, represented by Tom Botsko (OH); Doug Ommen, Vice Chair, represented by Mike Yanacheak (IA); Jim L. Ridling represented by Jennifer Li (AL); Ricardo Lara represented by Thomas Reedy (CA); Andrew N. Mais represented by Wanchin Chou (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Adrienne Lupo and Steve Kinion (DE); David Altmaier represented by Virginia Christy (FL); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); Kathleen A. Birrane represented by Vincent O’Grady (MD); Chlora Lindley-Myers represented by William Leung (MO); Troy Downing represented by Steve Matthews (MT); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by Diana Sherman (NJ); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Michael Wise represented by Michael Shull (SC); Cassie Brown represented by Jamie Walker (TX); Mike Kreidler represented by Steve Drutz (WA); and Nathan Houdek represented by Amy Malm (WI).

1. Adopted Proposal 2021-17-CR MOD (Wildfire Information-Only Reporting Exemption)

Mr. Botsko said a modification of proposal 2021-17-CR was created for those smaller companies, where the modeling requirements would impose a cost and compliance burden that represents an outsized cost relative to the incremental benefit of providing the modeled data for information-only purposes. He also stated that this modification would no longer be valid when the wildfire peril is added to the Rcat component unless the companies qualify under the exemptions listed in PR027 Interrogatory items C(7), C(8), or C(9). In addition, revisions were made during the exposure period based on one comment letter from the Missouri Department of Commerce and Insurance (DCI) regarding some non-substantive editorial updates in the instructions.

Mr. Chou made a motion, seconded by Mr. Yanacheak, to adopt proposal 2021-17-CR MOD (Attachment Two-A). The motion passed unanimously.

2. Adopted Proposal 2022-01-P (Remove Trend Test Footnote)

Mr. Botsko said the intent of proposal 2022-01-P is to remove the trend test for information-only wordings in the PR033 footnote, as it has been adopted by every state. He also stated that the Working Group did not receive any comments during the exposure period.

Mr. Drutz made a motion, seconded by Mr. Chou, to adopt proposal 2022-01-P (Attachment Two-B). The motion passed unanimously.

3. Adopted Proposal 2022-03-L (Investment Income Guidance)

Mr. Barlow said the purpose of this proposal is to provide structural changes necessary to facilitate the implementation of updated C2 life mortality factors and expanded categories.

Mr. Barlow made a motion, seconded by Mr. Leung, to adopt proposal 2022-03-L (Attachment Two-C). The motion passed unanimously.

4. Discussed Other Matters

Mr. Botsko said that the results of the Affiliated Investment Ad Hoc Group have been shared with the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, and the Property and Casualty Risk-Based Capital (E) Working Group. The Property and Casualty Risk-Based Capital (E) Working Group has exposed its proposed changes and hopes the Life Risk-Based Capital (E) Working Group and the Health Risk-Based Capital (E) Working Group can expose their changes and discuss comments in the next couple of months prior to the Task Force considering the changes.

Mr. Botsko said the Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group will begin working on its charges and will provide periodic updates to the Task Force.

Having no further business, the Capital Adequacy (E) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/Apr 28 CADTF minutes.docx

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input checked="" type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Operational Risk (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |

DATE: <u>12/16/21</u>	<u>FOR NAIC USE ONLY</u>
CONTACT PERSON: <u>Eva Yeung</u>	Agenda Item # <u>2021-17-CR</u>
TELEPHONE: <u>816-783-8407</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>eveung@naic.org</u>	<u>DISPOSITION</u>
ON BEHALF OF: <u>Catastrophe Risk (E) Subgroup</u>	<input checked="" type="checkbox"/> ADOPTED <u>CapAd 3/28/22</u>
NAME: <u>Wanchin Chou</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Chair</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>Connecticut Department of Insurance</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____
ADDRESS: <u>153 Market Street, 7th Floor</u>	<input checked="" type="checkbox"/> EXPOSED <u>12/16/22</u>
<u>Hartford, CT 06103</u>	<input checked="" type="checkbox"/> OTHER (SPECIFY) <u>MOD 2022-17-CR</u>

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|--|--|
| <input type="checkbox"/> Health RBC Blanks | <input checked="" type="checkbox"/> Property/Casualty RBC Blanks | <input type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input checked="" type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

The proposed change may add wildfire as one of the catastrophe risk perils for informational purposes only in the Reat component.

REASON OR JUSTIFICATION FOR CHANGE **

While the Catastrophe Risk (E) Subgroup reviewed the possibility of expanding the current catastrophe framework to include other perils that may experience a greater tail risk under projected climate-related trends, the wildfire has been identified as one of the major drivers of the U.S. insured losses. The Subgroup decided to consider adding wildfire as one of the catastrophe perils in the Reat component.

Additional Staff Comments:

- 12/16/21 – The Catastrophe Risk (E) Subgroup exposed the proposal for a 60-day comment period ending by 02-13-22.
 2/22/22 – The Catastrophe Risk (E) Subgroup adopted this proposal during the Feb. 22, 2022, virtual meeting.
 3/22/22 -The Catastrophe Risk (E) Subgroup exposed the modification of this proposal for a 14-day comment period ending by 04-05-22.
 3/23/22 – The P/C RBC (E) Working Group adopted the proposal during 3/23/22 virtual meeting.
 3/28/22 – The Capital Adequacy (E) Task Force adopted the proposal during the 3/28/22 virtual meeting.

** This section must be completed on all forms.

Revised 2-2019

CALCULATION OF CATASTROPHE RISK CHARGE RCAT PR027A, PR027B, PR027C, PR027, AND PR027INT

The catastrophe risk charge for earthquake (PR027A), hurricane (PR027B), and wildfire for Informational purposes only (PR027C) risks is calculated by multiplying the RBC factors by the corresponding modeled losses and reinsurance recoverables. The risk applies on a net basis with a corresponding contingent credit risk charge for certain categories of reinsurers. Data must be provided for the worst year in 50, 100, 250, and 500; however, only the worst year in 100 will be used in the calculation of the catastrophe risk charge. While projected losses modeled on an Aggregate Exceedance Probability basis is preferred, companies are permitted to report on an Occurrence Exceedance Probability basis if that is consistent with the company's internal risk management process.

The projected losses can be modeled using the following NAIC approved third party commercial vendor catastrophe models: AIR, Corelogic, RMS, KCC, the ARA HurLoss Model, or the Florida Public Model for hurricane, as well as catastrophe models that are internally developed by the insurer or that are the result of adjustments made by the insurer to vendor models to represent the own view of catastrophe risk (hereinafter "own models").

However, an insurer seeking to use an own model must first obtain written permission to do so by the domestic or lead state insurance regulator. In the situation where the model output is used to determine the catastrophe risk capital requirement for a single entity, the regulator granting permission to use the own model is the domestic state. In the situation where the model output is used to determine the catastrophe risk capital requirement for a group, the grantor is the lead state regulator. In the situation where the insurer seeking permission is a non-U.S. insurer, the grantor shall be the lead state regulator. Under all scenarios, the regulator that is granting permission should inform other domestic states that have a catastrophe risk exposure and share the results of the review.

To obtain permission to use the own model, the insurer must provide the domestic or lead state insurance regulator with written evidence of each of the following:

1. The use of the own model is reasonable considering the nature, scale, and complexity of the insurer's catastrophe risk;
2. The own model is used for catastrophe risk management, capital assessment, and the capital allocation process and the model has been used for at least the last 3 years;
3. The perils included in the RBC Catastrophe Risk Charge have been validated by the insurer and that these perils include both US and global exposures, where applicable;
4. The own model has been developed using reasonable data and assumptions and that model results used in determining the RBC Catastrophe Risk Charge reflect exposure data that is no older than six months;
5. The insurer has individuals with experience in developing, testing and validating internal models or engages third parties with such experience. The insurer must provide supporting model documentation and a copy of the latest validation report and the insurer is solely responsible for the relevant cost. For each peril included in the RBC Catastrophe Risk Charge, the validation report should attest that the projected losses are a reasonable quantification of the exposure of the reporting entity. The validation report must provide a description of the scope, content, results and limitations of the validation, the individual qualifications of validation team and the date of the validation. Both the model documentation and the model validation report must be provided at a minimum once every five years, or whenever the lead or domestic state calls an examination; whenever there is a material change in the model; or whenever there is a material change in the insurer's exposure to catastrophe exposure.
6. The results of the own model should be compared with the results produced by at least one of the following models: AIR, Corelogic, RMS, KCC, ARA HurLoss, or the Florida Public Model. The insurer must provide the comparison and an explanation of the drivers of differences between the results produced by the internal model vs. results produced by the selected prescribed model.
7. If the own model has been approved or accepted by the non-U.S. group-wide supervisor for use in the determination of regulatory capital, the insurer must submit evidence, if available, from the non-US group-wide supervisor of the most recent approval/acceptance including the description of scope, content, results and limitations of the approval/acceptance process and dates of any planned future approval/acceptance, if known. The name and the contact information of a contact person at the non-US group-wide supervisor should also be provided for questions on the approval/acceptance process.

If the lead or domestic state determines that permission to use the own model cannot be granted, the insurer shall be required to determine the RBC Catastrophe Risk Charge through the use of one of the third-party commercial vendor models (AIR, Corelogic, RMS, KCC, ARA HurLoss (hurricane only)), or the Florida Public Model for hurricane, as advised by the lead state or domestic state.

10/15/2021

If the lead or domestic state determines that permission to use the own model can be granted to determine the RBC Catastrophe Risk Charge, the model will be subject to additional review through the ongoing examination process. If, as a result of the examination, the lead or domestic state determines that permission to use the own model should be revoked, the insurer may be required to resubmit the risk-based capital filing and any past filings so impacted where own model was used, as directed by the lead state or domestic state. If the insurer obtains permission to use the own model, it cannot revert back to using third party commercial vendor models to determine the RBC Catastrophe Risk Charge in subsequent reporting periods, unless this is agreed with the lead or domestic state that granted permission.

The contingent credit risk charge should be calculated in a manner consistent with the way the company internally evaluates and manages its modeled net catastrophe risk.

Note that no tax effect offsets or reinstatement premiums should be included in the modeled losses. Further note that the catastrophe risk charge is for earthquake and hurricane risks only.

As per the footnote on this page, modeled losses to be entered PR027A, PR027B and PR27C in Lines (1) through (4) are to be calculated using one of the third party commercial vendor models – AIR, Corelogic, RMS, KCC, ARA HurLoss (hurricane only); or the Florida Public Model (hurricane only) or the insurer's own catastrophe model; and using the insurance company's own insured property exposure information as inputs to the model. The insurance company may elect to use the modeled results from any one of the models, or any combination of results of two or more of the models. Each insurer will not be required to utilize any prescribed set of modeling assumptions but will be expected to use the same exposure data, modeling, and assumptions that the insurer uses in its own internal catastrophe risk management process. Any exceptions must be explained in the required *Attestation Re: Catastrophe Modeling Used in RBC Catastrophe Risk Charges* within this RBC Report.

The Interrogatory on page (PR027INT) supports an exemption from filing the catastrophe risk charge.

Any company qualifying for exemption from the earthquake risk charge must identify the particular criteria from among (1a), (1b), (2) and (3) that provides its qualification for exemption and may leave the other three items from this group of four possible qualifications for exemption blank; except identification of criteria (3) as the basis for the exemption requires a further answer to (3a) and (3b). If an insurer does not write or assume earthquake risks leaving no gross exposure, enter an "X" in PR027INT interrogatory 3, with no need to fill in (3a) and (3b). If the company qualifies for exemption from the earthquake risk charge, page PR027A and line (1) on PR027 may be left blank.

Any company qualifying for exemption from the hurricane risk charge must identify the particular criteria from among (4a), (4b), (5) and (6) that provides its qualification for exemption and may leave the other three items from this second group of four possible qualifications for exemption blank. If an insurer does not write or assume hurricane risks leaving no gross exposure, enter an "X" in PR027INT interrogatory 6. If the company qualifies for exemption from the hurricane risk charge, page PR027B and line (2) on PR027 may be left blank.

Any company qualifying for exemption from the wildfire risk charge must identify the particular criteria from among (7a), (7b), (8) and (9) that provides its qualification for exemption and may leave the other three items from this third group of four possible qualifications for exemption blank. If an insurer does not write or assume hurricane risks leaving no gross exposure, enter an "X" in PR027INT interrogatory 9. If the company qualifies for exemption from the wildfire risk charge, page PR027C and line (3) on PR027 may be left blank.

In general, the following conditions will qualify a company for exemption: if it uses an intercompany pooling arrangement or quota share arrangement with U.S. affiliates covering 100% of its earthquake, hurricane and wildfire risks such that there is no exposure for these risks; if it has a ratio of Insured Value – Property to surplus as regards policyholders of less than 50%; or if it writes Insured Value – Property that includes hurricane earthquake and/or wildfire coverage in catastrophe-prone areas representing less than 10% of its surplus as regards policyholders.

"Insured Value – Property" includes aggregate policy limits for structures and contents for policies written and assumed in the following annual statement lines – Fire, Allied Lines, Earthquake, Farmowners, Homeowners, and Commercial Multi-Peril.

"Catastrophe-Prone Areas in the U.S." include:

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- i. For hurricane risks, Hawaii, District of Columbia and states and commonwealths bordering on the Atlantic Ocean and/or the Gulf of Mexico including Puerto Rico.
- ii. For earthquake risk or for fire following earthquake, any of the following commonwealth or states: Alaska, Hawaii, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Puerto Rico, and geographic areas in the following states that are in the New Madrid Seismic Zone - Missouri, Arkansas, Mississippi, Tennessee, Illinois and Kentucky.
- iii. For wildfire risk, California, Idaho, Montana, Oregon, Nevada, Wyoming, Colorado, New Mexico, Washington, Arizona, and Utah.

Specific Instructions for Application of the Formula

Column (1) – Direct and Assumed Modeled Losses

These are the direct and assumed modeled losses per the first footnote. Include losses only; no loss adjustment expenses. For companies that are part of an inter-company pooling arrangement, the losses in this column should be consistent with those reported in Schedule P, i.e. losses reported in this column should be the gross losses for the pool multiplied by the company's share of the pool.

Column (2) – Net Modeled Losses

These are the net modeled losses per the footnote. Include losses only; no loss adjustment expenses.

Column (3) – Ceded Amounts Recoverable

These are the modeled losses ceded under any reinsurance contract. Include losses only, no loss adjustment expenses, and should be associated with the Net Modeled Losses.

Column (4) – Ceded Amounts with Zero Credit Risk Charge

Per the footnote, modeled catastrophic losses that would be ceded to the categories of reinsurers that are not subject to the RBC credit risk charge (i.e., U.S. affiliates and mandatory pools, whether authorized, unauthorized, or certified).

Column (6) – Amount

These are automatically calculated based on the previous columns.

Column (7) – RBC Requirement

A factor of 1.000 is applied to the reported modeled catastrophe losses calculated on both AEP and OEP basis, and a factor of 0.018 is applied to the reinsurance recoverables. The RBC Requirement is based on either AEP reported results or OEP reported results (not both), consistent with the way the company internally evaluates and manages its modeled net catastrophe risk.

Column (5) – Y/N

Please indicate “Y” for OEP basis and “N” for AEP basis. This column should not be blank.

10/15/2021

ATTESTATION RE: CATASTROPHE MODELING USED IN RBC CATASTROPHE RISK CHARGES PR002

(1) [Redacted] hereby certifies that the modeled catastrophe losses for earthquake risk, hurricane risk, and wildfire risk entered on lines 1 through 4 of Schedule PR027 of this Risk-Based Capital Report were applying the same catastrophe models or combination of models to the same underlying exposure data, and using the same modeling assumptions, as the company uses in its own internal risk management process, with the following exceptions:

(1a) [Redacted]

These exceptions, if any, are made for the following reasons:

(1b) [Redacted]

The following describes the company's application of catastrophe modeling to the determination of the Rcat risk charges: (Include which models are used in what combinations for each of the Rcat charges; what key modeling assumptions are used, including but not limited to time dependency, secondary uncertainty, storm surge, demand surge, and fire following earthquake; and the rationale for treatment of each issue or item): (provide attachments if necessary):

(2) [Redacted]

The company further certifies that the underlying exposure data used in the catastrophe modeling process is accurate and complete to the best of our knowledge and ability, with the following limitations:

(3) [Redacted]

The following describes the extent to which the exposure location data is accurate to GPS coordinates; to zip code; and to a level less accurate than zip code: (provide attachments if necessary):

(4) [Redacted]

The following describes the steps taken to validate, to the best of the Company's knowledge and belief, the accuracy and completeness of the exposure data used in the modeling process to determine the Rcat catastrophe risk charges (provide attachments if necessary):

(5) [Redacted]

Provide an explanation of the methodology used to derive the amounts in columns 3 and 4 of page PR027A, PR027B and PR027C.

(6) [Redacted]

(7) Completed on behalf of:

[Redacted] (7) Completed By:

[Redacted] Last

[Redacted] First

[Redacted] Middle

[Redacted] Title

(7) Email:

[Redacted] (7) Phone:

[Redacted] Date:

CALCULATION OF CATASTROPHE RISK CHARGE FOR WILDFIRE PR027C FOR INFORMATIONAL PURPOSES ONLY

Wildfire	Reference	(1) Direct and Assumed	(2) Net	Modeled Losses (3) Ceded Amounts Recoverable	(4)†† Ceded Amounts Recoverable with zero Credit Risk Charge
(1) Worst Year in 50	Company Records				
(2) Worst Year in 100	Company Records				
(3) Worst Year in 250	Company Records				
(4) Worst Year in 500	Company Records				
(5) Has the company reported above, its modeled wildfire losses using an occurrence exceedance probability (OEP) basis?				(5) Y/N	
(6) Net Wildfire Risk	Reference				
(7) Contingent Credit Risk for Wildfire Risk	L(2) C(2)				
(8) Total Wildfire Catastrophe Risk (AEP Basis)	L(2) C(3) - C(4)				
(9) Total Wildfire Catastrophe Risk (OEP Basis)	If L(5) C(5) = "N", L(8) C(6) = L(6) C(7) + L(7) C(7), otherwise "0"				
(10) Total Wildfire Catastrophe Risk	If L(5) C(5) = "Y", L(9) C(6) = L(6) C(7) + L(7) C(7), otherwise "0"				
	L(8) C(7) + L(9) C(7)				
		(6) Amount	Factor	(7) RBC Requirement C(6) * Factor	
			0 1,000	0	
			0 0,018	0	
			0 1,000	0	
			0 1,000	0	

Lines (1)-(4): Modeled losses to be entered on these lines are to be calculated using one of the following NAIC approved third party commercial vendor catastrophe models - AIR, RMS, or KCC; or a catastrophe model that is internally developed by the insurer and has received permission of use by the lead or domestic state. The insurance company's own insured property exposure information should be used as inputs to the model(s). The insurance company may elect to use the modeled results from any one of the models, or any combination of the results of two or more of the models. Each insurer will not be required to utilize any prescribed set of modeling assumptions, but will be expected to use the same data, modeling, and assumptions that the insurer uses in its own internal catastrophe risk management process. An attestation to this effect and an explanation of the company's key assumptions and model selection may be required, and the company's catastrophe data, assumptions, model and results may be subject to examination.

† Column (3) is modeled catastrophe losses that would be ceded under reinsurance contracts. This should be associated with the Net Modeled Losses shown in Column (2).

†† Column (4) is modeled catastrophe losses that would be ceded to the categories of reinsurers that are not subject to the RBC credit risk charge (i.e., U.S. affiliates and mandatory pools, whether authorized, unauthorized, or certified).

■ Denotes items that must be manually entered on the filing software.

CALCULATION OF CATASTROPHE RISK CHARGE PR027

	Reference	(1) RBC Amount
(1) Total Earthquake Catastrophe Risk	PR027A L(10) C(7)	0
(2) Total Hurricane Catastrophe Risk	PR027B L(10) C(7)	0
(3) Total Wildfire Catastrophe Risk	PR027C L(10) C(7)	0
(4) Total Catastrophe Risk (Real)	$SQRT(L(1)^2 + L(2)^2)$	0
(4a) Total Catastrophe Risk (Real For Informational Purposes Only)	$SQRT(L(1)^2 + L(2)^2 + L(3)^2)$	0

Lines 3 and 4a are for informational purposes only

PR027

INTERROGATORY TO SUPPORT EXEMPTION FROM COMPLETING PR027 (To be completed by companies reporting no RBC charge in either Lines 1 through 3) PR027INT

Place an "X" in the appropriate cell for the criteria under which the company is claiming an exemption

A. Earthquake Exemption (To be completed by companies reporting no RBC charge in PR027 Line 1) -

- (1) The company has not entered into a reinsurance agreement covering earthquake exposure with a non-affiliate or a non-US affiliate and, either
 - (1a) the company participates in an inter-company pooling arrangement with 0% participation, leaving no net exposure for earthquake risks; Or
 - (1b) the company cedes 100% of its earthquake exposures to its US affiliate(s), leaving no net exposure for earthquake risks
- (2) The Company's Ratio of Insured Value - Property to surplus as regards policyholders is less than 50%
- (3) The company has written Insured Value - Property that includes earthquake coverage in the Earthquake-Prone areas representing less than 10% of its surplus as regards policyholders

For any company qualifying for the exemption under 3 provide details about how the "geographic areas in the New Madrid Seismic Zone" were determined.

(3a) What resource was used to define the New Madrid Seismic Zone?

(3b) Was exposure determined based on zip codes or counties in the zone, was it based on all of the earthquake exposure in the identified states or was another methodology used? Describe any other methodology used.

Note: "Earthquake-Prone areas" include any of the following states or commonwealths: Alaska, Hawaii, Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Puerto Rico, and geographic areas in the following states that are in the New Madrid Seismic Zone - Missouri, Arkansas, Mississippi, Tennessee, Illinois and Kentucky.

B. Hurricane Exemption (To be completed by companies reporting no RBC charge in PR027 Line 2) -

- (4) The company has not entered into a reinsurance agreement covering hurricane exposure with a non-affiliate or a non-US affiliate and, either
 - (4a) the company participates in an inter-company pooling arrangement with 0% participation, leaving no net exposure for hurricane risks; Or
 - (4b) the company cedes 100% of its hurricane exposures to its US affiliate(s), leaving no net exposure for hurricane risks
- (5) The Company's Ratio of Insured Value - Property to surplus as regards policyholders is less than 50%
- (6) The company has written Insured Value - Property that includes hurricane coverage in the Hurricane-Prone areas representing less than 10% of its surplus as regards policyholders

Note: "Hurricane-Prone areas" include Hawaii, District of Columbia and states and commonwealths bordering on the Atlantic Ocean, and/or Gulf of Mexico including Puerto Rico.

C. Wildfire Exemption (To be completed by companies reporting no RBC charge in PR027 Line 3) -

- (7) The company has not entered into a reinsurance agreement covering wildfire exposure with a non-affiliate and, either
 - (7a) the company participates in an inter-company pooling arrangement with 0% participation, leaving no net exposure for wildfire risks; Or
 - (7b) the company cedes 100% of its wildfire exposures to its US affiliate(s), leaving no net exposure for wildfire risks
- (8) The Company's Ratio of Insured Value - Property to surplus as regards policyholders is less than 50%
- (9) The company has written Insured Value - Property that includes wildfire coverage in the wildfire-Prone areas representing less than 10% of its surplus as regards policyholders

Note: "Wildfire-Prone areas" include any of the following states: California, Idaho, Montana, Oregon, Nevada, Wyoming, Colorado, New Mexico, Washington, Arizona, and Utah.

Denotes items that must be manually entered on the filing software.
* Item C is for informational purposes only.

Calculation of Total Risk-Based Capital After Covariance PR032 R4-Rcat

		(1)	RBC Amount
R4 - Underwriting Risk - Reserves			
(56)	One half of Reinsurance RBC	$\text{IF } R4 \text{ L}(57) > (R3 \text{ L}(51) + R3 \text{ L}(52)), R3 \text{ L}(52), \text{ otherwise, } 0$	0
(57)	Total Adjusted Unpaid Loss/Expense Reserve RBC	$\text{PR017 L}(15) \text{ C}(20)$	0
(58)	Excessive Premium Growth - Loss/Expense Reserve	$\text{PR016 L}(13) \text{ C}(8)$	0
(59)	A&H Claims Reserves Adjusted for LCF	$\text{PR024 L}(5) \text{ C}(2) + \text{PR023 L}(6) \text{ C}(4)$	0
(60)	Total R4	$\text{L}(56) + \text{L}(57) + \text{L}(58) + \text{L}(59)$	0
R5 - Underwriting Risk - Net Written Premium			
(61)	Total Adjusted NWP RBC	$\text{PR018 L}(15) \text{ C}(20)$	0
(62)	Excessive Premium Growth - Written Premiums Charge	$\text{PR016 L}(14) \text{ C}(8)$	0
(63)	Total Net Health Premium RBC	$\text{PR022 L}(21) \text{ C}(2)$	0
(64)	Health Stabilization Reserves	$\text{PR025 L}(8) \text{ C}(2) + \text{PR023 L}(3) \text{ C}(2)$	0
(65)	Total R5	$\text{L}(61) + \text{L}(62) + \text{L}(63) + \text{L}(64)$	0
Rcat - Catastrophe Risk			
(66)	Total Rcat	$\text{PR027 L}(4) \text{ C}(1)$	0
(67)	Total RBC After Covariance Before Basic Operational Risk = $R0 + \text{SQRT}(R1^2 + R2^2 + R3^2 + R4^2 + R5^2 + \text{Rcat}^2)$		0
(68)	Basic Operational Risk = $0.030 \times \text{L}(67)$		0
(69)	C-4a of U.S. Life Insurance Subsidiaries (from Company records)		0
(70)	Net Basic Operational Risk = Line (68) - Line (69) (Not less than zero)		0
(71)	Total RBC After Covariance including Basic Operational Risk = $\text{L}(67) + \text{L}(70)$		0
(72)	Authorized Control Level RBC including Basic Operational Risk = $.5 \times \text{L}(71)$		0

PR032

SCHEDULE P PART IX - LINE OF BUSINESS PRXX

Column 2811 – Column 28C - Column 281 - Column 2811

(2)	(3)	(24)	(28)	Earthquake and Hurricane Experience*		Wildfire Catastrophe Experience*		(2811)
				(24A)	(28X)	(24B)	(28B)		(281)	(2811)
	Premiums	Total Net Losses and Expenses Unpaid	Total Losses and Expenses Incurred, Net	Total U.S. Net Losses Unpaid	Total U.S. Losses Incurred, Net	Total Non-U.S. Net Losses Unpaid	Total Non-U.S. Losses Incurred, Net	Total Losses and Expenses Incurred, Net excluding Earthquake, Hurricane and Wildfire Losses
(2)	2013	0	0	0	0	0	0	0
(3)	2014	0	0	0	0	0	0	0
(4)	2015	0	0	0	0	0	0	0
(5)	2016	0	0	0	0	0	0	0
(6)	2017	0	0	0	0	0	0	0
(7)	2018	0	0	0	0	0	0	0
(8)	2019	0	0	0	0	0	0	0
(9)	2020	0	0	0	0	0	0	0
(10)	2021	0	0	0	0	0	0	0
(11)	2022	0	0	0	0	0	0	0
(12)	Totals	0	0	0	0	0	0	0

vector link items
manual data entry items

* Please provide losses only; no expenses. Catastrophe losses should 1.) be the net losses incurred for the reporting entity; not net losses incurred for the group; 2.) be a subset of, and therefore, less than, total net losses reported in Column (28); 3.) be reported in 000s to be consistent with all values reported in this exhibit; and 4.) not be reported as negative amounts.
 ** If this line of business has incurred U.S. catastrophe losses arising from events either included on the list of U.S. catastrophe events approved by the Catastrophe Risk Subgroup as available on the NAIC's website or numbered and labeled by PCS as a hurricane, tropical storm, or earthquake, provide only the amount of those catastrophe losses in Catastrophe Experience of Items (24A) and (28A).
 *** If this line of business has incurred non-U.S. catastrophe losses arising from a hurricane, tropical storm, or earthquake from an event included on the list of non-U.S. catastrophe events approved by the Catastrophe Risk Subgroup as available on the NAIC's website, provide only the amount of those catastrophe losses in Catastrophe Experience Columns (24B) and (28B).
 **** Columns 241 through 2811 are for informational purposes only.

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Operational Risk (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input checked="" type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |

<p align="right">DATE: <u>3/23/2022</u></p> <p>CONTACT PERSON: <u>Eva Yeung</u></p> <p>TELEPHONE: <u>816-783-8407</u></p> <p>EMAIL ADDRESS: <u>eyeung@naic.org</u></p> <p>ON BEHALF OF: <u>P/C RBC (E) Working Group</u></p> <p>NAME: <u>Tom Botsko</u></p> <p>TITLE: <u>Chair</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50 W. Town Street, Third Floor – Suite 300</u> <u>Columbus, OH 43215</u></p>	<p align="center"><u>FOR NAIC USE ONLY</u></p> <hr/> <p>Agenda Item # <u>2022-01-P</u></p> <p>Year <u>2022</u></p> <hr/> <p align="center"><u>DISPOSITION</u></p> <p><input checked="" type="checkbox"/> ADOPTED <u>TF adopted 4/28/22</u></p> <p><input type="checkbox"/> REJECTED _____</p> <p><input type="checkbox"/> DEFERRED TO _____</p> <p><input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____</p> <p><input type="checkbox"/> EXPOSED _____</p> <p><input type="checkbox"/> OTHER (SPECIFY) _____</p>
---	--

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|--|--|
| <input type="checkbox"/> Health RBC Blanks | <input checked="" type="checkbox"/> Property/Casualty RBC Blanks | <input type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

The proposed change would remove the trend test for information only footnote in PR033.

REASON OR JUSTIFICATION FOR CHANGE **

All States in U.S are in compliance on PC Trend Test. This became part of the Accreditation Standards effective Jan 1, 2012.

Additional Staff Comments:

3/23/22 – The PCRBCWG exposed for comment.
 4/26/22 – No comments were received.
 4/26/22 – The PCRBCWG adopted the proposal on 4/26/22.
 4/28/22 – The CapAd TF adopted the proposal on 4/28/22.

**** This section must be completed on all forms.**

Revised 2-2019

TREND TEST PR033

Original RBC % Before Applying Trend Test

(1) Authorized Control Level Risk-Based Capital Including Basic Operational Risk

(2) Total Adjusted Capital

(3) RBC %

Combined Ratio Data

(4) Premiums Earned

(5) Losses Incurred

(6) Loss Expenses Incurred

(7) Other Underwriting Expenses Incurred

(8) Aggregate Writes-ins for Underwriting Deductions

(9) Dividends to Policyholders

(10) Net Written Premiums

Combined Ratio Calculation

(11) Loss Ratio

(12) Dividend Ratio

(13) Expenses Ratio

(14) Combined Ratio

(15) Trend Test Result †

†The Trend Test applies only if L(15) = YES

‡If result = YES, the company triggers regulatory attention at the Company Action Level based on the trend test.

NOTE: This page is for information only until the modifications made by Capital Adequacy Task Force to the Risk-Based Capital (RBC) for Insurers Model Act are implemented by states.

Annual Statement Source	(1) Amount	(2) Result
PR032, C(1) L(72)	0	
PR029, C(2) L(14)	0	
L(2)C(1)/L(1)C(1)	0.000%	
Pg 4, Col 1, L 1	0	
Pg 4, Col 1, L 2	0	
Pg 4, Col 1, L 3	0	
Pg 4, Col 1, L 4	0	
Pg 4, Col 1, L 5	0	
Pg 4, Col 1, L 17	0	
Pg 8, Col 6, L 35	0	
Pg 4, Col 1, L 2 + Pg 4, Col 1, L 3 / Pg 4, Col 1, L 1	0.000%	
Pg 4, Col 1, L 17 / Pg 4, Col 1, L 1	0.000%	
Pg 4, Col 1, L 4 + Pg 4, Col 1, L 5 / Pg 8, Col 6, L 35	0.000%	
L(11) + L(12) + L(13)	0.000%	
IF L(3) Between 200% & 300% & L(14) > 120%, L(15), YES; Otherwise, NO		

PR033

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input checked="" type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | |

<p align="right">DATE: <u>1/20/22</u></p> <p>CONTACT PERSON: <u>Ryan Fleming, MAAA, FSA</u></p> <p>TELEPHONE: <u>(414) 665-5020</u></p> <p>EMAIL ADDRESS: <u>ryanfleming@northerstermutual.com</u></p> <p>ON BEHALF OF: <u>AAA C-2 Mortality Work Group</u></p> <p>NAME: <u>Ryan Fleming, MAAA, FSA</u></p> <p>TITLE: <u>Vice Chairperson</u></p> <p>AFFILIATION: <u>American Academy of Actuaries</u></p> <p>ADDRESS: <u>1850 M Street NW, Suite 300</u> <u>Washington, DC 20036</u></p>	<p align="center"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2022-03-L</u></p> <p>Year <u>2022</u></p> <p align="center"><u>DISPOSITION</u></p> <p><input checked="" type="checkbox"/> ADOPTED <u>4/22/22</u></p> <p><input type="checkbox"/> REJECTED _____</p> <p><input type="checkbox"/> DEFERRED TO _____</p> <p><input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____</p> <p><input type="checkbox"/> EXPOSED _____</p> <p><input type="checkbox"/> OTHER (SPECIFY) _____</p>
--	---

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|--|---|---|
| <input type="checkbox"/> Health RBC Blanks | <input type="checkbox"/> Property/Casualty RBC Blanks | <input type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input checked="" type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION OF CHANGE(S)

Updated blank for C2 Life Mortality on LR025, LR030 and LR031. Draft instructions are included for informational purposes and are subject to a different exposure deadline of 4/30/22.

REASON OR JUSTIFICATION FOR CHANGE **

Structural changes necessary to facilitate the implementation of updated C-2 life mortality factors and expanded categories.

Additional Staff Comments:

Exposed for comment by the Working Group 1/20/22 (df)
Adopted by the Working Group 4/22/22 (df)
Adopted by the Task Force 4/28/22

** This section must be completed on all forms.

LIFE INSURANCE
DRAFT - OPTION 2

	Annual Statement Source	(1) Statement Value	Factor	(2) RBC Requirement
(1) Individual & Industrial Life Net Amount at Risk	Exhibit of Life Insurance Column 4 Line 23 x 1000			
(2) Plus Industrial Life In Force	Exhibit of Life Insurance Column 2 Line 23 x 1000			
(3) Total Individual & Industrial Life In Force	Lines (1) + (2)			
(4) Less Ordinary Life Reserves	Exhibit 5 Column 4 Line 0199999			
(5) Less Plus Industrial Life Reserves	Exhibit 5 Column 3 Line 0199999			
(6) Less Plus Ordinary Life Separate Accounts	Separate Accounts Exhibit 3 Column 3 Line 0199999			
(7) Less Plus Ordinary & Industrial Life Modified Coinsurance Assumed Reserves	Schedule S Part 1 Column 12, in part †			
(8) Less Plus Ordinary & Industrial Life Modified Coinsurance Ceded Reserves	Schedule S Part 3 Section 1 Column 14, in part ‡			
(9) Total Individual & Industrial Life Reserves	Lines (4) + (5) + (6) + (7) + (8)			
(10) Total Individual and Industrial Life Net Amount at Risk	Lines (3) + (9) + (10) - (4) - (5) - (6) - (7) - (8)			
(11) Life Policies with Pricing Flexibility In Force	Company Records*			
(12) Less Life Policies with Pricing Flexibility In Force Reserves	Company Records*			
(13) Total Life Policies with Pricing Flexibility Net Amount at Risk	Lines (11) - (12)			
(14) Term Life Policies without Pricing Flexibility In Force	Company Records*			
(15) Less Term Life Policies without Pricing Flexibility Reserves	Company Records*			
(16) Total Term Life Policies without Pricing Flexibility Net Amount at Risk	Lines (14) - (15)			
(17) Permanent Life Policies without Pricing Flexibility In Force	Lines (3) - (11) - (14)			
(18) Less Permanent Life Policies without Pricing Flexibility Reserves	Lines (9) - (12) - (15)			
(19) Permanent Life Policies without Pricing Flexibility Net Amount at Risk	Lines (17) - (16)			
(20) Total Individual & Industrial Life	Lines (13) + (16) + (19)			
(21) Group and Credit Life Net Amount at Risk	Exhibit of Life Insurance Column 01 Line 23 x 1000			
(22) Plus Group and Credit Life Reserves	Exhibit of Life Insurance Column 01 Line 23 x 1000			
(23) Less Group and Credit Life Reserves	Exhibit of Life Insurance Column 01 Line 23 x 1000			
(24) Less Group and Credit Life Reserves	Exhibit of Life Insurance Column 01 Line 23 x 1000			
(25) Less Credit Risk In Force	Exhibit of Life Insurance Column 2 Line 43 x 1000			
(26) Less Credit Risk In Force	Exhibit of Life Insurance Column 2 Line 43 x 1000			
(27) Total Group & Credit Life In Force excluding BEGLISGLI	Lines (21) + (22) - (23) - (24) - (25) - (26)			
(28) Less Group Life Reserves	Exhibit 5 Column 6 Line 0199999			
(29) Less Plus Credit Life Reserves	Exhibit 5 Column 5 Line 0199999			
(30) Less Plus Group Life Separate Accounts	Separate Accounts Exhibit 3 Column 4 Line 0199999			
(31) Less Group and Credit Life Modified Coinsurance Assumed Reserves	Schedule S Part 1 Section 1 Column 12, in part †			
(32) Less Group and Credit Life Modified Coinsurance Ceded Reserves	Schedule S Part 3 Section 1 Column 14, in part ‡			
(33) Total Group and Credit Life Reserves	Lines (28) + (29) + (30) + (31) - (32)			
(34) Total Group and Credit Life Net Amount at Risk excluding BEGLISGLI	Lines (27) + (33) - (28) - (29) - (30) - (31) - (32)			
(35) Group & Credit Life In Force with Remaining Rate Terms 36 Months and Under	Company Records*			
(36) Less Group & Credit Life Reserves with Remaining Rate Terms 36 Months and Under	Company Records*			
(37) Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under	Lines (35) - (36)			
(38) Group & Credit Life In Force with Remaining Rate Terms Over 36 Months	Lines (27) - (35)			
(39) Less Group & Credit Life Reserves with Remaining Rate Terms Over 36 Months	Lines (33) - (36)			
(40) Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months	Lines (38) - (39)			
(41) BEGLISGLI In Force	Exhibit of Life Insurance Sum of Column 2 and 4 Line 43 and 44 x 1000			
(42) Total Group & Credit Life	Lines (37) + (40) + (41)			
(43) Total Life	Lines (20) + (42) + (43) + (20) + (42)			

* The definitions are specified in the Life Insurance section of the risk-based capital instructions. The tiered calculation is illustrated in the Life Insurance section of the risk-based capital instructions. † Include only the portion which relates to policy reserves that, if written on a direct basis, would be included on Exhibit 5. ‡ Denotes items that must be manually entered on the filing software.

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

		(1) RBC Amount	X	Tax Factor 0.2100	=	(2) RBC Tax Effect
(134) Long-Term Care	LR019 Health Premiums Column (2) Line (28) + LR023 Long-Term Care Column (4) Line (7)		X	0.2100	=	
(135) Individual & Industrial Life Insurance C-2 Risk	LR025 Life Insurance Column (2) Line (94)-(20)		X	0.2100	=	
(136) Group & Credit Life Insurance C-2 Risk	LR025 Life Insurance Column (2) Line (20)-(41) (42)		X	0.2100	=	
(136b) Longevity C-2 Risk	LR025-A Longevity Risk Column (2) Line (5)		X	0.2100	=	
(137) Disability and Long-Term Care Health Claim Reserves	LR024 Health Claim Reserves Column (4) Line (9) + Line (15)		X	0.2100	=	
(138) Premium Stabilization Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)		X	0.0000	=	
(139) Total C-2 Risk	L(133) + L(134) + L(137) + L(138) + Greatest of [Guardrail Factor * L(135)+L(136), Guardrail Factor * L(136b)]		X	0.2100	=	
(140) Interest Rate Risk	LR027 Interest Rate Risk Column (3) Line (36)		X	0.0000	=	
(141) Health Credit Risk	LR028 Health Credit Risk Column (2) Line (7)		X	0.2100	=	
(142) Market Risk	LR027 Interest Rate Risk Column (3) Line (37)		X	0.2100	=	
(143) Business Risk	LR029 Business Risk Column (2) Line (40)		X	0.2100	=	
(144) Health Administrative Expenses	LR029 Business Risk Column (2) Line (57)		X	0.0000	=	
(145) Total Tax Effect	Lines (109) + (120) + (132) + (139) + (140) + (141) + (142) + (143) + (144)		X	0.0000	=	

† Denotes lines that are deducted from the total rather than added.

Denotes items that must be manually entered on the filing software.

LR030

CALCULATION OF RISK-BASED CAPITAL (CONTINUED)

Confidential when Completed

NAIC Company Code

	Source	(1) RBC Requirement
(30) Synthetic GIC's (C-1o)	LR006 Separate Accounts Column (3) Line (8)	
(31) Surplus in Non-Guaranteed Separate Accounts	LR006 Separate Accounts Column (3) Line (13)	
(32) Real Estate (gross of encumbrances)	LR007 Real Estate Column (3) Line (13)	
(33) Schedule BA, Real Estate (gross of encumbrances)	LR007 Real Estate Column (3) Line (25)	
(34) Other Long-Term Assets	LR008 Other Long-Term Assets Column (5) Line (56) + LR018 Off-Balance Sheet Collateral Column (3) Line (17) + Line (18)	
(35) Schedule BA, Mortgages	LR009 Schedule BA, Mortgages Column (6) Line (23)	
(36) Concentration Factor	LR010 Asset Concentration Factor Column (6) Line (62) Grand Total Page	
(37) Miscellaneous	LR012 Miscellaneous Assets Column (2) Line (21)	
(38) Replication Transactions and Mandatory Convertible Securities	LR013 Replication (Synthetic Asset) Transactions and Mandatory Convertible Securities Column (7) Line (9999999)	
(39) Reinsurance	LR016 Reinsurance Column (4) Line (17)	
(40) Total (C-1o) - Pre-Tax	Sum of Lines (21) through (39)	
(41) (C-1o) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (109)	
(42) Net (C-1o) - Post-Tax	Line (40) - Line (41)	
Insurance Risk (C-2)		
(43) Individual and Industrial Life Insurance	LR025 Life Insurance Column (2) Line (4) + (20)	
(44) Group and Credit Life Insurance and PCHSGLT	LR025 Life Insurance Column (2) Lines (20) and (21) (42)	
(44b) Longevity Risk	LR025-A Longevity Risk Column (2) Line (5)	
(45) Total Health Insurance	LR024 Health Claim Reserves Column (4) Line (18)	
(46) Premium Stabilization Reserve Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)	
(47) Total (C-2) - Pre-Tax	L(45) + L(46) + Greatest of [L(43)+L(44)], Guardrail Factor * L(44b), Square Root of [L(43) + L(44)]/2 + 2 * (Correlation Factor) * [L(43) + L(44)]	
(48) (C-2) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (139)	
(49) Net (C-2) - Post-Tax	Line (47) - Line (48)	
Interest Rate Risk (C-3a)		
(50) Total Interest Rate Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (36)	
(51) (C-3a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (140)	
(52) Net (C-3a) - Post-Tax	Line (50) - Line (51)	
Health Credit Risk (C-3b)		
(53) Total Health Credit Risk - Pre-Tax	LR028 Health Credit Risk Column (2) Line (7)	
(54) (C-3b) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (141)	
(55) Net (C-3b) - Post-Tax	Line (53) - Line (54)	
Market Risk (C-3c)		
(56) Total Market Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (37)	
(57) (C-3c) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (142)	
(58) Net (C-3c) - Post-Tax	Line (56) - Line (57)	

Denotes items that must be manually entered on the filing software.

LR031

LIFE INSURANCE - OPTION 2 - DRAFT

LR025

Basis of Factors

The factors chosen developed represent surplus needed to provide for excess claims over life insurance mortality risk, which is defined as adverse variance in life insurance deaths (i.e., insureds dying sooner than expected, both from random fluctuations and from inaccurate pricing for future levels) over the remaining lifetime of claims. For a large number block of risks, each insured either lives or dies based on a "roll of the dice" business while appropriately reflecting the probability of death from both normal and excess claims pricing flexibility to adjust current mortality rates for emerging experience. The present value of mortality risks included in the claims generated by this process, less expected claims, will be the amount of surplus needed under that risk development of the factors were volatility, level, trend, and catastrophe. The factors chosen underwent development by stochastically simulating the formula produce a level of surplus at least as much run-off of in force life insurance blocks typical of U.S. life insurers.

The capital need, expressed as needed in 95 percent of a dollar amount, is determined as the risks' greatest present value of accumulated deficiencies at the 95th percentile of the stochastic distribution of scenarios over the remaining lifetime of a block of business while appropriately reflecting the pricing flexibility to adjust current mortality rates. Statutory losses are defined as the after-tax quantification of gross death benefits minus reserves released minus mortality margin present in reserves. The after-tax statutory losses are discounted to the present by using 20-year averages for U.S. swap rates. By selecting the largest present value accumulated loss across all projection years, the solved for capital ensures non-negative capital at all projection periods. Earlier period losses are not allowed to be offset by later period gains to reduce capital. The 95th percentile is the commonly accepted statistical safety level used for Life RBC C-2 mortality risk to identify weakly capitalized companies. The after-tax capital needs are translated to a factor expressed as a percentage of the net amount at risk (NAR). The pre-tax factor is determined by taking the after-tax factor divided by (1 minus the tax rate).

The model was developed for portfolios of 10,000, 100,000 and one million lives, and it was found that the surplus needs decreased with larger portfolios, consistent with the law of large numbers.

Net amount at risk was chosen as a base because expected claims are difficult to calculate on a consistent basis from company to company. The factors are differentiated between individual & industrial life and group & credit life, and by in force block size. Within individual & industrial life, the factors are differentiated into categories by contract type depending on the degree of pricing flexibility. Within group & credit life, the factors are differentiated into categories by the remaining length of the premium rate term by group contract. There are distinct factors for contracts that have remaining premium rate terms 36 months and under and for contracts that have remaining premium rate terms over 36 months. The Federal Employees' Group Life Insurance (FEGLI) and Servicemembers' Group Life Insurance (SGLI) receive a separate factor applied to the amounts in force.

Specific Instructions for Application of the Formula

Lines 3, 4, 5 and 9-21-41 are not applicable to Fraternal Benefit Societies.

Annual statement reference is for the total net amount at risk for the category (e.g., Individual & Industrial is one category). The net amount at risk is then further broken down by size as in a tax table to reflect the decrease in risk for larger blocks of life insurance. This breakdown will not appear on the RBC fitting software or on the printed copy, as the application of factors to amounts in force is completed automatically. The calculation is as follows:

The NAR is derived for each of the factor categories using annual statement sources and company records. In Force and Reserves amounts are net of reinsurance throughout. The In Force amounts throughout derived from company records need to be consistent with the Exhibit of Life Insurance. The Reserves amounts throughout derived from company records need to be consistent with Exhibit 5, Separate Accounts Exhibit, and Schedule S.

Pricing Flexibility for Individual Life Insurance is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years. A material rate adjustment is defined as the ability to recover, on a present value basis, the difference in mortality provided for in the factors below for contracts with and without pricing flexibility.

Lines (11) and (12) Life Policies with Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren't limited to, participating whole life insurance, universal life insurance without secondary guarantees, and yearly renewable term insurance where scheduled premiums may be changed. The table below illustrates the RBC requirement calculation embedded in Line (13) for Life Policies with Pricing Flexibility.

Line (8) (13)	Individual & Industrial Life Policies with Pricing Flexibility	Statement Value (1)	Factor	RBC Requirement (2)
	First 500 Million		X 0.0022300190	
	Next 424,500 Million		X 0.0014600075	
	Next 20,000 Million		X 0.00116	
	Over 25,000 Million		X 0.0008700050	
	Total Individual & Industrial Life Policies with Pricing Flexibility, Net Amount at Risk			
Line (20)	Group & Credit First 500 Million	Statement Value	Factor	RBC Requirement
	Next 4,500 Million		X 0.00175	
	Next 20,000 Million		X 0.00116	
	Over 25,000 Million		X 0.00087	
			X 0.00078	
	Total Group & Credit Term Life Policies without Pricing Flexibility In Force and Reserves are derived from company records. Ex. examples of products intended for this category include, but aren't limited to, level term insurance with guaranteed level premiums and yearly renewable term insurance where scheduled premiums may not be changed. The table below illustrates the RBC requirement calculation embedded in Line (16) for Term Life Policies without Pricing Flexibility.			
Line (16)	Term Life Policies without Pricing Flexibility	Statement Value (1)	Factor	RBC Requirement (2)
	First 500 Million		X 0.00270	
	Next 24,500 Million		X 0.00110	
	Over 25,000 Million		X 0.00075	
	Total Group & Credit Term Life Policies without Pricing Flexibility, Net Amount at Risk (Less FFL & SGL in force)			
Line (19)	Permanent Life Policies without Pricing Flexibility	Statement Value (1)	Factor	RBC Requirement (2)
	First 500 Million		X 0.00390	

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Next 24,500 Million		X 0.00165 =
Over 25,000 Million		X 0.00110 =
Total Permanent Life Policies without Pricing Flexibility Net Amount at Risk		

Lines (35) and (36) Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under are derived from company records. This category includes group contracts where the premium terms have 36 months or fewer until expiration or renewal. The in force amount classified in this category needs to be consistent with the Exhibit of Life Insurance. The reserves amount classified in this category needs to be consistent with Exhibit 5 used for Lines (28) and (29). Separate Accounts Exhibit used for Line (30), and Schedule S used for Lines (31) and (32). Federal Employees' Group Life Insurance (FEGLI) and Servicemembers' Group Life Insurance (SGLI) contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (37) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under.

Line (37)	Group & Credit Life with Remaining Rate Terms 36 Months and Under	(1) Statement Value	Factor	(2) RBC Requirement
	First 500 Million		X 0.00130 =	
	Next 24,500 Million		X 0.00045 =	
	Over 25,000 Million		X 0.00030 =	
	Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under			

Lines (38) and (39) Group & Credit Life In Force and Reserves with Remaining Rate Terms Over 36 Months are derived from the aggregate amounts derived in lines (21) to (34) minus the Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under in lines (35) and (36). FEGLI and SGLI contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (40) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months.

Line (40)	Group & Credit Life with Remaining Rate Terms Over 36 Months	(1) Statement Value	Factor	(2) RBC Requirement
	First 500 Million		X 0.00180 =	
	Next 24,500 Million		X 0.00070 =	
	Over 25,000 Million		X 0.00045 =	
	Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months			

Line (41) FEGLI/SGLI In Force amounts are retrieved from the Exhibit of Life Insurance. The capital factor assigned is the same as the largest size band for group & credit life contracts with remaining rate terms 36 months and under.

Line (41)	FEGLI/SGLI In Force	(1) Statement Value	Factor	(2) RBC Requirement
			X 0.00030 =	

All amounts should be entered as required. The risk-based capital software will calculate the RBC requirement for individual and industrial and for group and credit.

Draft: 7/25/22

Health Risk-Based Capital (E) Working Group
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 21, 2022

The Health Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met July 21, 2022. The following Working Group members participated: Steve Drutz, Chair (WA); Matthew Richard and Aaron Hodges, Co-Vice Chairs (TX) Wanchin Chou (CT); Tish Becker (KS); Michael Muldoon (NE); and Tom Dudek and Frank Horn (NY).

1. Adopted is May 11, May 4, and April 20 Minutes

The Working Group met May 11, May 4, and April 20. During these meetings, the Working Group took the following action: 1) heard a presentation from the American Academy of Actuaries (Academy) on the methodologies considered in the H2 – Underwriting Risk review; 2) exposed the affiliated investment instructions and blanks; 3) received an update on the Health Test Ad Hoc Group and Excessive Growth Charge Ad Hoc Group; 4) heard a presentation from AM Best on Best’s Capital Adequacy Ratio (BCAR); and 5) adopted its Spring National Meeting minutes.

Mr. Chou made a motion, seconded by Mr. Dudek, to adopt the Working Group’s May 11 (Attachment Three-A), May 4 (Attachment Three-B), and April 20 (Attachment Three-C) minutes. The motion passed unanimously.

2. Adopted its Revised 2022 Working Agenda

Mr. Drutz said the working agenda was revised to add the “review of the affiliated investment” as a new item. This item was given a priority status of 1 and an expected completion date of year-end 2023.

Mr. Chou made a motion, seconded by Mr. Muldoon, to adopt the revised 2022 working agenda (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Nine*). The motion passed unanimously.

3. Adopted its 2022 Newsletter

Mr. Drutz said the 2022 health risk-based capital (RBC) newsletter reflects the adopted proposal and editorial changes for year-end 2022. He said the newsletter appears different from past years; the purpose of the adoption is to consider the content of the newsletter as the format will later be revised. He said that when the formatting of the newsletter is complete, it will be posted to the Working Group’s web page.

Mr. Dudek made a motion, seconded by Mr. Muldoon, to adopt the 2022 health RBC newsletter (Attachment Three-D). The motion passed unanimously.

4. Adopted the 2021 Health RBC Statistics

Mr. Drutz said the 2021 health statistics were run on July 1. He said there were 1,095 health RBC filings loaded onto the NAIC database, up from 1,067 in 2020. Mr. Drutz said there were 12 companies that triggered an action level in 2021: five were in a company action level; two were in a regulatory action level; two were in an authorized control level (ACL); and three were in a mandatory control level. Mr. Drutz said there were 15 companies that triggered the trend test, and the ACL and total adjusted capital (TAC) amounts increased from 2020 to 2021.

Mr. Drutz said there were revisions to the statistics report to create consistency across life, property/casualty (P/C) and health statistical reports. He noted that the column for “Excluding ACA Fee” was removed due to the removal of the federal Affordable Care Act (ACA) fee sensitivity test from the health RBC formula in 2021. He said two new categories were added to the statistics: 1) “# of Companies with and RBC Ratio of <300% and >250%”; and 2) “# of companies with an RBC ratio of <250% and >200%.” These categories will replace the category “# of companies with an RBC ratio of <300% & > 200%.”

Mr. Muldoon made a motion, seconded by Mr. Chou, to adopt the 2021 health RBC statistics report (Attachment Three-E). The motion passed unanimously.

5. Referred the Health Affiliated Investments Instructions and Blank to the Capital Adequacy (E) Task Force

Mr. Drutz said that during its May 4 meeting, the Working Group exposed the affiliated investment instructions and blanks changes for a 61-day comment period. There were no comments received.

Mr. Hodges made a motion, seconded by Mr. Dudek, to refer the health affiliated instructions and blanks to the Capital Adequacy (E) Task Force for discussion. The motion passed unanimously.

6. Exposed the Academy’s Response on the H2 - Underwriting Risk Review

Mr. Drutz said the Working Group heard presentations from AM Best and the Academy on the different methodologies considered in the Academy’s report of the H2 - Underwriting Risk review. He said that because of those presentations, the Working Group requested the Academy provide its recommended approach and timeline for moving forward with the project. Matthew Williams (Academy) gave a summary of the letter (Attachment Three-F) and said that he would take any questions or comments back to the Academy Health Solvency Subcommittee. He said the estimated time frame to complete the work was 18 weeks given the complexity of the project. Mr. Drutz asked if the Academy would be able to use the Analysis of Operations page given the adopted changes to break out comprehensive medical into group and individual, which will be effective for year-end 2023. Mr. Drutz also asked if the other underwriting business and limited benefit plans would be able to be incorporated or later reviewed if the Academy were to have the data needed for this business. Mr. Williams agreed to bring these questions back to the Academy to discuss.

Hearing no objections, the Working Group agreed to expose the Academy letter for a 30-day comment period ending Aug. 22.

Having no further business, the Health Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/

Draft: 7/14/22

Health Risk-Based Capital (E) Working Group
Virtual Meeting
May 11, 2022

The Health Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met May 11, 2022. The following Working Group members participated: Steve Drutz, Chair (WA); Matthew Richard and Aaron Hodges, Co-Vice Chairs, and David McElroy (TX); Wanchin Chou (CT); Kyle Collins (FL); Tish Becker (KS); Danielle Smith (MO); Michael Muldoon and Margaret Garrison (NE); Tom Dudek (NY).

1. Heard a Presentation from the Academy on the Methodologies Considered in the H2 – Underwriting Risk Review

Derek Skoog (American Academy of Actuaries—Academy) said the purpose of the Academy’s presentation is to review the property/casualty (P/C) risk-based capital (RBC) methodology. In terms of intended philosophy and purpose, the P/C RBC formula is similar in nature to the health RBC. Mr. Skoog said the focus of the presentation would be on the P/C RBC underwriting risk premium and reserve factors, particularly the risk factors that are the core P/C accident and health (A&H) lines of business. These lines would be functionally like the health RBC lines; however, premium and reserve risk factors are different from how it is currently considered in the health RBC formula.

Mr. Skoog said the underwriting risk is similarly large for P/C companies but not as significant as it is for health companies. The factors that are focused on the reserve risk (represents that the reserves held on the balance sheet are an estimate, and potentially volatile), and the premium risk. These are captured within the P/C formula separately; however, they are treated almost identically within the formula for calculating the required capital. Mr. Skoog summarized the concepts and components of the underwriting risk formula. He said the P/C factors are experience driven. He said line 1 is the industry average development, which reflects how reserves have run out relative loss and defense and cost containment expense across the industry using nine years of data to establish the industry reserve development. The industry average development is how favorably or unfavorably the industry reserves developed by line of business. Mr. Skoog said line 2 looks at actual company experience, which is calculated based on the company's own data within the P/C RBC formula. He said this is to the extent that a company experiences significantly different reserve run-out than the industry that gets accounted for in line 2. He said if the company data is not determined to be “creditable,” then just the industry average is used. Line 3 then compares the industry results to the company’s results; if the company experienced worse run-out patterns than the industry, then that would serve to increase base risk charges.

Mr. Skoog said line 4 may be the most important factor; this is the actual industry loss and expense RBC percent. He said this factor is run every few years by the Academy P/C Work Group to analyze industry losses and assess development at the 87.5 percentile. This is called the safety level, and this looks at what the adverse development on claims expense is at this safety level and sets the base capital charge to that level. Mr. Skoog said this percentile has been stable for some time now, and if the Working Group chooses to follow a similar approach to the P/C in construct, then this will be a number worth thinking about, as this could be the single biggest driver to what the RBC result is. To the extent that the Working Group wants a higher safety level, that would potentially bump up reserves.

Mr. Skoog said line 5 is a simple weighted average between the two RBC factors of the company development and industry average development. Line 5 multiplies out industry-wide losses and risk factor adjusted for company

experience; it takes a 50/50 blend between the industry-wide factor on its own and the industry-wide risk factor adjusted for line 3. To the extent that a company's reserve development has been 10% worse than the industry, then the company's RBC percentage on line 5 would show 5% higher than the industry.

Mr. Skoog said line 8 is the adjustment for investment income; it is newer in concept and somewhat significant to the formula. The reason this is included and particularly important is because P/C products tend to have much longer tails than A&H products, so being able to earn investment returns on claims reserves or on capital charges can have a material impact. The idea is that if the adjustment for investment income is not included, the fact that the company is earning some amount of investment returns on the reserves that they are holding is not being accounting for. Mr. Skoog said these factors are divergent from 1.0, which implies that there are some significant investment return assumptions that are included within the formula, and which are the shorter tail lines in terms of reserve run-out compared to the longer tail lines can be determined.

Mr. Skoog said lines 10 and 11 are the Percent Loss Sensitive Direct and Percent Loss Sensitive Assumed, and they are similar in concept to the managed care credit on the health side in that it is a discount for retrospectively rated products. He said there is an adjustment for loss sensitive products that provides a discount for retrospectively rated contracts; this is an area that may not be quite as impactful as the safety level but may need to be tailored more to the health formula if this is something the Working Group is to consider. There are several risk sensitive products in the health industry, and to the extent that industry data and industry reserve development or industry loss ratio volatility were analyzed, that retrospectively rated premium would be incorporated in that industry data, and it is a material part of health contracts. There are a lot of contracts that have risk corridors or minimum loss ratios (MLRs), and the Working Group may or may not want to give any credit for or ensure that the factor used is the right one or reflective for health business.

Mr. Skoog said line 14 is the loss concentration factor, and this is developed to account for the fact that P/C companies often have many different lines of business that are not perfectly correlated, and adverse development on one line of business might be offset by favorable development for another line of business. The loss concentration factor looks at premium distribution for all lines of business; the calculation takes the premium for the largest line of business and calculates the percentage of that line of business to total business. That line of business then gets a weight of 30% and a base weight of 70%; then, as a result, that factor can move anywhere between 0.7 and 1.0. More or less, if one is perfectly diversified in the sense of participation in every P/C line of business and to an equal degree, a diversification factor would be right around 0.72 or 0.73, which reflects the first part of the formula.

Mr. Skoog said the net reserve RBC calculation is included in line 15, and this is like the health formula; however, in health, the reserve is not calculated on its own but instead in a kind of combined conception of underwriting risk. He said the net written premium formula is fundamentally the same as the reserves, except the net written premium uses 10 years of experience to provide a long-term view, or a rolling 10-year window of analysis.

Mr. Skoog summarized the net written premium calculation on page PR018. He said the format for the net written premium page is like the reserves page with the differences looking at average loss ratios as opposed to looking at the reserve development on line 1. The company-specific average loss ratio for the period in which business is written business is compared to the industry, like the reserve development; to the extent that a company is consistently writing lower loss and loss adjustment expense ratios than the industry, they are effectively getting a credit. Line 4 is the same as the reserves in nature and uses the 87.5 percentile risk charge, and these are significant for P/C companies, as there is a lot of volatility for P/C companies relative to what is seen on the health side. Mr. Skoog said there is a similar contemplation of loss sensitive products and loss concentration on the premium side as the reserves.

Mr. Skoog said the adjustment for investment income on the reserve side is applied a 1, plus the risk factor, multiplied by the investment income adjustment, minus 1 to get to the net risk factor; that adjustment can end up being substantial. For example, instead of a .83 factor for the adjustment to investment income being applied to workers' compensation to the line 4 factor, the line 9 amount would be calculated as .83, multiplied by 1, plus .344, minus 1. This results in a more significant impact because the investment income is not being earned on just the capital charge, but investment income is also being earned on the underlying reserve as well. Mr. Skoog said the premium side does something a little different, because there is not a big reserve balance that is earning investment income. In this case, there is not a big balance that investment income is being earned on, so the income is essentially earned just on the premium collected less what has been paid out in claims.

Mr. Skoog said the detail paid to lines of business, as reported in the statutory financials, is an attractive feature, as well as rolling views of the industry experience and risk and adjustments for company-specific experience in the P/C formula. The investment income adjustment is not as important for health's heavily short-tailed products; some conception of the loss sensitive products and the managed care credit would need to be considered. Mr. Skoog said the managed care credit is likely to be important to the health formula to use an approach like the loss sensitive products in the health formula. The loss sensitive product approach in the P/C formula is not the complete concept that health would need to capture, given that health has both loss sensitive products, as well as paying providers that both serve to mitigate risk.

Mr. Drutz asked if the health formula has a similar built-in safety level like the P/C formula. Mr. Skoog said the current health formula was not as elegantly designed as the P/C formula, and the safety level as it was calculated when the health formula was first developed is nowhere near what it is today. The health risks of today are quite different from when the formula was first developed. Mr. Skoog suggested that if the Working Group were to move forward, it would look at the results of various safety levels before making a final determination of the safety level to use.

Mr. Drutz asked if the Academy has suggestions on how to move forward with reviewing the H2 – Underwriting Risk. Mr. Skoog suggested that the Working Group request that the Academy review the factors based on the latest experience, and the Academy would respond with the suggested methodology and outcomes. This would then set off the chain of events that could serve to update the factors. They could provide a more prescriptive approach for how to update the factors in a more current and rigorous manner. Mr. Drutz asked if there are thoughts of having a separate reserve charge in the health formula. Mr. Skoog said based on his personal perspective and given the state of the annual statement blanks, what would be reported in the claims expense is some amount of reserve development; therefore, as opposed to expanding the underwriting risk factor into the two pieces like P/C, it would potentially be to use some amount of reserve development. Reserve development for health companies does not have the same amount of uncertainty as it does for P/C companies.

Mr. Chou asked if the Academy is planning to have a separate group to look at this. Mr. Skoog said it would be the Academy's Health Solvency Subcommittee that would work on this and input from its P/C Academy counterparts to the extent that any of the P/C methodologies are used.

Hearing no concerns, the Working Group asked the Academy to move forward with drafting the prescriptive letter on how to move forward with the H2 – Underwriting Risk review.

Having no further business, the Health Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings

Draft: 7/6/22

Health Risk-Based Capital (E) Working Group
Virtual Meeting
May 4, 2022

The Health Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met May 4, 2022. The following Working Group members participated: Steve Drutz, Chair (WA); Wanchin Chou (CT); Benjamin Ben (FL); Tish Becker (KS); Debbie Doggett, Jay Buschmann, and Danielle Smith (MO); Michael Muldoon and Margaret Garrison (NE); and Tom Dudek (NY).

1. Exposed Affiliated Investment Instructions and Blanks

Mr. Drutz said the Affiliated Investments Ad Hoc Group was established six years ago to review the risk-based capital (RBC) instructions and formulas for consistency across all lines. He said it was composed of state insurance regulators and industry participants for each line of business. The group modified the formulas and the instructions to allow state insurance regulators to more easily identify and explain discrepancies and more closely align with the group capital calculation (GCC). The health and property/casualty (P/C) structure are consistent across the formulas for the affiliated investment charge except for the factors used. Health retained the 30% factor for certain affiliate types, while property retained the 22.5% factor. For increased consistency across the blanks, page names and headings have been updated to align with the P/C formula.

Hearing no objections, the Working Group agreed to expose the health affiliated investment instructions and blanks for a 60-day public comment period ending July 5.

2. Received an Update on the Health Test Ad Hoc Group and the Excessive Growth Charge Ad Hoc Group

Mr. Drutz said the Health Test Ad Hoc Group met March 30 to discuss the history of the current reserve ratio in the health test. The group identified the need for careful consideration of the reserve ratio prior to suggesting any changes and will discuss possible alternatives during future meetings. Mr. Drutz said the Blanks (E) Working Group exposed the previously referred Health Test language as proposal 2022-06BWG. Comments were received that seemed to be editorial in nature and added additional clarity, including: 1) modifying the proposed language that did not change the original intent; and 2) adding a sentence to the property blank to clarify that an entity required to file a Protected Cell Statement would not be subject to the results of the test but would still be required to file the test. This would be similar to language used in the life blank for an entity filing a Separate Account Statement.

Mr. Drutz said the Excessive Growth Charge Ad Hoc Group continues to meet every four weeks. During its last meeting on April 13, it continued to review the data and is now looking at data sets based on company size using member months to differentiate the companies. This review will provide for group members to review different member month ranges to see if there is a correlation of excessive growth to underwriting losses for different company sizes.

Having no further business, the Health Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/

Draft: 7/6/22

Health Risk-Based Capital (E) Working Group
Virtual Meeting
April 20, 2022

The Health Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met April 20, 2022. The following Working Group members participated: Steve Drutz, Chair (WA); Mathew Richard and Aaron Hodges, Co-Vice Chairs, and Sean Fulton (TX); Wanchin Chou (CT); Kyle Collins (FL); Sarah Smith (KS); Debbie Doggett and Danielle Smith (MO); Michael Muldoon and Margaret Garrison (NE); and Tom Dudek (NY).

1. Adopted its March 18 Minutes

The Working Group met March 18 and took the following action: 1) adopted its Feb. 25, 2022; Jan. 28, 2022; and Dec. 16, 2021, minutes; 2) adopted its 2022 working agenda; and 3) discussed the American Academy of Actuaries (Academy) H2 – Underwriting Risk Report.

Mr. Chou made a motion, seconded by Mr. Dudek, to adopt the Working Group's March 18 minutes (*see NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force, Attachment Three*). The motion passed unanimously.

2. Heard a Presentation from AM Best on BCAR

George Hansen (AM Best), Tom Mount (AM Best), and Bruno Caron (AM Best) provided a presentation (Attachment Three-C1) to the Working Group on the Life/Health Best's Capital Adequacy Relativity (BCAR) adjustment system. Mr. Hansen provided an overview of the model and the components contained within. He said BCAR is similar to the NAIC risk-based capital (RBC) formula in that there are similar buckets of risk, such as various asset risks, separate accounts, mortality, morbidity, interest rate, market, and business risk. The model is set up as stochastic factor-based model that is based on four key metrics: value at risk (VaR) levels of 95.0, 99.0, 99.5, and 99.6. The ratio is calculated as the difference between the available capital and the required capital and expresses it as a percentage of available capital. Available capital is reported capital adjusted for certain equity adjustments, while gross required capital is the asset risk, insurance risk, interest rate/market risk, business risk, and covariance adjustment. There are five VaR levels that are used to determine the BCAR assessment that are based purely on BCAR results. A score of 25 at the 99.6 VaR level is considered the strongest BCAR assessment. This is the start of the balance sheet strength assessment. BCAR is used to start the rating process, and it includes the balance sheet strength assessment (reserve adequacy, reinsurance programs, and the quality of assets held). The balance sheet strength assessment, operating performance, business profile, enterprise risk management (ERM), comprehensive adjustment, and rating lift/drag make up the insurer credit rating.

Mr. Hansen said the primary tool for the morbidity risk is the Supplemental Rating Questionnaire, which is submitted to companies each year. The questionnaire includes a section on individual and group health for premiums, claims, and expenses. He said they are primarily modeling the underwriting risk to the net premiums earned.

Mr. Mount said the premium factors were calculated by accident year, as well as the underwriting profit or loss for each company, for each accident year, and for each line of business. He said they took that ultimate underwriting profit or loss as a ratio to premiums. Those ratios were then combined into one pool and compared to the volatility within those underwriting profit and loss ratios. Mr. Mount said the data was later separated into quartiles as companies got larger (larger companies = decreased volatility) and applied normal curves to that profit

and loss data. The risk factors get smaller, and the premiums get larger. The factors are reduced for those companies that are profitable because there is an implicit cushion in those risk factors because they can absorb more loss before getting to an underwriting loss. The factors are increased for those companies losing money to reflect that their pricing is underpriced, and they are at greater risk for downside losses. A line-by-line diversification factor is also applied on a line-by-line basis.

Mr. Mount said that when they developed the property/casualty (P/C) reserve factors, the Schedule P data was used. He said that they looked at the adverse or favorable development that would run off in Schedule P for an ultimate basis by looking at what the reserve originally booked for was and then compared it to where it was run off. This is then taken as a ratio of the original reserves. The percentage for each company is then taken and broken into quartiles. Smaller reserves would be more volatile, and more companies with adverse development than those companies with a large reserve base would have more stability. Mr. Mount said that a one-year development was used for short-tail lines of business for health companies to compare to the prior-year reserves. He said they looked at those percentages and then broke them out into quartiles. This led to larger risk factors for a smaller reserve basis than for the larger reserve basis. He said they also did an industry total reserve development and looked at them line by line to see if there is any correlation in terms of the movement. Line-by-line diversification credits are given because it is unlikely that all the lines will move at the same time.

Mr. Hansen said the long-tailed lines of business were modeled separately from short-tail lines. He summarized the modeling process for long-term care (LTC) and long-term disability lines of business factors. Mr. Hansen said there is variability in the premium and reserve factors based on the line of business and the size factor. A diversification factor is also applied based on the number of lines of business that a company writes; the more lines a company writes, the more credit that will be applied. A managed care credit is applied to the premium side, which is based on the claims payments that are reported in Exhibit 7 of the annual statement. The reserve ratios have their own size thresholds, which are broken out in the criteria paper.

Mr. Chou said the federal employees' factor is much smaller than the other categories. He asked what the logic is for this difference. Mr. Hansen said the federal employees' line of business has a large government back-stop, so writers of this business have a government back-stop to limit the company's exposure. Mr. Chou asked for further clarification on what would determine a +1 or -4 in terms of the ERM component. Mr. Hansen said the basic concept is that there are several risks outlined, such as investments and operational risks, and then what is the risk management capability, where companies have demonstrated that they have managed this risk. The various categories are on a one to 10 scale as far as the level of risk that is there and the risk management capability. He said that then rolls into a score of +1 (best) to -4 (worst).

Mr. Caron said that within the rating process, the +1 ERMs are usually reserved for those companies that have an extremely strong developed ERM program, where ERM will drive the boat and make significant impact on the company. On the other hand, 0 or -1 ERM programs are where a company looks at ERM risk in general but is not as developed as the +1. Those companies that do not have an integrated ERM program would get the lowest scores. The governance structure is taken into consideration when it comes to the assessment of the ERM program.

Mr. Chou asked if the available capital and net required capital are similar to the RBC's total adjusted capital (TAC) and authorized control level. Mr. Hansen said that it is similar to RBC, but RBC may separate out some other risks. Mr. Hansen said that the baseline factors for bonds are capped at 10-year maturities, so everything over a 10-year maturity would get a 10-year factor. The factors are durational and based on rating class.

Mr. Muldoon asked for further clarification on the reserve risk calculation given that reserve risk is not really a part of the current health RBC formula. Mr. Mount said that they look to see if the development was positive or negative on the reserves booked in the year before and if the reserve booked in the prior year was adequate or not adequate, and what percentage development was there. Mr. Muldoon asked what reserve categories were used. Mr. Mount said that they used the definitions/lines of business as defined in the life, accident and health (A&H), fraternal annual statement and health annual statement. Mr. Hansen said that they use the Underwriting and Investment Exhibit 2B for claim liability held. He said they look at how much in claims came in the prior year against the liability and then do a three-year average to measure against the industry factors. Mr. Muldoon asked if they only looked at the claim liability and did it pick up any other types of reserves, such as premium deficiency. Mr. Mount said that they looked at the net unpaid claims in the previous years. Mr. Muldoon asked if there was anything in BCAR that would prohibit its use in a statutory model. Mr. Mount it would depend on if the reserves were discounted. He said for most of the lines, the assumption is that they are undiscounted, and AM Best applies a discount factor to them. If a company had discounted them, they would want to undiscount them and rediscount them based on their discount factor so that all are discounted on a consistent basis. Mr. Mount noted that there may be some other reasons, such as international, that would result in differences in discounting.

Having no further business, the Health Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/...



AM Best L/H BCAR Adjustment System

Bruno Caron FSA, MAAA – Associate Director

George Hansen, FSA, MAAA – Senior Research Analyst

Tom Mount, ACAS, MAAA, CERA, CEEM – Senior Director

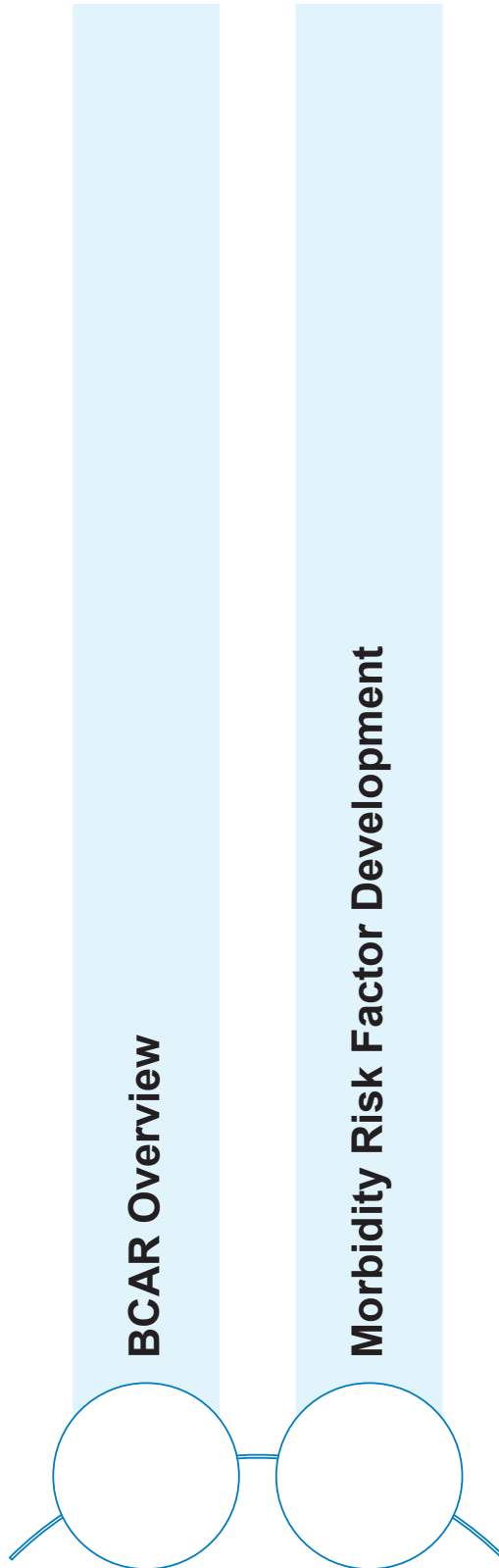
NAIC Health RBC Group

April 20, 2022



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NAIC Health RBC Group Agenda



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Model Overview

- Summary Scores-with/without adjustments
- C1.1-Fixed Income Assets
- C1.2-Fixed BA Assets
- SOR Factor
- C1.3-Separate Account Assets (related to interest rate guarantees)
- C1.4 Equity, Real Estate (Base/BA), Reinsurance Counterparty, Derivatives, Other Assets
- C2-Mortality Risk
- C2 Morbidity Risk
- C3 Interest Rate Risk
- C3 Market Risk
- C4 Business Risk
- Available Capital



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Key Model Highlights

- Net Required Capital Using Value at Risk (VaR) metric
 - VaR levels: 95.0, 99.0, 99.5, 99.6
- Ratio based on Available Capital
 - Difference between Available Capital and Required Capital, as a ratio to Available Capital
 - Required Capital calculated using VAR metrics
 - Better alignment with risk appetite/tolerance statements



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New Structure – L/H BCAR

$$\text{BCAR Ratio} = \frac{\text{Available Capital} - \text{Net Required Capital}}{\text{Available Capital}}$$



Available Capital (AC)
Reported Capital (PHS)
Equity Adjustments:
 AVR Reserves
 Interest Maintenance Reserve
 Unearned Premiums
Debt Adjustments:
 Surplus Notes
Other Adjustments:
 Future Operating Losses
 Future Dividends
 Derivatives Off Balance Sheet

Net Required Capital
Gross Required Capital (GRC):
 (C1) Asset Risk
 (C2) Insurance Risk
 (C3) Interest Rate/Market Risk
 (C4) Business Risk
 Covariance Adjustment
Net Required Capital (NRC)*

$$*NRC = \text{SQRT} [(C1\text{NonEq} + C3\text{Interest})^2 + (C1\text{Eq} + C3\text{Market})^2 + (C2)^2] + C4$$

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Application of BCAR

VaR Confidence Level (%)	BCAR	BCAR Assessment
99.6	> 25 at 99.6	Strongest
99.6	> 10 at 99.6 and ≤ 25 at 99.6	Very Strong
99.5	> 0 at 99.5 and ≤ 10 at 99.6	Strong
99	> 0 at 99 and ≤ 0 at 99.5	Adequate
95	> 0 at 95 and ≤ 0 at 99	Weak
95	≤ 0 at 95	Very Weak



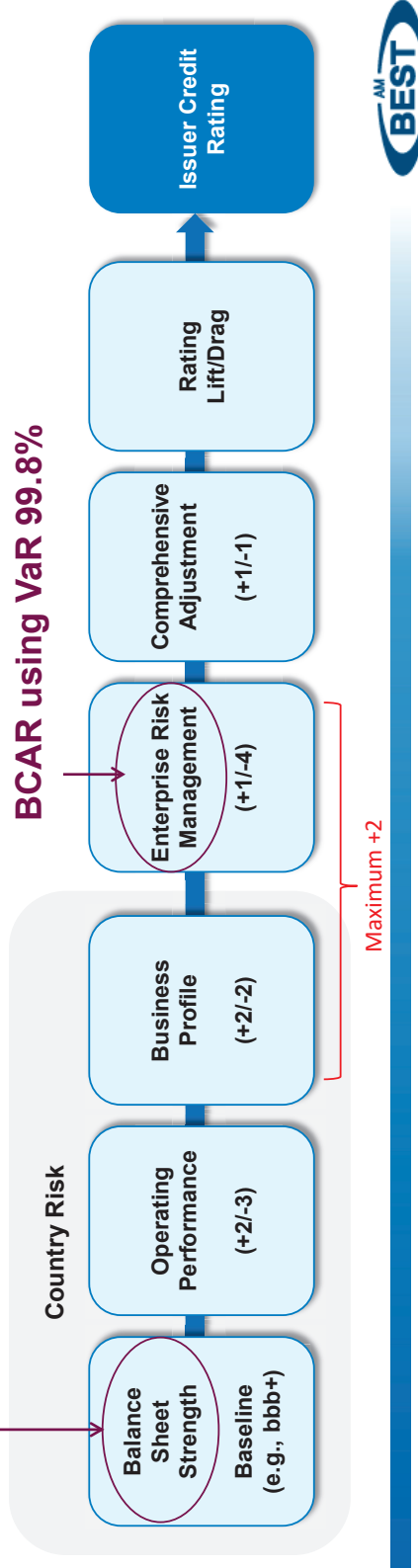
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BCAR in the Rating Process

- Balance Sheet Strength Assessment
- Enterprise Risk Management (ERM)

BCARs using VaR 95%, 99%, 99.5%, & 99.6%

AM Best's Rating Process



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Morbidity Risk



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SRQ Individual Health

Individual Accident and Health Insurance specified below for 2021. (FULL DOLLAR AMOUNTS)							
	(01)	(02)	(03)	(04)	(05)	(06)	(07)
	Total Net Premium Written (line 1)	Net Premium Earned (line 1 + line 2)	Incurred Claims (line 17 + line 18)	Increase in Reserves (line 21 + line 22)	Expenses Incurred (line 19 + line 20)	Underwriting Gain/(Loss) (line 24)	Membership**
a. Please supply information on the various types of INDIVIDUAL A&H insurance specified below for 2021. (FULL DOLLAR AMOUNTS)							
INDIVIDUAL A&H							
Type of Coverage							
1. Medicare Advantage *							
2. Medicare Supplement							
3. Medicare Part D							
3a. Medicare Part D Supplemental Benefits							
4. Medicaid							
5. Disability Income:							
(a) Non-Cancelable							
(b) Guaranteed Renewable							
6. Credit							
7. Hospitalization / Major Medical							
8. Short-Term Medical							
9. Limited Benefit Medical							
10. Student							
11. Dental							
12. Vision							
13. Long-Term Care							
14. Dread Disease							
15. Hospital Indemnity							
16. AD&D							
17. Critical Illness							
18. Fee for Service							
19. All Other ***							
20. TOTAL Individual A&H (The aggregate of line 20 in both the Individual and Group A&H SRQ questions must equal Annual Statement Page 7, Column 1 Lines indicated in the column headings)	0	0	0	0	0	0	0

* Medicare Advantage should include both individual and group, if applicable.

** Membership should include all subscribers and eligible dependents of subscribers for which coverage is being provided to.

*** Please describe "All Other" product types, using the space below.



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SRQ Group Health

Group Accident and Health							
a. Please supply information on the various types of GROUP A&H insurance specified below for 2021. (FULL DOLLAR AMOUNTS)							
GROUP A&H	(01) Total Net Premium Written (line 1)	(02) Net Premium Earned (line 1 + line 2)	(03) Incurred Claims (line 17 + line 18)	(04) Increase in Reserves (line 21 + line 22)	(05) Expenses Incurred (line 19 + line 20)	(06) Underwriting Gain/(Loss) (line 24)	(07) Membership*
Type of Coverage							
1. Medicare Supplement							
2. Medicare Part D							
2a. Medicare Part D Supplemental Benefits							
3. Disability Income - LTD							
4. Disability Income - STD							
5. Credit							
6. Hospitalization / Major Medical (excluding FEHBP)							
6a. Federal Employees Health Benefits Program (FEHBP)							
7. Limited benefit medical							
8. Student							
9. Dental							
10. Long-Term Care							
11. Dread Disease							
12. Hospital Indemnity							
13. AD&D							
14. Critical Illness							
15. Vision							
16. Stop Loss/Minimum Premium Policies							
17. Administrative Services Only							
18. Other Premium Equivalents**	X X X	X X X	X X X	X X X			
19. Other Group Coverages**	X X X	X X X	X X X	X X X			
20. TOTAL Group A&H (The aggregate of line 20 in both the Individual and Group A&H SRQ questions must equal Annual Statement Page 7, Column 1 Lines indicated in the column headings)	0	0	0	0	0	0	0
*Membership should include all subscribers and eligible dependents of subscribers for which coverage is being provided to.							
**Please describe "All Other ..." product types, using the space below.							
(1)							
b. Please provide the amount of premium equivalents on Administrative Services Only business as of December 31, 2021.							
c. Please provide the amount of premium equivalents on Stop Loss / Minimum Premium Policy and other fee based business as of December 31, 2021.							(1) \$



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Morbidity Risk

- Short-Tailed Lines of Business-Premium based
 - Profitability analyzed over 10 year period
 - Loss curve built for each line of business and for each of four size categories: very small, small, medium, large (industry curves)
 - Industry factors (determined for each VaR level) will be adjusted for each company's profitability over a 3 year period
 - Initial testing assumes companies get industry profitability factors
 - After line of business factors determined, correlation matrix applied to reflect diversification



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Morbidity Risk

- Long-Tailed Lines of Business (LTC,LTD)-Premium based
 - Long-Term Care
 - External models developed using industry level experience from business priced in early 2000's
 - Risk factors determined by reviewing profitability of run-off block 15+ years forward (statutory losses emerge around this period and going forward)
 - Factors based on amounts needed to cover present value of future losses, adjusted for assumed target surplus held
 - Factors do not vary by premium size (assumes industry wide trends)
 - Group LTC factors assumed to be lower than individual
 - New business with current pricing assumptions may be reviewed for adjustments to risk factors



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Morbidity Risk

- Long-Tailed Lines of Business (LTC,LTD)-Premium based
 - Long Term Disability
 - Inforce population developed based on industry data
 - Population includes age, gender, disability coverage period (benefit period to age 65 and lifetime)
 - Disability incidence simulated for 10,000 scenarios using internal simulation model (similar to mortality risk modeling)
 - Factors determined based on amounts needed to cover future disability claims relative to cumulative premiums for each VaR level
 - For most cells, claims exceed premiums around 15 years from model start date
 - Factors do not vary by size as disability incidence rates do not show much volatility
 - Baseline factors set higher for non-cancellable, lower for other IDI and group DI
 - Group Short-Term disability modeled as short-tail lines of business



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Premium Factors

Typical Premium Risk Capital Factors			
Size Category: Very Small	95	Confidence Level	99.5
Indiv Hosp Maj Med	0.243	0.99	0.996
Indiv Hosp Indem ADD	0.227	0.373	0.315
Indiv Medicare Supp	0.227	0.347	0.358
Indiv Medicare Adv Plus Choice	0.227	0.420	0.266
Indiv Medicaid	0.218	0.332	0.307
Indiv Medicare Part D Supp	0.180	0.273	0.407
Indiv Fee for Service	0.400	0.375	0.308
Indiv Disability - Non Can	0.284	0.450	0.217
Indiv Disability - Other IDI	0.280	0.400	0.475
Indiv Long Term Care	0.250	0.500	0.500
Indiv Dread Disease	0.264	0.405	0.400
Indiv Hosp Indem ADD	0.258	0.351	0.342
Group FEHBP	0.050	0.065	0.334
Group Vision	0.189	0.256	0.402
Group Disability - LTD	0.150	0.200	0.387
Group Long Term Care	0.200	0.300	0.290
Group Dread Disease	0.227	0.347	0.266
Group Lim Benefit and Min Prem	0.186	0.282	0.225
Group Student	0.232	0.354	0.400
Group Prem Equiv ASO Stop Loss	0.300	0.445	0.328
Workers' Comp Carve Out Prem	0.030	0.045	0.226
All Other (Group&Indiv)	0.261	0.403	0.330
Size Category: Medium	95	Confidence Level	99.5
Indiv Hosp Maj Med	0.184	0.99	0.996
Indiv Hosp Indem ADD	0.171	0.278	0.221
Indiv Medicare Supp	0.139	0.182	0.250
Indiv Medicare Adv Plus Choice	0.191	0.210	0.125
Indiv Medicaid	0.162	0.247	0.122
Indiv Medicare Part D Supp	0.162	0.245	0.149
Indiv Fee for Service	0.405	0.377	0.155
Indiv Disability - Non Can	0.200	0.478	0.205
Indiv Disability - Other IDI	0.200	0.150	0.245
Indiv Long Term Care	0.200	0.400	0.245
Indiv Dread Disease	0.200	0.225	0.175
Indiv Hosp Indem ADD	0.098	0.311	0.450
Group FEHBP	0.036	0.037	0.319
Group Vision	0.136	0.035	0.282
Group Disability - LTD	0.105	0.206	0.119
Group Long Term Care	0.175	0.303	0.025
Group Dread Disease	0.200	0.264	0.180
Group Lim Benefit and Min Prem	0.136	0.290	0.203
Group Stop Loss and Min Prem	0.136	0.206	0.237
Group Student	0.157	0.284	0.203
Credit	0.157	0.180	0.180
Group Prem Equiv ASO Stop Loss	0.250	0.284	0.256
Workers' Comp Carve Out Prem	0.020	0.035	0.099
All Other (Group&Indiv)	0.207	0.315	0.325
Size Category: Large	95	Confidence Level	99.5
Indiv Hosp Maj Med	0.147	0.99	0.996
Indiv Hosp Indem ADD	0.147	0.221	0.250
Indiv Medicare Supp	0.074	0.106	0.125
Indiv Medicare Adv Plus Choice	0.058	0.132	0.149
Indiv Medicaid	0.129	0.190	0.155
Indiv Medicare Part D Supp	0.144	0.217	0.205
Indiv Fee for Service	0.400	0.377	0.245
Indiv Disability - Non Can	0.200	0.450	0.245
Indiv Disability - Other IDI	0.200	0.150	0.175
Indiv Long Term Care	0.200	0.400	0.245
Indiv Dread Disease	0.200	0.225	0.200
Indiv Hosp Indem ADD	0.094	0.319	0.319
Group FEHBP	0.025	0.028	0.319
Group Vision	0.119	0.024	0.113
Group Disability - LTD	0.080	0.180	0.025
Group Long Term Care	0.139	0.200	0.210
Group Dread Disease	0.098	0.180	0.025
Group Lim Benefit and Min Prem	0.119	0.308	0.203
Group Stop Loss and Min Prem	0.119	0.180	0.203
Group Student	0.106	0.156	0.180
Credit	0.169	0.156	0.180
Group Prem Equiv ASO Stop Loss	0.250	0.256	0.290
Workers' Comp Carve Out Prem	0.025	0.035	0.099
All Other (Group&Indiv)	0.159	0.287	0.325



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Diversification Factors

- Based on correlation matrix and mix of business by line
- Factor **will** adjust when you change dollar amounts by line

$$\text{Diversification Factor} = \text{SQRT}\left\{ \begin{bmatrix} w_1\sigma_1 & \dots & w_n\sigma_n \\ \vdots & \ddots & \vdots \\ \rho_{n1} & \dots & 1 \end{bmatrix} \times \begin{bmatrix} w_1\sigma_1 \\ \vdots \\ w_n\sigma_n \end{bmatrix} \right\}$$

Divided by

$$\text{SUM}[w_1\sigma_1 \dots w_n\sigma_n]$$

Where weights (w) are % of total business in that line
 and the σ are the company risk factors by line

Correlation matrices vary by size of company's total NPW or
 total Reserves



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Morbidity Risk

- Managed Care Credit
 - Based on claim payments
 - MCC = 5% of Category 1 plus 50% Category 3 capitation payments, divided by total claims (Ex 7)
 - MCC reduced by 2% of Category 3 payments to affiliates and 4% of Category 3 payments to non-affiliates
 - MCC adjusted for diversification factor
 - Applied to Ind/Grp Maj Med, Medicare Choice, Medicaid, Dental, Vision risk charges



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Morbidity Risk

- Reserve-Based
 - Reserve adequacy (reserves held relative to claims incurred) analyzed over 10 year period
 - Loss curve built for each reserve category in annual statements and for each of four size categories: very small, small, medium, large (industry curves)
 - Industry factors (determined for each VaR level) will be adjusted for each company's reserve adequacy over a 3 year period
 - Initial testing assumes companies get industry reserve adequacy factors
 - After line of business factors determined, correlation matrix applied to reflect diversification



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Reserve Factors

Typical Reserve Risk Capital Factors

Size Category: Very Small		Confidence Level		
	95	99	99.5	99.6
Group A&H	0.281	0.430	0.489	0.507
Credit A&H	0.257	0.392	0.446	0.462
Collectively Renewable	0.332	0.515	0.589	0.613
Non-Cancellable	0.247	0.372	0.421	0.435
Guaranteed Renewable	0.304	0.472	0.537	0.559
Non-Renewable	0.304	0.467	0.532	0.553
Other Accident	0.365	0.570	0.653	0.679
All Other	0.362	0.563	0.644	0.671
Workers Comp Carve-Out Liability	0.292	0.444	0.504	0.522
Comprehensive	0.232	0.351	0.398	0.414
Medicare Supplement	0.201	0.301	0.339	0.353
Dental	0.220	0.332	0.374	0.388
Vision	0.204	0.308	0.347	0.359
Fed Employees	0.009	0.011	0.012	0.012
Title XVIII Medicare	0.229	0.348	0.394	0.408
Title XIX Medicaid	0.213	0.321	0.363	0.377
Other Health	0.342	0.530	0.605	0.630

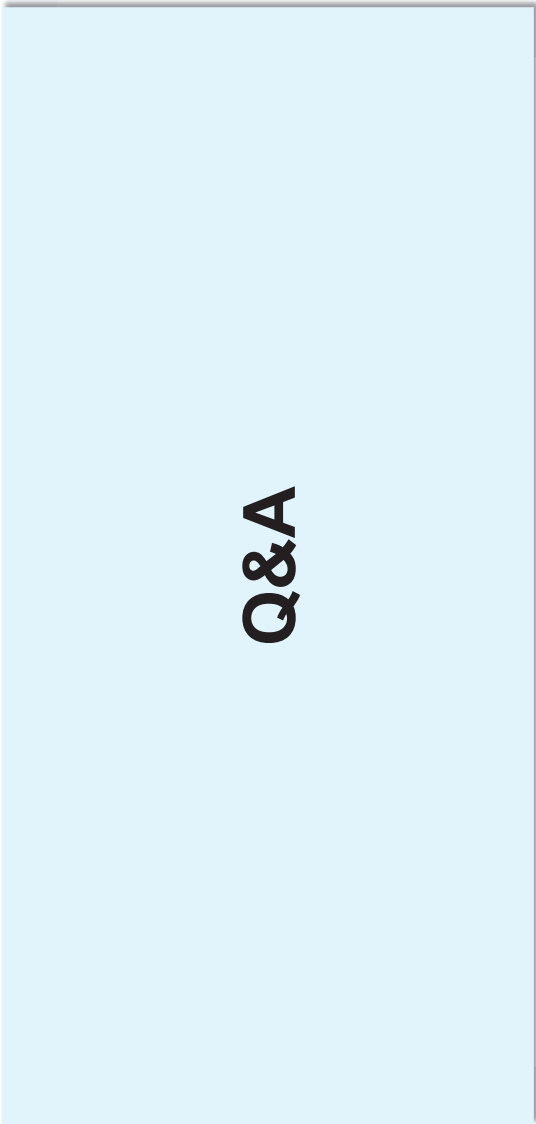
Size Category: Small		Confidence Level		
	95	99	99.5	99.6
Group A&H	0.228	0.342	0.388	0.401
Credit A&H	0.240	0.363	0.413	0.427
Collectively Renewable	0.259	0.393	0.448	0.465
Non-Cancellable	0.190	0.283	0.319	0.329
Guaranteed Renewable	0.252	0.381	0.431	0.448
Non-Renewable	0.267	0.406	0.462	0.479
Other Accident	0.308	0.472	0.538	0.558
All Other	0.305	0.467	0.531	0.552
Workers Comp Carve-Out Liability	0.244	0.366	0.414	0.429
Comprehensive	0.182	0.272	0.307	0.318
Medicare Supplement	0.175	0.262	0.295	0.306
Dental	0.186	0.278	0.313	0.324
Vision	0.172	0.254	0.286	0.296
Fed Employees	0.007	0.008	0.009	0.009
Title XVIII Medicare	0.180	0.269	0.304	0.314
Title XIX Medicaid	0.189	0.282	0.319	0.330
Other Health	0.305	0.467	0.531	0.552

Size Category: Medium		Confidence Level		
	95	99	99.5	99.6
Group A&H	0.175	0.261	0.294	0.304
Credit A&H	0.205	0.308	0.349	0.362
Collectively Renewable	0.206	0.309	0.351	0.363
Non-Cancellable	0.154	0.227	0.255	0.263
Guaranteed Renewable	0.198	0.295	0.333	0.345
Non-Renewable	0.230	0.347	0.393	0.409
Other Accident	0.252	0.381	0.432	0.447
All Other	0.267	0.406	0.461	0.478
Workers Comp Carve-Out Liability	0.223	0.334	0.377	0.390
Comprehensive	0.150	0.222	0.250	0.258
Medicare Supplement	0.160	0.237	0.266	0.276
Dental	0.153	0.227	0.254	0.263
Vision	0.139	0.204	0.228	0.236
Fed Employees	0.006	0.007	0.008	0.008
Title XVIII Medicare	0.165	0.244	0.276	0.284
Title XIX Medicaid	0.173	0.256	0.290	0.300
Other Health	0.249	0.377	0.426	0.442

Size Category: Large		Confidence Level		
	95	99	99.5	99.6
Group A&H	0.125	0.184	0.206	0.213
Credit A&H	0.189	0.281	0.318	0.329
Collectively Renewable	0.156	0.231	0.260	0.269
Non-Cancellable	0.118	0.173	0.193	0.200
Guaranteed Renewable	0.146	0.214	0.241	0.250
Non-Renewable	0.196	0.292	0.330	0.341
Other Accident	0.198	0.295	0.333	0.344
All Other	0.213	0.319	0.361	0.374
Workers Comp Carve-Out Liability	0.207	0.308	0.347	0.359
Comprehensive	0.134	0.198	0.222	0.230
Medicare Supplement	0.144	0.212	0.238	0.247
Dental	0.137	0.202	0.227	0.234
Vision	0.106	0.155	0.174	0.179
Fed Employees	0.004	0.006	0.007	0.007
Title XVIII Medicare	0.148	0.220	0.248	0.255
Title XIX Medicaid	0.156	0.232	0.261	0.270
Other Health	0.196	0.292	0.329	0.341



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Newsletter Items for Adoption for 2022 for Health RBC:

Date: July 2022

Volume: 24.1

Page 1: Intro Section:

What RBC Pages Should Be Submitted?

For the year-end 2022 health risk-based capital (RBC) filing, submit hard copies of pages **XR001 through XR027** to any state that requests a hard copy in addition to the electronic filing. Beginning with year-end 2007, a hard copy of the RBC filings was not required to be submitted to the NAIC. Other pages, outside of pages XR001 through XR027, do not need to be submitted. Those pages would need to be retained by the company as documentation.

Page 1+: Items Adopted for 2022:

Investment Income Benchmarks

The Capital Adequacy (E) Task Force adopted proposal 2021-18-H (MOD) to add benchmarking guidelines to the underwriting instructions for investment income during its March 28 meeting.

Page 2+: Editorial Changes:

1. An editorial change was made to the add “- BONDS” to the header of page XR007.
2. An editorial change was made to remove “Miscellaneous Fixed Income Assets” as a separate line, and “- MISCELLANEOUS” was added to the header of page XR008.
3. An editorial change was made to the Annual Statement Source column on page XR007 to reference the new Schedule D, Part 1; Schedule DA, Part 1; and Schedule E, Part 2 line numbers: Line (1) = C(1) = Sch. D, Pt 1, C11, L0109999999, C(2) = Sch. DA, Pt 1, C7, L0109999999, and C(3) = Sch. E, Pt 2, C7, L0109999999 + L8209999999; and Line (2) C(3) = Footnote Amt 1 L000001A – SCE, Pt 2, C7, L0109999999.
4. An editorial change was made to the instructions and Annual Statement Source column on page XR008 to reference the new Schedule DA, Part 1 and Schedule E, Part 2 line numbers: “instructions and Line (34) = Schedule DA, Part 1, Column 7, Line 2509999999; (30) = Schedule E, Part 2, Column 7, Line 2509999999; and (31) = Schedule E, Part 2, Column 7, Line 8209999999.”
5. An editorial change was made to the Annual Statement Source on page XR015, Line (24) to update the column reference to Column 7 from Column 6.

Last Page: RBC Forecasting & Warning:**RBC Forecasting and Instructions**

The Health RBC forecasting spreadsheet calculates RBC using the same formula presented in the *2022 NAIC Health Risk-Based Capital Report Including Overview & Instructions for Companies*, and it is available to download from the NAIC Account Manager. The *2022 NAIC Health Risk-Based Capital Report Including Overview & Instructions for Companies* publication is available for purchase in an electronic format through the NAIC Publications Department. This publication is available for purchase on or about Nov. 1 each year. The User Guide is no longer included in the Forecasting & Instructions.

WARNING: The RBC forecasting spreadsheet CANNOT be used to meet the year-end RBC electronic filing requirement. RBC filing software from an annual statement software vendor should be used to create the electronic filing. If the forecasting worksheet is sent instead of an electronic filing, it will not be accepted, and the RBC will not have been filed.

Last Page: 2022 National Association of Insurance Commissioners:**2022 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS**

Health Risk-Based Capital Newsletter Volume 24.1. Published annually or whenever needed by the NAIC for state insurance regulators, professionals, and consumers.

Direct correspondence to: Crystal Brown, RBC Newsletters, NAIC, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197. Phone: 816-783-8146. Email: cbrown@naic.org.

Aggregated Health Risk-Based Capital Data
2021 Data as of 7/1/2022

	2021	2020	2020	2019	2018	2018	2017	2017	2016	2016
	Health RBC	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees	Health RBC Excluding ACA Fees
Companies that have an RBC loaded on the database	1095	1067	1,012	1,012	965	937	937	937	925	925
Companies with action levels:										
Percentage of total RBC's loaded	12 1.10%	15 1.41%	31 3.06%	15 1.48%	18 1.87%	42 4.48%	21 2.24%	29 3.14%	29 3.14%	29 3.14%
Company Action Level - Trend Test	15	12	27	14	13	23	12	21	21	21
Regulatory Action Level	5	4	14	4	4	4	10	11	11	11
Authorized Control Level	2	3	5	3	5	10	5	7	7	7
Mandatory Control Level	3	6	9	7	7	8	6	9	9	9
Total H0 (H0 - Asset Risk - Affiliates w/RBC)	6,077,847,595	5,192,392,682	4,782,424,393	4,782,424,393	4,487,634,571	4,332,880,131	4,332,880,131	4,493,219,396	4,493,219,396	4,493,219,396
Total H1 (H1 - Asset Risk - Other)	15,015,094,709	11,292,103,225	9,743,938,557	9,743,938,557	8,589,245,210	8,315,790,867	8,315,790,867	7,921,892,268	7,921,892,268	7,921,892,268
Total H2 (H2 - Underwriting Risk)	52,350,782,384	45,819,164,666	44,037,638,071	44,037,638,071	40,572,604,055	38,787,031,590	38,787,031,590	37,373,980,544	37,373,980,544	37,373,980,544
Total H3 (H3 - Credit Risk)	4,762,549,718	4,199,732,859	3,626,933,231	3,626,933,231	3,408,034,022	3,143,155,975	3,143,155,975	2,984,343,101	2,984,343,101	2,984,343,101
Total H4 (H4 - Business Risk)	7,882,405,838	7,481,764,896	6,571,143,274	6,571,143,274	6,468,297,728	5,739,438,653	5,739,438,653	5,944,456,839	5,944,456,839	5,944,456,839
Total RBC Before Covariance	86,088,680,244	73,985,158,328	68,762,077,526	68,762,077,526	63,525,815,586	60,318,297,216	60,318,297,216	58,717,892,148	58,717,892,148	58,717,892,148
Total Adjusted Capital	211,045,740,619	193,852,790,008	160,266,143,771	171,305,884,767	156,735,377,038	132,169,821,412	142,062,265,048	127,791,918,125	127,791,918,125	127,791,918,125
ACA Fees	33,256,637,840	28,853,148,695	27,216,664,287	25,020,328,688	25,020,328,688	23,228,424,178	23,228,424,178	22,627,572,566	22,627,572,566	22,627,572,566
Authorized Control Level RBC *	635%	672%	548%	629%	626%	526%	612%	565%	565%	565%
Aggregate RBC %	633%	706%	640%	672%	666%	609%	640%	586%	586%	586%
Median RBC %										
# of Companies with an RBC Ratio of > 10.000%	121	143	156	156	134	112	112	98	98	98
# of Companies with an RBC Ratio of < 10.000% & > 1.000%	243	259	202	215	223	224	201	197	197	197
# of Companies with an RBC Ratio of < 1.000% & > 500%	356	320	257	282	267	237	251	238	238	238
# of Companies with an RBC Ratio of < 500% & > 300%	301	278	267	285	256	247	268	263	263	263
# of Companies with an RBC Ratio of < 300% & > 250%	32									
# of Companies with an RBC Ratio of < 250% & > 200%	28									
# of Companies with an RBC Ratio of < 200% & > 100%	12	14	31	15	18	42	21	29	29	29
# of Companies with an RBC Ratio of < 100% & > 0%	2	1	0	0	0	1	1	0	0	0
Total Companies with RBC	1,095	1,067	1,012	1,012	965	937	937	925	925	925
Total Revenue	888,638,436,244	806,712,759,846	808,712,759,846	731,800,228,651	689,327,716,795	643,856,047,265	643,856,047,265	618,070,205,766	618,070,205,766	618,070,205,766
Underwriting Deductions	873,483,482,222	774,565,553,665	774,565,553,665	715,077,656,883	668,918,380,940	625,985,270,784	625,985,270,784	608,695,405,288	608,695,405,288	608,695,405,288
Aggregate Premium	278,391,052,611	277,819,028,596	277,819,028,596	268,818,431,635	271,400,290,484	262,682,393,744	262,682,393,744	255,794,480,149	255,794,480,149	255,794,480,149
Aggregate Net Incurred Claims	721,841,094,774	622,491,724,778	622,491,724,778	585,439,850,066	541,009,426,163	511,376,831,653	511,376,831,653	491,142,322,597	491,142,322,597	491,142,322,597

* Authorized Control Level RBC amount reported in the Health RBC Excluding ACA Fees column is pulled from Line (18), page XR026, and the Authorized Control Level RBC amount reported in the Health RBC column is pulled from Line (4), page XR027.



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July 13, 2022

Steve Drutz
Chair, Health Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners (NAIC)

Re: Request for Comprehensive Review of the H2—Underwriting Risk Component and
Managed Care Credit Calculation in the Health Risk-Based Capital Formula

Dear Mr. Drutz:

On behalf of the American Academy of Actuaries (Academy)¹ Health Solvency Subcommittee (“subcommittee”), I am pleased to provide this letter to the NAIC Health Risk-Based Capital (E) Working Group (“working group”). The subcommittee drafted this letter in response to the request from the working group after its [previous report](#) to provide a timeline to analyze and comprehensively review the H2—Underwriting Risk component and the managed care credit calculation in the health risk-based capital (HRBC) formula.

The subcommittee’s [January 2022 report](#) included the following six recommendations for the HRBC Working Group’s consideration:

1. Refresh factors based on updated insurer data
2. Develop factors at a more granular product level
3. Develop factors specific to more relevant block sizes and consider an indexing factor for cut points to change over time
4. Model risk factors over an NAIC-defined prospective time horizon with a defined safety level that can be refreshed regularly
5. Refresh of managed care credit formula and factors to be more relevant and reflective of common contracting approaches and other risk factors associated with these contracting approaches
6. Analyze long-term care insurance (LTCI) underwriting performance to create a more nuanced set of risk factors that considers pricing changes over time

The subcommittee plans to proceed with an analysis to support recommendations 1-5 above across three work tracks. Concerning recommendation No. 6, the subcommittee suggests that the working group discuss any potential changes to LTCI risk factors with the NAIC Life Risk-

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Based Capital (E) Working Group because most LTCI premium is written on life blanks. Please revisit the previous report for additional detail related to the six recommendations.

The three work tracks that will be needed to support the recommendations are:

1. Redesign HRBC Pages XR013/XR014 (Experience Fluctuation Risk)²
2. Develop Tiered RBC Factors
3. Redesign HRBC Pages XR018/XR019 (Managed Care Credit)

As the subcommittee completes each work track, it will share the results with the working group for their consideration and feedback. The remainder of this letter provides more details regarding our proposed analyses.

1. HRBC Pages XR013 and XR014 (Experience Fluctuation Risk) redesign

The current RBC formula for Experience Fluctuation Risk utilizes data from Page 7—Analysis of Operations by Line of Business—then aggregated to six product columns instead of the nine shown on Page 7. Alternatively, the RBC formula could use the Supplemental Health Care Exhibit (“SHCE”)—Part 1, the Accident and Health Policy Experience Exhibit (“A&H Exhibit”), or the Exhibit of Premiums, Enrollment, and Utilization. While the SHCE and A&H Exhibits benefit from additional product detail, the limitation is that they are not filed until April 1—after insurers have filed their RBC calculations. The alternative—the Exhibit of Premiums, Enrollment, and Utilization—is limited by the fact that premiums and claims are presented on a gross basis.

Given that the later timing of the supplements would create a mismatch in timing between the RBC calculation and the availability of data, the subcommittee would suggest utilizing Exhibit of Premiums, Enrollment, and Utilization, at least until insurers file the supplements with the rest of the core financial statement pages.

The subcommittee will likely need to make some adjustments during the risk factor development process (e.g., utilizing data from the historical supplements or other sources) to remedy the gross basis presentation. Additionally, for the RBC filing, Company Records may be required to move from gross to net premiums and claims. Lastly, given the significant A&H volume on life blanks, the Analysis of Operations by Lines of Business—Accident and Health would likely need to be utilized.

Additional changes to XR013/XR014 would include:

- Company-specific experience adjustments, based on historical company-specific experience—likely between five and 10 years
- An adjustment for investment income, tailored to the cash flows of health products
- A premium diversification discount factor

² Based on the 2021 HRBC formula and layout. Additionally, the subcommittee does not expect to make changes to XR015 as part of this exercise given potential data limitations on the Supplemental pages and the Exhibit of Premiums, Enrollment, and Utilization.

- Adjustments to the tiering thresholds

This work track would produce a brief discussion document with a corresponding workbook with the proposed calculation and health blank data sourcing with mock data. The subcommittee expects this work track to take approximately 18 weeks, given the complexity of the redesign.

2. Tiered RBC factor development

The development of the new Tiered RBC factors would be conceptually similar to the exercise performed by the Academy's Property and Casualty Risk-Based Capital Committee for the P&C RBC formula. That is, the premium risk factors would reflect the risk that the subsequent year³ of net premium would produce adverse underwriting experience. The Premium Risk Factors for each line of business would be derived from the net loss ratio for each company that has submitted statutory financials over some predefined period (potentially up to 10 years). The premium risk factors would correspond to some percentile confidence level, as determined by the working group.

This work track would ultimately produce a brief discussion document with a corresponding workbook summarizing the data and results for each line of business at various confidence levels. Given the time needed for data collection and analysis, the subcommittee expects this work track to take approximately 28 weeks.

3. HRBC XR018 and XR019 (Managed Care Credit) redesign

As discussed in the previous January 2022 report, the current Managed Care Credit does not reflect the current nature of provider contracts or contractual risk-sharing provisions. As a result, the subcommittee recommended that the Managed Care Credit be updated. Given the limited data collected within Exhibit 7, this exercise would only include the design of a new HRBC page based on company records (or potentially a new health blank exhibit) for the working group's consideration. As the new data is collected, the new Managed Care Credit could eventually be incorporated into the Experience Fluctuation Risk calculation. Alternatively, to accelerate the redesigned Managed Care Credit adoption, the working group could ask that the subcommittee estimate both the effectiveness of each Managed Care mechanism (and the corresponding discount factor) and the industry distribution of claim payment based on Exhibit 7 reporting. This estimation would require some speculation, which may be inaccurate once the NAIC collects and analyzes data in the future.

This work track would produce a brief discussion document with a corresponding workbook with the proposed Managed Care Credit data collection template and calculation. The subcommittee expects this work track to take approximately 18 weeks, given the complexity of the redesign.

³ This one-year time horizon would imply that contractual obligations and pricing are generally locked in for a year; however, the NAIC may consider (and request) an alternative time horizon

4. Next Steps

The subcommittee would like to discuss the timing of this work and data availability with the working group. The subcommittee would also like to discuss the approach for factor development—namely:

- Which schedules from the health blanks should be utilized for the Experience Fluctuation Risk calculation? Relatedly, is there any receptivity to either delaying the RBC calculation until the supplemental reports are filed or to accelerating the timing of when the supplemental reports need to be filed?
- Should the Managed Care Credit changes be included as part of this Experience Fluctuation Risk refresh or later, when data becomes available?

Thank you for the opportunity to provide this response to the request of the working group to provide a work plan to perform an update for the Experience Fluctuation Risk calculations. Members of the subcommittee welcome the opportunity to speak with you in more detail and answer any questions you might have regarding this letter. If you would like to discuss this letter and its recommendations, please contact Matthew Williams, the Academy's senior health policy analyst, at williams@actuary.org.

Sincerely,

Derek Skoog, MAAA, FSA
Chairperson
Health Solvency Subcommittee
American Academy of Actuaries

CC: Crystal Brown
Senior Insurance Reporting Analyst
cbrown@naic.org

Draft: 8/16/22

Life Risk-Based Capital (E) Working Group
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 27, 2022

The Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met July 27, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Thomas Reedy (CA); Wanchin Chou (CT); William Watson (FL); Mike Yanacheak and Carrie Mears (IA); Fred Andersen (MN); William Leung (MO); Derek Wallman (NE); Seong-min Eom (NJ); Bill Carmello (NY); Andrew Schallhorn (OK); Mike Boerner and Rachel Hemphill (TX); and Tomasz Serbinowski (UT).

1. Adopted its June 17, June 3, April 22, April 7, and Spring National Meeting Minutes

Mr. Leung made a motion, seconded by Mr. Chou, to adopt the Working Group's June 17 (Attachment Four-A), June 3 (Attachment Four-B), April 22 (Attachment Four-C), April 7 (Attachment Four-D), and March 23 (*see NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force, Attachment Four*) minutes. The motion passed unanimously.

2. Adopted the 2022 Life and Fraternal RBC Newsletter

Ms. Hemphill made a motion, seconded by Mr. Leung, to adopt the content for the 2022 Life and Fraternal Risk-Based Capital (RBC) Newsletter (Attachment Four-E). The motion passed unanimously.

3. Consider Adoption of the 2021 Life and Fraternal RBC Statistics

Mr. Chou made a motion, seconded by Mr. Reedy, to adopt the 2021 Life and Fraternal RBC Statistics (Attachment Four-F). Mr. Barlow said a subgroup of the Working Group has been reviewing the statistics to enhance or otherwise change the statistics to provide useful information in reviewing RBC results. He said there has been a lot of good work done so far, and no changes have been made yet. The motion passed unanimously.

4. Discussed Affiliated Investments

Mr. Barlow said one comment letter was received on the affiliated investments proposal. Brian Bayerle (American Council of Life Insurers—ACLI) presented the ACLI's comment letter (Attachment Four-G). He said the ACLI reviewed the proposal, and while it has no specific concerns with the proposal, the ACLI notes that the exposed guidance requires reporting insurers to include the carrying values and RBC requirements for all directly owned subsidiaries even if they are non-admitted. If such entities are to be included in RBC, he said it does not seem reasonable to classify them as non-admitted given this reporting requirement. He said the ACLI suggests consideration of a referral to the Statutory Accounting Principles (E) Working Group. He said the affiliated investments are being reviewed by each of the RBC working groups and will be considered together by the Capital Adequacy (E) Task Force.

5. Adopted its Working Agenda

Mr. Barlow said the item to update the C-2 treatment was changed to indicate the development of additional guidance. Mr. Bayerle said the ACLI is requesting the expedited development of the guidance so companies can review it and see if there are still outstanding questions with respect to the adopted factor change. Ryan Fleming (American Academy of Actuaries—Academy) said the Academy will be beginning work on this shortly. He asked

about the desired time frame for getting this completed. Mr. Barlow said it would be helpful to have something circulated for review prior to its adoption. He asked Mr. Bayerle when this would be needed to help with the completion of the following year's RBC calculation. If a first draft is available in October, Mr. Bayerle said this will give companies an opportunity to review it to see if there are additional questions on the implementation. He said they have done their first review, and a lot of the questions could be addressed through this guidance. He said the ACLI will work with the Working Group on any remaining questions towards the goal of a final version in the last quarter of this year. Mr. Fleming said the Academy considers this timing reasonable, and it is open to input from interested parties to address questions on the implementation. Mr. Barlow suggested that the ACLI provide its input to the Academy for consideration as the Academy prepares its first draft. He said the Working Group could schedule calls for discussion if it would be helpful to move the process along.

With respect to the item to update the C-3 Phase I (C3P1) and C-3 Phase II (C3P2) methodologies, Mr. Bayerle said the VM-22, Statutory Maximum Valuation Interest Rates for Income Annuities, principle-based reserving (PBR) effort is underway with a field test scheduled for February 2023. He said there will be a C3P1 component, which will need to be discussed by the Working Group, and he asked if this working agenda item could be modified accordingly. Mr. Barlow asked NAIC staff to work with Mr. Bayerle and the Academy to make item four on the working agenda more comprehensive.

Mr. Yanacheak made a motion, seconded by Mr. Schallhorn, to adopt the working agenda (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Nine*). The motion passed unanimously.

6. Discussed Other Matters

Mr. Barlow said Mr. Carmello and Mr. Yanacheak have expressed interest in reviewing the C3P1 mean reversion parameter. He said it might be beneficial to consider this after the Working Group gets results from the field test, and she asked the Working Group if this is a reasonable approach to take. Mr. Carmello said he was surprised that the VM-20, Requirements for Principle-Based Reserves for Life Products, generator had not been used, which he believes was unacceptable. Mr. Yanacheak said he believes this is something that should have been addressed and asked for comments from industry. Mr. Barlow suggested having someone from the Economic Scenario Generator (ESG) Drafting Group explain their work in detail at the next Working Group meeting and having a discussion logistically about what needs to be done to change the mean reversion parameter. Mr. Carmello suggested switching the generator over to the VM-20, as opposed to the mean reversion parameter only. Nancy Bennett (Academy) said the Academy has been working on a document to discuss with the Working Group all three C-3 phases. There are different methodologies between C3P1 and C3P2, and she said she believes it may not be as simple as just changing the mean reversion parameter in the C3P1 generator. Mr. Barlow said he believes Mr. Carmello is looking for something that could be done relatively quickly as an interim step. Mr. Carmello said he agrees. Mr. Barlow said the Working Group will have this as an agenda item for an upcoming call.

Andrew Holland (Sidley Austin LL), on behalf of J.P. Morgan, reminded the Working Group of the presentation on reinsurance and comfort trusts provided in March, and he asked for the opportunity to provide follow up requested by the Working Group. Mr. Barlow asked NAIC staff to add this as an agenda item for an upcoming call.

Having no further business, the Life Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/LRBCWG 7--22 Minutes.docx

Draft: 7/25/22

Life Risk-Based Capital (E) Working Group
Virtual Meeting
June 17, 2022

The Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met June 17, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Thomas Reedy (CA); Wanchin Chou (CT); William Watson (FL); Mike Yanacheak and Carrie Mears (IA); Vincent Tsang (IL); Ben Slutsker (MN); Derek Wallman (NE); Seong-min Eom (NJ); Bill Carmello (NY); Mike Boerner (TX); and Tomasz Serbinowski (UT).

1. Discussed Comments Received on the Academy's C2 Mortality Risk Work Group Recommendation

Mr. Barlow said the goal of the meeting is to adopt instructions because the modified structure for 2022 year-end was previously adopted by the Working Group. As part of the Working Group's June 3 meeting, he said a proposed alternative to the American Academy of Actuaries' (Academy's) factors was introduced and exposed, along with the Academy's version. During this last exposure period, Mr. Barlow said a new issue was raised. He said there is a third version of the instructions for the Working Group to consider, which includes his suggestion for a phase-in period as a means to address this additional issue.

Tom Kalmbach (Globe Life) presented Globe Life's comments (Attachment Four-A1). He reiterated Globe Life's recommendation to delay the implementation of the new structure and factors but described recommended changes to the instructions to define pricing flexibility more broadly and to remove references to specific products. With respect to the type of product that is being considered in Globe Life's comments, Chris Trost (Academy), chair of the Academy C2 Mortality Risk Work Group, questioned whether this was significant enough or prevalent enough to change the structure. With respect to references to specific products, he said the language included in the Academy's proposed instructions indicates that it is not all-inclusive. The Working Group agreed to retain the Academy's proposed language.

Brian Bayerle (American Council of Life Insurers—ACLI) presented the ACLI's comment letter (Attachment Four-A2) and described the ACLI's concern with potentially unintended outcomes related to non-guaranteed yearly renewable term (YRT) reinsurance and other similar reinsurance structures. He presented an illustration of four cases and described how these demonstrate the issue detailed in the ACLI's comments regarding the capital requirements for ceding companies and the reinsurer. He noted that the appendix of its comment letter outlined other areas the ACLI believes need to be addressed in the proposed instructions. Mr. Trost said the new structure is more granular and the intent is to better match the capital requirements to the type of product. With respect to the situation the ACLI has highlighted, he said the Academy's work has identified that because of the length of the guarantee, the inability to adjust has a greater capital factor. In a situation where that risk is reinsured, he said the Academy's approach is to only allow an offset that is consistent with the factor. Mr. Bayerle said he does not believe companies have had an opportunity to process the potential ramifications of this issue and that it may require a significant amount of work to make a determination on their various reinsurance treaties as to whether the products covered truly have pricing flexibility. While he thinks there is some merit to the concern with the relative amounts of risk-based capital (RBC) for the ceding company and the reinsurer in the ACLI's example and losing RBC by the use of reinsurance is not appropriate, Mr. Slutsker said he believes there has been a lot of work and thoughtful analysis on the Academy's part that goes beyond reinsurance. Mr. Barlow said the issue is illustrated by a somewhat extreme example for illustration purposes and expressed reservation that it would be the case for too many companies. He also noted that some of the impact of the comparison provided is the result of a change in factors.

Mr. Slutsker asked if the phase-in option addressed some of the ACLI's concerns. Mr. Barlow said he believes the Academy has done what was asked and determined factors that are appropriate for the risks. He said he is comfortable with the Academy's proposal and said the suggestion to possibly phase in is not because he thinks there is a problem with what the Academy has proposed but to address the ACLI's concern with companies needing time to manage the change. Mr. Bayerle said the phase-in may address that concern but may also produce a level of complexity if the instructions are revised.

2. Adopted Instructions and Factors for the Academy's C2 Mortality Risk Work Group Recommendation

Mr. Barlow said the Working Group has three options presented for instructions to support the structure adopted for year-end 2022: 1) the Academy's proposal; 2) Mr. Slutsker's suggested changes to the factors based on one of the Academy's sensitivities tests that had higher factors; and 3) the Academy's factors but with a three-year phase-in to allow companies to manage the transition.

Mr. Carmello made a motion, seconded by Mr. Tsang, to adopt the alternative factors suggested by Mr. Slutsker (see *NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment One-C*). The motion passed, with Nebraska opposing the motion.

Mr. Serbinowski made a motion, seconded by Mr. Yanacheak, to phase in the adopted factors. The motion passed, with California, Minnesota, New Jersey, and New York opposing the motion.

Having no further business, the Life Risk-Based Capital (E) Working Group adjourned.

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3700 S Stonebridge Dr
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June 14, 2022

Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group

Re: C-2 Mortality Factor Proposal

Dear Mr. Barlow:

Globe Life appreciates the opportunity to comment on the proposed changes to the mortality factors and draft instructions in the C-2 component of the NAIC RBC calculation for life companies. We strongly recommend delaying the implementation of the new structure and factors such that a more comprehensive analysis can be completed to better understand the implications and avoid unintended consequences on both individual companies and consumers.

Today more than ever, consumers realize the need and recognize the value of life insurance. Since 2020, the industry has been faced with one of its largest mortality events in recent history. The industry has performed well as we are unaware of any solvency issues with carriers resulting from the pandemic as a result of inadequate target capital levels related to mortality risk. Most recently, consumers are now facing the impact of inflation, which is limiting the amount of disposable income available to purchase insurance. We should be looking to increase access, particularly for those individuals underinsured or uninsured. We do not believe that this is the right time for the NAIC to make a change which is unnecessary and that will potentially translate into increasing the cost of providing insurance coverage; translating into higher premiums for many of consumers that intend to purchase these products.

Specifically, the NAIC Life Risk-Based Capital (E) Working Group has requested comments on two options for draft instructions. Although we strongly advocate for no changes until the implications of changes are better understood, we are providing the following edits which allow for more equitable treatment across product lines. We have provided original text as well as recommended changes to the instructions in Appendix A. These recommendations are applicable for both options exposed.

The recommended changes are intended to address the following:

1. Define Pricing Flexibility more broadly to be aligned with capital generation either through strong capital generation through underlying profit characteristics (ie. material statutory reserve margin releases and premium levels); or the ability to generate capital through changes in premium rates or other non-guaranteed elements.
2. Remove references to specific products, as the above definition of Pricing Flexibility is applicable to all product types whether written on participating or non-participating policy forms.

We look forward to continued industry dialogue on this topic.

Regards,

A handwritten signature in blue ink, appearing to read "Tom Kalmbach".

Tom Kalmbach

Executive Vice President and Chief Actuary

Globe Life Inc.

APPENDIX A

Original Language	Recommended Language
<p><i>Paragraph starting with “Pricing Flexibility...”</i></p> <p>Pricing Flexibility for Individual Life Insurance is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years. and reflecting typical business practices....</p> <p>...A material rate adjustment is defined as the ability to recover, on a present value basis, the difference in mortality provided for in the factors below for contracts with and without pricing flexibility....</p> <p>...The flexibility factor for each category multiplied by the NAR results in the minimum dollar margin needed for a material rate adjustment, which can then be compared against margins available to adjust rates.</p>	<p>Pricing Flexibility for Individual Life Insurance is defined as generating strong statutory profits (ie. material reserve margin releases and current premiums) or the ability to generate strong statutory profits on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years and reflecting typical business practices....</p> <p>... A Material Rate Adjustment is defined as having sufficient reserve margin releases and current premiums or the ability to recover margins through changes in premiums and or non-guaranteed elements, on a present value basis the difference in mortality provided for in the factors below for contracts with and without pricing flexibility....</p> <p>...The flexibility factor for each category multiplied by the NAR results in the minimum dollar margin needed for a Material Rate Adjustment.</p>
<p><i>Paragraph starting with Lines (11) and (12)</i></p> <p>Lines (11) and (12) Life Policies with Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren’t limited to, participating whole life insurance, universal life insurance without secondary guarantees, and yearly renewable term insurance where scheduled premiums may be changed on an annual basis from the date of issue....</p>	<p>Lines (11) and (12) Life Policies with Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren’t limited to, participating whole life insurance, universal life insurance without secondary guarantees, and yearly renewable term insurance where scheduled premiums may be changed on an annual basis from the date of issue....</p>
<p><i>Paragraph starting with Lines (14) and (15)</i></p> <p>Lines (14) and (15) Term Life Policies without Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren’t limited to, level term insurance with guaranteed level premiums and yearly renewable term insurance where scheduled premiums may not be changed...</p>	<p>Lines (14) and (15) Term Life Policies without Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren’t limited to, level term insurance with guaranteed level premiums and yearly renewable term insurance where scheduled premiums may not be changed....</p>
<p><i>Paragraph starting with Lines (17) and (18)</i></p> <p>Lines (17) and (18) Permanent Life Policies without Pricing Flexibility In Force and Reserves are derived from the aggregate amounts derived in lines (1) to (10) minus the amounts recorded in the other individual life categories. Examples of products intended for this category include, but aren’t limited to, universal life with secondary guarantees and non-participating whole life insurance.</p>	<p>Lines (17) and (18) Permanent Life Policies without Pricing Flexibility In Force and Reserves are derived from the aggregate amounts derived in lines (1) to (10) minus the amounts recorded in the other individual life categories. Examples of products intended for this category include, but aren’t limited to, universal life with secondary guarantees and non-participating whole life insurance....</p>



Brian Bayerle
Senior Actuary

June 16, 2022

Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

Re: C-2 Mortality Instructions and Factors

Dear Mr. Barlow:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the June 3rd exposure of the proposed C-2 mortality instructions and updated factors.

In our assessment of the current exposure, we believe we have identified some potentially unintended outcomes related to non-guaranteed YRT reinsurance and other economically similar reinsurance structures. The accompanying spreadsheet illustrates several areas of concern:

- Under the original exposed language (Case 3), industry level capital could decline materially if the reinsurer assumes pricing flexibility (which may be the case under YRT reinsurance arrangements). This current exposure attempts to address this situation.
- However, the current exposure (Case 4) triggers a dramatic shift in capital from the reinsurer to the ceding company when compared to current requirements (Case 1) or requirements using the Academy proposed factors and consistent product groupings based on the characteristics of the directly written business (Case 2). This result is counterintuitive and does not seem representative of the risk given that mortality risk has significantly transferred to the assuming company. Under the situation illustrated (Case 4), a company that reinsures most of its net amount at risk would be required to retain most of the C-2 mortality charges. This could also have the unintended consequence of discouraging the use of reinsurance.

In addition to the above, several other last-minute changes were made to the exposure that have not been fully vetted or assessed. We recommend they not be adopted until such an assessment could occur. We have also identified additional areas for discussion and clarification in the instructions (Appendix A). We believe additional work will be necessary to get the instructions in an appropriate place and suggest whatever is adopted for YE 2022 will require additional revisions for 2023 reporting.

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In light of these concerns, we propose delaying implementation of the updated factors and revised set of instructions. We propose retaining 2021 factors with the Academy instructions and applying these factors across the new buckets. The Academy instructions are the best “starting point” for the additional work. Alternatively, as a stopgap, the reinsurance wording could be amended to have the reinsurance requirements follow the underlying policy. Additional analysis should be initiated during the upcoming year to determine the best way to distribute the capital charge between ceding and assuming companies.

A delay would allow for an impact analysis using YE 2022 data, provides Life RBC additional time to discuss and analyze the instructions and corresponding factors and address any remaining concerns, and avoids potential volatility from partial or incomplete implementation.

We appreciate the consideration of our comments and look forward to discussing on a future call. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Banerji".

cc: Dave Fleming, NAIC

Appendix A: Additional Areas for Discussion or Clarification:

- Since the proposed “pricing flexibility” factors were derived based on a direct writer’s ability to reprice policyholder charges, it is unclear if they appropriately capture the ability of a reinsurer to raise rates on a ceding company.
- The new language for ceded business compounds the level of complexity in an already challenging new requirement and may be overly granular to meet the RBC objective of identifying “weakly capitalized companies.” For example, while gross face amounts are available from policy administrative systems, data to identify reinsurance coverage and reinsurance coverage by type (i.e., YRT, Coinsurance, etc.) will require treaty level assessments, data outside of administrative systems, and a consistent approach for assessing reinsurance pricing flexibility within and across entities.
- We would like clarification on how the mechanics of tiering will work, including situations with negative amounts (reinsurance) in the RBC calculation. For example, if a company has no “gross” face amount in the “with pricing flexibility” category, but under the new structure there will be reinsured face amount in that category – resulting in negative amounts. It is unclear if this was intended, or if the formulas will allow for negative amounts and charges.
- It seems like separate lines in the RBC blank for reinsured NAR (structural change) might be needed to make the risks reported in the RBC blank interpretable and address the issue above.
- The impact of the factors proposed by regulators on the prior call have not been assessed on an industry level, and additional time should be spent to discuss the appropriateness of the adjustments.

Draft: 7/22/22

Life Risk-Based Capital (E) Working Group
Virtual Meeting
June 3, 2022

The Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met June 3, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Thomas Reedy (CA); Wanchin Chou (CT); William Watson (FL); Kevin Clark (IA); Vincent Tsang (IL); Ben Slutsker (MN); William Leung (MO); Derek Wallman (NE); Kevin Clarkson (NJ); Michael Cebula (NY); Andrew Schallhorn (OK); Amy Garcia (TX); and Tomasz Serbinowski (UT).

1. Discussed Comments Received on the Academy's C2 Mortality Risk Work Group Recommendation

Paul Graham (American Council of Life Insurers—ACLI) presented the ACLI's comment letter (Attachment Four-B1). Mr. Graham said many companies did not build their administrative systems in such a way to get the level of detail that is described in the instructions. He suggested adding some language that indicates that best efforts should be used to allocate products among the buckets; where necessary, a higher factor category can be set as a default. Mr. Barlow said at least in the short run, some guidance is to be provided outside of the instructions, and this could be part of that guidance. He also mentioned that additional work is to be done after the implementation, which may involve some adjustments for better clarity and differentiation. Chris Trost (American Academy of Actuaries—Academy), chair of the Academy's C2 Mortality Risk Work Group, said he believes the default Mr. Graham suggested is reasonable, and the Academy agrees with Mr. Barlow's comments on developing guidance.

Mr. Slutsker asked why a company would not use a pro rata method. Mr. Graham said there are 280 member companies, and the level of detail for each policy record in these administrative systems is unknown. He said he believes the pro rata method would likely be used in the absence of restrictions on some of the older policies. Mr. Slutsker agreed and suggested having a disclosure whenever a pro rata method is not used.

Tom Kalmbach (Globe Life) presented Globe Life's comments (Attachment Four-B2). He noted that Globe Life does not believe splitting products between participating and non-participating is the best approach. He said Globe Life believes the split should be based on a principle-based approach involving an assessment of an entity's ability to replenish capital quickly either through revenue increases or the sufficient release of statutory reserve margins as well as consideration for potential capital needs, such as supporting new business strain. He said Globe Life proposes some type of asset adequacy analysis over a short time period, which would provide a more principle-based approach to determine whether lower factors could be used on part of its business. Mr. Barlow asked for comments from the Academy, the ACLI, and working group members regarding this new approach.

Mr. Trost said he believes this is like suggesting that a total asset requirement would be a better approach, and he believes it is generally agreed that that approach does a better job of producing a more tailored risk analysis for a company. He said this must be weighed within the risk-based capital (RBC) structure, which is largely factor-based, especially with respect to the C2 risk. He said the Academy's recommendation is to almost introduce a principle-based element where a company's ability to adjust is part of the evaluation, and that ability directly affects earnings and the ability to replenish surplus. So, while not perfect, he said this gets closer to reflecting a company's distinct characteristics. Mr. Kalmbach said the concern is with the specificity of participating and non-participating products, as well as the Academy's test that is used to determine factors. Mr. Trost said the test is to evaluate the ability to adjust non-guaranteed elements, such as raising cost of insurance charges. Mr. Kalmbach said Globe Life viewed shareholder dividends as non-guaranteed. Mr. Trost noted that it is hard to reflect the dynamics of shareholder dividends because they are beyond the product itself, and the Academy has worked

within the confines of what can be done within the contract and the product design itself. Mr. Kalmbach said shareholder dividends are like policyholder dividends to the point that they are generated from the product itself. Mr. Barlow said this aspect could be included in the additional work to be done for future periods if a specific suggestion for modification is provided.

2. Discussed the Academy's Updated Instructions

Ryan Fleming (Academy) presented the updated instructions, which reflect the feedback received. The first update relates to the suggestion by the ACLI to tier the size bands based on the aggregate exposure for both individual and group life businesses to better reflect the volatility a company faces for mortality risk relative to its size. Tiers would be allocated proportionately to each of the subcategories. The second update was to expand instructions to better define and quantify pricing flexibility. The instructions provide flexibility factors in a table, which differ by having or not having pricing flexibility. If a company is unable to set the pricing flexibility of the remaining rate terms, the default can be set to a higher factor category. Instructions were also expanded regarding the treatment of reinsurance to avoid arbitrage situations where using reinsurance could result in a lower C2 amount. Lastly, based on the additional work done by the Work Group, the Academy decided that a more optimal solution would be to make a future structural update that would keep group permanent life business with all the other group businesses as opposed to grouping it with other individual life business. The Academy Work Group will look at potential future enhancements to this C2 process in future years.

Mr. Slutsker expressed his support for the updates. In addition, he suggested a language change in the instructions regarding how to determine grouping for pricing flexibility, and he asked for a consideration of having this change exposed for comment. Mr. Graham and Mr. Trost said they agree with this change. Mr. Graham requested an additional short exposure to consider the reinsurance language in the updated instructions provided by the Academy.

In addition, Mr. Slutsker recommended an alternative exposure. For the pricing flexibility, based on a prior sensitivity run performed by the Academy, he proposed increasing factors by 0.2 per thousand net amount at risk (NAR) for all the bands capped at the level that the term life without pricing flexibility is at. In addition, considering the ongoing pandemic, he proposed adding 0.1 per thousand NAR to all factors to reflect doubling the probability and severity of a pandemic in the future. The Working Group agreed to expose the updated instructions with Mr. Slutsker's proposed wording change and a second version with the alternative factors proposed by Mr. Slutsker for a 10-day public comment period.

3. Adopted the Residual Tranche Instructional Change

Dave Fleming (NAIC) said this is to facilitate the changes that were made this year in Schedule BA and the asset valuation reserve (AVR) to show residual tranches separately. Mr. Leung made a motion, seconded by Mr. Chou to adopt the Tranche Instructional Change (Attachment Four-B3). The motion passed unanimously.

4. Exposed the Affiliated Investments Proposal for Comment

Mr. Barlow said this work (Attachment Four-B4) shows collective efforts by an ad hoc group of state insurance regulators and interested parties to make the affiliated and subsidiary sections of the instructions for Life, Health, and Property/Casualty (P/C) consistent, except where there is a particular need not to be consistent. The Working Group agreed to expose the affiliated investments proposal for a 45-day public comment period.

Having no further business, the Life Risk-Based Capital (E) Working Group adjourned.



Brian Bayerle
Senior Actuary

May 25, 2022

Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

Re: C-2 Mortality Instructions

Dear Mr. Barlow:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the proposed C-2 mortality instructions.

Tiering: Our understanding is that the American Academy of Actuaries will be developing additional language around the tiering for a pro-rata allocation. We conceptually support this language and look forward to seeing this in the next exposure for comment.

Product splits: For some companies, reporting systems may not support the stratification of group and credit life split based on a certain number of “months to rate expiration.” This may result in this being a more manual task than perhaps anticipated, so we’d welcome some allowance for best efforts around this split.

Reinsurance: For some companies, reinsurance on older inforce blocks or on older administrative systems may be challenging to appropriately categorize net amount at risk. Such business tends to be on one bill and may take substantial amount of research to break out correctly. We therefore request allocation be treated as a “best effort.”

Categorization of products between buckets: We would like to seek clarification around how products should be categorized under the bucketing methodology and what is acceptable under this bucketing methodology.

- Assuming a company has the ability to allocate exposure into different buckets by duration, should the policy’s classification be based on duration? For example, a level term product with guaranteed rates for 10 years followed by non-guaranteed YRT rates potentially could be bucketed two ways:
 1. When the policy is in the level (guaranteed) period, it would be categorized as Term without pricing flexibility. Then, in the (non-guaranteed) post-level-term period, shift the policy into Life with pricing flexibility. In this case, the policy would start in one bucket then be recategorized in later durations. This approach may be operationally

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challenging for some companies to do such an allocation, so if this is the intended approach guidance should be provided to treat the allocation as a best effort.

2. Alternatively, this policy could be viewed as Term without pricing flexibility in all durations since the product has the initial guaranteed period.
- If the intended approach is the first option, is there any concern for a company to bucket the product into the Perm without Pricing Flexibility bucket which should produce a greater RBC requirement?
 - Similarly, how should the Group Life buckets be treated: if a company cannot easily classify between the Less Than 36 Month vs Greater Than 36 Month buckets, can the company bucket into the Greater Than 36 Month bucket?

We appreciate the consideration of our comments and look forward to discussing on a future call. Thank you.

Sincerely,



cc: Dave Fleming, NAIC

3700 S Stonebridge Dr
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May 25, 2022

Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group

Re: C-2 Mortality Factor Proposal

Dear Mr. Barlow:

Globe Life appreciates the opportunity to comment on the proposed changes to the mortality factors and draft instructions in the C-2 component of the NAIC RBC calculation for life companies. We recommend and request a more complete analysis be conducted to determine the appropriate level of charges in order to avoid unintended consequences on both individual companies and consumers, in particular those with limited resources to purchase life insurance. We offer the following in support of this recommendation.

1. **No Apparent Need for Urgency** – We are unaware of any solvency issues with carriers which have been driven by inadequate target capital levels related to mortality risk, even with heightened COVID death claims in the past few years. That said, lowering mortality capital charges in a pandemic for any group of companies or products should not be expedited without careful review and analysis. While the factors within the current RBC model are indeed dated, changes of the magnitude contained in the proposal are best founded on a complete analysis using a total asset requirement.
2. **Analysis Based Complete Total Asset Requirement** – It is not clear that a total asset adequacy analysis has been conducted. Such an analysis has important benefits:
 - a. Both assets backing statutory reserves and capital requirements are considered to ensure that the resulting capital requirement reflects the degree of adequacy in minimum reserve requirements
 - b. The expected profitability profile generated by different product groups is not fully reflected in the development of the capital requirements. The working group’s own summary acknowledged modeling limitations for important product groups. In our view, that includes combining all non-participating and participating into separate categories regardless of the variation in profitability profiles (participating policies with low to no dividends, non-participating policies with conservative reserves and strong profits). There should be no rush to benefit one type of insurer. It appears that this limitation was not fully considered.

A principle-based approach, that is product based, should reflect *both* the ability to increase revenue sufficiently and the underlying profit characteristics before dividends over a relatively short period of time (12 to 24 months) to generate capital. Only stronger profit profiles would qualify for lower factors. This should be based on a supporting asset adequacy analysis. Given the lack of urgency for change, we recommend these important limitations be considered to ensure that proper factors are generated that do not cause unintended consequences.

3. **High Level Product Differences** – The differentiation with the new factors focuses on a concept referred to as “pricing flexibility”. This could be greatly improved by using a more tangible feature of “revenue

flexibility.” Specifically, increasing non-guaranteed cost of insurance charges on a universal life contract exhibits *both* pricing and revenue flexibility. Reducing illustrated dividends on a participating whole life product does not exhibit revenue flexibility; to the extent participating policies pay dividends, the underlying profitability profile before dividends may be sufficient to warrant lower capital requirements. In addition, non-participating policies may also exhibit a profitability profile before shareholder dividends which are sufficient to warrant a lower capital requirement. A complete total asset requirement analysis covers the full profitability profile, which would provide better support of the need for tiered factors by product type. Again, we believe that the process is moving too fast given that much judgment has been made regarding product differentiation and the lack of a complete total asset requirement analysis.

We look forward to continued industry dialogue about producing changes that can minimize the unintended consequences noted above.

Regards,

A handwritten signature in blue ink, appearing to read "Tom Kalmbach".

Tom Kalmbach
Executive Vice President and Chief Actuary
Globe Life Inc.

OTHER LONG-TERM ASSETS

LR008

Basis of Factors

Recognizing the diverse nature of Schedule BA assets, the RBC is calculated by assigning different risk factors according to the different type of assets. Assets with underlying characteristics of bonds and preferred stocks designated by the NAIC Capital Markets and Investment Analysis Office have different factors according to the NAIC assigned classification. Unrated fixed-income securities will be treated the same as Other Schedule BA Assets and assessed a 30 percent pre-tax charge. Rated surplus and capital notes have the same factors applied as Schedule BA assets with the characteristics of preferred stock. Where it is not possible to determine the RBC classification of an asset, a 30 percent pre-tax factor is applied.

Specific Instructions for Application of the Formula

Line (49.1)

Schedule BA affiliated common stock – all other should be included in C-1cs. Specifically this means that all subs with an affiliate code 13 in the current life-based framework and “holding company in excess of indirect subsidiaries” or subsidiaries with affiliate code 7 are to be included in C-1cs.

Line (49.2)

New lines were added to Schedule BA and the AVR Equity Component to capture amounts related to residual tranches or interests. For life RBC reporting, AVR Equity Component, Column 1, Line 93 is included in Line (49.2).

Line (57)

Total Schedule BA assets [LR008 Other Long-Term Assets Column (1) Line (57) plus LR007 Real Estate Column (1) Line (14) plus Lines (17) through Line (21) plus LR009 Schedule BA Mortgages Column (1) Line (20)] should equal the total Schedule BA assets reported in the Annual Statement Page 2, Column 3, Line 8.

AFFILIATED/SUBSIDIARY STOCKS
LR042 – LR044

There are ten categories of affiliated/subsidiary investments that are subject to Risk-Based Capital requirements for common stock and preferred stock holdings. Those ten categories are:

1. Directly Owned U.S. Insurance Affiliates/Subsidiaries Subject to a Risk-Based Capital (RBC)-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries Subject to RBC-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries
4. Investment Subsidiaries
5. Directly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
7. Investments in Upstream Affiliate (Parent)
8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Health Insurance Companies and Health Entities Not Subject to RBC
 - b. Property and Casualty Insurance Companies Not Subject to RBC
 - c. Life Insurance Companies Not Subject to RBC
9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Entities with a capital requirement imposed by a regulatory body
 - b. Other Financial Entities without regulatory capital requirements
 - c. Non-financial entities
10. Publicly Traded Insurance Affiliates/Subsidiaries Held at Market Value

Enter applicable items for each affiliate/subsidiary in the Details for Affiliated/Subsidiary Stocks worksheet. The program will automatically calculate the risk-based capital charge for each affiliate/subsidiary. When the data is uploaded to the NAIC database, it will be cross-checked and the company will be required to correct any discrepancies and refile a corrected version with the NAIC and/or any state that requires the company to file RBC with its department. The RBC report will display the number of affiliates/subsidiaries. These numbers should be reviewed to ensure that all affiliates/subsidiaries are appropriately reported.

The total of all reported affiliate/subsidiary stock should equal the amounts reported on Schedule D, Part 2, Section 1, Line 4409999999 plus Schedule D, Part 2, Section 2, Line 5979999999 and should also equal Schedule D, Part 6, Section 1, Line 09999999 plus Line 18999999.

Affiliated/Subsidiary investments fall into two broad categories: (A) Insurance Affiliates/Subsidiaries that are Subject to risk-based capital; and (B) Affiliates/Subsidiaries that are Not Subject to risk-based capital. The risk-based capital for these two broad groups differs. Investment subsidiaries are a subset of category A in that they are subject to a risk-based capital charge that includes the life RBC risk factors applied only to the investments held by the investment subsidiary for its parent insurer. Publicly traded insurance affiliates/subsidiaries held at market value have characteristics of both broader categories. As a result, there is a two-part RBC calculation. The general treatment for each is explained below.

Directly owned insurance and health entity affiliates/subsidiaries are affiliates/subsidiaries in which the reporting company owns the stock of the affiliate/subsidiary. Indirectly owned insurance affiliates/subsidiaries and health entities are those where the reporting company owns stock in a holding company, which in turn owns the stock of the insurance affiliate/subsidiary or health entity. Note that there could be multiple holding companies that control the downstream insurance company.

Enter the book/adjusted carrying value of: the common stock in Column (5), the preferred stock in Column (7), the total outstanding common stock in Column (6) and the total outstanding preferred stock of that affiliate/subsidiary in Column (10) of the appropriate worksheet. The percentage of ownership is calculated by summing the book/adjusted carrying values of the owned preferred stock and common stock and dividing that amount by the sum of all outstanding preferred and common stock.

Insurance Affiliate/Subsidiaries that are Subject to RBC

1. Directly Owned U.S. Affiliates/Subsidiaries:

The risk-based capital requirement for the reporting company for those insurance affiliates/subsidiaries that are subject to a risk-based capital requirement is based on the Total Risk-Based Capital After Covariance of the affiliate/subsidiary, prorated for the percent of ownership of that affiliate/subsidiary.

For purposes of Subsidiary Risk all references to Total Risk-Based Capital After Covariance of the affiliate/subsidiary means:

- a. For a Health affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (XR024, Line (37));
- b. For a P/C affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (PR032, Line (68)); and
- c. For a Life affiliate/subsidiary RBC filing, the sum of
 - (a) Total Risk-Based Capital After Covariance before Basic Operational Risk (LR031, Line (67)); and
 - (b) Primary Security shortfall for all sessions covered by Actuarial Guideline XLVIII (AG 48) multiplied by two (LR031, Line (71)).

For RBC purposes, the reporting insurer must determine the carrying value and the RBC requirement of directly owned RBC filing affiliate/subsidiary company, even if the RBC filing affiliate/subsidiary is non-admitted. The value reported in annual statement Schedule D, Part 6, Section 1 should be used for RBC purposes. In addition to RBC, the carrying value of the RBC filer must be reported in total adjusted carrying value for RBC purposes, in order to appropriately balance the numerator with the addition of the denominator value. Enter the carrying value of the insurer on **Line XXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

Equity method Insurance Affiliates/Subsidiaries: Equity method is defined in SSAP No. 97, Paragraph 8b. as the underlying audited statutory equity of the respective entity's financial statements, adjusted for any unamortized goodwill as provided for in SSAP No. 68—Business Combinations and Goodwill. For those Insurance Affiliates/Subsidiaries of the reporting company that are reported under the equity method, the Co charge of the ownership of the common and preferred stock in these Affiliates/Subsidiaries is limited to the lesser of:

- (a) the Total RBC After Covariance of the affiliate/subsidiary times the percentage of ownership, which is the total of common stock and preferred stock; or
- (b) the common and preferred stock book/adjusted carrying value at which the affiliate/subsidiary is carried.

Market Value (including discounted market value) Insurance Affiliates/Subsidiaries (See SSAP No. 97, Paragraph 8a.): See 10 below.

2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries

For Indirectly Owned U.S. Insurance Affiliates/Subsidiaries, the carrying value and RBC is calculated in the same manner as for directly owned U.S. Insurance Affiliates/Subsidiaries. The RBC for the indirect affiliates/subsidiaries must be calculated prior to completing this RBC report.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned RBC filer may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an RBC filer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must “look-through” all intermediate holding and subsidiary companies to determine the carrying value and the RBC requirement of indirectly owned RBC filing affiliate/subsidiary company. This involves drilling down to the first RBC filing insurance affiliate/subsidiary and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both RBC and carrying value of the RBC filer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on Line XXX of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value for each indirect insurance affiliate/subsidiary is established based on company records using the statutory value of the insurer as reported in the NAIC annual financial statement blank submitted by the affiliate/subsidiary or market value when applicable, and the RBC requirement as determined in its RBC Report adjusted for the ownership percentages (both the percentage of the indirectly owned RBC filing affiliate/subsidiary that is owned by the directly held downstream holding company and the reporting insurer's ownership percentage in that downstream entity). The value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis.

3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries:

The carrying value of a U.S. Insurance Affiliate/Subsidiary that is subject to RBC is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance affiliate/subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each RBC filing insurer and each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The remaining value of the directly held holding company is then subject to a charge that is calculated in accordance with the instructions for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries as specified in the RBC formula. If the holding company is not admitted, report the excess carrying value as zero and the

corresponding RBC charge will also be zero. If a negative excess value for the downstream holding company results from removing the value of U.S. RBC filing insurers from the downstream holding company's reported value, then the value of that holding company will be floored at zero and the corresponding RBC charge will also be zero.

The following hypothetical Balance Sheet indicates the view of a Holding Company - Holder, Inc. which is 100% owned by MEGA Life Insurance Company (it assumes that the value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis):

		Balance Sheet	
		Holder, Inc.	
		12/31/XXXX	
Cm Stk:	ABC Life Company	10,000,000	Long Term Debt
	XYZ Casualty Company	15,000,000	Other Liabilities
	ANH Health Company	3,000,000	
	Other Common Stock	17,000,000	Total Liabilities
	Cash	7,000,000	
	Other Assets	5,000,000	Equity
			50,000,000
	Total Assets	57,000,000	Total Liabilities & Equity
			57,000,000

The RBC calculation for Holder, Inc.'s value in excess of the indirectly owned insurance affiliates is as follows:

Company	Stat. Book	
	value	Source:
Holder, Inc.	50,000,000	MEGA Life Sch D - Part 6, Section 1
Holder, Inc. aff/subs subject to RBC		
ABC Life Company	10,000,000	Holder, Inc. Stat. balance sheet
XYZ Casualty Company	15,000,000	Holder, Inc. Stat. balance sheet
ANH Health Company	<u>3,000,000</u>	Holder, Inc. Stat. balance sheet
Subtotal	28,000,000	
Holder, Inc. excl. RBC aff/subs	22,000,000	
		<i>(amount subject to the 30.0% factor for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries)</i>

The following table shows the LR044 entries that MEGA Life Insurance Company (which owns 100% owns of Holder, Inc.) would report for the indirectly owned insurance subsidiaries under Holder, Inc. This table assumes that Holder, Inc. owns 40%, 50% and 25% of ABC Life, XYZ Casualty, and ANH Health, respectively. The table also assumes that the RBC values shown for these subsidiaries at the 100% level are the correct RBC After Covariance but Before Operational Risk.

LR044 Column						
Affiliates/Subsidiaries	Affiliates/Subsidiaries Type	4 100% RBC	5 Book Adjusted Carrying Value	6 Total Value of Affiliates/Subsidiaries	9 % Owned	10 RBC Required
ABC Life Company	Indirect U.S. Life Aff/Sub	5,000,000	10,000,000	25,000,000	40%	2,000,000
XYZ Casualty Company	Indirect U.S. P&C Aff/Sub	12,000,000	15,000,000	30,000,000	50%	6,000,000
ANH Health Company	Indirect U.S. Health Aff/Sub	6,000,000	3,000,000	12,000,000	25%	1,500,000

The risk-based capital charge for the parent insurer preparing the calculation is a 30.0 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries as calculated in the prior example. Enter information in the appropriate columns of the worksheet, omitting those columns that do not apply (Column (3) – NAIC Company Code or Alien ID Number and Column (4) Affiliate’s RBC After Covariance).

4. Investment Subsidiaries

An investment subsidiary is a subsidiary that exists only to invest the funds of the parent company. The term “investment subsidiary” is defined in the NAIC’s *Annual Statement Instructions* as any subsidiary, other than a holding company, engaged or organized primarily to engage in the ownership and management of investments for the insurer. An investment subsidiary shall not include any broker-dealer or a money management fund managing funds other than those of the parent company. The risk-based capital charge for the ownership of an investment subsidiary is based on the risk-based capital of the underlying assets, pro-rated for the degree of ownership. The basis for this calculation is the assumption that the charge should be the same as it would be if the life insurer held the assets directly.

Report information regarding any investment subsidiaries. Subsidiaries reported in this section will be assigned an affiliate code of “4” for investment subsidiaries. The amount of reported common stock should be the same as Schedule D, Part 6, Section 1, Line 1699999. Preferred stock information should be the same as Schedule D, Part 6, Section 1, Line 0799999.

Affiliates/Subsidiaries that are Not Subject to RBC

5. Directly Owned Alien Insurance Affiliates/Subsidiaries

For purposes of this formula, the risk-based capital of each alien insurance affiliate/subsidiary is zero. Report information for any non-U.S. insurance affiliate/subsidiary, both life and property and casualty.

For each affiliate/subsidiary, report the name and alien insurer identification number. For purposes of this formula, the statement value of common and preferred stock and the total outstanding value of common and preferred stock for alien insurance affiliates/subsidiaries should be entered as zero. Companies reported in this section will be assigned an affiliate/subsidiary code of “5” for alien insurers.

For each affiliate/subsidiary, enter the following information:

- Company Name,
- Alien Insurer Identification Number,

- Book Adjusted carrying value of common and preferred stock,
 - Total Outstanding value of common and preferred stock,
 - Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's/Subsidiary's common and preferred stock columns (6) and (8), the program will assume 100 percent ownership.
6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries
Consistent with the treatment of Directly Owned Alien Insurance Subsidiaries / Affiliates, for purposes of this formula, the carrying value and risk-based capital charge of each alien insurance affiliate is zero.
- For each affiliate/Subsidiary enter the following information:
- Company Name,
 - Alien Insurer Identification Number,
 - Book Adjusted carrying value of common and preferred stock,
 - Total Outstanding value of common and preferred stock,
 - Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Lines 1499999 and 0599999. If no value is reported in the Total Value of Affiliate's/Subsidiary's Common and preferred stock columns (6) and (8), the program will assume 100 percent ownership.

7. Investment in Upstream Affiliate (Parent)

The pre-tax Risk-Based Capital (RBC) for an investment in an upstream parent is 30.0 percent of the book/adjusted carrying value of the common and preferred stock, regardless of whether that upstream parent is subject to RBC. Report the appropriate information from Schedule D, Part 6, Section 1, Lines 0199999 and 1099999 in Columns (1) through (6).

For each affiliate, enter the following information:

- Company Name,
- Affiliate Type,
- NAIC Company Code,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock.

8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Health Insurance Companies and Health Entities Not Subject to RBC
- b. Property and Casualty Insurance Companies Not Subject to RBC, such as title insurers, monoline financial guaranty insurers, and monoline mortgage guarantee insurers
- c. Life Insurance Companies Not Subject to RBC, such as life insurance affiliate/subsidiary exempted from RBC

The risk-based capital for insurers not subject to RBC is based on the underlying statute, regulation, or rule governing capital requirements for such entities. If not otherwise specified by statute, regulation or rule, the risk-based capital for an investment in a U.S. insurer that is not required to file an RBC formula investment is 0.300 times the book/adjusted carrying value of the common and preferred stock.

- 9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Financial entities with a capital requirement imposed by a regulatory body (e.g. a bank)
 - b. Other financial entities without regulatory capital requirements
 - c. Other Non-financial entities
- The risk-based capital for entity types a, b, and c. is 0.300 times the book/adjusted carrying value of the common and preferred stock. The affiliate/subsidiary code for Non-Insurance Affiliates/Subsidiaries Not Subject to RBC is "9." Reported amounts use Schedule D, part 6, Schedule 1, Line 0899999, and Line 1799999 as the basis of reporting.

10. Publicly Traded Insurance Affiliates/Subsidiaries Held at Market Value

The risk-based capital for a publicly traded insurance affiliate/subsidiary held at market value after any "discount," is calculated in two parts. First, calculate and report the risk-based capital of the affiliate/subsidiary according to the relevant instructions above for Insurance Affiliates/Subsidiaries that are Subject to a RBC-look-through Calculation. Second, calculate the additional risk-based capital charge as 34.6 percent pre-tax of any excess of the market (statement) value over the book value of the affiliate/subsidiary. The result of the second calculation will be added to the C-10 component.

Report information regarding any publicly traded insurance affiliate/subsidiary held at market value. The reported market value of common stock should be the same as shown in Schedule D, Part 2, Section 2, Column 8, Line 5919999999 plus Line 5929999999. The market value of preferred stock should be the same as shown in Schedule D, Part 2, Section 1, Column 10, line 4319999999 plus 4329999999. The reported book value of common stock should be the same as shown in Schedule D, Part 2, Section 2, Column 6, Line 5919999999 plus Line 5929999999. The reported book value of preferred stock should be the same as Schedule D, Part 2, Section 1, Column 8, Line 4319999999 plus 4329999999.

APPENDIX 3 – EXAMPLE USED FOR AFFILIATED/SUBSIDIARY STOCKS

To determine the value of total outstanding common stock or total outstanding preferred stock, divide the book/adjusted carrying value of the investment (found in Schedule D - Part 6 Section 1, Column 9) by the percentage of ownership (found in Schedule D – Part 6 – Section 1, Column 12). For example:

Subsidiary Insurance Company	Owner's Book / Adjusted Carrying Value	Percentage Ownership	Total Stock Outstanding
Subsidiary #1	\$1,000,000	100%	\$1,000,000
Subsidiary #2	\$1,000,000	75%	\$1,333,333
Subsidiary #3	\$1,000,000	50%	\$2,000,000
Subsidiary #4	\$1,000,000	25%	\$4,000,000
Subsidiary #5	\$1,000,000	10%	\$10,000,000

Company Name

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NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL

ASSET RISKS	Source	RBC Amount	Tax Factor	RBC Tax Effect
0001 Long-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (2.8) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
0002 Long-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (3.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
0003 Long-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (4.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
0004 Long-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (5.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
0005 Long-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (6.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
0006 Long-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (7) + LR018 OFF-Balance Sheet Collateral Column (3) Line (7)	X	0.2100	=
0007 Short-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (10.8)	X	0.1680	=
0008 Short-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (11.4)	X	0.1680	=
0009 Short-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (12.4)	X	0.1680	=
0010 Short-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (13.4)	X	0.1680	=
0011 Short-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (14.4)	X	0.1680	=
0012 Short-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (15)	X	0.2100	=
0013 Credit Rating - NAIC Bonds	LR002 Bonds Column (2) Line (16)	X	0.1680	=
0014 Credit Rating - NAIC Bonds	LR002 Bonds Column (2) Line (17)	X	0.1680	=
0015 Credit Rating - NAIC Bonds	LR002 Bonds Column (2) Line (18)	X	0.1680	=
0016 Bond Reduction - Reinsurance	LR002 Bonds Column (2) Line (19)	X	0.2100	=
0017 Non-Exempt NAIC 1 U.S. Government Agency	LR002 Bonds Column (2) Line (20)	X	0.2100	=
0018 Bond Size Factor	LR002 Bonds Column (2) Line (22)	X	0.1680	=
0019 In-Cash Bonding	LR002 Bonds Column (2) Line (25) - LR002 Bonds Column (2) Line (21)	X	0.1575	=
0200 Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (1)	X	0.1575	=
0201 Residential Mortgages - Other	LR004 Mortgages Column (6) Line (2)	X	0.1575	=
0202 Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (3)	X	0.1575	=
0203 Total Commercial Mortgages - All Other	LR004 Mortgages Column (6) Line (9)	X	0.1575	=
0204 Farm Mortgages	LR004 Mortgages Column (6) Line (15)	X	0.1575	=
0205 Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (16)	X	0.1575	=
0206 Residential Mortgages - Other	LR004 Mortgages Column (6) Line (17)	X	0.1575	=
0207 Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (18)	X	0.1575	=
0208 Commercial Mortgages - Other	LR004 Mortgages Column (6) Line (19)	X	0.1575	=
0209 Farm Mortgages	LR004 Mortgages Column (6) Line (20)	X	0.1575	=

† Denotes lines that are deducted from the total rather than added.
 ‡ Denotes items that must be manually entered on the filing software.

LR030

NAIC Company Code

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CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

Company Name	Source	RBC Amount	Tax Factor	RBC Tax Effect
(030) Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (22)	X	0.1575	
(031) Residential Mortgages - Other	LR004 Mortgages Column (6) Line (23)	X	0.1575	
(032) Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (24)	X	0.1575	
(033) Commercial Mortgages - Other	LR004 Mortgages Column (6) Line (25)	X	0.1575	
(034) Due & Unpaid Mortgages	LR004 Mortgages Column (6) Line (26)	X	0.1575	
(035) Due & Unpaid Taxes - Forfeitures	LR004 Mortgages Column (6) Line (27)	X	0.1575	
(036) Mortgage Reduction - Reinsurance	LR004 Mortgages Column (6) Line (29)	X	0.2100	†
(037) Mortgage Increase - Reinsurance	LR004 Mortgages Column (6) Line (30)	X	0.2100	
(038) Unaffiliated Preferred Stock NAIC 1	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (1)	X	0.1575	
(039) Unaffiliated Preferred Stock NAIC 2	+ LR018 OFEBalance Sheet Collateral Column (5) Line (9)	X	0.1575	
(040) Unaffiliated Preferred Stock NAIC 3	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (2)	X	0.1575	
(041) Unaffiliated Preferred Stock NAIC 4	+ LR018 OFEBalance Sheet Collateral Column (5) Line (3)	X	0.1575	
(042) Unaffiliated Preferred Stock NAIC 5	+ LR018 OFEBalance Sheet Collateral Column (5) Line (11)	X	0.1575	
(043) Unaffiliated Preferred Stock NAIC 6	+ LR005 Unaffiliated Preferred and Common Stock Column (5) Line (4)	X	0.1575	
(044) Preferred Stock Reduction-Reinsurance	+ LR018 OFEBalance Sheet Collateral Column (5) Line (12)	X	0.1575	
(045) Preferred Stock Increase-Reinsurance	+ LR005 Unaffiliated Preferred and Common Stock Column (5) Line (5)	X	0.1575	
(046) Guaranteed Index	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (6)	X	0.2100	
(047) Nonindex-Book Reserve	+ LR018 OFEBalance Sheet Collateral Column (5) Line (14)	X	0.2100	†
(048) Separate Accounts Nonindex-Market Reserve	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (8)	X	0.2100	
(049) Separate Accounts Reduction-Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (9)	X	0.2100	
(050) Separate Accounts Increase-Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (9)	X	0.2100	
(051) Separate Accounts Surplus	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (9)	X	0.2100	
(052) Separate Account Surplus	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (9)	X	0.2100	
(053) Company Occupied Real Estate	LR006 Separate Accounts Column (3) Line (1)	X	0.1575	
(054) Foreclosed Real Estate	LR006 Separate Accounts Column (3) Line (2)	X	0.1575	
(055) Investment Real Estate	LR006 Separate Accounts Column (3) Line (3)	X	0.1575	
(056) Real Estate Reduction - Reinsurance	LR006 Separate Accounts Column (3) Line (5)	X	0.2100	†
(057) Real Estate Increase - Reinsurance	LR006 Separate Accounts Column (3) Line (6)	X	0.2100	
(058) Subdivided Real Estate Excluding Low Income Housing Tax Credits	LR006 Separate Accounts Column (3) Line (13)	X	0.1575	
(059) Guaranteed Low Income Housing Tax Credits	LR007 Real Estate Column (3) Line (3)	X	0.2100	
(060) Non-Guaranteed and All Other Low Income Housing Tax Credits	LR007 Real Estate Column (3) Line (6)	X	0.2100	
(061) Sch BA Real Estate Reduction - Reinsurance	LR007 Real Estate Column (3) Line (9)	X	0.2100	
(062) Sch BA Real Estate Increase - Reinsurance	LR007 Real Estate Column (3) Line (11)	X	0.2100	†
	LR007 Real Estate Column (3) Line (12)	X	0.2100	
	LR007 Real Estate Column (3) Line (16)	X	0.2100	
	LR007 Real Estate Column (3) Line (17) + Line (19)	X	0.0000	
	LR007 Real Estate Column (3) Line (18) + Line (20) + Line (21)	X	0.0000	
	LR007 Real Estate Column (3) Line (23)	X	0.2100	†
	LR007 Real Estate Column (3) Line (24)	X	0.2100	

† Denotes lines that are deleted from the total rather than added.
 Denotes items that must be manually entered on the filing software

LR030

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	Source	RBC Amount	Tax Factor	RBC Tax Effect
(063) Sch BA Bond NAIC 1	LR008 Other Long-Term Assets Column (5) Line (2)	X	0.1575	
(064) Sch BA Bond NAIC 2	LR008 Other Long-Term Assets Column (5) Line (3)	X	0.1575	
(065) Sch BA Bond NAIC 3	LR008 Other Long-Term Assets Column (5) Line (4)	X	0.1575	
(066) Sch BA Bond NAIC 4	LR008 Other Long-Term Assets Column (5) Line (5)	X	0.1575	
(067) Sch BA Bond NAIC 5	LR008 Other Long-Term Assets Column (5) Line (6)	X	0.1575	
(068) Sch BA Bond NAIC 6	LR008 Other Long-Term Assets Column (5) Line (7)	X	0.2100	
(069) BA Bond Reduction - Reinsurance	LR008 Other Long-Term Assets Column (5) Line (9)	X	0.2100	
(070) BA Bond Increase - Reinsurance	LR008 Other Long-Term Assets Column (5) Line (10)	X	0.2100	
(071) BA Preferred Stock NAIC 1	LR008 Other Long-Term Assets Column (5) Line (12.1)	X	0.1575	
(072) BA Preferred Stock NAIC 2	LR008 Other Long-Term Assets Column (5) Line (13)	X	0.1575	
(073) BA Preferred Stock NAIC 3	LR008 Other Long-Term Assets Column (5) Line (14)	X	0.1575	
(074) BA Preferred Stock NAIC 4	LR008 Other Long-Term Assets Column (5) Line (15)	X	0.1575	
(075) BA Preferred Stock NAIC 5	LR008 Other Long-Term Assets Column (5) Line (16)	X	0.1575	
(076) BA Preferred Stock NAIC 6	LR008 Other Long-Term Assets Column (5) Line (17)	X	0.2100	
(077) BA Preferred Stock Reduction-Reinsurance	LR008 Other Long-Term Assets Column (5) Line (19)	X	0.2100	
(078) BA Preferred Stock Increase - Reinsurance	LR008 Other Long-Term Assets Column (5) Line (20)	X	0.2100	
(079) Rated Surplus Notes	LR008 Other Long-Term Assets Column (5) Line (31)	X	0.1575	
(080) Rated Capital Notes	LR008 Other Long-Term Assets Column (5) Line (41)	X	0.1575	
(081) BA Common Stock Affiliated	LR008 Other Long-Term Assets Column (5) Line (48.2)	X	0.1575	
(082) BA Collateral Loans	LR008 Other Long-Term Assets Column (5) Line (50)	X	0.1575	
(083) Other BA Assets	Sch BA Column (3) Line (52.3) + LR008 Off-Balance	X	0.2100	
(084) Other BA Assets Reduction-Reinsurance	LR008 Other Long-Term Assets Column (5) Line (54)	X	0.2100	
(085) Other BA Assets Increase - Reinsurance	LR008 Other Long-Term Assets Column (5) Line (55)	X	0.2100	
(086) BA Mortgages - In Good Standing	LR009 Schedule BA Mortgages Column (6) Line (11)	X	0.1575	
(087) BA Mortgages - 90 Days Overdue	LR009 Schedule BA Mortgages Column (6) Line (15)	X	0.1575	
(088) BA Mortgages - In Process of Foreclosure	LR009 Schedule BA Mortgages Column (6) Line (19)	X	0.1575	
(089) Reduction - Reinsurance	LR009 Schedule BA Mortgages Column (6) Line (21)	X	0.2100	
(090) Increase - Reinsurance	LR009 Schedule BA Mortgages Column (6) Line (22)	X	0.2100	
(091) Asset Concentration Factor	LR010 Asset Concentration Factor Column (6) Line (62) Grand Total Page	X	0.1575	
(092) Miscellaneous Assets	LR012 Miscellaneous Assets Column (2) Line (7)	X	0.1575	
(093) Derivatives - Collateral and Exchange Traded	LR012 Miscellaneous Assets Column (2) Lines (8) + (9) + (10)	X	0.1575	
(094) Derivatives NAIC 1	LR012 Miscellaneous Assets Column (2) Line (11)	X	0.1575	
(095) Derivatives NAIC 2	LR012 Miscellaneous Assets Column (2) Line (12)	X	0.1575	
(096) Derivatives NAIC 3	LR012 Miscellaneous Assets Column (2) Line (13)	X	0.1575	
(097) Derivatives NAIC 4	LR012 Miscellaneous Assets Column (2) Line (14)	X	0.1575	
(098) Derivatives NAIC 5	LR012 Miscellaneous Assets Column (2) Line (15)	X	0.1575	
(099) Derivatives NAIC 6	LR012 Miscellaneous Assets Column (2) Line (16)	X	0.1575	
(100) Miscellaneous Assets Reduction-Reinsurance	LR012 Miscellaneous Assets Column (2) Line (19)	X	0.2100	
(101) Miscellaneous Assets Increase-Reinsurance	LR012 Miscellaneous Assets Column (2) Line (20)	X	0.2100	

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Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	(1) RBC Amount	Tax Factor 0.1575	(2) RBC Tax Effect
(102) Replications	X	0.1575	
(103) Reinsurance	X	0.2100	
(104) Investment in Affiliates	X	0.2100	
(105) Investment in Foreign Affiliate (Parent)	X	0.2100	
(106) Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	X	0.2100	
(107) Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	X	0.2100	
(108) Directly Owned Life Insurance Companies Not Subject to RBC	X	0.2100	
(109) Publicly Traded Insurance Affiliates	X	0.2100	
(110) Subtotal for C- to Assets			
C-0 Affiliated Common Stock			
(111) Balance Sheet and Other Items	X	0.1575	
(112) Reinsurance	X	0.2100	
(113) OF-Balance Sheet Items Increase - Reinsurance	X	0.2100	
(114) Directly Owned Health Insurance Companies or Health Entities	X	0.2100	
(115) Directly Owned Property and Casualty Insurance Companies	X	0.2100	
(116) Directly Owned Life Insurance Affiliates	X	0.2100	
(117) Indirectly Owned Health Insurance Companies or Health Entities	X	0.2100	
(118) Indirectly Owned Property and Casualty Insurance Affiliates	X	0.2100	
(119) Indirectly Owned Life Insurance Affiliates	X	0.2100	
(120) Affiliated Insurers - Directly Owned	X	0.0000	
(121) Affiliated Insurers - Indirectly Owned	X	0.0000	
(122) Subtotal for C-0 Affiliated Common Stock			
Common Stock			
(123) Unaffiliated Common Stock	X	0.2100	
(124) Credit for Hedging - Common Stock	X	0.2100	
(125) Stock Reduction - Reinsurance	X	0.2100	
(126) Stock Increase - Reinsurance	X	0.2100	
(127) NAIC 01 Working Capital Finance Notes	X	0.2100	
(128) BA Common Stock (Mortgage - C-Ies)	X	0.2100	
(129) Common Stock Concentration Factor	X	0.2100	
(130) NAIC 01 Working Capital Finance Notes	X	0.1575	
(131) NAIC 02 Working Capital Finance Notes	X	0.1575	
(132) Holding Company in Excess of Indirect Subs	X	0.2100	
(133) Affiliated Non-Insurers	X	0.2100	
(134) Total for C-1es Assets			
Insurance Risk			
(135) Disability Income Premium	X	0.2100	
†			
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LR030

Company Name

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NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	(136)	(137)	(138)	(139)	(140)	(141)	(142)	(143)	(144)	(145)	(146)	(147)
Long-Term Care												
Life Insurance C-2 Risk												
Long-Term Care C-2 Risk												
Disability and Long-Term Care Health												
Claim Reserves												
Premium Stabilization Credit												
Total C-2 Risk												
Interest Rate Risk												
Health Credit Risk												
Market Risk												
Business Risk												
Health Administrative Expenses												
Total Tax Effect												

	(1)	(2)
RBC Amount	X	
Tax Factor		0.2100
RBC Tax Effect		

LR019 Health Premiums Column (2) Line (28) + LR023 Long-Term Care Column (4) Line (7)

LR025 Life Insurance Column (2) Line (8)

LR026 Disability and Long-Term Care Column (2) Line (21)

LR025-A Longevity Risk Column (2) Line (5)

LR024 Health Claim Reserves Column (4) Line (9) + Line (15)

LR026 Premium Stabilization Reserves Column (2) Line (10)

$L(137) + L(136) + L(139) + L(140) + \text{Greatest of } [\text{Guaradrail Factor} * L(137) + L(138), \text{Guaradrail Factor} * L(138), \text{Square Root of } (L(137) + L(138))^2 + 2 * (\text{Correlation Factor}) * L(137) + L(138)] + L(138), 11$

LR027 Interest Rate Risk Column (2) Line (56)

LR027 Health Credit Risk Column (2) Line (7)

LR027 Market Risk Column (2) Line (7)

LR029 Business Risk Column (2) Line (40)

LR029 Business Risk Column (2) Line (57)

Lines (110) + (122) + (134) + (141) + (142) + (143) + (144) + (145) + (146)

† Denotes lines that are deducted from the total rather than added.
Denotes items that must be manually entered on the filing software.

LR030

CALCULATION OF COMPANY-SPECIFIC CONTROL LEVEL RISK-BASED CAPITAL

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NAIC Company Code (1)
RBC Requirement

	Source
(1) Insurance Affiliates and Misc. Other Amounts (C-0)	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (1)
(2) Directly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (2)
(3) Directly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (3)
(4) Directly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (4)
(5) Indirectly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (5)
(6) Indirectly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (6)
(7) Indirectly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (7)
(8) Affiliated Alien Insurers - Directly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (9) + (10) + (11)
(9) Affiliated Alien Insurers - Indirectly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (12) + (13) + (14)
(10) Off-Balance Sheet and Other Items	LR017 Off-Balance Sheet and Other Items Column (5) Line (34)
(11) Total (C-0) - Pre-Tax	Sum of Lines (1) through (9)
(12) (C-0) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (122)
(13) Net (C-0) - Post-Tax	Line (10) - Line (11)
(14) Asset Risk - Unaffiliated Common Stock and Affiliated Non-Insurance Stock (C-1cs)	LR005 Unaffiliated Common Stock Column (5) Line (21) + LR018 Off-Balance Sheet Collateral Column (3) Line (16)
(15) Schedule BA Unaffiliated Common Stock	LR008 Other Long-Term Assets Column (5) line (47)
(16) Schedule BA Affiliated Common Stock - C-1cs	LR008 Other Long-Term Assets Column (5) line (49,2)
(17) Common Stock Concentration Factor	LR011 Common Stock Concentration Factor Column (6) Line (6)
(18) Holding Company in Excess of Indirect Subs	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (7)
(19) Affiliated Non-Insurers	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (19) + (20) + (21)
(20) Total (C-1cs) - Pre-Tax	Sum of Lines (13) through (18)
(21) (C-1cs) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (134)
(22) Net (C-1cs) - Post-Tax	Line (19) - Line (20)
(23) Asset Risk - All Other (C-1o)	LR007 Bonds Column (2) Line (27) + LR018 Off-Balance Sheet Collateral Column (3) Line (8)
(24) Bonds after Size Factor	LR004 Mortgages Column (6) Line (31)
(25) Unaffiliated Preferred Stock	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (10) + LR018 Off-Balance Sheet Collateral Column (3) Line (15)
(26) Investment Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (8)
(27) Investment in Upstream Affiliate (Parent)	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (15)
(28) Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (10)
(29) Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (17)
(30) Directly Owned Life Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (18)
(31) Publicly Traded Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (22)
(32) Separate Accounts with Guarantees	LR006 Separate Accounts Column (3) Line (7)

Denotes items that must be manually entered on the filing software.

LR031

CONFIDENTIAL CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)

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NAIC Company Code

	Source	RBC Requirement
(32) Synthetic GICs (C-1o)	LR006 Separate Accounts Column (3) Line (8)	
(33) Surplus in Non-Guaranteed Separate Accounts	LR006 Separate Accounts Column (3) Line (13)	
(34) Real Estate (gross of encumbrances)	LR007 Real Estate Column (5) Line (13)	
(35) Schedule BA Real Estate (gross of encumbrances)	LR008 Other Long-Term Assets Column (5) Line (56) + LR018 Off-Balance Sheet Collateral Column (3) Line (17) + Line (18)	
(36) Other Long-Term Assets	LR009 Schedule BA Mortgages Column (6) Line (23)	
(37) Schedule BA Mortgages	LR010 Asset Concentration Factor Column (2) Line (21)	
(38) Concentration Factor	LR012 Miscellaneous Assets Column (2) Line (21)	
(39) Miscellaneous	LR013 Replication (Synthetic Asset) Transactions and Mandatory Convertible Securities Column (7) Line (9999999)	
(40) Replication Transactions and Mandatory Convertible Securities	LR016 Reinsurance Column (4) Line (17)	
(41) Reinsurance	Sum of Lines (22) through (41)	
(42) Total (C-1o) - Pre-Tax	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (110)	
(43) (C-1o) Tax Effect	Line (42) - Line (43)	
(44) Net (C-1o) - Post-Tax		
Insurance Risk (C-2)		
(45) Individual and Industrial Life Insurance	LR025 Life Insurance Column (2) Line (8)	
(46) Group and Credit Life Insurance and FEG/SGLI	LR025 Life Insurance Column (2) Lines (20) and (21)	
(46b) Longevity Risk	LR025-A Longevity Risk Column (2) Line (5)	
(47) Total Health Insurance	LR024 Health Claim Reserves Column (4) Line (18)	
(48) Premium Stabilization Reserve Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)	
(49) Total (C-2) - Pre-Tax	LR026 Premium Stabilization Reserves Column (2) Line (10) + L(47) + L(48) + Greatest of [Guardrail Factor * (L(45)+L(46)), Guardrail Factor * L(46b), Square Root of [(L(45) + L(46))^2 + 2 * (Correlation Factor) * (L(45) + L(46)) * L(46b)]	
(50) (C-2) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (141)	
(51) Net (C-2) - Post-Tax	Line (49) - Line (50)	
Interest Rate Risk (C-3a)		
(52) Total Interest Rate Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (36)	
(53) (C-3a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (142)	
(54) Net (C-3a) - Post-Tax	Line (52) - Line (53)	
Health Credit Risk (C-3b)		
(55) Total Health Credit Risk - Pre-Tax	LR028 Health Credit Risk Column (2) Line (7)	
(56) (C-3b) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (143)	
(57) Net (C-3b) - Post-Tax	Line (55) - Line (56)	
Market Risk (C-3c)		
(58) Total Market Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (37)	
(59) (C-3c) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (144)	
(60) Net (C-3c) - Post-Tax	Line (58) - Line (59)	

Denotes items that must be manually entered on the filing software.

LR031

CONFIDENTIAL CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)

Confidential when Completed

NAIC Company Code

	Source	(1) RBC Requirement
(61) Business Risk (C-4a) Premium Component	LR029 Business Risk Column (2) Lines (12) + (24) + (36)	
(62) Liability Component	LR029 Business Risk Column (2) Line (39)	
(63) Subtotal Business Risk (C-4a) - Pre-Tax	Lines (61) + (62)	
(64) (C-4a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (145)	
(65) Net (C-4a) - Post-Tax	Line (63) - Line (64)	
(66) Business Risk (C-4b) Health Administrative Expense Component of Business Risk (C-4b) - Pre-Tax	LR029 Business Risk Column (2) Line (57)	
(67) (C-4b) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (146)	
(68) Net (C-4b) - Post-Tax	Line (66) - Line (67)	
(69) Total Risk-Based Capital After Covariance Before Basic Operational Risk C-0 + C-4a + Square Root of [(C-1b + C-3a) ² + (C-1c + C-3b) ² + (C-2) ² + (C-3b) ² + (C-4b) ²]	REPORT AMOUNT ON PARENT COMPANY'S RBC IF APPLICABLE L(12)+L(65) + Square Root of [(L(44) + L(54)) ² + (L(21) + L(60)) ² + L(51) ² + L(57) ² + L(68) ²]	
(70) Gross Basic Operational Risk	0.03 x L(69)	
(71) C-4a of U.S. Life Insurance Subsidiaries	Company Records	
(72) Net Basic Operational Risk	Line (70) - (Line (65) + Line (71)) (Not less than zero)	
(73) Primary Security Shortfall Calculated in Accordance With Actuarial Guideline XLVIII Multiplied by 2	LR036 XXX/XXX Reinsurance Primary Security Shortfall by Cession Column (7) Line (999999) Multiplied by 2	
(74) Total Risk-Based Capital After Covariance (Including Basic Operational Risk and Primary Security Shortfall multiplied by 2)	Line (69) + Line (72) + Line (73)	
(75) Authorized Control Level Risk-Based Capital (After Covariance Adjustment and Shortfall) Total Risk-Based Capital After Covariance Times Fifty Percent	Line (74) x 0.50	
(76) Tax Sensitivity Test Tax Sensitivity Test: Total Risk-Based Capital After Covariance	L(10)+L(63) + Square Root of [(L(42) + L(52)) ² + (L(19) + L(58)) ² + L(49) ² + L(55) ² + L(66) ²]	
(77) Tax Sensitivity Test: Authorized Control Level Risk-Based Capital	Line (76) x 0.50	

LR031

Denotes items that must be manually entered on the filing software.

Company Name

Confidential when Completed

NAIC Company Code

SUMMARY FOR AFFILIATED/SUBSIDIARY ~~INVESTMENTS~~ STOCKS

	Affiliate Type	Affiliate Code	Book / Adjusted Carrying Value	Book Value †	Difference Col. (1) - (2)	RBC Basis	RBC Requirement	Number of Companies
(1)	Directly Owned Health Insurance Companies or Health Entities	1a	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(2)	Directly Owned Property and Casualty Insurance Affiliates	1b	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(3)	Directly Owned Life Insurance Affiliates	1c	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(4)	Indirectly Owned Health Insurance Companies or Health Entities	2a	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(5)	Indirectly Owned Property and Casualty Insurance Affiliates	2b	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(6)	Indirectly Owned Life Insurance Affiliates	2c	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(7)	Holding Company in Excess of Indirect Subs	3	XXX	XXX	XXX	X 0.300		
(8)	Investment Subsidiary	4	XXX	XXX	XXX	Subsidiaries' Total Risk-Based Capital / Alter Covariance / 0.79		
(9)	Directly Owned Alien Health Insurance Companies or Health Entities	5a	XXX	XXX	XXX	X 1.000		
(10)	Directly Owned Alien Property and Casualty Insurance Affiliates	5b	XXX	XXX	XXX	X 1.000		
(11)	Directly Owned Alien Life Insurance Affiliates	5c	XXX	XXX	XXX	X 1.000		
(12)	Indirectly Owned Alien Health Insurance Companies or Health Entities	6a	XXX	XXX	XXX	X 1.000		
(13)	Indirectly Owned Alien Property and Casualty Insurance Affiliates	6b	XXX	XXX	XXX	X 1.000		
(14)	Indirectly Owned Alien Life Insurance Affiliates	6c	XXX	XXX	XXX	X 1.000		
(15)	Investment in Upstream Affiliate (Parent)	7	XXX	XXX	XXX	X 0.300		
(16)	Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	8a	XXX	XXX	XXX	X 0.300		
(17)	Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	8b	XXX	XXX	XXX	X 0.300		
(18)	Directly Owned Life Insurance Companies Not Subject to RBC	8c	XXX	XXX	XXX	X 0.300		
(19)	Non-Insurance Entities with a Capital Requirement Imposed by a Regulatory Body	9a	XXX	XXX	XXX	X 0.300		
(20)	Non-Insurance Other Financial Entities without Regulatory Capital Requirements	9b	XXX	XXX	XXX	X 0.300		
(21)	Other Non-financial Entities	9c	XXX	XXX	XXX	X 0.300		
(22)	Publicly Traded Insurance Affiliates	10	XXX	XXX	XXX	X 0.346		
(23)	Total (Sum of Lines (1) through (22))	XXX	XXX	XXX	XXX	XXX		

† If different than book / adjusted carrying value.

Denotes items that must be manually entered on the filing software.

NAIC Company Code

Confidential when Completed

CROSSCHECKING FOR AFFILIATED/SUBSIDIARY INVESTMENTS STOCKS

Company Name

Affiliated Preferred Stock

	(1)	(2)	(3)
	Annual Statement Total Preferred Stock†	Total from Life and Fraternal Risk-Based Capital Report‡	Difference
(1) Parent	Annual Statement Line Number 01999999		
(2) U.S. Property and Casualty Insurer	02999999		
(3) U.S. Life Insurer	03999999		
(4) U.S. Health Entity	04999999		
(5) Alien Insurer	05999999		
(6) Non-Insurer Which Controls Insurer	06999999		
(7) Investment Subsidiary	07999999		
(8) Other Affiliates	08999999		
(9) Total (Sum of Lines (1) through (8))			

Affiliated Common Stock

	(1)	(2)	(3)
	Annual Statement Total Common Stock†	Total from Life and Fraternal Risk-Based Capital Report‡	Difference
(10) Parent	Annual Statement Line Number 10999999		
(11) U.S. Property and Casualty Insurer	11999999		
(12) U.S. Life Insurer	12999999		
(13) U.S. Health Entity	13999999		
(14) Alien Insurer	14999999		
(15) Non-Insurer Which Controls Insurer	15999999		
(16) Investment Subsidiary	16999999		
(17) Other Affiliates	17999999		
(18) Total (Sum of Lines (10) through (17))			

† Column (1) Lines (1) through (8) and (10) through (17) come from Schedule D Part 6 Section 1 Column 7 of the annual statement.

‡ Column (2) Lines (1) through (8) come from LR044 Details for Affiliated Investments Column (7).

§ Column (2) Lines (10) through (17) come from LR044 Details for Affiliated Investments Column (5).

Denotes items that must be manually entered on the filing software.

LR043

Company Name

Confidential when Completed

NAIC Company Code

DETAILS FOR AFFILIATED/SUBSIDIARY INVESTMENTS STOCKS

<p>Affiliate-Code-for-Column (2)</p> <p>1 Direct U.S. Property and Casualty Subsidiaries</p> <p>2 Direct U.S. Life Subsidiaries</p> <p>3 Direct and Indirect U.S.-Health Subsidiaries</p> <p>4 Indirect U.S.-Property and Casualty Subsidiaries</p> <p>5 Indirect U.S.-Life Subsidiaries</p> <p>6 Investment Subsidiaries</p> <p>7 Holding Company in Excess of Indirect Subsidiaries</p>	<p>Affiliate-Type</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>0.300-x-Book/Adj.-Carrying-Value</p>	<p>RBC-Basis</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>Subs'-RBC-After-Covariance-0.79</p> <p>0.300-x-Book/Adj.-Carrying-Value</p>	<p>Affiliate-Type</p> <p>Alien Insurance Subsidiaries-Canadian Life</p> <p>Alien Insurance Subsidiaries-Other</p> <p>Investment in Parents</p> <p>Other-Affiliate-P&C-Insurers not subject to RBC</p> <p>Other-Affiliate-Life-Insurers not subject to RBC</p> <p>Other-Affiliate-All-Other</p>	<p>RBC-Basis</p> <p>Subsidiaries-MCCSR/0.79</p> <p>1,000-x-Book/Adj.-Carrying-Value</p> <p>0.300-x-Book/Adj.-Carrying-Value</p> <p>0.300-x-Book/Adj.-Carrying-Value</p> <p>0.300-x-Book/Adj.-Carrying-Value</p>	<p>Affiliate-Code-for-Column (2)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p>
--	---	--	---	--	---

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Name of Affiliate	Affiliate Code (1 to 21)	NAIC Company Code or Alien ID Number†	Affiliate's RBC After Covariance‡ LR031, Lines (67)-(71), PR032, Line (67), XR025, Line (37)	Book / Adjusted Carrying Value of Affiliate's Common Stock	Total Value of Affiliate's Outstanding Common Stock	Book / Adjusted Carrying Value of Affiliate's Preferred Stock	Total Value of Affiliate's Outstanding Preferred Stock	Percent Owned	RBC Requirement*
(0000001)									
(0000002)									
(0000003)									
(0000004)									
(0000005)									
(0000006)									
(0000007)									
(0000008)									
(0000009)									
(0000010)									
(0000011)									
(0000012)									
(0000013)									
(0000014)									
(0000015)									
(0000016)									
(0000017)									
(0000018)									
(0000019)									
(0000020)									
(9999999) Total	XXXXX	XXXXX			XXXXX		XXXXX	XXXXX	

† If applicable.
‡ If applicable. For Canadian life subsidiaries, the Minimum Continuing Capital and Surplus Requirement (MCCSR) should be used.
* The RBC Requirement column is calculated on a pre-tax basis.

Denotes items that must be manually entered on the filing software.

#REF!

LR044

Draft: 7/20/22

Life Risk-Based Capital (E) Working Group
Virtual Meeting
April 22, 2022

The Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met April 22, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Thomas Reedy (CA); Wanchin Chou (CT); William Watson (FL); Carrie Mears (IA); Vincent Tsang (IL); Ben Slutsker (MN); William Leung (MO); Derek Wallman (NE); Seong-min Eom (NJ); Bill Carmello (NY); Andrew Schallhorn (OK); Mike Boerner and Rachel Hemphill (TX); and Tomasz Serbinowski (UT).

1. Adopted the Academy C2 Mortality Risk Work Group Recommendation for Structural Changes

Mr. Barlow said the Working Group is considering the adoption of structural changes, which must be done by the end of April, and exposing the corresponding instructional changes, which would need to be adopted by the end of June. Chris Trost (American Academy of Actuaries—Academy), chair of the Academy C2 Mortality Risk Work Group, said the two options for the structural changes are to allow for the expanded categories. He reminded the Working Group that option one is more closely aligned with current annual statement information, while option two is more principle-based. Option two would require more input from company records, although that input could be facilitated by pursuing possible changes to the annual statement whichever option is chosen. While possibly handling the aggregation, whether overall or at the category level, differently to address concerns Working Group members have expressed with respect to certain product classification has been discussed, he said both structural options will work with any changes needed as part of the instructional changes. Mr. Slutsker said he does not have a strong preference for one option or the other but said both may be benefited by additional instruction changes. Mr. Barlow said his preference is to have information that can be pulled directly from the annual statement, so he would like to follow adoption of either option with the additional work needed to make it more easily determined from the annual statement.

Mr. Carmello made a motion, seconded by Mr. Reedy, to adopt the structural changes presented in option two (Attachment Four-C1). The motion passed, with Nebraska and Oklahoma opposing.

2. Exposed the Academy's Instructions and Factors for Public Comment

Mr. Trost said two questions that arose as part of the Working Group's April 7 meeting had to do with mortality improvement and how COVID-19 fits into the pandemic distribution for the catastrophe component of the Academy's proposed factors. Ryan Fleming (Academy) presented the Academy's responses to those questions (Attachment Four-C2).

Mr. Trost said two modifications the Work Group would work on during the exposure period of the option two instructions would be to put group permanent in with individual life as was previously discussed and a wording change to the description of the aggregation where it would not be done by category but over all of the mortality risk.

Mr. Slutsker suggested including in the exposure a wording change to the pricing flexibility section of the instructions to include reference to an annual basis where scheduled premiums may be changed. Mr. Carmello suggested including "from the date of issue" as part of Mr. Slutsker's suggested change.

The Working Group agreed to expose the option two instructions for a 30-day public comment period with the wording changes suggested by Mr. Slutsker and Mr. Carmello.

3. Exposed the Instructional Change for Residual Tranches

Dave Fleming (NAIC) said an instruction change is needed to accommodate the changes in Schedule BA and the asset valuation reserve that are being made for year-end 2022.

The Working Group agreed to expose the instructional change for residual tranches for a 30-day public comment period.

Having no further business, the Life Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/LRBCWG 4-22-22 Minutes.docx



AMERICAN ACADEMY of ACTUARIES

Objective. Independent. Effective.™

January 20, 2022

Mr. Philip Barlow
Chair, Life Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners (NAIC)

Via e-mail: Dave Fleming (dfleming@naic.org)

Re: Structural Updates to Life RBC C-2 Mortality

Dear Philip,

On behalf of the C-2 Mortality Work Group of the American Academy of Actuaries¹, we are providing two options for structural updates to the Life RBC C-2 Mortality factors for consideration to be exposed by 1/31/2022. Also included are draft instructions for informational purposes which are subject to a different exposure deadline of 4/30/2022.

Sincerely,

Chris Trost, MAAA, FSA
Chairperson, C-2 Mortality Work Group
Ryan Fleming, MAAA, FSA
Vice Chairperson, C-2 Mortality Work Group
American Academy of Actuaries

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Capital Adequacy (E) Task Force
RBC Proposal Form

- Capital Adequacy (E) Task Force Health RBC (E) Working Group Life RBC (E) Working Group
- Catastrophe Risk (E) Subgroup Investment RBC (E) Working Group Longevity Risk (A/E) Subgroup
- C3 Phase II/ AG43 (E/A) Subgroup P/C RBC (E) Working Group

DATE: <u>1/20/22</u>	<u>FOR NAIC USE ONLY</u>
CONTACT PERSON: <u>Ryan Fleming, MAAA, FSA</u>	Agenda Item # _____
TELEPHONE: <u>(414) 665-5020</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>ryanfleming@northwesternmutual.com</u>	<u>DISPOSITION</u>
ON BEHALF OF: <u>AAA C-2 Mortality Work Group</u>	<input type="checkbox"/> ADOPTED _____
NAME: <u>Ryan Fleming, MAAA, FSA</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Vice Chairperson</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>American Academy of Actuaries</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP
ADDRESS: <u>1850 M Street NW, Suite 300</u> <u>Washington, DC 20036</u>	<input type="checkbox"/> EXPOSED _____ <input type="checkbox"/> OTHER (SPECIFY) _____

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- Health RBC Blanks Property/Casualty RBC Blanks Life and Fraternal RBC Instructions
- Health RBC Instructions Property/Casualty RBC Instructions Life and Fraternal RBC Blanks
- OTHER _____

DESCRIPTION OF CHANGE(S)

Updated blank for C2 Life Mortality on LR025, LR030 and LR031. Draft instructions are included for informational purposes and are subject to a different exposure deadline of 4/30/22.

REASON OR JUSTIFICATION FOR CHANGE **

Structural changes necessary to facilitate the implementation of updated C2 life mortality factors and expanded categories.

Additional Staff Comments:

** This section must be completed on all forms.

Revised 2-2019

LIFE INSURANCE
DRAFT - OPTION 1

	(1) Statement Value	Factor	(2) RBC Requirement
Individual & Industrial Life Net Amount at Risk			
(1) Ordinary Life in Force			
(2) Plus Industrial Life in Force			
(3) Total Individual & Industrial Life in Force			
(4) Less Ordinary Life Reserves			
(5) Less Industrial Life Reserves			
(6) Plus Ordinary Life Separate Accounts			
(7) Plus Industrial Life Separate Accounts			
(8) Less Plus Ordinary & Industrial Life Modified Contingence Assumed Reserves			
(9) Less Plus Industrial & Industrial Life Modified Contingence Assumed Reserves			
(10) Total Individual & Industrial Life Reserves			
(11) Total Individual & Industrial Life Net Amount at Risk			
Universal Life with Secondary Guarantees in Force			
(12) Less Universal Life with Secondary Guarantees Reserves			
(13) Total Universal Life with Secondary Guarantees Net Amount at Risk			
(14) Term Life in Force			
(15) Less Term Life Reserves			
(16) Total Term Life Net Amount at Risk			
(17) All Other Life in Force			
(18) Less All Other Life Reserves			
(19) All Other Life Net Amount at Risk			
(20) Total Individual & Industrial Life			
Group and Credit Life Net Amount at Risk			
(21) Group Life in Force			
(22) Plus Credit Life in Force			
(23) Less Group FGLI in Force			
(24) Less Group SGLI in Force			
(25) Less Credit FGLI in Force			
(26) Less Credit SGLI in Force			
(27) Total Group & Credit Life in Force excluding FGLI/SGLI			
(28) Less Group Life Reserves			
(29) Less Credit Life Reserves			
(30) Plus Group Life Separate Accounts			
(31) Plus Credit Life Separate Accounts			
(32) Less Plus Group & Credit Life Modified Contingence Assumed Reserves			
(33) Less Plus Industrial & Industrial Life Modified Contingence Assumed Reserves			
(34) Total Group & Credit Life Reserves			
(35) Total Group and Credit Life Net Amount at Risk excluding FGLI/SGLI			
(36) Group & Credit Life in Force with Remaining Rate Terms 36 Months and Under			
(37) Less Group & Credit Life Reserves with Remaining Rate Terms 36 Months and Under			
(38) Group & Credit Life in Force with Remaining Rate Terms Over 36 Months			
(39) Less Group & Credit Life Reserves with Remaining Rate Terms Over 36 Months			
(40) Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months			
(41) FGLI/SGLI in Force			
(42) Total Group & Credit Life			
(43) Total Life			

	(1) Statement Value	Factor	(2) RBC Requirement
Exhibit of Life Insurance Column 4 Line 23 x 1000			
Exhibit of Life Insurance Column 2 Line 23 x 1000			
Lines (1) + (2)			
Exhibit 5 Column 4 Line 019999			
Exhibit 5 Column 2 Line 019999			
Schedule SP Part 3 Section 1 Column 12, in part 2			
Schedule SP Part 3 Section 1 Column 14, in part 2			
Lines (4) + (5) + (6) + (7) + (8)			
Lines (1) + (2) + (3) + (4) + (5) + (6) + (7) + (8)			
Company Records*			
Analysis of Increase in Reserves During the Year - Individual Life Insurance Column 7 Line 15			
Lines (11) - (12)			
Company Records*			
Analysis of Increase in Reserves During the Year - Individual Life Insurance Column 4 Line 15			
Lines (14) - (15)			
Lines (1) - (11) - (14)			
Lines (2) - (12) - (15)			
Lines (17) - (18)			
Lines (13) + (16) + (19)			
Exhibit of Life Insurance Column 9 Line 23 x 1000			
Exhibit of Life Insurance Column 6 Line 23 x 1000			
Exhibit of Life Insurance Column 4 Line 43 x 1000			
Exhibit of Life Insurance Column 2 Line 43 x 1000			
Lines (21) + (22) - (23) - (24) - (25) - (26)			
Exhibit 5 Column 4 Line 019999			
Exhibit 5 Column 2 Line 019999			
Separate Accounts Exhibit 3 Column 4 Line 019999			
Schedule SP Part 3 Section 1 Column 12, in part 2			
Schedule SP Part 3 Section 1 Column 14, in part 2			
Lines (28) + (29) + (30) + (31) - (32)			
Lines (21) + (22) + (23) + (24) + (25) + (26) + (28) + (29) + (30) + (31) - (32)			
Lines (14) + (17) + (18)			
Company Records*			
Company Records*			
Lines (27) - (25)			
Lines (28) - (26)			
Lines (29) - (27)			
Exhibit of Life Insurance Sum of Column 2 and 4 Line 43 and 44 x 1000			
Lines (37) + (40) + (41)			
Lines (42) + (43) + (44) + (45) + (46) + (47) + (48)			

* The definitions are specified in the Life Insurance section of the risk-based capital instructions
† The net calculation is illustrated in the Life Insurance section of the risk-based capital instructions
‡ Include only the portion which relates to policy reserves that, if written on a direct basis, would be included on Exhibit 5.
Denotes items that must be manually entered on the filing software.

LIFE INSURANCE
DRAFT - OPTION 2

	(1) Statement Value	Factor	(2) RPC Requirement
(1) Individual & Industrial Life Net Amount at Risk			
(2) Ordinary Life in Force			
(3) Plus Individual Life in Force			
(4) Total Individual & Industrial Life in Force			
(5) Less Ordinary Life Reserves			
(6) Less Plus-Ordinary Life Reserves			
(7) Less Plus-Ordinary & Industrial Life Modified Contingence Assumed Reserves			
(8) Less Plus-Ordinary & Industrial Life Modified Contingence Ceded Reserves			
(9) Total Individual & Industrial Life Reserves			
(10) Total Individual & Industrial Life Net Amount at Risk			
(11) Life Policies with Pricing Flexibility in Force			
(12) Less Life Policies with Pricing Flexibility in Force Reserves			
(13) Total Life Policies with Pricing Flexibility Net Amount at Risk			
(14) Term Life Policies without Pricing Flexibility in Force			
(15) Less Term Life Policies without Pricing Flexibility Net Amount at Risk			
(16) Total Term Life Policies without Pricing Flexibility Reserves			
(17) Permanent Life Policies without Pricing Flexibility in Force			
(18) Less Permanent Life Policies without Pricing Flexibility Reserves			
(19) Permanent Life Policies without Pricing Flexibility Net Amount at Risk			
(20) Total Individual & Industrial Life			
(21) Group & Credit Life Net Amount at Risk			
(22) Group Life in Force			
(23) Plus Credit Life in Force			
(24) Less Group FEGLSI in Force			
(25) Less Group SGLI in Force			
(26) Less Credit FEGLSI in Force			
(27) Less Credit SGLI in Force			
(28) Total Group & Credit Life in Force excluding FEGLSI			
(29) Less-Group Life Reserves			
(30) Plus-Group Life Reserves			
(31) Less-Plus-Group Life Separate Accounts			
(32) Plus-Group & Credit Life Modified Contingence Assumed Reserves			
(33) Plus-Group & Credit Life Modified Contingence Ceded Reserves			
(34) Total Group & Credit Life Net Amount at Risk excluding FEGLSI			
(35) Group & Credit Life in Force with Remaining Rate Terms 36 Months and Under			
(36) Less Group & Credit Life Reserves with Remaining Rate Terms 36 Months and Under			
(37) Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under			
(38) Group & Credit Life in Force with Remaining Rate Terms Over 36 Months			
(39) Less Group & Credit Life Reserves with Remaining Rate Terms Over 36 Months			
(40) Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months			
(41) FEGLSI in Force			
(42) Total Group & Credit Life			
(43) Total Life			

* The definitions are specified in the Life Insurance section of the risk-based capital instructions
 † The net calculation is illustrated in the Life Insurance section of the risk-based capital instructions
 ‡ Include only the portion which relates to policy reserves that, if written on a direct basis, would be included on Exhibit 5.
 § Denotes items that must be manually entered on the filing software.

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL

ASSET RISKS	Source	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
<u>Bonds</u>				
(001) Long-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (2.8) + LR018 OFF-Balance Sheet Collateral Column (3) Line (2.8)	X	0.1680	=
(002) Long-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (3.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (3.4)	X	0.1680	=
(003) Long-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (4.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (4.4)	X	0.1680	=
(004) Long-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (5.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (5.4)	X	0.1680	=
(005) Long-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (6.4) + LR018 OFF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
(006) Long-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (7) + LR018 OFF-Balance Sheet Collateral Column (3) Line (7)	X	0.2100	=
(007) Short-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (10.8)	X	0.1680	=
(008) Short-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (11.4)	X	0.1680	=
(009) Short-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (12.4)	X	0.1680	=
(010) Short-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (13.4)	X	0.1680	=
(011) Short-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (14.4)	X	0.1680	=
(012) Short-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (15)	X	0.2100	=
(013) Credit for Hedging - NAIC 1 Through 5 Bonds	LR014 Hedged Asset Bond Schedule Column (13) Line (0199999)	X	0.1680	†
(014) Credit for Hedging - NAIC 6 Bonds	LR014 Hedged Asset Bond Schedule Column (13) Line (0299999)	X	0.2100	†
(015) Bond Increase - Reinsurance	LR002 Bonds Column (2) Line (19)	X	0.2100	=
(016) Bond Reduction - Reinsurance	LR002 Bonds Column (2) Line (20)	X	0.2100	=
(017) Non-Exempt NAIC 1 U.S. Government Agency	LR002 Bonds Column (2) Line (22)	X	0.1680	=
(018) Bonds Size Factor	LR002 Bonds Column (2) Line (26) - LR002 Bonds Column (2) Line (21)	X	0.1680	=
<u>Mortgages</u>				
(019) In Good Standing				
(020) Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (1)	X	0.1575	=
(021) Residential Mortgages - Other	LR004 Mortgages Column (6) Line (2)	X	0.1575	=
(022) Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (3)	X	0.1575	=
(023) Commercial Mortgages - All Other	LR004 Mortgages Column (6) Line (9)	X	0.1575	=
(024) Total Farm Mortgages	LR004 Mortgages Column (6) Line (15)	X	0.1575	=
<u>90 Days Overdue</u>				
(025) Farm Mortgages	LR004 Mortgages Column (6) Line (16)	X	0.1575	=
(026) Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (17)	X	0.1575	=
(027) Residential Mortgages - Other	LR004 Mortgages Column (6) Line (18)	X	0.1575	=
(028) Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (19)	X	0.1575	=
(029) Commercial Mortgages - Other	LR004 Mortgages Column (6) Line (20)	X	0.1575	=
(030) In Process of Foreclosure				
(031) Farm Mortgages	LR004 Mortgages Column (6) Line (21)	X	0.1575	=

† Denotes lines that are deducted from the total rather than added.
Denotes items that must be manually entered on the filing software.

LR030

NAIC Company Code

Confidential when Completed

Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
(030) Residential Mortgages - Insured	X	0.1575	=
(031) Residential Mortgages - Other	X	0.1575	=
(032) Commercial Mortgages - Insured	X	0.1575	=
(033) Commercial Mortgages - Other	X	0.1575	=
(034) Due & Unpaid Taxes - Mortgages	X	0.1575	=
(035) Due & Unpaid Taxes - Foreclosures	X	0.1575	=
(036) Mortgage Reduction - Reinsurance	X	0.2100	=
(037) Mortgage Increase - Reinsurance	X	0.2100	=
(038) Unaffiliated Preferred Stock NAIC 1	X	0.1575	=
(039) Unaffiliated Preferred Stock NAIC 2	X	0.1575	=
(040) Unaffiliated Preferred Stock NAIC 3	X	0.1575	=
(041) Unaffiliated Preferred Stock NAIC 4	X	0.1575	=
(042) Unaffiliated Preferred Stock NAIC 5	X	0.1575	=
(043) Unaffiliated Preferred Stock NAIC 6	X	0.2100	=
(044) Preferred Stock Reduction-Reinsurance	X	0.2100	=
(045) Preferred Stock Increase-Reinsurance	X	0.2100	=
(046) Separate Accounts	X	0.1575	=
(047) Guaranteed Index	X	0.1575	=
(048) Nominee-Book Reserve	X	0.1575	=
(049) Separate Accounts Nominee-Market Reserve	X	0.1575	=
(050) Separate Accounts Reduction-Reinsurance	X	0.2100	=
(051) Separate Accounts Increase-Reinsurance	X	0.2100	=
(052) Synthetic GICs	X	0.1575	=
(053) Separate Account Surplus	X	0.1575	=
(054) Real Estate	X	0.2100	=
(055) Company Occupied Real Estate	X	0.2100	=
(056) Foreclosed Real Estate	X	0.2100	=
(057) Investment Real Estate	X	0.2100	=
(058) Real Estate Reduction - Reinsurance	X	0.2100	=
(059) Real Estate Increase - Reinsurance	X	0.2100	=
(060) Schedule BA	X	0.2100	=
(061) Sch BA Real Estate Excluding Low Income	X	0.2100	=
(062) Housing Tax Credits	X	0.0000	=
(063) Guaranteed Low Income Housing Tax Credits	X	0.0000	=
(064) Non-Guaranteed and All Other Low Income Housing Tax Credits	X	0.0000	=
(065) Sch BA Real Estate Reduction - Reinsurance	X	0.2100	=
(066) Sch BA Real Estate Increase - Reinsurance	X	0.2100	=

† Denotes lines that are deducted from the total rather than added.
Denotes items that must be manually entered on the filing software.

LR030

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
(063) Sch BA Bond NAIC 1	X	0.1575	
(064) Sch BA Bond NAIC 2	X	0.1575	
(065) Sch BA Bond NAIC 3	X	0.1575	
(066) Sch BA Bond NAIC 4	X	0.1575	
(067) Sch BA Bond NAIC 5	X	0.1575	
(068) Sch BA Bond NAIC 6	X	0.2100	
(069) BA Bond Reduction - Reinsurance	X	0.2100	
(070) BA Bond Increase - Reinsurance	X	0.2100	
(071) BA Preferred Stock NAIC 1	X	0.1575	
(072) BA Preferred Stock NAIC 2	X	0.1575	
(073) BA Preferred Stock NAIC 3	X	0.1575	
(074) BA Preferred Stock NAIC 4	X	0.1575	
(075) BA Preferred Stock NAIC 5	X	0.1575	
(076) BA Preferred Stock NAIC 6	X	0.2100	
(077) BA Preferred Stock Reduction-Reinsurance	X	0.2100	
(078) BA Preferred Stock Increase - Reinsurance	X	0.1575	
(079) Rated Surplus Notes	X	0.2100	
(080) Other Capital Notes	X	0.1575	
(081) BA Common Stock - Affiliated	X	0.2100	
(082) BA Collateral Loans	X	0.1575	
(083) Other BA Assets	X	0.2100	
(084) Other BA Assets Reduction-Reinsurance	X	0.2100	
(085) Other BA Assets Increase - Reinsurance	X	0.1575	
(086) BA Mortgages - In Good Standing	X	0.1575	
(087) BA Mortgages - 90 Days Overdue	X	0.1575	
(088) BA Mortgages - In Process of Foreclosure	X	0.1575	
(089) Reduction - Reinsurance	X	0.2100	
(090) Increase - Reinsurance	X	0.2100	
Miscellaneous	X		
(091) Asset Concentration Factor	X	0.1575	
(092) Miscellaneous Assets	X	0.1575	
(093) Derivatives - Collateral and Exchange Traded	X	0.1575	
(094) Derivatives NAIC 1	X	0.1575	
(095) Derivatives NAIC 2	X	0.1575	
(096) Derivatives NAIC 3	X	0.1575	
(097) Derivatives NAIC 4	X	0.1575	
(098) Derivatives NAIC 5	X	0.1575	
(099) Derivatives NAIC 6	X	0.2100	
(100) Miscellaneous Assets Reduction-Reinsurance	X	0.2100	
(101) Miscellaneous Assets Increase-Reinsurance	X	0.2100	

† Denotes lines that are deducted from the total rather than added.
Denotes items that must be manually entered on the filing software.

LR030

NAIC Company Code

Confidential when Completed

Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
(102) Replications	X	0.1575	=
(103) Reinsurance	X	0.2100	=
(104) Investment Affiliates	X	0.2100	=
(105) Investment in Parent	X	0.2100	=
(106) Other Affiliate Property and Casualty Insurers not subject to Risk-Based Capital	X	0.2100	=
(107) Other Affiliate Life Insurers not Subject to Risk-Based Capital	X	0.2100	=
(108) Publicly Traded Insurance Affiliates	X	0.2100	=
(109) Subtotal for C-1o Assets			
C-0 Affiliated Common Stock			
(110) OF-Balance Sheet and Other Items			
(111) OF-Balance Sheet Items Reduction - Reinsurance	X	0.1575	=
(112) OF-Balance Sheet Items Increase - Reinsurance	X	0.2100	=
(113) Affiliated US Property - Casualty Insurers Directly Owned	X	0.2100	=
(114) Affiliated US Life Insurers Directly Owned	X	0.2100	=
(115) Affiliated US Health Insurers Directly and Indirectly Owned	X	0.2100	=
(116) Affiliated US Property - Casualty Insurers Indirectly Owned	X	0.2100	=
(117) Affiliated US Life Insurers Indirectly Owned	X	0.2100	=
(118) Affiliated Alien Life Insurers - Canadian	X	0.2100	=
(119) Affiliated Alien Life Insurers - All Others	X	0.0000	=
(120) Subtotal for C-0 Affiliated Common Stock			
Common Stock			
(121) Unaffiliated Common Stock	X	0.2100	=
(122) Credit for Hedging - Common Stock	X	0.2100	=
(123) Stock Reduction - Reinsurance	X	0.2100	=
(124) Stock Increase - Reinsurance	X	0.2100	=
(125) BA Common Stock Unaffiliated	X	0.2100	=
(126) BA Common Stock Affiliated - C-1s	X	0.2100	=
(127) Common Stock Concentration Factor	X	0.2100	=
(128) NAIC 01 Working Capital Finance Notes	X	0.1575	=
(129) NAIC 02 Working Capital Finance Notes	X	0.1575	=
(130) Affiliated Preferred Stock and Common Stock - Holding Company in Excess of Indirect Subs	X	0.2100	=
(131) Affiliated Preferred Stock and Common Stock - All Other	X	0.2100	=
(132) Total for C-1s Assets			
(133) Disability Income Premium	X	0.2100	=

† Denotes lines that are deducted from the total rather than added.

Denotes items that must be manually entered on the filing software.

LR030

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

		(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
(134) Long-Term Care	LR019 Health Premiums Column (2) Line (28) + LR023 Long-Term Care Column (4) Line (7)		X 0.2100	=
(135) Individual & Industrial Life Insurance C-2 Risk	LR025 Life Insurance Column (2) Line (49)-(20)		X 0.2100	=
(136) Group & Credit Life Insurance C-2 Risk	LR025 Life Insurance Column (2) Line (20)-(49)-(42)		X 0.2100	=
(136b) Longevity C-2 Risk	LR025-A Longevity Risk Column (2) Line (5)		X 0.2100	=
(137) Disability and Long-Term Care Health Claim Reserves	LR024 Health Claim Reserves Column (4) Line (9) + Line (15)		X 0.2100	=
(138) Premium Stabilization Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)		X 0.0000	=
(139) Total C-2 Risk	L(133) + L(134) + L(137) + L(138) + Greatest of [Grandrail Factor * (L(135)+L(136)), Grandrail Factor * L(136b), Square Root of [L(135) + L(136)] + 2 * (Correlation Factor) * (L(135) + L(136))] + L(136b)]			=
(140) Interest Rate Risk	LR027 Interest Rate Risk Column (3) Line (36)		X 0.2100	=
(141) Health Credit Risk	LR028 Health Credit Risk Column (2) Line (7)		X 0.0000	=
(142) Market Risk	LR027 Interest Rate Risk Column (3) Line (37)		X 0.2100	=
(143) Business Risk	LR029 Business Risk Column (2) Line (40)		X 0.2100	=
(144) Health Administrative Expenses	LR029 Business Risk Column (2) Line (57)		X 0.0000	=
(145) Total Tax Effect	Lines (109) + (120) + (132) + (139) + (140) + (141) + (142) + (143) + (144)			=

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Denotes items that must be manually entered on the filing software.

LR030

CALCULATION OF RISK-BASED CAPITAL

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NAIC Company Code
(1)
RBC
Requirement

	Source	
Insurance Affiliates and Misc. Other Amounts (C-1)		
(1) Affiliated US Property-Casualty Insurers Directly Owned	LR042 Summary for Affiliated Investments Column (4) Line (1)	
(2) Affiliated US Life Insurers Directly Owned	LR042 Summary for Affiliated Investments Column (4) Line (2)	
(3) Affiliated US Health Insurers Directly and Indirectly Owned	LR042 Summary for Affiliated Investments Column (4) Line (3)	
(4) Affiliated US Property-Casualty Insurers Indirectly Owned	LR042 Summary for Affiliated Investments Column (4) Line (4)	
(5) Affiliated US Life Insurers Indirectly Owned	LR042 Summary for Affiliated Investments Column (4) Line (5)	
(6) Affiliated Alien Life Insurers - Canadian	LR042 Summary for Affiliated Investments Column (4) Line (8)	
(7) Affiliated Alien Life Insurers - All Others	LR042 Summary for Affiliated Investments Column (4) Line (9)	
(8) Off-Balance Sheet and Other Items	LR017 Off-Balance Sheet and Other Items Column (5) Line (34)	
(9) Total (C-0) - Pre-Tax	Sum of Lines (1) through (8)	
(10) (C-0) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (120)	
(11) Net (C-0) - Post-Tax	Line (9) - Line (10)	
Asset Risk - Unaffiliated Common Stock and Affiliated Non-Insurance Stock (C-1a)		
(12) Schedule D Unaffiliated Common Stock	LR005 Unaffiliated Common Stock Column (5) Line (21) + LR018 Off-Balance Sheet Collateral Column (3) Line (16)	
(13) Schedule BA Unaffiliated Common Stock	LR008 Other Long-Term Assets Column (5) Line (47)	
(14) Schedule BA Affiliated Common Stock - C-1s	LR008 Other Long-Term Assets Column (5) Line (49.2)	
(15) Common Stock Concentration Factor	LR011 Common Stock Concentration Factor Column (6) Line (6)	
(16) Affiliated Preferred Stock and Common Stock - Holding Company in Excess of Indirect Subsidiaries	LR042 Summary for Affiliated Investments Column (4) Line (7)	
(17) Affiliated Preferred Stock and Common Stock - All Other	LR042 Summary for Affiliated Investments Column (4) Line (13)	
(18) Total (C-1a) - Pre-Tax	Sum of Lines (12) through (17)	
(19) (C-1a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (132)	
(20) Net (C-1a) - Post-Tax	Line (18) - Line (19)	
Asset Risk - All Other (C-1a)		
(21) Bonds after Size Factor	LR002 Bonds Column (2) Line (27) + LR018 Off-Balance Sheet Collateral Column (3) Line (8)	
(22) Mortgages (including past due and unpaid taxes)	LR004 Mortgages Column (6) Line (31)	
(23) Unaffiliated Preferred Stock	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (10) + LR018 Off-Balance Sheet Collateral Column (3) Line (15)	
(24) Affiliated Preferred Stock and Common Stock - Investment Subsidiaries	LR042 Summary for Affiliated Investments Column (4) Line (6)	
(25) Affiliated Preferred Stock and Common Stock - Parent	LR042 Summary for Affiliated Investments Column (4) Line (10)	
(26) Affiliated Preferred Stock and Common Stock - Property and Casualty Insurers not Subject to Risk-Based Capital	LR042 Summary for Affiliated Investments Column (4) Line (11)	
(27) Affiliated Preferred Stock and Common Stock - Life Insurers not Subject to Risk-Based Capital	LR042 Summary for Affiliated Investments Column (4) Line (12)	
(28) Affiliated Preferred Stock and Common Stock - Publicly Traded Insurers Held at Fair Value (excess of statement value over book value)	LR042 Summary for Affiliated Investments Column (4) Line (14)	
(29) Separate Accounts with Guarantees	LR006 Separate Accounts Column (3) Line (7)	

Denotes items that must be manually entered on the filing software.

LR031

CALCULATION OF CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)

Confidential when Completed

NAIC Company Code

(1)
RBC
Requirement

	Source	
(30) Synthetic GIC's (C-1o)	LR006 Separate Accounts Column (3) Line (8)	
(31) Straps in Non-Guaranteed Separate Accounts	LR006 Separate Accounts Column (3) Line (13)	
(32) Real Estate (gross of encumbrances)	LR007 Real Estate Column (3) Line (13)	
(33) Schedule BA Real Estate (gross of encumbrances)	LR007 Real Estate Column (3) Line (25)	
(34) Other Long-Term Assets	LR008 Other Long-Term Assets Column (5) Line (56) + LR018 Off-Balance Sheet Collateral Column (3) Line (17) + Line (18)	
(35) Schedule BA Mortgages	LR009 Schedule BA Mortgages Column (6) Line (23)	
(36) Concentration Factor	LR010 Asset Concentration Factor Column (6) Line (62) Grand Total Page	
(37) Miscellaneous	LR012 Miscellaneous Assets Column (2) Line (21)	
(38) Replication Transactions and Mandatory Convertible Securities	LR013 Replication (Synthetic Asset) Transactions and Mandatory Convertible Securities Column (7) Line (9999999)	
(39) Reinsurance	LR016 Reinsurance Column (4) Line (17)	
(40) Total (C-1o) - Pre-Tax	Sum of Lines (2) through (39)	
(41) (C-1o) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (109)	
(42) Net (C-1o) - Post-Tax	Line (40) - Line (41)	
Insurance Risk (C-2)		
(43) Individual and Industrial Life Insurance	LR025 Life Insurance Column (2) Line (49)+(20)	
(44) Group and Credit Life Insurance and Health	LR025 Life Insurance Column (2) Line (49)+(20) (42)	
(44b) Longevity Risk	LR025-A Longevity Risk Column (2) Line (5)	
(45) Total Health Insurance	LR024 Health Claim Reserves Column (4) Line (18)	
(46) Premium Stabilization Reserve Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)	
(47) Total (C-2) - Pre-Tax	L(45) + L(46) + Greatest of [Guarantal Factor * (L(43)+L(44)), Guardrail Factor * L(44b), Square Root of [(L(43) + L(44b))^2 + 2 * (Correlation Factor) * (L(43) + L(44))] + L(44b)]	
(48) (C-2) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (139)	
(49) Net (C-2) - Post-Tax	Line (47) - Line (48)	
Interest Rate Risk (C-3a)		
(50) Total Interest Rate Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (36)	
(51) (C-3a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (140)	
(52) Net (C-3a) - Post-Tax	Line (50) - Line (51)	
Health Credit Risk (C-3b)		
(53) Total Health Credit Risk - Pre-Tax	LR028 Health Credit Risk Column (2) Line (7)	
(54) (C-3b) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (141)	
(55) Net (C-3b) - Post-Tax	Line (53) - Line (54)	
Market Risk (C-3c)		
(56) Total Market Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (37)	
(57) (C-3c) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (142)	
(58) Net (C-3c) - Post-Tax	Line (56) - Line (57)	

Denotes items that must be manually entered on the filing software.

LR031

CALCULATION OF CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)	Confidential when Completed	Source	NAIC Company Code (1) RBC Requirement
(59) Business Risk (C-4a)			
(60) Premium Component			
(61) Liability Component			
(62) Subtotal Business Risk (C-4a) - Pre-Tax			
(63) (C-4a) Tax Effect			
(64) Net (C-4a) - Post-Tax			
(65) Business Risk (C-4b)			
(66) Health Administrative Expense Component of Business Risk (C-4b) - Pre-Tax			
(67) (C-4b) Tax Effect			
(68) Net (C-4b) - Post-Tax			
(69) Total Risk-Based Capital After Covariance Before Basic Operational Risk			
(70) $C-0 + C-4a + \text{Square Root of } [(C-1a + C-3b)^2 + (C-1c + C-3c)^2 + (C-2)^2] + (C-3b)^2 + (C-4b)^2$			
(71) Gross Basic Operational Risk			
(72) C-4a of U.S. Life Insurance Subsidiaries			
(73) Net Basic Operational Risk			
(74) Primary Security Shortfall Calculated in Accordance With Actuarial Guideline XLVIII			
(75) Multiplied by 2			
(76) Total Risk-Based Capital After Covariance (Including Basic Operational Risk and Primary Security Shortfall multiplied by 2)			
(77) Authorized Control Level Risk-Based Capital (After Covariance Adjustment and Shortfall)			
(78) Total Risk-Based Capital After Covariance Times Fifty Percent			
(79) Tax Sensitivity Test			
(80) Tax Sensitivity Test: Total Risk-Based Capital After Covariance			
(81) Tax Sensitivity Test: Authorized Control Level Risk-Based Capital			

Denotes items that must be manually entered on the filing software.

LR031

LIFE INSURANCE - OPTION 1 - DRAFT
LR025

Basis of Factors

The factors chosen developed represent surplus needed to provide for excess claims over life insurance mortality risk, which is defined as adverse variance in life insurance deaths (i.e., insureds dying sooner than expected, both from random fluctuations and from inaccurate pricing for future levels) over the remaining lifetime of claims. For a large number block of trials, each insured either lives or dies based on a roll of the die business while appropriately reflecting the probability of death from both normal and excess claims pricing flexibility to adjust current mortality rates for emerging experience. The present value of mortality risks included in the claims generated by this process, less expected claims, will be the amount of surplus needed under that trial development of the factors, were volatility, level, trend, and catastrophe. The factors chosen were developed by stochastically simulating the formula produce a level of surplus at least as high as that of in force life insurance blocks typical of U.S. life insurers.

The capital need, expressed as needed in 95 percent of a dollar amount, is determined as the trials, greatest present value of accumulated deficiencies at the 95th percentile of the stochastic distribution of scenarios over the remaining lifetime of a block of business while appropriately reflecting the pricing flexibility to adjust current mortality rates. Statutory losses are defined as the after-tax quantification of gross death benefits minus reserves released minus mortality margin present in reserves. The after-tax statutory losses are discounted to the present by using 20-year averages for U.S. swap rates. By selecting the largest present value accumulated loss across all projection years, the solved for capital ensures non-negative capital at all projection periods. Earlier period losses are not allowed to be offset by later period gains to reduce capital. The 95th percentile is the commonly accepted statistical safety level used for Life RBC C-2 mortality risk to identify weakly capitalized companies. The after-tax capital needs are translated to a factor expressed as a percentage of the net amount at risk (NAR). The pre-tax factor is determined by taking the after-tax factor divided by (1 minus the tax rate).

The model was developed for portfolios of 10,000, 100,000 and one million lives, and it was found that the surplus needs decreased with larger portfolios, consistent with the law of large numbers.

Net amount at risk was chosen as a base because expected claims are difficult to calculate on a consistent basis from company to company. The factors are differentiated between individual & industrial life and group & credit life, and by in force block size. Within individual & industrial life, the factors are differentiated into categories for universal life with secondary guarantees (ULSG), term life, and all other life. Within group & credit life, the factors are differentiated into categories by the remaining length of the premium rate term by group contract. There are distinct factors for contracts that have remaining premium rate terms 36 months and under and for contracts that have remaining premium rate terms over 36 months. The Federal Employees' Group Life Insurance (FEGLI) and Servicemembers' Group Life Insurance (SGLI) receive a separate factor applied to the amounts in force.

Specific Instructions for Application of the Formula

Lines 3, 4, 5 and 9-21-41 are not applicable to Fraternal Benefit Societies.

Annual statement reference is for the total net amount at risk for the category (e.g., Individual & Industrial is one category). The net amount at risk is then further broken down by size as in a table to reflect the decrease in risk for larger blocks of life insurance. This breakdown will not appear on the RBC filing software or on the printed copy, as the application of factors to amounts in force is completed automatically. The calculation is as follows:

The NAR is derived for each of the factor categories using annual statement sources and company records. In Force and Reserves amounts are net of reinsurance throughout.

Line (11) ULSG In Force is derived from company records. The amount classified as ULSG needs to be consistent with the Exhibit of Life Insurance and the same block of policies as the ULSG reserves recorded in Line (12) which is sourced to the Analysis of Increase in Reserves During the Year - Individual Life Insurance Column 7 Line 15. The table below illustrates the RBC requirement calculation embedded in Line (13) for ULSG.

Line	Individual & Industrial ULSG	Statement Value	Factor	RBC Requirement
(11)				(2)

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(8) (13)	First 500 Million Next 424,500 Million Next 20,000 Million Over 25,000 Million	X 0.00222300390 = X 0.0014600165 = X 0.00116 = X 0.0008500110 =	RBC Requirement RBC Requirement RBC Requirement RBC Requirement
Total Individual & Industrial ULSG Net Amount at Risk			
Line (24)	Group & Credit First 500 Million Next 4,500 Million Next 20,000 Million Over 25,000 Million	Factor X 0.00175 = X 0.00116 = X 0.00087 = X 0.00078 =	RBC Requirement RBC Requirement RBC Requirement RBC Requirement
Line (14) Term Life In Force is derived from company records. The amount classified as Term Life needs to be consistent with the Exhibit of Life Insurance and the same block of policies as the Term reserves recorded in Line (15) which is sourced to the Analysis of Increase in Reserves During the Year – Individual Life Insurance Column 4 Line 15. The table below illustrates the RBC requirement calculation embedded in Line (16) for Term Life.			
Line (16)	Term Life First 500 Million Next 24,500 Million Over 25,000 Million	(1) Statement Value X 0.00270 = X 0.00110 = X 0.00075 =	(2) RBC Requirement RBC Requirement RBC Requirement
Total Group & Credit Term Life Net Amount at Risk (less FEGIL & SGLI in force)			
Lines (17) and (18) All Other Life In Force and Reserves are derived from the aggregate amounts derived in lines (1) to (10) minus the ULSG amounts in lines (11) to (12) and term life amounts in lines (14) to (15). In force business not classified as ULSG or term life is assigned to all other life. The table below illustrates the RBC requirement calculation embedded in Line (19) for All Other Life.			
Line (19)	All Other Life First 500 Million Next 24,500 Million Over 25,000 Million	(1) Statement Value X 0.00190 = X 0.00075 = X 0.00050 =	(2) RBC Requirement RBC Requirement RBC Requirement
Total All Other Life Net Amount at Risk			
Lines (35) and (36) Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under are derived from company records. This category includes group contracts where the premium terms have 36 months or fewer until expiration or renewal. The in force amount classified in this category needs to be consistent with the Exhibit of Life Insurance. The reserves amount classified in this category needs to be consistent with Exhibit 5 used for Lines (28) and (29). Separate Accounts Exhibit used for Line (30), and Schedule 5 used for Lines (31) and (32). Federal Employees' Group Life Insurance (FEGIL) and Servicemembers' Group Life Insurance (SGLI) contracts are			

excluded. The table below illustrates the RBC requirement calculation embedded in Line (37) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under.

Line (37)	(1) Statement Value	Factor	(2) RBC Requirement
Group & Credit Life with Remaining Rate Terms 36 Months and Under			
First 500 Million		X 0.00130 =	
Next 24,500 Million		X 0.00045 =	
Over 25,000 Million		X 0.00030 =	
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under			

Lines (38) and (39) Group & Credit Life In Force and Reserves with Remaining Rate Terms Over 36 Months are derived from the aggregate amounts derived in lines (21) to (34) minus the Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under in lines (35) and (36). FEGLI and SGLI contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (40) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months.

Line (40)	(1) Statement Value	Factor	(2) RBC Requirement
Group & Credit Life with Remaining Rate Terms Over 36 Months			
First 500 Million		X 0.00180 =	
Next 24,500 Million		X 0.00070 =	
Over 25,000 Million		X 0.00045 =	
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months			

Line (41) FEGLI/SGLI In Force amounts are retrieved from the Exhibit of Life Insurance. The capital factor assigned is the same as the largest size band for group & credit life contracts with remaining rate terms 36 months and under.

Line (41)	(1) Statement Value	Factor	(2) RBC Requirement
FEGLI/SGLI In Force		X 0.00030 =	

All amounts should be entered as required. The risk-based capital software will calculate the RBC requirement for individual and industrial and for group and credit.

LIFE INSURANCE - OPTION 2 - DRAFT

LR025

Basis of Factors

The factors chosen developed represent surplus needed to provide for excess claims over life insurance mortality risk which is defined as adverse variance in life insurance deaths (i.e., insureds dying sooner than expected, both from random fluctuations and from inaccurate pricing for future levels) over the remaining lifetime of claims. For a large number block of trials, each insured either lives or dies based on a roll of the dice business while appropriately reflecting the probability of death from both normal and excess claims pricing flexibility to adjust current mortality rates for emerging experience. The present value of mortality risks included in the claims generated by this process, less expected claims, will be the amount of surplus needed under that trial. Development of the factors were volatility, level, trend, and catastrophe. The factors chosen were developed by stochastically simulating the formula produce a level of surplus at least as high as in force life insurance blocks typical of U.S. life insurers.

The capital need, expressed as needed in 95 percent of a dollar amount, is determined as the trials' greatest present value of accumulated deficiencies at the 95th percentile of the stochastic distribution of scenarios over the remaining lifetime of a block of business while appropriately reflecting the pricing flexibility to adjust current mortality rates. Statutory losses are defined as the after-tax quantification of gross death benefits minus reserves released minus mortality margin present in reserves. The after-tax statutory losses are discounted to the present by using 20-year averages for U.S. swap rates. By selecting the largest present value accumulated loss across all projection years, the solved for capital ensures non-negative capital at all projection periods. Earlier period losses are not allowed to be offset by later period gains to reduce capital. The 95th percentile is the commonly accepted statistical safety level used for Life RBC C-2 mortality risk to identify weakly capitalized companies. The after-tax capital needs are translated to a factor expressed as a percentage of the net amount at risk (NAR). The pre-tax factor is determined by taking the after-tax factor divided by (1 minus the tax rate).

The model was developed for portfolios of 10,000, 100,000 and one million lives, and it was found that the surplus needs decreased with larger portfolios, consistent with the law of large numbers.

Net amount at risk was chosen as a base because expected claims are difficult to calculate on a consistent basis from company to company. The factors are differentiated between individual & industrial life and group & credit life, and by in force block size. Within individual & industrial life, the factors are differentiated into categories by contract type depending on the degree of pricing flexibility. Within group & credit life, the factors are differentiated into categories by the remaining length of the premium rate term by group contract. There are distinct factors for contracts that have remaining premium rate terms 36 months and under and for contracts that have remaining premium rate terms over 36 months. The Federal Employees' Group Life Insurance (FELI) and Servicemembers' Group Life Insurance (SGLI) receive a separate factor applied to the amounts in force.

Specific Instructions for Application of the Formula

Lines 3, 42, 5 and 9-21-41 are not applicable to Fraternal Benefit Societies.

Annual statement reference is for the total net amount at risk for the category (e.g., Individual & Industrial is one category). The net amount at risk is then further broken down by size as in a table to reflect the decrease in risk for larger blocks of life insurance. This breakdown will not appear on the RBC filing software or on the printed copy, as the application of factors to amounts in force is completed automatically. The calculation is as follows:

The NAR is derived for each of the factor categories using annual statement sources and company records. In Force and Reserves amounts are net of reinsurance throughout. The In Force amounts throughout derived from company records need to be consistent with the Exhibit of Life Insurance. The Reserves amounts throughout derived from company records need to be consistent with Exhibit 5, Separate Accounts Exhibit, and Schedule S.

Pricing Flexibility for Individual Life Insurance is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years. A material rate adjustment is defined as the ability to recover on a present value basis, the difference in mortality provided for in the factors below for contracts with and without pricing flexibility.

Lines (11) and (12) Life Policies with Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren't limited to, participating whole life insurance, universal life insurance, without secondary guarantees, and yearly renewable term insurance where scheduled premiums may be changed. The table below illustrates the RBC requirement calculation embedded in Line (13) for Life Policies with Pricing Flexibility.

Line (8.13)	Individual & Industrial Life Policies with Pricing Flexibility	(1) Statement Value	(2) Factor	(2) RBC Requirement
	First 500 Million		X 0.0022300190	
	Next 2,450 Million		X 0.0014600075	
	Next 20,000 Million		X 0.00116	
	Over 25,000 Million		X 0.0008700050	
	Total Individual & Industrial Life Policies with Pricing Flexibility Net Amount at Risk			
	Group & Credit			
	First 500 Million	Statement Value	Factor	RBC Requirement
	Next 4,500 Million		X 0.00175	
	Next 20,000 Million		X 0.00116	
	Over 25,000 Million		X 0.00087	
			X 0.00078	

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Lines (14) and (15) Term Life Policies without Pricing Flexibility In Force and Reserves are derived from company records. Examples of products intended for this category include, but aren't limited to, level term insurance with guaranteed level premiums and yearly renewable term insurance where scheduled premiums may not be changed. The table below illustrates the RBC requirement calculation embedded in Line (16) for Term Life Policies without Pricing Flexibility.

Line (16)	Term Life Policies without Pricing Flexibility	(1) Statement Value	(2) Factor	(2) RBC Requirement
	First 500 Million		X 0.00270	
	Next 24,500 Million		X 0.00110	
	Over 25,000 Million		X 0.00075	
	Total Group & Credit Term Life Policies without Pricing Flexibility Net Amount at Risk (less PCH & SGH force)			

Lines (17) and (18) Permanent Life Policies without Pricing Flexibility In Force and Reserves are derived from the aggregate amounts derived in lines (1) to (10) minus the amounts recorded in the other individual life categories. Examples of products intended for this category include, but aren't limited to, universal life with secondary guarantees and non-participating whole life insurance. Policies that aren't recorded in the other individual life categories default to this category which has the highest factors. The table below illustrates the RBC requirement calculation embedded in Line (19) for Permanent Life Policies without Pricing Flexibility.

Line (19)	Permanent Life Policies without Pricing Flexibility	(1) Statement Value	(2) Factor	(2) RBC Requirement
	First 500 Million		X 0.00390	

Next 24,500 Million	X 0.00165 =	
Over 25,000 Million	X 0.00110 =	
Total Permanent Life Policies without Pricing Flexibility Net Amount at Risk		

Lines (35) and (36) Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under are derived from company records. This category includes group contracts where the premium terms have 36 months or fewer until expiration or renewal. The in force amount classified in this category needs to be consistent with the Exhibit of Life Insurance. The reserves amount classified in this category needs to be consistent with Exhibit 5 used for Lines (28) and (29). Separate Accounts Exhibit used for Line (30), and Schedule S used for Lines (31) and (32). Federal Employees' Group Life Insurance (FEGLI) and Servicemembers' Group Life Insurance (SGLI) contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (37) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under.

<u>Line (37)</u>	<u>(1)</u> <u>Statement Value</u>	<u>Factor</u>	<u>(2)</u> <u>RBC Requirement</u>
Group & Credit Life with Remaining Rate Terms 36 Months and Under			
First 500 Million		X 0.00130 =	
Next 24,500 Million		X 0.00045 =	
Over 25,000 Million		X 0.00030 =	
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms 36 Months and Under			

Lines (38) and (39) Group & Credit Life In Force and Reserves with Remaining Rate Terms Over 36 Months are derived from the aggregate amounts derived in lines (21) to (34) minus the Group & Credit Life In Force and Reserves with Remaining Rate Terms 36 Months and Under in lines (35) and (36). FEGLI and SGLI contracts are excluded. The table below illustrates the RBC requirement calculation embedded in Line (40) for Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months.

<u>Line (40)</u>	<u>(1)</u> <u>Statement Value</u>	<u>Factor</u>	<u>(2)</u> <u>RBC Requirement</u>
Group & Credit Life with Remaining Rate Terms Over 36 Months			
First 500 Million		X 0.00180 =	
Next 24,500 Million		X 0.00070 =	
Over 25,000 Million		X 0.00045 =	
Total Group & Credit Life Net Amount at Risk with Remaining Rate Terms Over 36 Months			

Line (41) FEGLI/SGLI In Force amounts are retrieved from the Exhibit of Life Insurance. The capital factor assigned is the same as the largest size band for group & credit life contracts with remaining rate terms 36 months and under.

<u>Line (41)</u>	<u>(1)</u> <u>Statement Value</u>	<u>Factor</u>	<u>(2)</u> <u>RBC Requirement</u>
FEGLI/SGLI In Force		X 0.00030 =	

All amounts should be entered as required. The risk-based capital software will calculate the RBC requirement for individual and industrial and for group and credit.



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April 22, 2022

Mr. Philip Barlow
Chair, Life Risk-Based Capital (E) Working Group (LRBCWG)
National Association of Insurance Commissioners (NAIC)

Via email: Dave Fleming (dfleming@naic.org)

Re: Follow Up Items from the April 7, 2022, Life LRBCWG Meeting

Dear Philip,

On behalf of the C-2 Mortality Work Group of the American Academy of Actuaries, we are providing follow up items from the April 7, 2022, Working Group meeting. This includes the following which is discussed in the attached report.

1. The likelihood of zero mortality improvement based on the trend risk distribution
2. The insured population pandemic risk distribution relative to U.S. general population COVID-19 mortality experience

Sincerely,

Chris Trost, MAAA, FSA
Chairperson, C-2 Mortality Work Group

Ryan Fleming, MAAA, FSA
Vice Chairperson, C-2 Mortality Work Group

American Academy of Actuaries

Life Risk-Based Capital (RBC) – C-2 Mortality Risk

Regarding follow up items from the April 7, 2022, Life RBC (E) Working Group (LRBCWG) Meeting

To: National Association of Insurance Commissioners (NAIC) LRBCWG

From: American Academy of Actuaries, C-2 Mortality Work Group

Date: April 22, 2022

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Pandemic Risk Distribution.....2

LIFE RISK-BASED CAPITAL (RBC) – C-2 MORTALITY RISK

Trend Risk Distribution and Zero Mortality Improvement

A question was asked at the April 7 meeting about where zero mortality improvement would fall within the trend risk distribution assumed in the C-2 modeling. The expected mortality improvement rates across ages 21-82 from the 2017 Society of Actuaries (SOA) mortality improvement scale are a gender-weighted overall 0.79% per year. The likelihood of experiencing zero mortality improvement varies by the length of the risk exposure period and are shown in the table below.

Length of Risk Exposure:	5 years	10 years	20 years
Likelihood of zero or lower average mortality improvement over the length of the risk exposure period	12%	5%	1%

The results indicate that based on expected mortality improvement and the trend risk distribution calibrated to historical U.S. Social Security data, there is low likelihood of extended periods of zero improvement.

The C-2 Mortality Work Group has noted that the trend risk component is driven more by the volatility around the expected mortality improvement than the expected mortality improvement level. The capital factors are more insensitive to the expected mortality improvement level as highlighted in the sensitivity below which was shared in the report for the April 7 meeting.

Pandemic Risk Distribution

There was discussion at the April 7 meeting on the severity of the COVID-19 pandemic based on general population statistics relative to the pandemic catastrophe probability distribution developed by the Academy’s C-2 Mortality Work Group. Generally, the comparisons made were using general population rather than insured mortality.

The C-2 Mortality Work Group believes that applying general population mortality experience to assumptions for insured population mortality experience is not appropriate for the following reasons.

- The age distribution of COVID-19 deaths is a critical variable in explaining why the general population mortality rate is much higher than what has been experience in the insured population.

LIFE RISK-BASED CAPITAL (RBC) – C-2 MORTALITY RISK

Based on U.S. Centers for Disease Control and Prevention (CDC) data by age, 75% of reported COVID-19 deaths are attributable to ages 65 and older. The life insurance industry has low net amount of risk exposure at these ages due to term life and employer group policies expiring before these older ages, and permanent life policies building higher reserves relative to face amounts at older ages.

- Insured population mortality rates are a small fraction of general population mortality rates due to the impacts of socioeconomic factors and underwriting. The overall mortality rate of the U.S. population for 2019 (pre-pandemic) was 8.7 deaths per thousand based on U.S. CDC data. This overall death rate can serve as a reference point for comparing the cumulative COVID-19 death rate of about 3.0 deaths per thousand (982,809 total deaths reported by the U.S. CDC as of April 10, 2022 relative to the U.S. population of about 330 million). On this basis, the excess deaths are 34% on a percentage basis. The insured population pandemic distribution developed for the RBC C-2 modeling provides for pandemics with excess mortality greater than 34%. At the most severe level, the insured population modeled pandemic distribution provides for excess deaths ranging from approximately 60%-110%.

The C-2 Mortality Work Group would like to clarify that the statistics used from the SOA individual and group life studies on experience during the COVID-19 pandemic include mortality from all causes including both COVID-19 and non-COVID-19 deaths. For individual life, based on modeled mortality rates, this translates to estimated excess deaths of 0.5-0.7 per thousand from the COVID-19 pandemic. For group life, based on modeled mortality rates, this translates to estimated excess deaths of 0.8-1.2 per thousand from the COVID-19 pandemic. This demonstrates that the insured population has experienced significantly lower excess deaths from all causes during the COVID -19 pandemic than the CDC data shows for the U.S population. Both of these estimated outcomes, which include COVID-19 and non-COVID-19 deaths, are within the 1.5 deaths per thousand assumed at the most severe level.

The C-2 Mortality Work Group believes that the pandemic modeling includes a distribution of potential outcomes providing for excess mortality for the insured population at least as severe as the COVID-19 pandemic. In addition, the pandemic risk component is one of three catastrophe risks included in the development of C-2 factors along with the terrorism and unknown risk components.

Draft: 7/20/22

Life Risk-Based Capital (E) Working Group
Virtual Meeting
April 7, 2022

The Life Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met April 7, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Jennifer Li (AL); Ben Bock (CA); Manny Hidalgo (CT); Sean Collins (FL); Vincent Tsang (IL); Ben Slutsker (MN); William Leung (MO); Derek Wallman (NE); Seong-min Eom (NJ); Bill Carmello and Michael Cebula (NY); Andrew Schallhorn (OK); Mike Boerner and Rachel Hemphill (TX); and Tomasz Serbinowski (UT).

1. Discussed the Academy C2 Mortality Risk Work Group Recommendation

Chris Trost (American Academy of Actuaries—Academy), chair of the Academy C2 Mortality Risk Work Group, said the Work Group prepared responses to the additional information requested during the Life Risk-Based Capital (E) Working Group's Jan. 20 meeting and comments made during its March 10 meeting. Ryan Fleming (Academy) presented the Academy's responses (Attachment Four-D1). He provided a summary of the assumptions underlying the Academy's November 2021 recommendation and the sensitivity tests that were performed.

Mr. Fleming discussed the impact on C-2 factors of assuming zero expected mortality improvement. The Work Group continues with its suggestions, which include expected mortality improvement based on the Society of Actuaries (SOA) 2017 mortality improvement scale and the evaluation of trend risk versus this expectation. Given the ongoing COVID-19 pandemic, Mr. Carmello suggested including no mortality improvement for the first 10 to 15 years of that component of the calculation. Mr. Cebula added that there is a lot of research that seems to indicate that even in asymptomatic people, COVID-19 is creating lung damage, so the thought that mortality would be improving in the near term seems unduly optimistic. When looking at risk-based capital (RBC), Mr. Barlow said it is usually something that is going to be in place for quite some time, so he tends to not look at it from a short-term perspective. He said it is not clear to him that this is a short-term consideration, and while it may be a while before information is available on insured mortality, he asked if there was other information available. Mr. Trost said that for insured mortality, there is still some improvement, although it has been slowing. He said one thing the sensitivity showed is that if capital is meant to address experience around volatility from what is expected, it did not have a big impact on the capital requirement itself. Mr. Slutsker asked if that impact is muted by the shorter projection periods. Mr. Fleming said that is likely the case looking from more of a newly issued business perspective with longer horizons, but the Work Group is looking more broadly at in-force blocks. The Working Group requested more information on this assumption.

Mr. Fleming presented the sensitivities on the catastrophic component of the C-2 factors, the unknown sustained risk likelihood and severity, and the COVID-19 pandemic risk likelihood and severity. With respect to pandemic risk, Mr. Slutsker made the point that there is still uncertainty and a lack of data, and it might be prudent to potentially increase the factors for this aspect.

Mr. Fleming discussed the support for the five-year risk exposure period for products with pricing flexibility and said the Work Group feels confident in the five-year period. He said, if anything, it could be viewed as slightly conservative as adjusting mortality on a regular five-year rolling average results in lower capital factors because companies are able to respond sooner than five years.

Mr. Fleming said the Work Group is supportive of the tiering of charges at the aggregate level for individual and group life. He said there are a couple of approaches that work, either a pro rata approach or something similar to

what is done for disability income. He also said the Work Group has presented a couple of options for modifying the annual statement presentation to assist in the decision between option one and option two of the structural changes to RBC.

Mr. Barlow suggested an additional meeting be scheduled before the end of the month to allow further discussion on adoption of one of the two structural options and exposure of the related instructions.

Having no further business, the Life Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/LRBCWG 4-7-22 Minutes.docx



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April 4, 2022

Mr. Philip Barlow
Chair, Life Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners (NAIC)

Via email: Dave Fleming (dfleming@naic.org)

Re: Analyses Requested at the January 20, 2022, Life RBC Meeting and Response to ACLI Comment Letter and Regulator Comments Discussed at the March 10, 2022, Life RBC Meeting

Dear Philip,

On behalf of the C-2 Mortality Work Group of the American Academy of Actuaries,¹ we are providing the analysis requested at the January 20, 2022, Life Risk-Based Capital (E) Working Group meeting. This includes the following and is discussed in the attached report.

1. Impact on C-2 factors of assuming zero expected mortality improvement
2. Sensitivities on the catastrophe component of the C-2 factors
 - a. Unknown sustained risk likelihood and severity
 - b. Pandemic risk likelihood and severity
3. Support for the five-year risk exposure period for products with pricing flexibility

Overall, the additional analysis related to C-2 factors reinforces the factors and structure recommended by the work group. The C-2 Mortality Work Group maintains its recommended factors made in November 2021 and its structural change options recommended in January 2022.

The report also includes commentary on the ACLI comment letter and regulator comments discussed at the March 10, 2022, Life RBC Working Group meeting. The response addresses the following topics.

1. Tiered charges
2. Clarification of definitions
3. Improved annual statement tie-out
4. Non-participating whole life and default category
5. Group permanent life

Sincerely,

Chris Trost, MAAA, FSA
Chairperson, C-2 Mortality Work Group

1850 M Street NW Suite 300 Washington, DC 20036 Telephone 202 223 8196 Facsimile 202 872 1948 www.actuary.org

Ryan Fleming, MAAA, FSA
Vice Chairperson, C-2 Mortality Work Group

American Academy of Actuaries

Life RBC – C-2 Mortality Risk

Regarding analysis requested at the January 20, 2022, Life Risk-Based Capital (RBC) (E) Working Group meeting and ACLI Comment Letter and Regulator Comments Discussed at the March 10, 2022, Life RBC (E) Working Group Meeting

To: NAIC Life RBC (E) Working Group

From: American Academy of Actuaries C-2 Mortality Work Group

Date: April 4, 2022

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LIFE RBC – C-2 MORTALITY RISK

Zero Expected Mortality Improvement

Assumptions From November 2021 Recommendation

Experience mortality improvement is set equal to the 2017 Society of Actuaries (SOA) mortality improvement scale for use with Actuarial Guideline (AG) 38 and VM-20. The rates vary by age and gender and are converted to lognormal rates for input in the model.

Trend risk is modeled to assess the risk that future mortality improvement is different than assumed. Historically, both mortality improvement (MI) and MI volatility have differed by historical period, gender, and age, among others. While average MI over long periods tends to stabilize, period-to-period MI can be quite different. An improvement distribution that captures these characteristics was developed while balancing the desire for simplicity. Deviation in mortality improvement is modeled across male/female and young/middle/old ages as correlated normally distributed random variables. An MI deviation is generated for each cohort in each year of each scenario. This allows for large differences year-to-year, consistent with historical data.

Sensitivity Test

An Academy C-2 Mortality Work Group sensitivity test was performed to assess the impact of assuming zero expected mortality improvement. The trend risk component remained included in the model and was assessed versus the zero expected mortality improvement. In the absence of the trend risk component, the recommended factors would be lower.

The results of this sensitivity test are shown below for the large size factors for individual life. Zeroing expected mortality improvement led to a slight increase in the factors for the longer projection periods due to the slightly higher risk associated with higher experience mortality rates. Group life factors would not be impacted consistent with the five-year individual life result.

The C-2 Mortality Work Group continues with its suggestions, which include expected mortality improvement based on the SOA 2017 mortality improvement scale and the evaluation of trend risk versus this expectation.

Sensitivity - Impact of Zero Expected Mortality Improvement						
Pre-Tax RBC C-2 Factors - Large Size Per \$1,000 of Inforce NAR	Individual & Industrial Life			Change vs Baseline		
	20 Year	10 Year	5 Year	20 Year	10 Year	5 Year
Baseline - 2017 Mortality Improvement Scale	1.10	0.75	0.50			
Zero Expected Mortality Improvement	1.20	0.80	0.50	0.10	0.05	0.00

Unknown Sustained Risk Likelihood and Severity

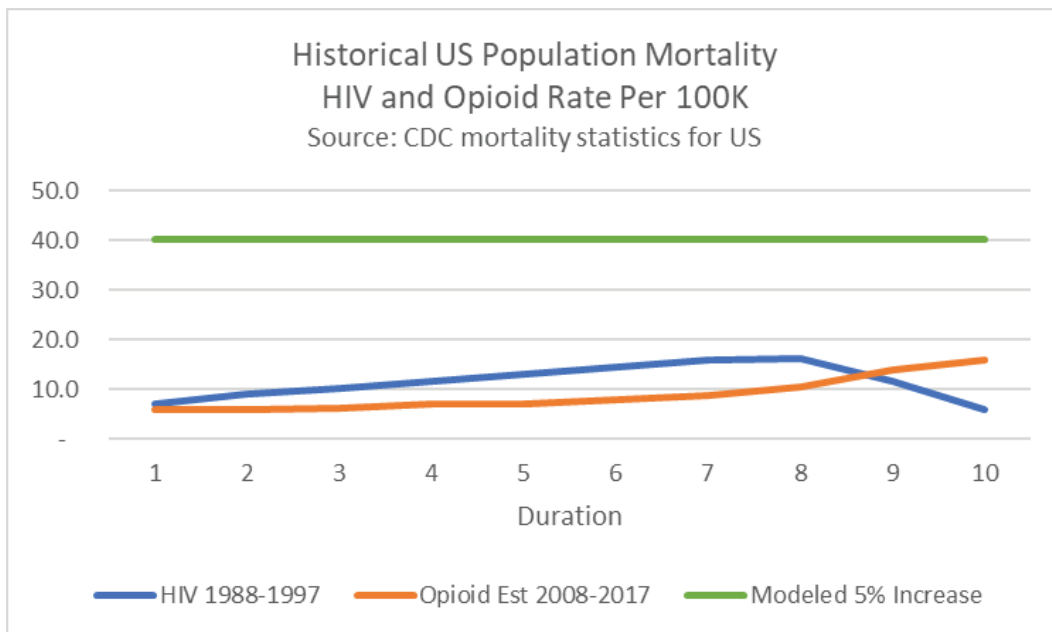
Assumptions From November 2021 Recommendation

The catastrophe risk component of the model assesses the risk of a short-term spike in mortality or a longer-term increase in mortality from a currently unknown health event. This risk includes three components: a pandemic risk distribution, a terrorism risk distribution, and an unknown sustained risk distribution.

LIFE RBC – C-2 MORTALITY RISK

The unknown sustained risk assumes a sustained increase in mortality from an unknown health event. The discrete distribution was calibrated from two historical health events impacting the U.S. population: HIV and opioid abuse. The mortality increase is defined as a 5% increase applied across all ages if triggered. The annual likelihood of the event occurring is 2.5%. If the event is triggered in the scenario, it continues for the lesser of the maximum duration assumption and remainder of the projection period. A 10-year period was selected for the maximum duration based on the historical events and to provide for an event lasting up to a decade. The maximum duration assumption is relevant only when modeling projection periods longer than this assumption. Given the sustained nature of the event, it can only occur once per scenario.

As highlighted in the chart below, the modeled catastrophe provides for deaths in excess of similar historical events due to assuming experience from the worst age band category. The worst age band category was selected to conservatively set the severity as life insurers could have exposure concentrated at certain ages impacted by this type of event.



Sensitivity Testing

Sensitivity tests were performed to assess the impact of increasing the likelihood and/or severity of an unknown sustained risk event.

The results of these sensitivity tests are shown below for the large size factors. The impact of increased likelihood and/or severity is more significant for the longer risk exposure periods. The impact to group life would be similar to the five-year individual life category. The impact to the small and medium size categories would be comparable on an absolute add-on basis. Increasing the impact of this component would provide for safety beyond the level to identify weakly capitalized companies, which may be misaligned with RBC objectives.

LIFE RBC – C-2 MORTALITY RISK

The C-2 Mortality Work Group maintains its recommendation, which includes conservatively setting both the likelihood and impact of an unknown sustained risk event.

Sensitivity - Impact of Alternative Unknown Sustained Risk Assumptions						
Pre-Tax RBC C-2 Factors - Large Size Per \$1,000 of Inforce NAR	Individual & Industrial Life			Change vs Baseline		
	20 Year	10 Year	5 Year	20 Year	10 Year	5 Year
Baseline - 2.5% Annual Probability, 5% Increase	1.10	0.75	0.50			
5% Annual Probability, 5% Increase	1.25	0.85	0.55	0.15	0.10	0.05
2.5% Annual Probability, 10% Increase	1.40	1.05	0.60	0.30	0.30	0.10
5% Annual Probability, 10% Increase	1.65	1.25	0.75	0.55	0.50	0.25

Pandemic Risk Likelihood and Severity

Assumptions From November 2021 Recommendation

The pandemic risk component assesses the risk of a one-year increase in mortality from a new pandemic, such a new flu strain. The distribution is discrete and was calibrated from historical observations and multiple sources: current RBC, Swiss Re’s model, Solvency II, U.S. Centers for Disease Control and Prevention (CDC)/Department of Health and Human Services Pandemic Severity Assessment Framework (PSAF). Rates are expressed as deaths per 1,000 lives and are applied as an add-on across all ages if triggered. Multiple pandemics may occur in a given scenario. The table of annual likelihood and severity is shown below. The excess mortality from a pandemic may occur over multiple years. For modeling pandemics, the cumulative excess mortality is assumed to occur in a one-year period, which is a more conservative assumption than assuming that the same cumulative excess mortality occurs over multiple years.

Annual Probability	Excess Deaths Per 1K
0.50%	1.5
0.50%	0.7
0.50%	0.55
0.50%	0.35
0.50%	0.2
0.50%	0.1
0.50%	0.05
96.50%	0

While the pandemic distribution was developed prior to the COVID-19 pandemic, the emerging experience from COVID-19 for group and individual life insurers has been assessed. **Early indications are that the COVID-19 experience for the life insurance industry falls within the distribution of pandemic severities above.** The SOA is conducting ongoing research for both individual and group life insurers. The links to the latest reports are shown below.

Individual Life: <https://www.soa.org/globalassets/assets/files/resources/research-report/2022/us-ind-life-covid-19-reported-claims.pdf>

LIFE RBC – C-2 MORTALITY RISK

Group Life: <https://www.soa.org/globalassets/assets/files/resources/research-report/2022/group-life-covid-19-mortality.pdf>

For individual life, the average reported excess mortality by amount (adjusted for trend) from the second quarter of 2020 through the third quarter of 2021 was 10% for the 1.5-year period. Assuming the pandemic lasts from two to three years at that average rate, the estimated cumulative excess mortality ranges from 20%-30%. Based on modeled mortality rates, this translates to estimated excess deaths of 0.5-0.7 per thousand.

For group life, the average reported excess mortality by amount from the second quarter of 2020 through the third quarter of 2021 was 29% for the 1.5-year period. Assuming the pandemic lasts from two to three years at that average rate, the estimated cumulative excess mortality ranges from 60% to 90%. Based on modeled mortality rates, this translates to estimated excess deaths of 0.8-1.2 per thousand.

Note, these are industry-wide estimates to assess reported COVID-19 experience versus the RBC pandemic distribution. Estimates could change based on the course of the COVID-19 pandemic and further research on mortality experience during this period. Insurer experience may vary greatly by company.

Sensitivity Testing

Sensitivity tests were performed to assess the impact of increasing the likelihood and/or severity of a pandemic.

The results of these sensitivity tests are shown below for the large size factors. The impact to group life and to the small and medium size categories would be similar. Increasing the impact of this component would provide for safety beyond the level to identify weakly capitalized companies, which may be misaligned with RBC objectives. The likelihood of future pandemics, given the COVID-19 pandemic, is uncertain, and there is the possibility of overreacting to current events. If future research provides new expert judgment on pandemic outcomes that are significantly different than the distribution assumed in the recommended factors, this would be justification for a new review of the C-2 factors.

The C-2 Mortality Work Group maintains its suggestions, which includes a distribution of potential outcomes providing for excess mortality at least as severe as the COVID-19 pandemic.

Sensitivity - Impact of Alternative Pandemic Assumptions						
Pre-Tax RBC C-2 Factors - Large Size Per \$1,000 of Inforce NAR	Individual & Industrial Life			Change vs Baseline		
	20 Year	10 Year	5 Year	20 Year	10 Year	5 Year
Baseline - 3.5% Aggregate Annual Probability, 0.05 - 1.50 Deaths / 1000	1.10	0.75	0.50			
Double Probability	1.30	1.00	0.75	0.20	0.25	0.25
Double Impact	1.50	1.10	0.90	0.40	0.35	0.40
Double Probability, Double Impact	2.00	1.75	1.55	0.90	1.00	1.05

Support for the Five-Year Risk Exposure Period for Products With Pricing Flexibility

Assumptions From November 2021 Recommendation

The five-year risk exposure period in the modeling is intended to represent inforce blocks where pricing may be adjusted following adverse mortality experience due to the presence of non-guaranteed elements,

LIFE RBC – C-2 MORTALITY RISK

which are not yet being charged at maximum levels. The five-year period represents a conservatively appropriate period where experience emerges, is subsequently studied, and implemented into inforce pricing through adjusting non-guaranteed elements. Examples of products with this flexibility are universal life products without secondary guarantees and participating whole life products.

Additional Support for the Five-Year Risk Exposure Period

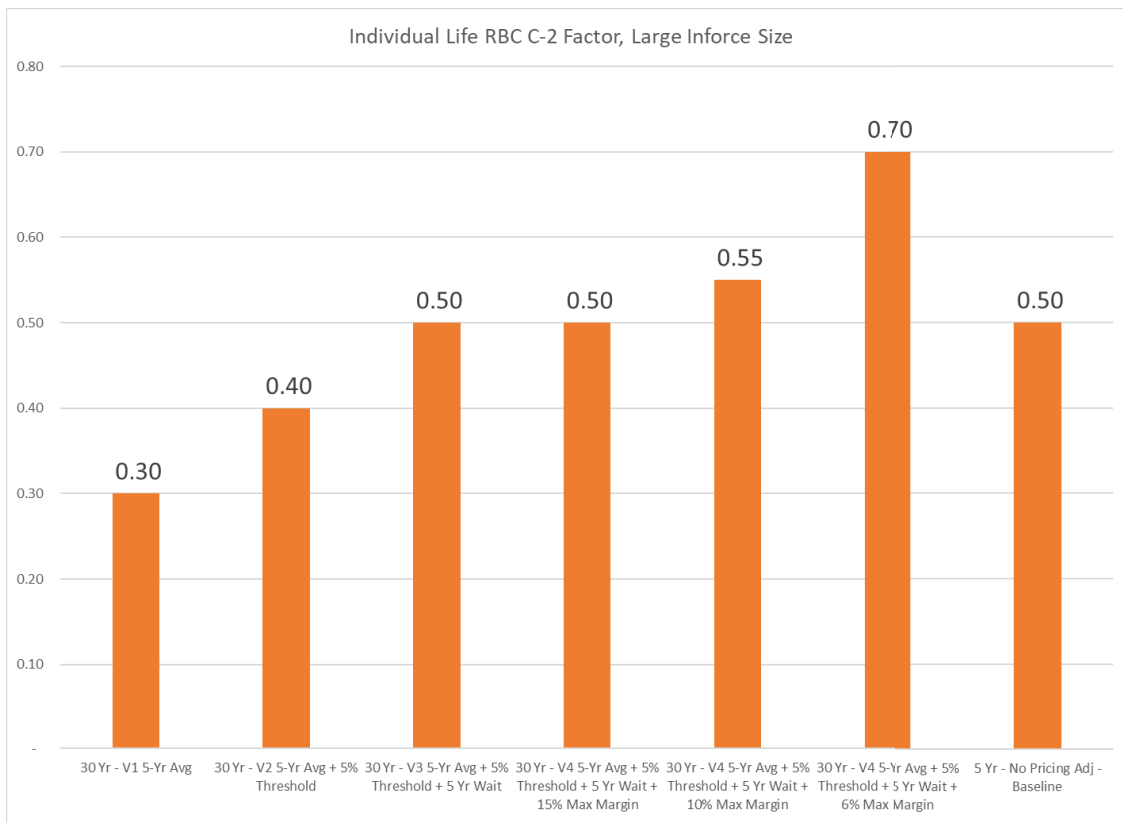
The C-2 Mortality Work Group developed alternative versions of the model to directly simulate pricing flexibility to respond to emerging mortality experience. These versions of the model were run for 30 years, over which nearly 100% of the inforce business has run-off. Four versions of the model were developed as described below.

1. An actual-to-expected ratio is calculated for each projection year on a statutory loss/net amount at risk basis (death benefits minus reserves released). Pricing is adjusted on a five-year rolling average basis with a one-year lag for both positive and negative experience. Years prior to the projection start date have an actual-to-expected ratio of 100%.
2. Same as version 1 plus pricing adjustments don't occur unless outside of +/- 5% deviations on a rolling average basis. The 5% deviation aligns with the margin assumed in reserves to cover moderately adverse experience of 1 standard deviation.
3. Same as version 2 plus there are no pricing adjustments for the first five projection years.
4. Same as version 3 plus a 15% limit for the maximum margin available consistent with typical mortality loads applied in the loaded 2017 CSO table. Sensitivities with lower margins of 10% and 6% were also tested.

The results for a large inforce size are shown in the chart below. Versions 1 and 2 result in a capital factor lower than the recommendation for the five-year category. This is because pricing adjustments occur sooner than after five years. Versions 3 and 4 result in a capital factor consistent with the recommendation as the exposure periods are aligned at five years. These versions assume that there is sufficient margin available to offset changes in mortality experience beyond the five-year risk exposure period. With version 4 of the model, sensitivities performed at lower margins of 10% and 6% demonstrate that the capital factor increases to the extent margins are more limited.

The C-2 Mortality Work Group maintains its suggestions to assign products with inforce pricing flexibility to the five-year risk exposure period category.

LIFE RBC – C-2 MORTALITY RISK



LIFE RBC – C-2 MORTALITY RISK

Response to ACLI Comment Letter and Regulator Comments Discussed at the March 10, 2022, Meeting

Tiered Charges

The C-2 Mortality Work Group is supportive of tiering the factors applied to the net amount at risk based on the aggregate amounts for individual life and for group life. Either of the approaches suggested by the ACLI are acceptable solutions. The pro rata approach to the work group appears to be the logical approach because it spreads the tiering proportionately among the categories. The larger factors associated with smaller sizes are due to the volatility and level risk components. It makes sense that the aggregate volatility and level risks for a company are spread proportionately among the categories. The approach similar to the disability income factors would result in slightly more conservative capital amounts because the highest factor products are assigned first.

Clarification of Definitions

The categories in the recommended C-2 factors were developed broadly. The length of the risk exposure period was the distinguishing variable to differentiate risk through the factors. The practical implementation of the factors was to select product categories based on the existing annual statement reporting structure. Universal life with secondary guarantee products have the longest mortality guarantees on average. Term products fall in the middle on average. The all other life category represents products that have the ability to adjust current mortality rates for emerging experience. The C-2 Mortality Work Group recognizes that the categorization is not perfect in all instances but is intended to recognize differences in risk broadly based on the existing annual statement reporting structure. The categories are also intended to apply to all inforce business regardless of whether the reserving is pre- or post-principles-based reserving.

Improved Annual Statement Tie-Out

The C-2 Mortality Work Group is supportive of efforts to report net amounts at risk directly in the annual statement. This practice would simplify the necessary/required data sources to be retrieved for the RBC C-2 Life calculation. Reporting the net amount at risk for each company and by product line may also provide meaningful information to financial statement users.

Option 1—Annual Statement Updates

The information needed to calculate the net amount at risk by product would fit well in the Analysis of Increase in Reserves During the Year pages. The following lines could be added as a new section called Net Amount at Risk. All amounts would be as of December 31 of the current year and on a net of reinsurance basis.

- Line 18: *Amount of Insurance In Force*. This line should be equivalent to amounts reported on Line 23 of the Exhibit of Life Insurance.
- Line 19: *Aggregate Reserves*. This would simply be set equal to Line 15.
- Line 20: *Separate Accounts Reserves*. These amounts would be on the same basis as the Separate Accounts Exhibit 3.

LIFE RBC – C-2 MORTALITY RISK

- Line 21: *Modified Coinsurance Reserves*. These amounts would be on the same basis as Schedule S.
- Line 22: *Net Amount at Risk*. This would be calculated as Line 18 – Line 19 – Line 20 – Line 21

Furthermore, the Whole Life column 3 could be expanded into two lines of business to distinguish between participating and non-participating contracts.

Option 2—Annual Statement Updates

The information needed to calculate the net amount at risk for the three categories (Life Policies with Pricing Flexibility, Term Life Policies without Pricing Flexibility, and Permanent Life Policies without Pricing Flexibility) could be addressed through a table in a new note, line, or item within Notes to Financial Statements. The following lines would be included in the table with four columns for the three RBC categories and a total column. All amounts would be as of December 31 of the current year and on a net of reinsurance basis.

- Line 1: *Amount of Insurance In Force*. This line should be equivalent to amounts reported on Line 23 of the Exhibit of Life Insurance.
- Line 2: *Aggregate Reserves*. This would set equal to Line 15 of the Analysis of Increase in Reserves During the Year.
- Line 3: *Separate Accounts Reserves*. These amounts would be on the same basis as the Separate Accounts Exhibit 3.
- Line 4: *Modified Coinsurance Reserves*. These amounts would be on the same basis as Schedule S.
- Line 5: *Net Amount at Risk*. This would be calculated as Line 1 – Line 2 – Line 3 – Line 4

In order to populate the RBC categories, a principle-based assessment would need to be completed by each company. Pricing flexibility for life insurance is determined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years. A material rate adjustment is defined as the ability to recover, on a present value basis, the difference in mortality provided for in the factors for contracts with and without pricing flexibility.

Group Life Annual Statement Updates Under Option 1 or Option 2

The information needed to calculate the net amount at risk for the two categories (Group & Credit Life with Remaining Rate Terms 36 Months and Under, Group & Credit Life with Remaining Rate Terms Over 36 Months) could be addressed through a table in a new note, line or item within Notes to Financial Statements. The following lines would be included in the table with three columns for the two RBC categories and a total column. All amounts would be as of December 31 of the current year and on a net of reinsurance basis.

- Line 1: *Amount of Insurance In Force*. This line should be equivalent to amounts reported on Line 23 of the Exhibit of Life Insurance.

LIFE RBC – C-2 MORTALITY RISK

- Line 2: *Aggregate Reserves*. This would set equal to Line 15 of the Analysis of Increase in Reserves During the Year.
- Line 3: *Separate Accounts Reserves*. These amounts would be on the same basis as the Separate Accounts Exhibit 3.
- Line 4: *Modified Coinsurance Reserves*. These amounts would be on the same basis as Schedule S.
- Line 5: *Net Amount at Risk*. This would be calculated as Line 1 – Line 2 – Line 3 – Line 4

Non-Participating Whole Life and Default Category

New York (NY) and Minnesota (MN) regulators have expressed a determination to prefer to classify non-participating (or fully guaranteed) whole life with the highest individual life factor category along with universal life with secondary guarantees. There is also a preference under Option 1 of the structural updates that any products not assigned to one of the categories should conservatively default to the highest factor category. The C-2 Mortality Work Group is supportive of these updates to refine the product classifications as long as products that have pricing flexibility continue to be assigned to the lowest factor category.

Group Permanent Life

A regulator comment was made at the March 10, 2022, meeting suggesting that group permanent life should be categorized with the individual life factors. The C-2 Mortality Work Group is supportive of this update, as the individual life factors would be more appropriate for these types of products. The group factors were developed assuming a term life product, as the vast majority of industry exposure is group term life. Furthermore, the C-2 Mortality Work Group suggests assigning group credit life to the group category, and individual credit life to the individual life category. If this update is made, then the category names will need to be updated to make it clear that group permanent life business is being categorized along with individual life products.



Newsletter Items for Adoption for 2022 for Life and Fraternal RBC:

Date: July 2022

Volume: 28

Page 1: Intro Section:

What RBC Pages Should Be Submitted?

For year-end 2022 life and fraternal risk-based capital (RBC), submit hard copies of pages LR001 through LR049 to any state that requests a hard copy in addition to the electronic filing. Starting with year-end 2007 RBC, a hard copy was not required to be submitted to the NAIC. However, a portable document format (PDF) file representing the hard copy filing is part of the electronic filing.

If any actuarial certifications are required per the RBC instructions, those should be included as part of the hard copy filing. Starting with year-end 2008 RBC, the actuarial certifications were also part of the electronic RBC filing as PDF files, similar to the financial annual statement actuarial opinion.

Other pages, such as the mortgage and real estate worksheets, do not need to be submitted. However, they still need to be retained by the company as documentation.

Page 1+: Items Adopted for 2022:

Instructions for Residual Tranches

The Capital Adequacy (E) Task Force adopted proposal 2022-05-L Instruction for Residuals to address changes made to Schedule BA and the asset valuation reserve (AVR) to isolate the reporting of residual tranches during its June 30 meeting. This made an instructional change for line 49.2 on LR008, Other Long-Term Assets.

Structure and Instruction Changes to Update the Treatment of C-2 Mortality Risk

The Capital Adequacy (E) Task Force adopted proposal 2022-03-L C-2 Mortality Risk

Structure during its April 28 meeting. This proposal made structural changes to LR025, Life Insurance, to expand the categorization of policies along with reference changes to LR030, Calculation of Tax Effect and LR031, Calculation of Authorized Control Level Risk-Based Capital. The Capital Adequacy (E) Task Force adopted proposal 2022-06-L during its June 30 meeting. This proposal provides the instructions for the updated structure including factors for the expanded categories.

Page 2+: Editorial Changes:

1. Annual statement references on the blank schedule to investment schedules were updated on LR002, Bonds, for lines (8) and (16) and LR012, Miscellaneous Assets, for lines (2.2), (2.3), (3.2), (8) and (9).
2. Annual statement references on the blank schedule to the AVR were updated on LR008, Other Long-Term Assets, for lines (51.1), (51.2) and (52.1).
3. Annual statement references in the instructions to Schedule H were updated for LR020, Underwriting Risk-Experience Fluctuation Risk, for line (6) and LR022, Underwriting Risk-Managed Care Credit, for line (9).

Last Page: RBC Forecasting & Warning:

RBC Forecasting and Instructions

The Life and Fraternal RBC forecasting spreadsheet calculates RBC using the same formula presented in the 2022 Life and Fraternal Risk-Based Capital Forecasting & Instructions for Companies, and it is available to download from the NAIC Account Manager. The 2022 Life and Fraternal Risk-Based Capital Forecasting & Instructions for Companies publication is available for purchase in electronic format through the NAIC Publications Department. This publication is available on or about November 1 each year. The User Guide is no longer included in the Forecasting & Instructions.

WARNING: The RBC Forecasting Spreadsheet CANNOT be used to meet the year-end RBC electronic filing requirement. RBC filing software from an annual statement software vendor should be used to create the electronic filing. If the forecasting worksheet is sent instead of an electronic filing, it will not be accepted and the RBC will not have been filed.

Last Page: 2022 National Association of Insurance Commissioners:

2022 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Life Risk-Based Capital Newsletter Volume 28. Published annually or whenever needed by the NAIC for insurance regulators, professionals and consumers.

Direct correspondence to: Dave Fleming, RBC Newsletters, NAIC, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197. Phone: (816) 783-8121. Email: dfleming@naic.org.

AGGREGATED LIFE RBC AND ANNUAL STATEMENT DATA
2021 Data as of 7/1/2022

	Year-End 2021	Year-End 2020	Year-End 2019	Year-End 2018	Year-End 2017	Year-End 2015	Year-End 2014	Year-End 2013	Year-End 2012	Year-End 2011
# of Companies Filled RBC	750	760	772	703	704	718	727	750	761	786
% of Companies Filled Annual Statement	98%	98%	98%	97%	97%	97%	95%	97%	97%	97%
% of RBC Companies	98%	98%	98%	97%	97%	97%	95%	97%	97%	97%
Company Action Level - Trend Test at 300%	8	5	7	6	6	3	6	6	7	7
Company Action Level - Trend Test at 250%	1	1	3	4	4	2	4	4	3	1
Regulatory Action Level	3	0	4	2	3	4	6	5	1	3
Authorized Control Level	0	0	0	2	1	1	0	1	0	2
Mandatory Control Level	0	0	1	0	0	1	1	1	1	0
Total	16	12	16	16	20	14	16	20	14	12
	2.13%	1.55%	2.33%	2.55%	2.84%	1.95%	2.45%	2.67%	1.84%	1.53%
# of Companies with RBC Ratio > 10,000%	55	52	50	47	56	57	61	67	71	69
# of Companies with RBC Ratio > 1000 & < 10,000%	292	306	312	275	311	319	333	337	331	353
# of Companies with RBC Ratio > 500 & < 1,000%	315	317	332	311	275	274	270	279	273	281
# of Companies with RBC Ratio > 300 & < 500%	73									
# of Companies with RBC Ratio > 250 & < 300%	9									
# of Companies with RBC Ratio > 200 & < 250%	2	78	68	58	50	57	53	56	76	69
# of Companies with RBC Ratio > 200% & <= 0%	4	5	4	4	5	3	4	4	4	4
# of Companies with RBC Ratio of Zero	0	0	0	0	0	0	0	0	6	9
Total	750	760	772	703	704	718	727	750	761	786
Total Adjusted Capital	710,746,904,192	635,213,337,716	606,901,270,691	540,392,904,821	526,559,144,783	508,747,679,200	486,612,658,608	472,894,118,204	455,931,025,069	429,882,705,430
Authorized Control Level RBC	80,264,014,541	74,177,010,650	70,095,026,244	64,286,923,366	56,351,687,796	53,371,992,970	49,962,064,876	48,205,295,081	48,013,713,654	47,139,501,106
Aggregate RBC %	886%	865%	866%	841%	934%	953%	974%	961%	930%	912%
Median RBC %	965%	972%	964%	945%	1024%	1040%	1066%	1053%	1032%	1050%
Total C-0 Asset Risk - Affiliates	32,282,896,095	27,669,014,686	25,328,213,376	23,856,057,914	21,480,358,294	19,961,695,520	18,663,109,500	19,306,680,061	19,189,156,389	18,739,561,938
Total C-1 Asset Risk - Common Stock	55,182,880,709	45,635,935,886	42,580,467,817	36,644,436,197	29,944,288,495	26,849,848,001	26,039,253,312	23,483,229,549	21,747,022,437	20,328,404,533
Total C-1 to Asset Risk - All Other	62,725,689,661	60,109,306,053	55,635,242,506	50,712,357,646	43,886,249,070	40,179,612,473	38,560,998,099	37,913,777,872	40,304,592,786	39,651,331,374
Total C-2 Insurance Risk	37,296,886,883	29,241,196,797	29,733,905,846	28,066,687,917	25,145,118,818	24,084,786,786	23,232,228,881	22,969,556,371	22,768,484,186	21,588,871,896
Total C-3a Interest Rate Risk	16,066,024,280	16,792,371,276	15,883,584,969	15,698,286,624	16,323,277,158	15,229,088,812	14,530,687,343	13,910,184,618	13,284,390,473	12,219,650,198
Total C-3b Health Credit Risk	111,552,562	104,729,771	92,186,729	88,414,538	77,374,674	36,706,313	2,081,557	5,892,497	2,158,826	1,875,576
Total C-3c Market Risk	4,295,739,257	6,181,593,664	5,209,040,590	4,036,702,207	2,286,518,186	2,208,998,999	2,224,840,425	2,669,686,425	2,948,734,740	1,892,951,628
Total C-4a Business Risk	9,240,542,060	8,816,493,013	8,678,807,068	7,739,505,134	7,747,940,544	7,357,039,841	6,998,502,423	6,829,950,654	6,389,256,722	6,212,941,848
Total C-4b Business Risk Admin. Expenses	620,386,794	660,883,943	652,941,471	679,693,954	584,193,165	649,189,658	647,290,652	688,425,241	663,477,509	651,251,709
	217,822,798,311	195,231,515,089	183,794,400,372	167,845,633,595	147,260,332,994	139,513,815,113	130,898,990,192	127,777,285,288	127,297,352,088	121,266,840,700
Total C-0 Asset Risk - Affiliates	14.82%	14.17%	13.78%	14.21%	14.59%	14.31%	14.26%	15.11%	15.07%	15.45%
Total C-1 Asset Risk - Common Stock	25.33%	23.38%	23.17%	21.83%	20.33%	19.21%	19.89%	18.38%	17.08%	16.76%
Total C-1 to Asset Risk - All Other	28.80%	30.79%	30.27%	30.21%	29.66%	30.46%	29.46%	29.67%	31.66%	32.70%
Total C-2 Insurance Risk	17.12%	14.98%	16.18%	16.73%	17.07%	17.59%	17.75%	17.98%	17.89%	17.79%
Total C-3a Interest Rate Risk	7.38%	8.60%	8.64%	9.35%	11.08%	11.15%	11.10%	10.69%	10.44%	10.08%
Total C-3b Health Credit Risk	0.05%	0.05%	0.05%	0.05%	0.05%	0.05%	0.00%	0.00%	0.00%	0.00%
Total C-3c Market Risk	1.97%	3.1%	2.65%	2.4%	1.56%	1.05%	1.00%	1.00%	1.00%	0.90%
Total C-4a Business Risk	4.14%	4.53%	4.1%	4.7%	5.2%	5.46%	5.76%	5.95%	5.23%	5.14%
Total C-4b Business Risk Admin. Expenses	0.26%	0.35%	0.35%	0.40%	0.40%	0.47%	0.49%	0.54%	0.52%	0.54%
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
Total Assets	8,832,312,765,480	8,297,856,845,231	7,687,670,761,108	6,932,444,757,225	7,116,411,490,040	6,721,817,618,789	6,358,609,540,768	6,091,050,647,565	5,719,314,837,374	5,443,336,482,466
Total Invested Assets	5,159,452,752,770	4,907,504,959,175	4,582,985,123,381	4,209,696,503,206	4,155,136,070,920	3,976,564,473,802	3,712,771,901,125	3,565,197,915,336	3,480,198,086,664	3,433,849,122,434
Reserves (Liabilities Line 1 + 2)	3,468,243,938,821	3,944,241,006,583	3,285,116,770,876	3,075,849,385,426	3,012,277,071,952	2,923,377,679,259	2,710,410,331,232	2,596,164,893,854	2,524,930,784,452	2,535,983,714,620
Surplus (Liabilities Line 37)	699,394,009,357	543,144,066,456	521,516,943,871	475,856,634,572	465,945,183,027	452,449,163,948	426,214,329,287	410,481,152,085	398,762,929,952	382,243,010,584
Premiums Earned (Page 4 Line 1)	645,749,402,737	635,918,317,202	691,912,622,389	603,752,144,878	597,830,528,981	601,805,999,930	647,586,767,390	580,738,513,565	643,023,819,363	621,700,011,784
Claims Incurred (Page 4 Lines 10 Through 13)	345,503,167,520	319,751,913,923	308,204,032,091	290,145,583,149	280,435,511,539	270,358,842,590	249,920,819,580	265,507,549,061	256,267,367,543	253,100,778,009

Source: NAIC Financial Data Repository



Brian Bayerle
Senior Actuary

Colin Masterson
Policy Analyst

July 20, 2022

Mr. Philip Barlow
Chair, NAIC Life Risk-Based Capital (E) Working Group (Life RBC)

Re: Life Risk-Based Capital (E) Working Group Exposure on Affiliated Investments
Instructions and Structure

Dear Mr. Barlow:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit the following comments on the Life Risk-Based Capital (E) Working Group (Life RBC) Exposure on Affiliated Investments Instruction and Structure.

After reviewing the proposal, we have no fundamental objections. We do observe that the exposed guidance requires reporting insurers to include the carrying value and RBC requirements for all directly owned [RBC filing] subs, “even if the RBC filing affiliate/subsidiary is non-admitted.” If such entities are to be included in RBC, there would seem to be little reason to classify them as non-admitted. Therefore, we suggest consideration of a referral to SAPWG to create alignment between statutory accounting and RBC.

We are appreciative of the multiyear effort by the NAIC to bring better alignment between the various lines of business and we are looking forward to continued discussions in the future as we move towards implementation.

Thank you.

Sincerely,

A handwritten signature in black ink that reads 'B Bayerle'.

A handwritten signature in black ink that reads 'Colin Masterson'.

cc: Dave Fleming, NAIC
American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

aclil.com

Draft: 8/17/22

Property and Casualty Risk-Based Capital (E) Working Group
and the Catastrophe Risk (E) Subgroup
Portland, Oregon
August 9, 2022

The Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met in Portland, OR, Aug. 9, 2022, in joint session with the Catastrophe Risk (E) Subgroup of the Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force. The following Working Group members participated: Tom Botsko, Chair (OH); Wanchin Chou, Vice Chair (CT); Robert Ridenour (FL); Judy Mottar (IL); Anna Krylova (NM); Miriam Fisk (TX); and Amy Malm (WI). The following Subgroup members participated: Wanchin Chou, Chair (CT); Robert Ridenour, Vice Chair (FL); Laura Clements (CA); Judy Mottar (IL); Anna Krylova (NM); Tom Botsko (OH); Andrew Schallhorn (OK); and Miriam Fisk (TX). Also participating were: Travis Grassel (IA); and John Rehagen (MO).

1. Adopted the Subgroup's June 14 and April 19 Minutes

Mr. Chou said the Subgroup met June 14 and April 19. During these meetings, the Subgroup took the following action: 1) adopted its Spring National Meeting minutes; 2) exposed proposal 2022-04-CR, which is the U.S. and non-U.S. lists of wildfire events for a 30-day public comment period ending July 13; 3) adopted proposal 2021-17-CR MOD, which provides an exemption to those companies where the modeling requirements would impose a cost and compliance burden that represent an outsized cost relative to the incremental benefit of providing the modeled data during the for informational purposes period; 4) discussed the independent model review instructions in the Rcat; 5) evaluated other catastrophe risk for possible inclusion in the Rcat component; and 6) heard a presentation from the International Society of Catastrophe Managers (ISCM) regarding different programs to elevate the catastrophe risk profession that the ISCM offers.

Mr. Ridenour made a motion, seconded by Ms. Clements, to adopt the Subgroup's June 14 (Attachment Five-A) and April 19 (Attachment Five-B) minutes. The motion passed unanimously.

2. Adopted the Working Group's June 24, June 7, and April 26 Minutes

Mr. Botsko said the Working Group met June 24, June 7, and April 26. During these meetings, the Working Group took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted proposal 2021-17-CR MOD, which provides an exemption to those companies where the modeling requirements would impose a cost and compliance burden that represent an outsized cost relative to the incremental benefit of providing the modeled data during the for informational purposes period; 3) adopted proposal 2022-01-P, which removes the trend test for information-only wordings in the PR033 footnote; 4) adopted proposal 2022-02-P, which provides a routine annual update to the Line 1 premium and reserve industry underwriting factors in the property/casualty (P/C) risk-based capital (RBC) formula; 5) exposed affiliated investments instructions and structures for a 60-day public comment period ending June 25; 6) forwarded the referral regarding the reinsurer designation equivalent rating factors to the Blanks (E) Working Group; and 7) heard updates on current P/C RBC projects from the American Academy of Actuaries (Academy).

Ms. Mottar made a motion, seconded by Mr. Ridenour, to adopt the Working Group's June 24 (Attachment Five-C), June 7 (Attachment Five-D), and April 26 (Attachment Five-E) minutes. The motion passed unanimously.

3. Adopted Proposal 2022-04-CR (2013–2021 Wildfire Event Lists)

Mr. Chou said the U.S. and non-U.S. lists of wildfire events were exposed for a 30-day public comment period ending July 13. He stated that the Subgroup received one comment letter from the Swiss Re America Holding Corporation (Swiss Re) during the exposure period. He said Swiss Re believed that the insurance direct incurred losses for the Southern California Woolsey Wildfires in 2018 should be \$2.9 billion based on the reports from the California Department of Insurance (DOI). Without objection from the Subgroup, Mr. Chou said the incurred losses amount for this event is updated to \$2.9 billion.

Mr. Schallhorn made a motion, seconded by Ms. Clements, to adopt proposal 2022-04-CR (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Seven*). The motion passed unanimously.

4. Adopted the 2022 P/C RBC Newsletter

Mr. Botsko said the 2022 P/C RBC newsletter reflects the adopted proposals and editorial changes for year-end 2022. He said the newsletter appears different from past years; the purpose of the adoption is to consider the content of the newsletter, as the format will later be revised. He said when the formatting of the newsletter is complete, it will be posted to the Working Group's web page.

Mr. Ridenour made a motion, seconded by Ms. Krylova, to adopt the 2022 P/C RBC newsletter (Attachment Five-F). The motion passed unanimously.

5. Referred the Affiliated Investment Instructions and the RBC Structure to the Capital Adequacy (E) Task Force

Mr. Botsko said during its April 26 meeting, the Working Group exposed the affiliated investment instructions and blanks changes for a 60-day public comment period. There were no comments received. He also commented that the Life Risk-Based Capital (E) Working Group received one comment letter from American Council of Life Insurers (ACLI) regarding the issue of non-admission. He said this issue will be discussed at the Capital Adequacy (E) Task Force meeting.

Mr. Chou made a motion, seconded by Mr. Ridenour, to refer the P/C affiliated instructions and blanks to the Capital Adequacy (E) Task Force for discussion. The motion passed unanimously.

6. Exposed Proposal 2022-07-P (PR035 Line of Business)

Mr. Botsko said proposal 2022-07-P provides consistency of the lines of business categories used in the Annual Statement, Underwriting and Investment Exhibit, Part 1B and RBC Report, PR035.

The Working Group and the Subgroup agreed to expose proposal 2022-07-P for a 30-day public comment period ending Sept. 8.

7. Exposed Proposal 2022-08-CR (Independent Model Review Instructions)

Mr. Chou said during the April 19 meeting, the Subgroup determined that a further clarification to the instructions is necessary, as better instructions will not only lighten the burdens but also provide a more consistent modeling review process among the states. He also stated that the instructions were revised with assistance from the Independent Model Review Ad Hoc Group, which was established by the Subgroup earlier. He also indicated that the proposed revised instructions are to capture the spirit of the own model permission review and clarify the requirements expected from the company who submits its own model for permission.

The Working Group and the Subgroup agreed to expose proposal 2022-08-CR for a 30-day public comment period ending Sept. 8.

8. Heard Updates on Current P/C RBC Projects from the Academy

David Traugott (Academy) said this presentation (Attachment Five-G) provides a brief update on the Academy report, which expects to be released in September. He also stated that this update describes the methodology and presents sample results that will be finalized in the report. He said this report focuses on: 1) the Investment Income Adjustment (IIA) factor; 2) updated adjustment of indicated premium risk factors for catastrophes; 3) alternative safety margins for consideration by the Working Group; and 4) the combined impact of these changes, including updated risk factors provided in the Academy April 2021 report.

9. Discussed 2021 RBC Statistics

Mr. Botsko said the 2021 P/C RBC statistics were run on July 1. He said there were 2,511 P/C RBC filings loaded onto the NAIC database, up from 2,477 in 2020. He stated that there were 35 companies that triggered an action level in 2021: 1) eight were in a company action level; 2) three were in a regulatory action level; 3) six were in an authorized control level (ACL); and 4) 18 were in a mandatory control level. Also, there were 17 companies that triggered the trend test, and the ACL and total adjusted capital (TAC) amounts increased from 2020 to 2021. Mr. Botsko indicated that there were a few categories that were highlighted in boldface, representing new categories in the statistical report (Attachment Five-H) to create consistency across life, P/C, and health statistical reports.

10. Discussed the Working Group and Subgroup's Working Agenda

Mr. Chou summarized the changes of the Subgroup's 2022 working agenda, which included the following substantial changes: 1) changing the expected completion date to the item of "evaluate other catastrophe risks for possible inclusion in the charge" to 2023 or later; and 2) eliminating the following items: a) "implement wildfire peril in the Rcat component"; and b) "evaluate the possibility of modifying exemption criteria for different cat perils in the PR027 interrogatories." Mr. Botsko said the Working Group: 1) added a new item of "changing the RBC PR035 Line of Business categories"; and 2) eliminated the "remove the trend test footnote in PR033" item from the 2022 working agenda.

11. Evaluated Other Catastrophe Risks for Possible Inclusion in the Rcat Component

Mr. Chou said as was recalled in the last Subgroup meeting, the flood peril may not be warranted due to the materiality aspect based on the industry inputs. The Subgroup agreed that it is worth it to review the possibility of including the severe convective storms as the next peril for the Rcat component. Mr. Chou also anticipated that the Subgroup would follow a development approach like the wildfire peril. Lastly, he said he expects that the new peril will be implemented in the Rcat component for informational purposes only in 2024 RBC reporting. He also encouraged all the subject matter experts (SMEs) and volunteers to join the new ad hoc group so this project will be completed in time.

12. Heard a Presentation from the NOAA Regarding Forecasting and Resilience: Severe Thunderstorms 25'

Harold E. Brooks (National Oceanic and Atmospheric Administration—NOAA) provided a brief overview on Forecasting and Resilience: Severe Thunderstorms (Attachment Five-I). He said the severe thunderstorms in the U.S. include: 1) tornados; 2) hails greater than one inch; and 3) winds greater than 50 mph. He also stated that it could happen anywhere but particularly between the Rockies and Appalachians. In addition, he presented some useful information on tornado resilience and hail protection.

13. Discussed Other Matters

Mr. Chou said the Subgroup will schedule several closed calls between the Subgroup members and the individual modeling vendors in the future to discuss the wildfire impact analysis that the vendors performed last year. He stated that a summary of the calls will be provided in the Subgroup meeting afterwards.

Having no further business, the Property and Casualty Risk-Based Capital (E) Working Group and the Catastrophe Risk (E) Subgroup adjourned.

SharePoint/NAIC Support Staff Hub/ Member Meetings/E Cmte/CADTF/2022-2-Summer/PCRBCWG

Draft: 6/21/22

Catastrophe Risk (E) Subgroup
Virtual Meeting
June 14, 2022

The Catastrophe Risk (E) Subgroup of the Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met June 14, 2022. The following Subgroup members participated: Wanchin Chou, Co-Chair, Qing He, and Amy Waldhauer (CT); Halina Smosna, Co-Chair (NY); Giovanni Muzzarelli and Laura Clements (CA); Jane Nelson (FL); Judy Mottar (IL); Gordon Hay (NE); Anna Krylova (NM); Tom Botsko (OH); Andrew Schallhorn (OK); Will Davis (SC); and Miriam Fisk, Monica Avila, and Rebecca Armon (TX). Also participating were: Mitchell Bronson (CO); Travis Grassel (IA); Brock Bubar and Sandy Darby (ME); Julie Lederer (MO); Jesse Kolodin (NJ); Liz Ammerman (RI); Johanna Nickelson (SD); and Isabelle Turpin Keiser (VT).

1. Heard a Presentation from the ISCM on its Programs

Shari S. Zola (International Society of Catastrophe Managers—ISCM) provided a presentation regarding different programs to elevate the catastrophe risk profession that the ISCM offers (Attachment Five-A1). She said if anyone wants to become a member, they can visit the ISCM website. Jeff Czajkowski (Center for Insurance Policy and Research—CIPR) said the NAIC Catastrophe Model Center of Excellence (COE) is working closely with the ISCM to develop technical education and training materials on the mechanics of commercial models and the treatment of perils and risk exposures that are tailored to the needs of state insurance regulators. Mr. Chou encouraged all interested parties to review the presentation materials and contact the ISCM if interested.

2. Discussed the Independent Model Review Instructions in the Rcat Component

Mr. Chou said the Independent Model Review Ad Hoc Group held two meetings to discuss the instructions since the last Subgroup meeting. The Ad Hoc Group decided that this issue should be brought back to the Subgroup for further discussion. Mr. Chou also encouraged all interested parties to submit their comments to NAIC staff. The Subgroup will continue discussing this issue at the Summer National Meeting.

3. Evaluated Other Catastrophe Risks for Possible Inclusion in the Rcat Component

Ms. Smosna said the Subgroup may want to consider expanding the focus to include man-made catastrophes in the future, as it is currently only focusing on natural catastrophes. She also stated that based on industry input, the flood peril may not be warranted due to the materiality aspect. She recommended that the Subgroup consider reviewing the possibility of including the convective storms as the next peril for the Rcat component. She said inviting different vendors and modelers to share their views at future meetings is worth consideration.

4. Exposed Proposal 2022-04-CR (2013-2021 Wildfire Event Lists)

Mr. Chou said the wildfire peril has been adopted for informational purposes only in the 2022 risk-based capital (RBC) formula. He stated that NAIC staff developed the U.S. and non-U.S. lists of wildfire events based on the variable sources of information. He asked all interested parties to review the lists and provide comments during the exposure period.

The Subgroup agreed to expose proposal 2022-04-CR for a 30-day public comment period ending July 13.

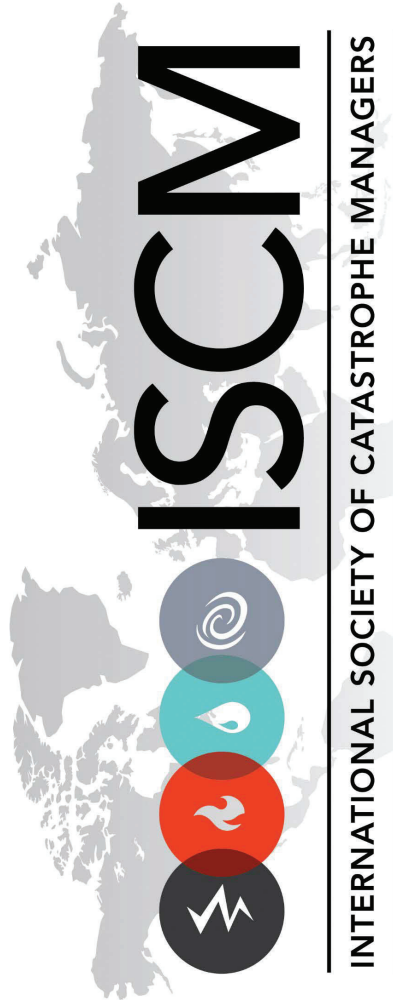
5. Discussed Other Matters

Mr. Chou said several closed calls between the Subgroup and the individual modeling vendors will be scheduled in the future to discuss the wildfire impact analysis that the vendors performed last year. He stated that a summary for the calls will be provided in the Subgroup meeting afterwards.

Lastly, Mr. Chou said the Subgroup will continue discussing all outstanding issues at the Summer National Meeting.

Having no further business, the Catastrophe Risk (E) Subgroup adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/Summer 2022 National Meeting/Task Forces/CapAdequacy/Cat Risk SG/06-07propertycatsg.docx



ELEVATING OUR PROFESSION

Credentialization

Networking

Continuing Education

Information Sharing (through ISCM website)

Credentialization – Proven Experience

Certified Specialist in Catastrophe Risk (CSCR)

Best Practice Experts

Gain and demonstrate knowledge of practical applications in catastrophe modeling

- Property / Cat Insurance Market Standards
- Understanding Best Use of Catastrophe Models
- Proven knowledge & support of Property Cat (re)insurance value chain

How:

- 4 courses & exams + Ethics Course (waivers for exam 1)
- Experienced Industry Professional Pathway available by nomination with 5+ years experience

Certified Catastrophe Risk Management Professional (CCRMP)

Recognized Subject Matter Experts

Demonstrate advanced applications and methodologies of catastrophe risk management or development/delivery of models

- Customized / Advanced Applications
- Tailoring Own View of CAT Risk
- Capable of Critical Assessments
- Trusted Advisor to Senior Stakeholders

How:

- Experienced Industry Professional Pathway available by nomination
- **New Technical pathway available**
- No exams yet – targeting 2024 for Risk Managers

Joint endeavor between ISCM & ICAS

Over 180 credentialed professionals

Proof & recognition of expertise

Industry defined competencies

For more information visit www.catmanagers.org/accreditation and www.catriskcredentialis.org



Continuing Education

2021 Education Events

- Thunderstorm and Midwest Derecho panel
- Liability Exposure Management
- Asia-Pacific Seismic Risk Viewed Through a Global Lens
- LMA/ISCM Webinar: Climate Risk
- Open Source Catastrophe Modeling panel
- Catastrophe Model Validation – An External Perspective
- Artificial Intelligence and Machine Learning: How will it shape cat risk management?
- Learning from Catastrophe Surprises
- Post Event Challenges: Supply Chain, Demand Surge, and Loss Amplification
- Climate Data Analytics in the Catastrophe World

2021 Coffee Talks

- March – Careers panel
- April – Catastrophe Modeling Exhibits in PowerBI
- May – IBHS Housing as Infrastructure
- June – Hunting for a Climate Change Signal in Atlantic Hurricane Noise
- July – Website & Discussion Forum
- August – From Black Box to Glass Box: Evaluation Catastrophe Models to Support a View of Risk
- October – Impact of USGS 2018 Hazard Update on Loss Assessments
- December – An Introduction to Cyber



Continuing Education

2022 Education Events

- January APAC webinar
 - Landfalling Tropical Cyclones in East Asia: Variability and Future Projections
- March IUA/Oasis webinar with ISCM guest speakers
 - Cat Women – Highlighting female role models in the Catastrophe Community
- April – Lessons Learnt from European Flood “Bernd”
- June – Scenario Modeling
- August – Effective Science Communication by Prof Scott St. George

Hoping to return to in-person education events in the fall of 2022

Looking for Leaders for the ISCM Coffee Talk Series:
 15 minutes of content - 15 minutes of Q&A
 If you would like to lead a coffee talk topic, please send a brief description of your proposed topic to Emily Sambuco (emily.sambuco@libertymutual.com).
 All non-marketing topics welcome!

2022 Coffee Talks

- January – 2021 Cat Review
- March – Open-Source Interoperability
- May – Past, Present, and Future of Terrorism Modeling
- July – Hurricane Season Outlook with Phil Klotzbach

- Potential future topics for Education Events or Coffee Talks
- Ukraine/Social Unrest
 - Strikes, Riots, and Civil Commotion Analytics
 - Pandemic
 - Credential Process
 - Actionable approaches for cat managers on sustainability
 - Incorporating climate risk into statistics
 - Clash between nat cat and liability
 - Systemic liability
 - Cascading risk: volcanos and tsunamis
 - Cat modeling skillsets utilized outside the insurance industry
 - Spectrum of Professionalism
 - Estimating and Trending Losses



ISCM Website

Resource Library

- Reference documents by peril, company,
- White papers
- Industry reports

Accreditation

- Description of various credentials and pathways
- Value proposition
- Templates for candidates and managers



ISCM Archive

- Member only access to past presentation slide decks / webinar recordings

Topic Forum

- Post- webinar / conference discussions
- Structured discussions by topic
- Open chat

Other

- Event postings & registration
- Membership subscriptions



Visit the website: www.catmanagers.org

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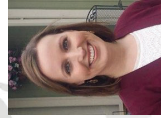
Monica Mason
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Nick DiMuzio, Past President
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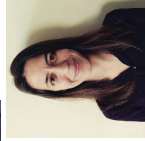
Alan Godfrey
Sompo International



Megan Hart
Aon



Emma Watkins
Lloyds



Kelly Hereid
Liberty Mutual



Jeff Tennis
Cincinnati Re



Peter Zimmerfi
Axis Capital

Interested in helping to lead this community by joining the ISCM Board?
The Nomination Committee is currently reviewing "credentialed" candidates to fill open board seats. Let us know if you would like to be considered.

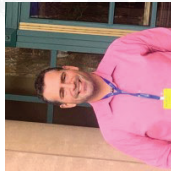


Volunteers

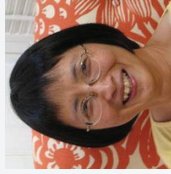
A special thank you to all our volunteers, we wouldn't be able to do this without your hard work and dedication.



Mark Tilbury
W/R/B Underwriting



Steve Greenberg
Insight Catastrophe Managers



Imelda Powers
Guy Carpenter

Megan Royek Carne – Allstate
Tim Edwards – TigerRisk
Christopher Fox – Aon
Shubharoop Ghosh – ImageCat
Jason Kowieski – Guy Carpenter
Howard Kunst – CoreLogic

Michelle McClane – Munich Re Specialty Insurance
Kerry Mindiak – BMS
Brittany Recker – Munich Re Specialty Insurance
Emily Sambuco – Liberty Mutual
Andy Siffert – BMS
Craig Tillman – WeatherPredict
LeeAnn Tomko – Intact Insurance
Veronica Van Dyke – American Family

Past Board Members
Liz Cleary – Guy Carpenter
Randy Law – Chubb Tempest Re
Minchong Mao – Aon
Brian Owens
Chris Zumbrum – Guy Carpenter



Get Involved

ISCM Committees

Technology

Manages the website containing events calendar; resource library; ISCM archive; forum; membership database.

Marketing

Messaging current happenings and web content. Promoting ISCM and the Cat Credentials.

Education

Plan virtual and in person sessions for all levels in the field.

Credentialization

Development and maintenance of exams, review of Experienced Industry Practitioner applications.



email us: info@catmanagers.org

ISCM Membership

To become member visit our Website at

WWW.CATMANAGERS.ORG

Already a member, please update your
profile!



Draft: 4/26/22

Catastrophe Risk (E) Subgroup
Virtual Meeting
April 19, 2022

The Catastrophe Risk (E) Subgroup of the Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met April 19, 2022. The following Subgroup members participated: Wanchin Chou, Co-Chair, and Qing He (CT); Halina Smosna, Co-Chair, Gloria Huberman, and HauMichael Ying (NY); Giovanni Muzzarelli (CA); Jane Nelson (FL); Judy Mottar (IL); Anna Krylova (NM); Tom Botsko (OH); Andrew Schallhorn (OK); Will Davis (SC); and Miriam Fisk, Andy Liao, Monica Avila, and Rebecca Armon (TX). Also participating were: Mitchell Bronson (CO); Adrienne Lupo (DE); Brock Bubar and Sandy Darby (ME); Julie Lederer (MO); Steve Matthews (MT); Jack Broccoli (RI); Isabelle Turpin Keiser (VT); and Steve Drutz (WA).

1. Adopted its Spring National Meeting Minutes

Mr. Chou said the Subgroup met March 22. During this meeting, the Subgroup took the following action: 1) adopted its Feb. 22, 2022; Jan. 25, 2022, and Dec. 16, 2021, minutes; 2) discussed its working agenda; 3) discussed the insured loss threshold for wildfire peril; 4) exposed proposal 2021-17-CR MOD (Wildfire Information-Only Reporting Exemption); 5) discussed the independent model review instruction in the Rcat component; 6) discussed the issue of double counting in the R5 component; and 7) discussed minor edits in the Rcat instructions.

Mr. Botsko made a motion, seconded by Ms. Krylova, to adopt the Subgroup's March 22 minutes (*see NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force, Attachment Five-A*). The motion passed unanimously.

2. Adopted Proposal 2021-17-CR MOD (Wildfire Information-Only Reporting Exemption)

Scott Williamson (Reinsurance Association of America—RAA) said a modification of proposal 2021-17-CR was created for those smaller companies, where the modeling requirements would impose a cost and compliance burden that represents an outsized cost relative to the incremental benefit of providing the modeled data for information-only purposes at the virtual spring meeting. He also stated that this modification would no longer be valid when the wildfire peril is added to the Rcat component unless the companies qualify under the exemptions listed in PR027 Interrogatory items C(7), C(8), or C(9). Mr. Chou said this modification was exposed for a 14-day public comment period ending April 5. One comment letter from the Missouri Department of Commerce and Insurance (DCI) regarding minor updates in the instructions that were received during this period. He indicated that the Subgroup agreed with the comments and made the editorial changes in the proposal based on the DCI suggestions.

Mr. Botsko made a motion, seconded by Mr. Davis, to adopt proposal 2021-17-CR MOD (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Two-A*). The motion passed unanimously.

3. Discussed the Independent Model Review Instructions in Rcat

Mr. Chou said during the previous discussion, the Subgroup identified three different kinds of catastrophe models that deviate from the vendor models: 1) internal catastrophe models; 2) vendor catastrophe models with adjustments or different weight; and 3) derivative models based on the vendor models. During the Spring National Meeting, Ms. Lederer asked the Subgroup to determine whether further clarification to the instructions is necessary, as better instructions will not only lighten the burdens but also provide a more consistent modeling review process among the states. Mr. Chou stated that the main purpose of this meeting is to discuss items 1

through 7 of the Rcat instructions. Ralph Blanchard (Travelers) and Mr. Williamson believe items 2 through 6 require further clarification. Mr. Chou believes creating a short-term ad hoc group to focus on modifying the instructions will be an effective approach to address this item. He encouraged all interested parties to contact NAIC staff if they wish to join the group.

4. Evaluated Other Catastrophe Risks for Possible Inclusion in the Rcat Component

Ms. Smosna said the wildfire peril has been adopted for informational purposes only in the 2022 risk-based capital (RBC) formula. She said it is time to evaluate the next possible peril to be included in the Rcat component. She asked all interested parties to brainstorm this issue and provide feedback at the next meeting. Mr. Chou commented that given the exposure of the industry, the flood peril may not be warranted due to the materiality issue. He suggested that inviting different vendors or modelers to share their views will be a good starting point. Ms. Smosna said since the Climate and Resiliency (EX) Task Force recommended that the Subgroup consider expanding to consider including convective storms in the Rcat component, inviting speakers to present at the future meetings is worth consideration.

5. Discussed Other Matters

Mr. Chou said NAIC staff will develop the 10-year wildfire event lists based on the same threshold of 25 million or greater estimated insurer losses for wildfire peril as the earthquake and hurricane perils. The list will be shared with the Subgroup for discussion at the upcoming virtual meeting.

Lastly, Mr. Chou said the Subgroup will continue discussing all outstanding issues in May.

Having no further business, the Catastrophe Risk (E) Subgroup adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/Summer 2022 National Meeting/Task Forces/CapAdequacy/Cat Risk SG/04-19propertycatsg.docx

Draft: 6/27/22

Property and Casualty Risk-Based Capital (E) Working Group
E-Vote
June 24, 2022

The Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force conducted an e-vote that concluded June 24, 2022. The following Working Group members participated: Tom Botsko, Chair (OH); Wanchin Chou, Vice Chair (CT); Robert Ridenour (FL); Judy Mottar (IL); Anna Krylova (NM); Halina Smosna (NY); and Will Davis (SC).

1. Adopted Proposal 2022-02-P (Underwriting Risk Line 1 Factors)

The Working Group conducted an e-vote to consider adoption of proposal 2022-02-P (Underwriting Risk Line 1 Factors).

Mr. Chou made a motion, seconded by Mr. Davis, to adopt proposal 2022-02-P (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment One-A*). The motion passed unanimously.

Having no further business, the Property and Casualty Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/Summer 2022 National Meeting/Task Forces/CapAdequacy/PCRBC WG/PCRBC
Email Vote 062422.docx

Draft: 6/16/22

Property and Casualty Risk-Based Capital (E) Working Group
Virtual Meeting
June 7, 2022

The Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met June 7, 2022. The following Working Group members participated: Tom Botsko, Chair (OH); Wanchin Chou, Vice Chair, (CT); Charles Hale (AL); Robert Ridenour (FL); Judy Mottar (IL); Anna Krylova (NM); Halina Smosna and HauMichael Ying (NY); Will Davis (SC); Miriam Fisk, Monica Avila, and Rebecca Armon (TX); and Adrian Jaramillo and Michael Erdman (WI). Also participating were: Chris Erwin (AR); Rolf Kaumann and Mitchell Bronson (CO); Adrienne Lupo (DE); Kevin Clark (IA); Julie Lederer (MO); Gordon Hay, Lindsay Crawford, and Justin Schrader (NE); and Steve Drutz (WA).

1. Re-Exposed Proposal 2022-02-P (Underwriting Risk Line 1 Factors)

Mr. Botsko said that proposal 2022-02-P, which provides a routine annual update to the Line 1 premium and reserve industry underwriting factors in the property/casualty (P/C) risk-based capital (RBC) formula, was exposed for a 30-day public comment period ending May 26. He stated that the Working Group received a comment letter from the State of Connecticut during the exposure period.

Mr. Chou indicated that some lines of business with smaller populations, such as the international and financial/mortgage lines, are volatile. He asked the Working Group to consider: 1) the credibility of the lines in the future; 2) how the international line statistics should be reported; 3) a referral to Blanks (E) Working Group for the possibility of modifying the definition of international line based on the Working Group's further discussion as the American Academy of Actuaries (Academy) is reviewing the possibility of changing the methodology to address this concern in the future; and 4) using the factor of 1.14 for PR017 Line 1 Reserves and 1.072 for PR018 Line 1 Premiums for 2022 reporting.

Ralph Blanchard (Travelers Companies) commented that the lower the industry factor, the higher the charge for the individual companies. He also stated that the formula included a 50% weight for the company experience adjustment and a diversification credit across all the lines. He recommended the state insurance regulators look at the RBC charge in the total for all the lines—not just focus on one single line.

Mr. Botsko urged the Working Group to consider one of the two options: 1) adopt the proposal with the original calculated factors; 2) adopt the recommended factors from the State of Connecticut; and 3) re-expose both sets of factors for another 10-day public comment period ending June 16.

After further discussion, the Working Group agreed to re-expose proposal 2022-02-P for a 10-day public comment period ending June 16.

Having no further business, the Property and Casualty Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/Summer 2022 National Meeting/Task Forces/CapAdequacy/PCRBC WG/06-07propertyrbcwg.docx

Draft: 5/3/22

Property and Casualty Risk-Based Capital (E) Working Group
Virtual Meeting
April 26, 2022

The Property and Casualty Risk-Based Capital (E) Working Group of the Capital Adequacy (E) Task Force met April 26, 2022. The following Working Group members participated: Tom Botsko, Chair (OH); Wanchin Chou, Vice Chair, Qing He, and Amy Waldhauer (CT); Charles Hale (AL); Nicole Crockett (FL); Judy Mottar (IL); Anna Krylova (NM); Halina Smosna and HauMichael Ying (NY); Will Davis (SC); Miriam Fisk, Monica Avila, and Rebecca Armon (TX); and Adrian Jaramillo (WI). Also participating were: Adrienne Lupo (DE); Julie Lederer (MO); Gordon Hay (NE); Jack Broccoli (RI); Trey Hancock (TN); and Steve Drutz (WA).

1. Adopted its Spring National Meeting Minutes

Mr. Botsko said the Working Group met March 23.

Mr. Chou made a motion, seconded by Mr. Davis, to adopt the Working Group's March 23 minutes (*see NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force, Attachment Five*). The motion passed unanimously.

2. Adopted Proposal 2021-17-CR MOD (Wildfire Information-Only Reporting Exemption)

Scott Williamson (Reinsurance Association of America—RAA) said a modification of proposal 2021-17-CR was created for those smaller companies, where the modeling requirements would impose a cost and compliance burden that represents an outsized cost relative to the incremental benefit of providing the modeled data for information-only purposes at the Spring National Meeting. He also stated that this modification would no longer be valid when the wildfire peril is added to the Rcat component unless the companies qualify under the exemptions listed in PR027 Interrogatory items C(7), C(8), or C(9). In addition, he indicated that the revision was made during the exposure period based on one comment letter from the Missouri Department of Commerce and Insurance (DCI) regarding some non-substantive editorial updates in the instructions.

Mr. Chou made a motion, seconded by Ms. Mottar, to adopt proposal 2021-17-CR MOD (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Two-A*). The motion passed unanimously.

3. Adopted Proposal 2022-01-P (Remove Trend Test Footnote)

Mr. Botsko said the intent of this proposal is to remove the trend test for information-only wordings in the PR033 footnote, as it has been adopted by every state. He also stated that the Working Group did not receive any comments during the exposure period.

Mr. Chou made a motion, seconded by Ms. Krylova, to adopt proposal 2022-01-P (*see NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Two-B*). The motion passed unanimously.

4. Exposed Proposal 2022-02-P (Underwriting Risk Line 1 Factors)

Mr. Botsko said proposal 2022-02-P provided a routine annual update to the Line 1 premium and reserve industry underwriting factors in the property/casualty (P/C) risk-based capital (RBC) formula. He indicated that for some lines of business with smaller populations, such as the international line of business, both reserve and premium factors are driven by three companies and could be fluctuated or biased by different factors. He also stated that

the American Academy of Actuaries (Academy) is in the process of reviewing the Line 1 calculation methodology; recommendations will be provided soon. Mr. Chou recommended that the Working Group consider removing those three companies, as this fluctuation may affect statistical reporting. Mr. Williamson agreed with Mr. Chou's comments. David Traugott (Academy) said the new soon to be proposed Line 1 methodology may not completely fix this issue. However, the Academy is reviewing the possibility of using just the Line 1 factor on those volatile lines to address this concern.

The Working Group agreed to expose proposal 2022-02-P for a 30-day public comment period ending May 26.

5. Exposed Affiliated Investments Instructions and Structures

Mr. Botsko said the Affiliated Investments Ad Hoc Group was established six years ago to review whether: 1) the RBC instructions and formulas should be consistent across all lines; 2) the formulas and the instructions can be modified so state insurance regulators can more easily identify and explain discrepancies; and 3) the affiliate risk charges can be modified to align with the Group Capital Calculation (GCC) more closely. He urged the interested parties to review the drafted instructions and structures and provide comments at the upcoming meetings.

The Working Group agreed to expose the affiliated investment instructions and structures for a 60-day public comment period ending June 25.

6. Forwarded the Referral Regarding the Reinsurer Designation Equivalent Rating Factors to the Blanks (E) Working Group

Mr. Botsko said proposal 2021-14-P, which intends to eliminate the double counting effect of the operational risk charge on the component, was adopted during the Spring National Meeting. He said the adopted factors should also be made to the Annual Statement, Schedule F, Part 3, as the R3 charge is derived from the Schedule F, Part 3, Column 35 and 36, Line 9999999. He said the Working Group drafted a referral on requesting the change in the Annual Statement to the Blanks (E) Working Group earlier. Mr. Williamson commented that the "500 index" in "Standard & Poor's 500 index" under the description column should be removed.

After reviewing the referral, the Working Group agreed to forward proposal 2021-14-P with the minor editorial changes to the Blanks (E) Working Group to request the Annual Statement revision.

7. Heard Updates on Current P/C RBC Projects from the Academy

Mr. Traugott said the status of the current P/C RBC projects that the Academy P/C RBC Committee is undertaking has essentially not changed since the updates in the last Spring National Meeting. He stated that the first project provided a report on underwriting risk Lines 4, 7, and 8 factors, which are anticipated to be shared with the Working Group for discussion this quarter. He also said the Academy expects to provide another report for the underwriting risk Line 14 for reserves and premiums factors to the Working Group by the end of 2022. He said the last report, which is the development of a revised approach of the Line 1 factor, will be presented to the Working Group by the end of 2022 or early 2023. Lastly, Mr. Botsko said the Working Group will continue discussing all the outstanding issues in June.

Having no further business, the Property and Casualty Risk-Based Capital (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/Summer 2022 National Meeting/Task Forces/CapAdequacy/PCRBC WG/04-26propertyrbcwg.docx



Newsletter Items for Adoption for 2022 for Property and Casualty RBC:

Date: July 2022

Volume: 26.1

Page 1: Intro Section:

What RBC Pages Should Be Submitted?

For year-end 2022 property/casualty (P/C) risk-based capital (RBC), hard copies of pages PR001–PR035, as well as pages PR038 and PR039, should be submitted to any state that requests a hard copy. Beginning with the year-end 2011 RBC, a hard copy was not required to be submitted to the NAIC, but a portable document format (PDF) file representing the hard copy filing is part of the electronic filing with the NAIC.

Page 1+: Items Adopted for 2022:

Credit Risk

R3 Factor Adjustment

The Capital Adequacy (E) Task Force adopted proposal 2021-14-P to remove the embedded 2% operational risk contained in the R3 credit risk component during its March 28, 2022, meeting.

Trend Test

Remove Trend Test for Information-Only Footnote

The Capital Adequacy (E) Task Force adopted proposal 2022-01-P to remove the trend test for the information-only footnote in PR033 during its April 28, 2022, meeting.

Washington, DC 444 North Capitol Street NW, Suite 700, Washington, DC 20001-1509 p | 202 471 3990 f | 816 460 7493

Kansas City 1100 Walnut Street NW, Suite 1500, Kansas City, MO 64106-2197 p | 816 842 3600 f | 816 783 8175

New York One New York Plaza, Suite 4210, New York, NY 20004 p | 212 398 9000 f | 212 382 4207

www.naic.org

Catastrophe RiskAdding KCC Model

As a result of the adoption of proposal 2021-15-CR by the Capital Adequacy (E) Task Force during its March 28, 2022, meeting, the Karen Clark & Company (KCC) catastrophe model was included as one of the approved third-party commercial vendor catastrophe models.

Adding Wildfire Peril for Informational Purposes Only

As a result of the adoption of proposal 2021-17-CR by the Capital Adequacy (E) Task Force during its March 28, 2022, meeting, the wildfire peril was added as one of the catastrophe risk perils for informational purposes only in the Rcat component.

After further discussion, the Working Group agreed that the modeling requirements would impose a cost and compliance burden to the smaller companies during the for informational purposes only reporting years. Therefore, the Capital Adequacy (E) Task Force adopted the modification of this proposal to allow an exemption option during the informational purposes period only.

New Industry Average Risk Factors - Annual Update

During its June 30, 2022, meeting, the Capital Adequacy (E) Task Force adopted the annual update of industry average development factors:

PR017 Underwriting Risk - Reserves			
Line (1), Industry Development Factors			
Col.	Line of Business	2022 Factor	2021 Factor
(1)	H/F	1.001	0.998
(2)	PPA	1.022	1.025
(3)	CA	1.082	1.083
(4)	WC	0.906	0.912
(5)	CMP	1.037	0.999
(6)	MPL Occurrence	0.887	0.874
(7)	MPL Claims Made	0.983	0.973
(8)	SL	0.990	0.976
(9)	OL	0.995	0.964
(10)	Fidelity/Surety	0.842	0.915
(11)	Special Property	0.993	0.978
(12)	Auto Physical Damage	1.011	0.989
(13)	Other (Credit A&H)	0.955	0.965
(14)	Financial/Mortgage Guaranty	0.694	0.723
(15)	INTL	3.041	1.104
(16)	REIN. P&F Lines	0.917	0.893
(17)	REIN. Liability	1.008	0.989
(18)	PL	0.867	0.879
(19)	Warranty	0.998	1.007

PR018 Underwriting Risk - Net Written Premiums			
Line (1), Industry Average Loss and Expense Ratios			
Col.	Line of Business	2022 Factor	2021 Factor
(1)*	H/F	0.665	0.681
(2)	PPA	0.793	0.795
(3)	CA	0.761	0.761
(4)	WC	0.664	0.682
(5)*	CMP	0.661	0.673
(6)	MPL Occurrence	0.750	0.731
(7)	MPL Claims Made	0.829	0.821
(8)*	SL	0.585	0.593
(9)	OL	0.637	0.635
(10)	Fidelity/Surety	0.366	0.394
(11)*	Special Property	0.547	0.559
(12)	Auto Physical Damage	0.718	0.726
(13)	Other (Credit A&H)	0.698	0.693
(14)	Financial/Mortgage Guaranty	0.203	0.252
(15)*	INTL	1.166	0.769
(16)*	REIN. P&F Lines	0.566	0.558
(17)*	REIN. Liability	0.725	0.713
(18)	PL	0.601	0.617
(19)	Warranty	0.665	0.681

* Cat Lines

Page 2+: Editorial Changes:**Underwriting and Investment Exhibit - Premiums Written (PR035)**

As a result of the adoption of the Annual Statement proposal 2020-33BWG, the annual statement lines were modified to provide consistency in the granularity of reporting of annual statement lines in different pages. The amounts reported in PR035 Column (1) should agree with the amounts reported for the identical line in Column 1 of the Annual Statement Underwriting and Investment Exhibit, Part 1B, with the following exceptions:

PR035, Line 2 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 2.1 through 2.5.

PR035, Line 5 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 5.1 and 5.2.

PR035, Line 13 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 13.1 and 13.2.

PR035, Line 15 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 15.1 through 15.9.

PR035, Line 19.1 and 19.2 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 19.1 and 19.2.

PR035, Line 19.3 and 19.4 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 19.3 and 19.4.

PR035, Line 21.1 and 21.2 should equal Annual Statement Underwriting and Investment Exhibit, Part 1B, Column 6, the sum of Lines 21.1 and 21.2.

Last Page: RBC Forecasting & Warning:

RBC Forecasting and Instructions

The P/C RBC forecasting spreadsheet calculates RBC using the same formula presented in the 2022 NAIC *Property & Casualty Risk-Based Capital Report Including Overview & Instructions for Companies*. The entire RBC publication, including the forecasting spreadsheet, is available to download from [NAIC Account Manager](#) through the NAIC Publications Department. The User Guide is no longer included in the RBC publications.

WARNING: The RBC forecasting spreadsheet CANNOT be used to meet the year-end RBC electronic filing requirement. RBC filing software from an annual financial statement software vendor should be used to create the electronic filing. If the forecasting worksheet is sent instead of an electronic filing, it will not be accepted, and the RBC will not have been filed.

Last Page: 2022 National Association of Insurance Commissioners:

2022 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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Address corrections requested. Please mail the old address label with the correction to: NAIC Publications Department, 1100 Walnut St., Suite 1500, Kansas City, MO 64106-2197. Phone: 816-783-8300. Email: prodserv@naic.org.

Presentation to NAIC Property and Casualty Risk-Based Capital (E) Working Group

David Traugott, MAAA, FCAS
Chairperson, Academy Property and Casualty Risk-Based Capital
Committee

Methodology and Sample Results – For Discussion Only



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National Association of Insurance Commissioners (NAIC) – August 9

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Preliminaries

- This update describes the methodology and presents sample results that will be finalized in our soon to be released report to the working group.
- Our April 2021 report shows indicated reserve and premium risk factors based on updated experience.
- This report focuses on
 - Method to credit premium and reserve risk risk-based capital (RBC) amounts for anticipated investment income prior to payout (IIA).
 - Updated adjustment of proposed premium risk factors (line 4) for catastrophes.
 - Alternative safety margins for Working Group consideration.
 - Combined impacts of these changes, including updated risk factors provided in the April 2021 report.



Definitions

- Premium Risk charge means the discounted 87.5th percentile loss ratio plus 2017 expenses minus 100%.
- Reserve Risk Charge means the discounted 87.5th percentile reserve risk ratio plus 100%, minus 100% after discount.
 - The (undiscounted) reserve risk ratio is generally the movement in incurred losses from year 1 to year 10 divided by the loss reserve at year 1.
 - For example, if the 87.5th percentile reserve risk ratio is 25% and discount factor is 0.88, the reserve risk charge is $10\% = 1.25 \times 0.88 - 1$.
- “Committee” = American Academy of Actuaries Property and Casualty Risk-Based Capital Committee.
- “Working Group” = National Association of Insurance Commissioners (NAIC) Property and Casualty (P&C) Risk-Based Capital (E) Working Group



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Payment Patterns

- Payment patterns were last calibrated in 2010 using data through 2008. These patterns used a methodology similar to the 1986 Federal Income Tax Law (FITL) method, allowing for up to 15 years of runoff.
- The Committee proposes longer payment patterns that allow for up to 40 years of runoff. Our analysis showed that 15 years of runoff was not long enough for some lines.



Payment Patterns – Premium Risk - Sample Results -

**Table 4.2A – Premium
Effect on Risk charges in Payment Pattern Methods and Changes in Interest Rates**

Row	(1) Payment Pattern Method	(2) Interest Rate	(3) Risk Chg	(4)		(5)
				% Risk	% Change vs 2021	% Prem
1	2021 IAA	5.0%	14.3%	base	base	base
2	2010 Calibration/2017 data	5.0%	14.4%	0.7%	0.1%	0.1%
3	40--Year Pattern	5.0%	13.9%	-2.2%	-0.3%	-0.3%
				% Change vs 5% 40 Yr		
4	40--Year Pattern	3.0%	17.1%	22.8%	3.2%	3.2%
5	40--Year Pattern	1.5%	19.8%	42.0%	5.9%	5.9%

All-Line Risk charges using Line 4 Factors from 2021 RBC Formula

- Risk Chg (Risk Charge) includes premium risk factor, investment income adjustment (IIA), and industry average expense ratio.



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Payment Patterns – Reserve Risk - Sample Results -

**Table 4.2B – Reserves
Effect on Risk charges of Changes in Payment Pattern Methods and Changes in Interest Rates**

Row	(1) Payment Pattern Method	Interest Rate	(2) IIA	(3) Risk Chg	(4)		(5)
					% Risk	% Change vs 2021	% Prem
1	2021 IAA	5.0%	0.879	19.5%	base	base	
2	2010 Calibration/2017 data	5.0%	0.881	19.8%	1.4%	0.3%	
3	40--Year Pattern	5.0%	0.847	15.9%	-18.7%	-3.7%	
					% Change vs 5% 40 Yr		
4	40--Year Pattern	3.0%	0.899	23.3%	47.0%	7.5%	
5	40--Year Pattern	1.5%	0.946	29.9%	88.5%	14.1%	

Risk charges using Line 4 Factors from 2021 RBC Formula

- Risk Chg (Risk Charge), includes reserve risk factor and IIA.



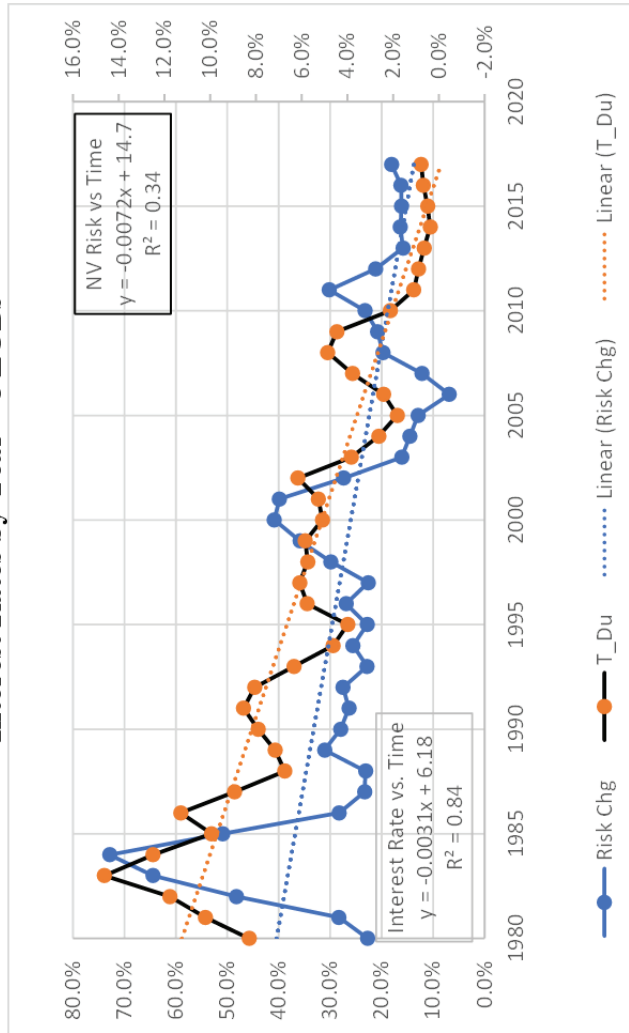
Connection Between Interest Rates and Premium/Reserve Risk

- Premium and reserve experience has historically varied with interest rates.
- Target underwriting results may vary with the investment income available. During periods with higher interest rates, loss ratios are higher and risk factors are generally higher.
- Adverse reserve development may vary with investment income, as reduced underwriting profitability may correlate with lower reserves and/or intentional or unintentional reserve discount, especially in the 1980s and early 1990s.
- High (low) interest rates may imply actual or anticipated high (low) inflation rates that might affect loss ratios or reserve development.
- In this analysis, the Committee uses treasury rates. US Treasury securities and other low-risk assets are a core P&C insurance industry asset. The lowest risk securities can be viewed as relating to the reserves and to the portion of capital equal to the RBC value.
- The Committee proposes a combined calibration that discounts each historical year according to appropriate interest rate at the time and then determines a risk factor from the discounted historical data.



Premium Risk versus Interest Rates

Table 5.2A – Premium Risk Average Indicated Nominal Risk Charge vs. US Treasury Interest Rates by Year – 8 LOBs

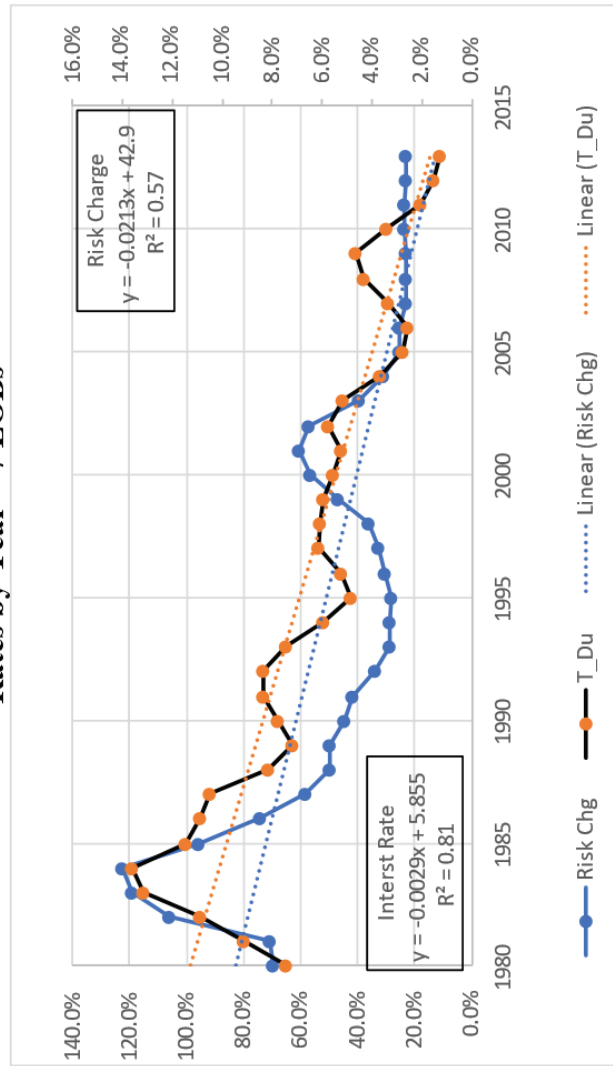


LOBs = lines of business
 T_Du = US Treasury interest rate with duration matching the average duration for the 8 LOBs.
 Source: US Federal Reserve.
 NV=Nominal Value



Reserve Risk versus Interest Rates

Table 5.2B – Reserve Average Indicated Nominal Risk Charge vs. US Treasury Interest Rates by Year – 7 LOBs

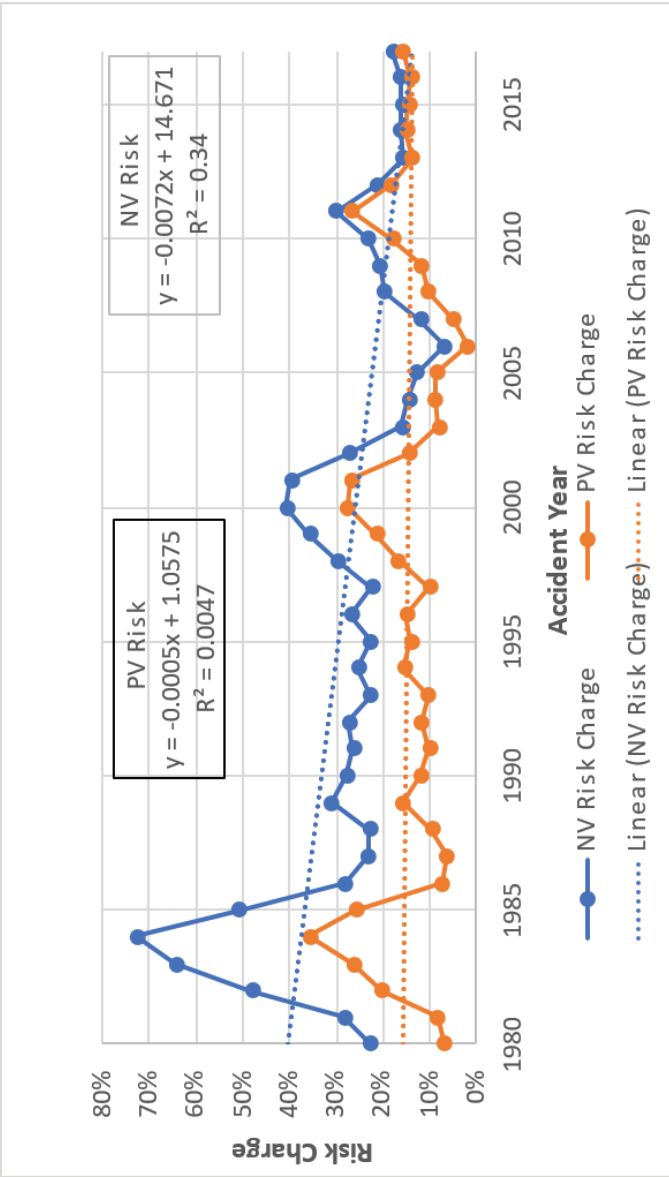


LOBs = lines of business
T_Du = US Treasury interest rate with duration matching the average duration for the 7 LOBs.
Source: US Federal Reserve.



Present Value Premium Risk Charges by Year

Table 5.4A – Premium – Present Value and Nominal Risk Charges – 8 LOBs

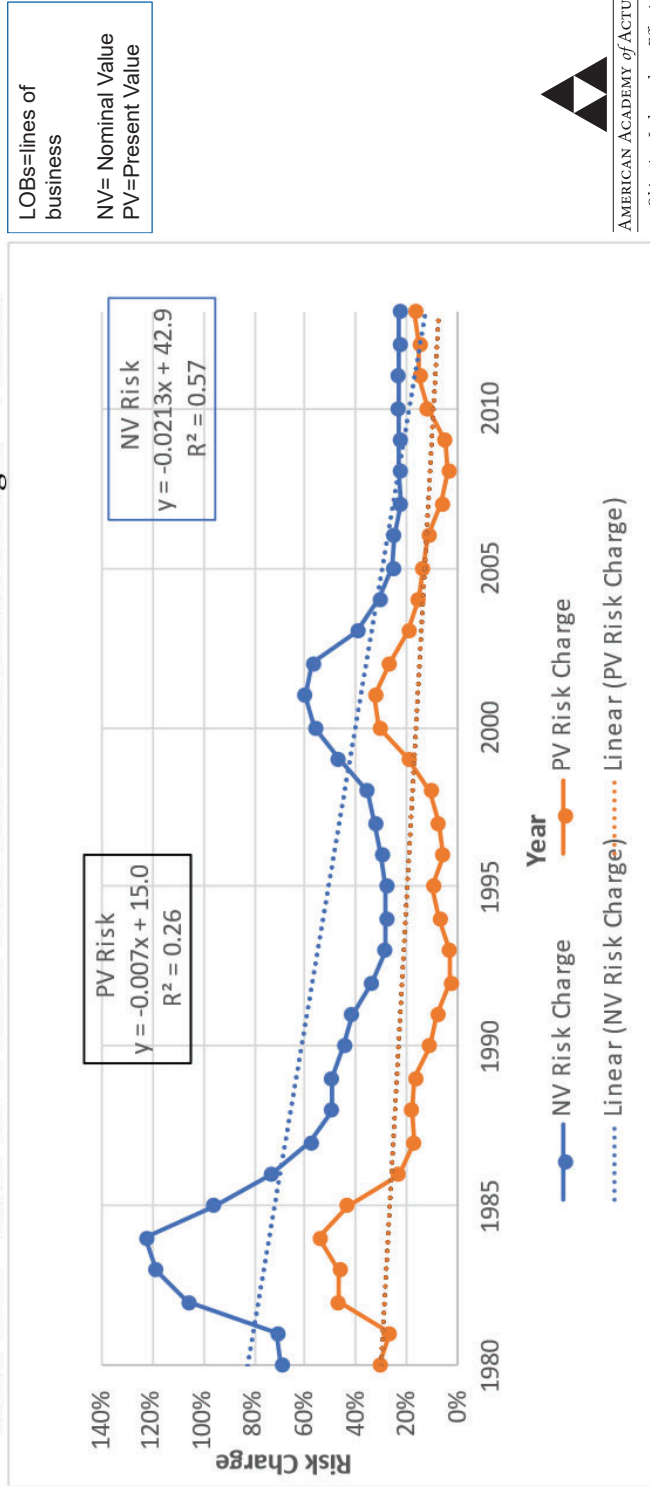


LOBs = lines of business
 NV= Nominal Value
 PV=Present Value



Present Value Reserve Risk Charges by Year

Table 5.4B – Reserves - Present Value and Nominal Risk Charges – 7 LOBs



Impact of Payment Patterns, PV Methodology on Discounted Risk Charges – All Lines Average -SAMPLE RESULTS -

Table 6.3
All-Lines Average Effect

Row	(1) Risk Parameter	(2)		(3)		(4)		(5) PV	(6)		(7) Total Change in Risk Charge (4) vs. (1) % Prem/ Reserve
		Base 2021 IIA	RBC 2021	Experience Change April 2021	April 2021	Payment Pattern April 2021	40 yr/5%		% Risk	% Risk	
	IIA>>>	RBC 2021	RBC 2021	RBC 2021	RBC 2021	40 yr/5%		PV			
Premium Risk											
(1)	Risk Charge	14.3%		13.8%		13.5%		14.1%		-1.4%	-0.2%
	Incremental Change: %										
(2)	Risk			-3.4%		-2.2%		4.4%			
Reserve											
(3)	Risk Charge	19.5%		21.1%		17.4%		17.7%		-9.6%	-1.9%
	Incremental Change: %										
(4)	Risk			7.7%		-17.5%		1.7%			



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Adjusting Premium Risk Charges for Catastrophes

- Experience used to calibrate premium risk charges includes catastrophe losses.
- The Committee proposes an adjustment factor to remove impact of catastrophes for catastrophe-affected lines of business.
- Through partners at NAIC, the Committee used blinded RBC filing data to calculate premium risk factor including and excluding catastrophes.
- The proposed adjustment factor is based on the difference between the risk factor including catastrophes and the risk factor excluding catastrophes.



Indicated Catastrophe (Cat) Adjustments

**Table 7.1 – Premium Risk
Current and Indicated Catastrophe Adjustments
2004-2017 Data from RBC Filings**

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
LOB	Cat Adjustment	Cat Data 87.5th Total LR	Cat Data 87.5th Non Cat LR	Indicated Cat Adjustment (3)-(4)	Selected Cat Adjustment (6)	87.5th Total Risk Charge (3)+exp-100%	Cat Adj As % of Risk Charge (6)/(7)
A	2.8%	91.5%	88.9%	2.6%	2.6%	20.4%	12.7%
E	1.8%	83.3%	81.7%	1.6%	1.6%	18.9%	8.6%
G	1.6%	96.0%	91.7%	4.3%	4.3%	29.8%	14.4%
I	1.6%	82.8%	79.4%	3.4%	3.4%	12.9%	26.3%
J	0.0%	84.8%	84.2%	0.6%	0.6%	8.0%	7.5%
M	0.0%	192.1%	159.3%	32.8%	15.0%	136.0%	11.0%
N	6.9%	122.1%	96.2%	25.9%	25.9%	48.8%	53.0%
O	0.1%	100.5%	100.2%	0.4%	0.4%	27.2%	1.3%
R	0.0%	100.8%	100.6%	0.3%	0.0%	33.8%	0.0%



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Safety Margin Options

- The indicated risk factors are based on an 87.5th percent safety margin implicit in the original RBC Formula risk charge calibration.
- The paper will provide indicated risk charges at higher safety levels and will outline arguments supporting a decision to either retain or increase the safety level.
- The decision on target safety levels is a policy matter for the NAIC Working Group to determine.



Safety Margin Options – Risk Charges

- Sample Results -

Indicated Risk Charges After IIA at Various Safety Levels - All LOB Average

Safety Margin	Premium		Reserve	
	Risk Charge	Ratio to 87.5%	Risk Charge	Ratio to 87.5%
87.7%	14.0%	1.0	16.9%	1.0
90.0%	18.0%	1.3	24.2%	1.4
95.0%	30.3%	2.2	51.2%	3.0

Before catastrophe risk adjustment



Overall Impacts of Proposed Factors - Sample Results -

Table 9.2
Change in RBC Values³³

(1)	(2)	(3)	(4)	(5)	(6)
Row	Risk Element	PV 87.5 vs 2021 RBC	PV 87.5 vs 2021 RBC	PV 90th vs 2021 RBC	PV 95th vs 2021 RBC
		No Min/Cur Cat Adj	With 5% Min and Indicated Cat Adj		
1	Change in R4 - Reserve Risk RBC	-8.3%	-3.9%	26.8%	157.0%
2	Change in R5 - Premium Risk RBC	-0.7%	-3.7%	19.5%	104.0%
3	Change in ACL	-2.0%	-1.2%	9.0%	54.7%

The columns labeled PV87.5, PV90, and PV95 refer to 87.5%, 90%, and 95% safety levels, respectively.



Impact of Increases in Safety Level by Type of Company - Sample Results -

**Effect of Indicated Risk Charges
By Safety Level, Minimum Risk Charge, Catastrophe Adjustment, and Transition Cap
Year 1 Impact**

(1) Row	(2) Safety Level	(3) Risk Charge Basis		(5) Reserves R4	(6) Premium R5	(7) Total ACL
		Minimum	Cat Adj			
1	2021 Formula UW Value (\$billions)		Cap	123.4	74.4	170.6
2	87.5%	None	None	-8.3%	-0.7%	-2.0%
3	87.5%	5% indicated	None	-3.9%	-3.7%	-1.2%
4	87.5%	5% indicated	35%	-4.4%	-2.7%	-1.5%
5	87.5%	5% indicated	20%	-3.7%	-0.1%	-1.1%
6	87.5%	5% indicated	10%	-3.9%	-3.7%	-1.2%
7	90.0%	5% indicated	None	26.8%	19.5%	9.0%
8	90.0%	5% indicated	35%	10.4%	16.6%	4.6%
9	90.0%	5% indicated	20%	8.7%	11.3%	3.6%
10	90.0%	5% indicated	10%	4.3%	5.3%	1.8%
11	95.0%	5% indicated	None	157.0%	104.0%	54.7%
12	95.0%	5% indicated	35%	32.7%	32.1%	12.1%
13	95.0%	5% indicated	20%	18.6%	18.4%	6.8%
14	95.0%	5% indicated	10%	9.2%	9.1%	3.3%

ACL = Authorized Control Level



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Summary: Aggregate PIC RBC Results By Year

AGGREGATED PIC RBC DATA
2021 Data as of July 1, 2022

	YR2021	YR2020	YR2019	YR2018	YR2017	YR2016 (including Catastrophe Risk)	YR2015 (including Catastrophe Risk)	YR2014 (including Catastrophe Risk)	YR2013 (including Catastrophe Risk)	YR2012	YR2011
# OF COMPANIES FILED RBC	2,511	2,477	2,400	2,465	2,620	2,486	2,520	2,520	2,567	2,598	2,582
# OF COMPANIES FILED AST	2,626	2,599	2,607	2,628	2,644	2,644	2,673	2,673	2,707	2,747	2,768
% OF RBC COMPANIES	95%	95%	96%	95%	94%	94%	94%	94%	95%	95%	93%
GRAND TOTAL OF COS AT AN ACTION LEVEL	17	24	17	17	16	21	22	16	15	27	30
TREND TEST											
COMPANY ACTION LEVEL	8	15	9	14	28	21	13	22	12	18	13
REGULATORY ACTION LEVEL	3	4	2	11	6	12	10	11	8	10	14
REGULATORY CONTROL LEVEL	1	1	1	1	1	1	1	1	1	1	1
MANDATORY CONTROL LEVEL	18	20	16	22	19	17	24	28	15	14	24
TOTAL	35	42	38	48	58	56	55	74	66	68	61
% OF ACTION LEVEL COMPANIES	1.39%	1.70%	1.53%	1.96%	2.33%	2.41%	2.21%	2.94%	2.26%	2.03%	2.36%
RRGS AT AN ACTION LEVEL	8	8	9	4	4	11	8	8	7	8	6
TREND TEST											
RRGS AT COMPANY ACTION LEVEL	4	5	4	6	12	8	5	5	5	6	5
RRGS AT REGULATORY ACTION LEVEL	2	2	3	6	1	5	9	3	3	5	10
RRGS AT AUTHORIZED CONTROL LEVEL	1	1	1	1	1	1	1	1	1	1	4
MANDATORY CONTROL LEVEL	13	14	11	17	12	14	14	21	18	11	19
TOTAL RRGS AT AN ACTION LEVEL	23	27	24	30	35	34	35	38	34	30	24
TOTAL RRGS	225	225	229	224	224	229	235	235	241	248	231
% OF RRGS AT AN ACTION LEVEL	5.33%	6.67%	4.89%	8.04%	10.27%	8.73%	8.94%	8.09%	9.13%	8.08%	10.39%
TOTAL COS AT A LEVEL EXCLUDING RRGS	9	16	8	13	12	19	13	9	8	19	24
TREND TEST											
COMPANY ACTION LEVEL	4	10	5	16	14	14	8	17	7	9	8
REGULATORY ACTION LEVEL	1	2	1	5	2	2	3	2	5	5	4
REGULATORY CONTROL LEVEL	1	1	1	1	1	1	1	1	1	1	1
MANDATORY CONTROL LEVEL	13	14	11	17	12	14	14	21	18	11	19
TOTAL COS AT A LEVEL EXCLUDING RRGS	23	27	24	30	35	34	35	38	34	30	24
TOTAL COS EXCLUDING RRGS	2286	2252	2265	2241	2282	2263	2259	2285	2326	2350	2351
% OF ACTION LEVEL COMPANIES	1.01%	1.20%	1.19%	1.34%	1.55%	1.77%	1.89%	2.41%	1.86%	1.29%	1.57%
# OF COMPANIES WITH RBC RATIO > 1000%	384	542	540	525	485	444	444	449	443	428	404
# OF COMPANIES WITH RBC RATIO > 1000 & < 10,000%	1,037	832	836	838	860	873	903	884	888	916	921
# OF COMPANIES WITH RBC RATIO > 500 & < 1,000%	389	620	627	682	682	684	707	731	722	721	740
# OF COMPANIES WITH RBC RATIO > 250 & < 500%	46	418	420	409	387	360	342	362	382	400	415
# OF COMPANIES WITH RBC RATIO > 200 & < 250%	35	23	20	35	44	37	49	55	55	51	41
# OF COMPANIES WITH RBC RATIO OF ZERO	0	0	0	0	0	0	0	0	0	0	0
TOTAL	2,511	2,477	2,400	2,465	2,620	2,486	2,520	2,520	2,567	2,598	2,582
TOTAL ADJUSTED CAPITAL	1,205,396,441,237	1,147,814,269,354	1,073,407,995,862	931,224,541,048	935,833,540,871	876,880,715,466	876,880,715,466	833,471,054,728	802,075,697,234	802,846,214,956	802,846,214,956
AUTHORIZED CONTROL LEVEL RBC	209,812,119,487	186,945,420,616	177,329,036,103	151,112,834,048	149,908,691,631	138,674,310,776	129,689,495,515	133,913,240,984	123,675,484,440	123,392,024,942	123,006,078,091
AGGREGATE RBC %	617%	617%	617%	617%	617%	617%	617%	617%	617%	617%	617%
MEDIAN RBC %	167%	167%	167%	167%	167%	167%	167%	167%	167%	167%	167%
Total RO (RO - asset risk-subsidary insurance companies)	84,025,196,294	76,046,027,452	68,455,409,790	58,785,679,885	59,734,599,232	N/A	51,108,811,684	49,900,363,442	N/A	48,287,386,588	45,123,897,875
Total R1A (R1A - asset risk-subsidary insurance companies)	19,509,016,149	9,673,548,747	8,753,606,104	8,046,031,430	8,676,187,292	N/A	8,765,665,437	8,742,706,647	N/A	8,073,537,182	7,834,183,386
Total R1B (R1B - asset risk-subsidary insurance companies)	192,822,816,520	161,552,768,085	144,697,016,270	119,096,344,162	123,885,731,113	8,245,138,135	105,029,779,766	96,330,366,395	95,291,418,680	80,393,813,540	74,306,481,513
Total R2 (R2 - asset risk-subsidary insurance companies)	11,388,107,162	10,387,430,318	9,357,397,728	9,301,202,090	9,848,015,193	104,355,568,433	98,169,709,544	99,896,414,334	95,291,418,680	80,393,813,540	74,306,481,513
Total R3A (R3A - asset risk-credit)	145,482,805,595	130,302,138,858	123,165,959,122	114,979,499,018	115,359,602,270	15,209,538,133	15,209,538,133	13,816,109,339	13,175,047,151	13,175,047,151	15,506,957,456
Total R4 (R4 - underwriting risk - reserves)	81,111,942,335	78,292,292,222	74,147,867,287	75,532,97,468	86,147,867,287	108,883,784,131	108,883,784,131	107,554,282,338	107,554,282,338	103,210,360,738	102,052,746,060
Total R5 (R5 - underwriting risk - reserves)	N/A	N/A	N/A	N/A	N/A	104,355,568,433	104,355,568,433	103,210,360,738	N/A	N/A	N/A
Total R6 (R6 - Catastrophe Risk - net within premium)	N/A	N/A	N/A	N/A	N/A	69,299,100,248	69,299,100,248	67,682,82,627	N/A	N/A	N/A
Total R7 (R7 - Catastrophe Risk for Hurricane)	54,458,108,356	55,405,288,158	53,740,016,069	52,510,292,783	50,710,820,614	59,104,956,618	59,104,956,618	52,565,472,147	N/A	N/A	N/A
Total Rest											

Source: NAIC Financial Database

att_SUM021 1

Forecasting and Resilience: Severe Thunderstorms



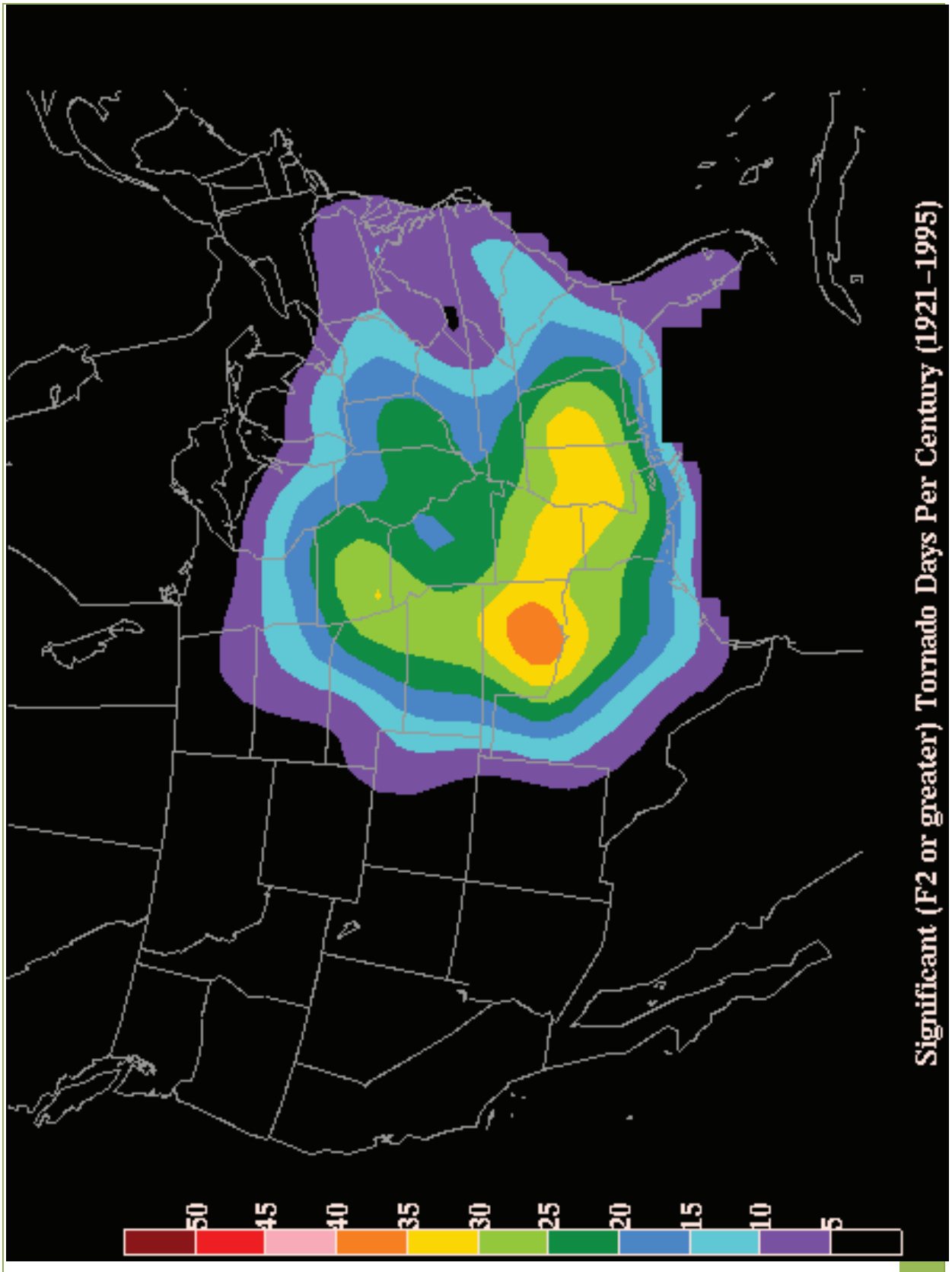
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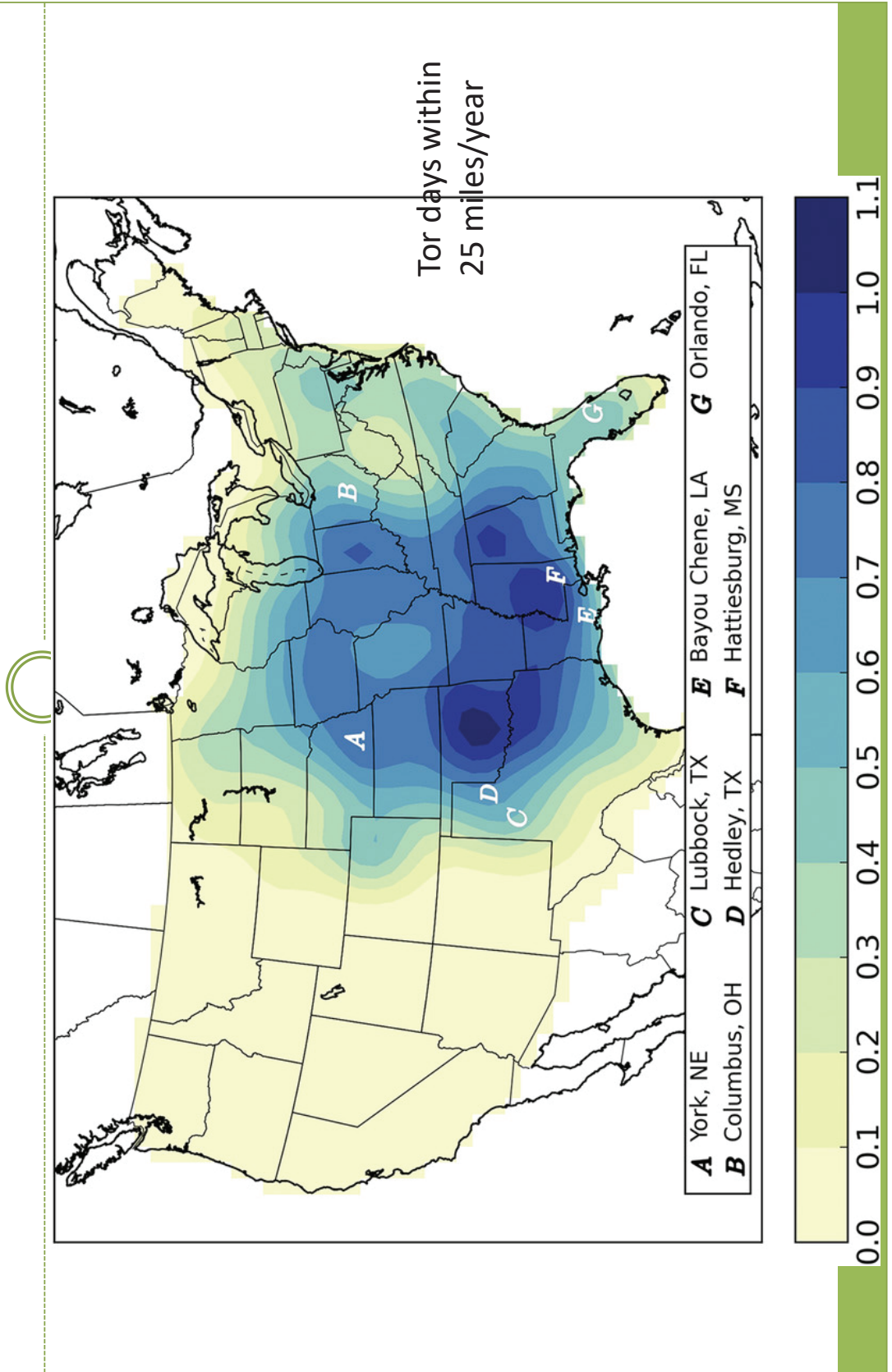
Background (Climatology)



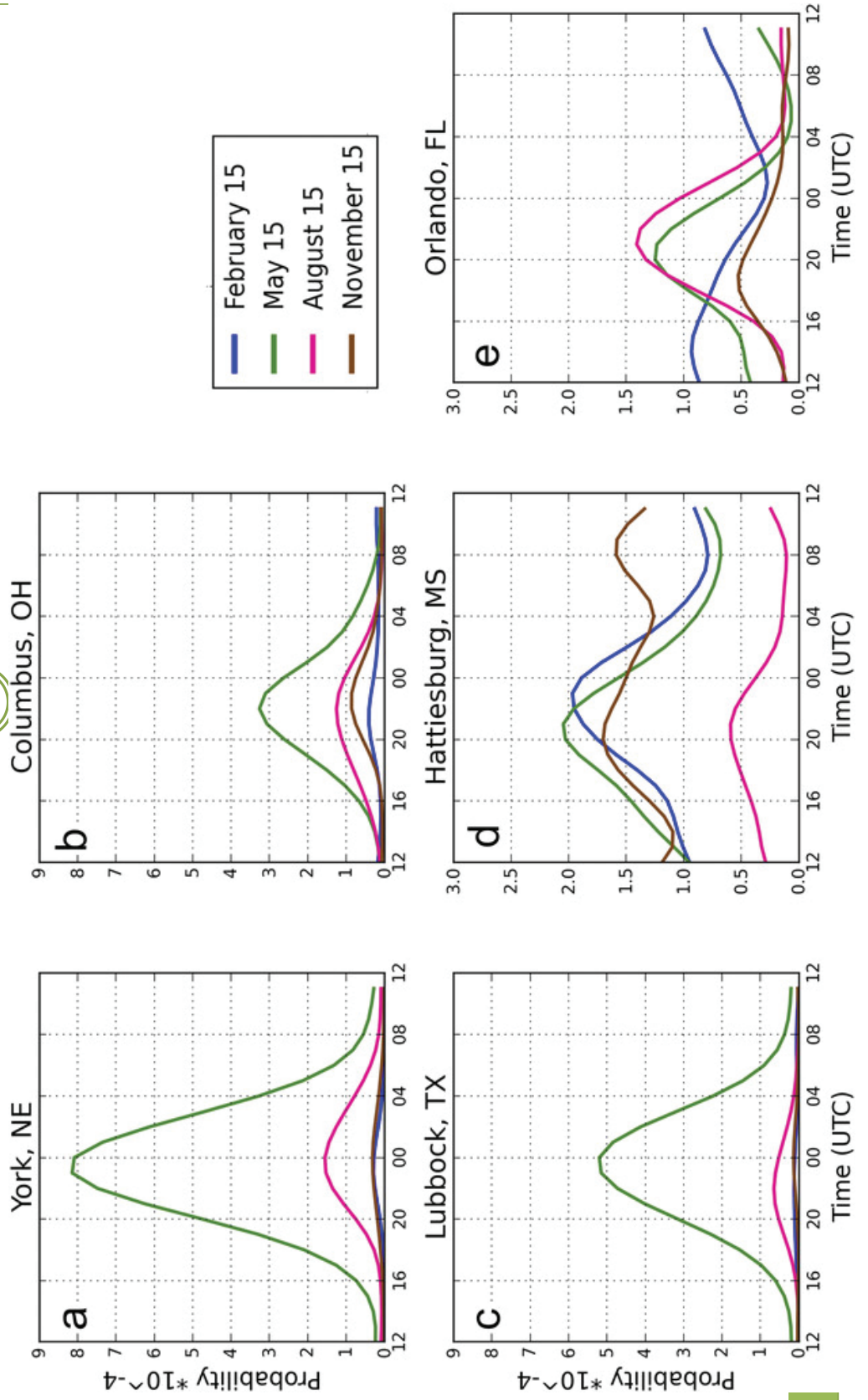
- Severe thunderstorms in US-any tornado, hail \geq 1 inch, winds \geq 58 mph (50 kts) (SPC)
- Severe thunderstorms anywhere, but particularly between the Rockies and Appalachians



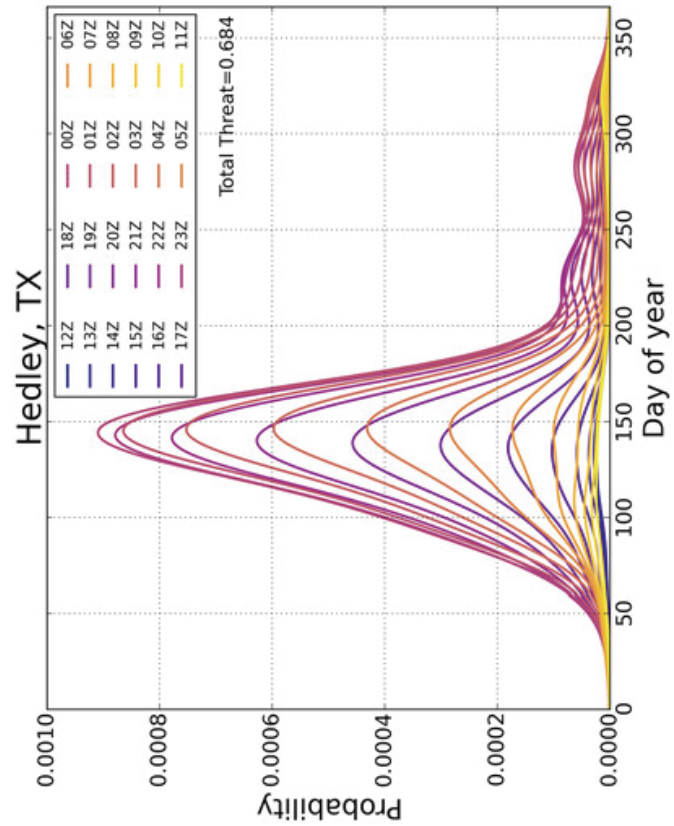
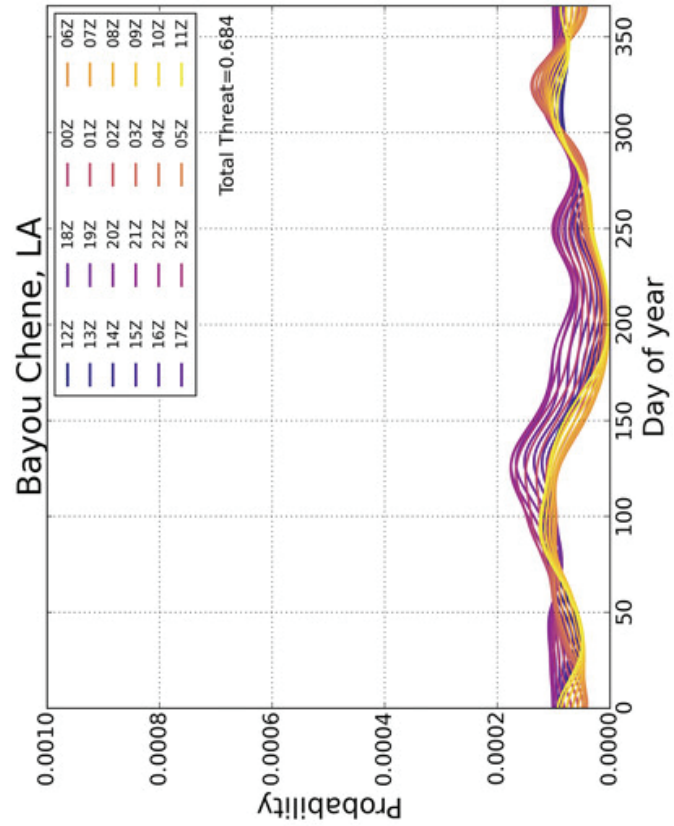
Tornado Occurrence (Krocak and Brooks 2020)



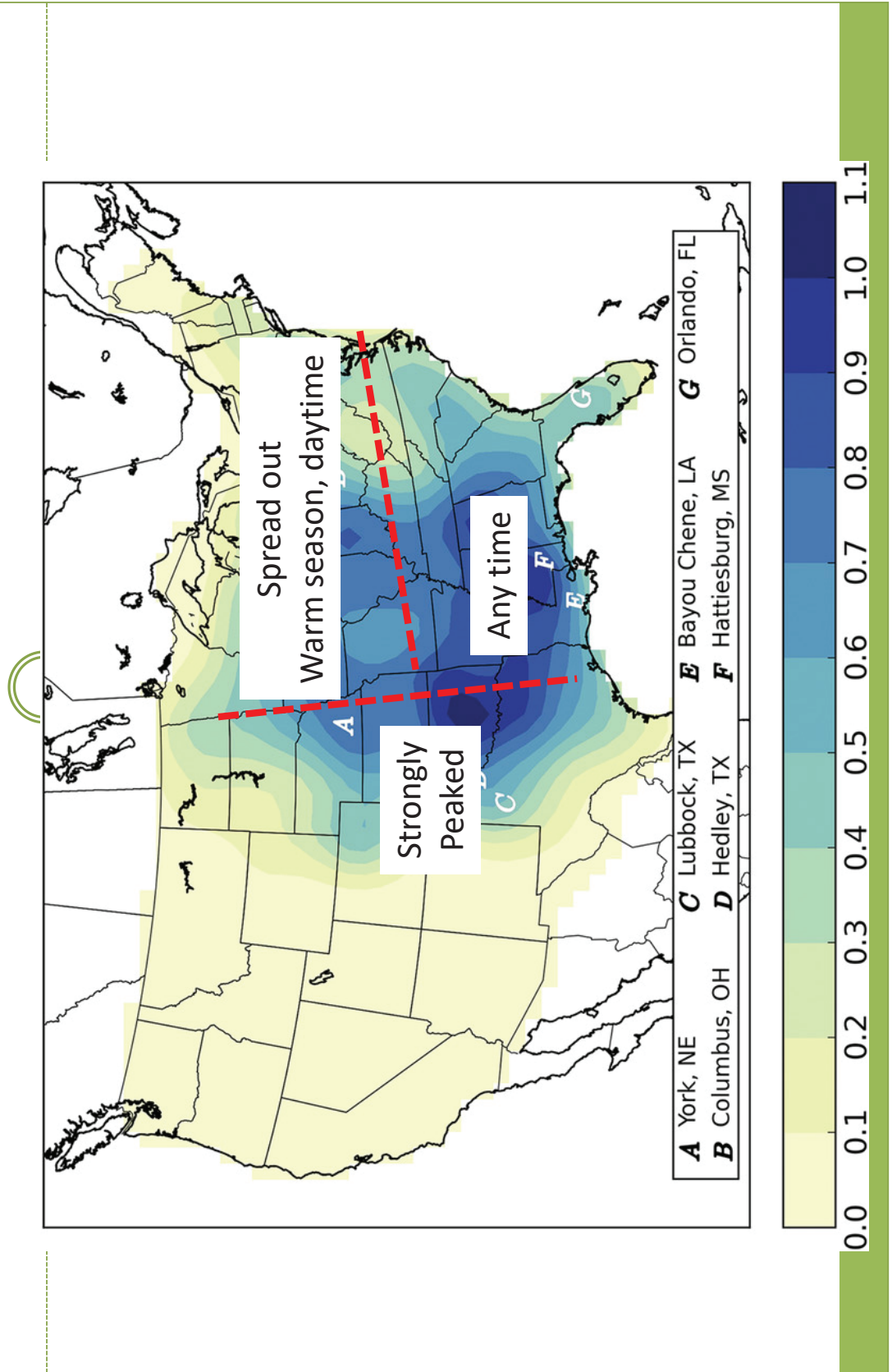
Diurnal Cycle At Different Times of Year



Annual Cycle by Every Hour of the Day



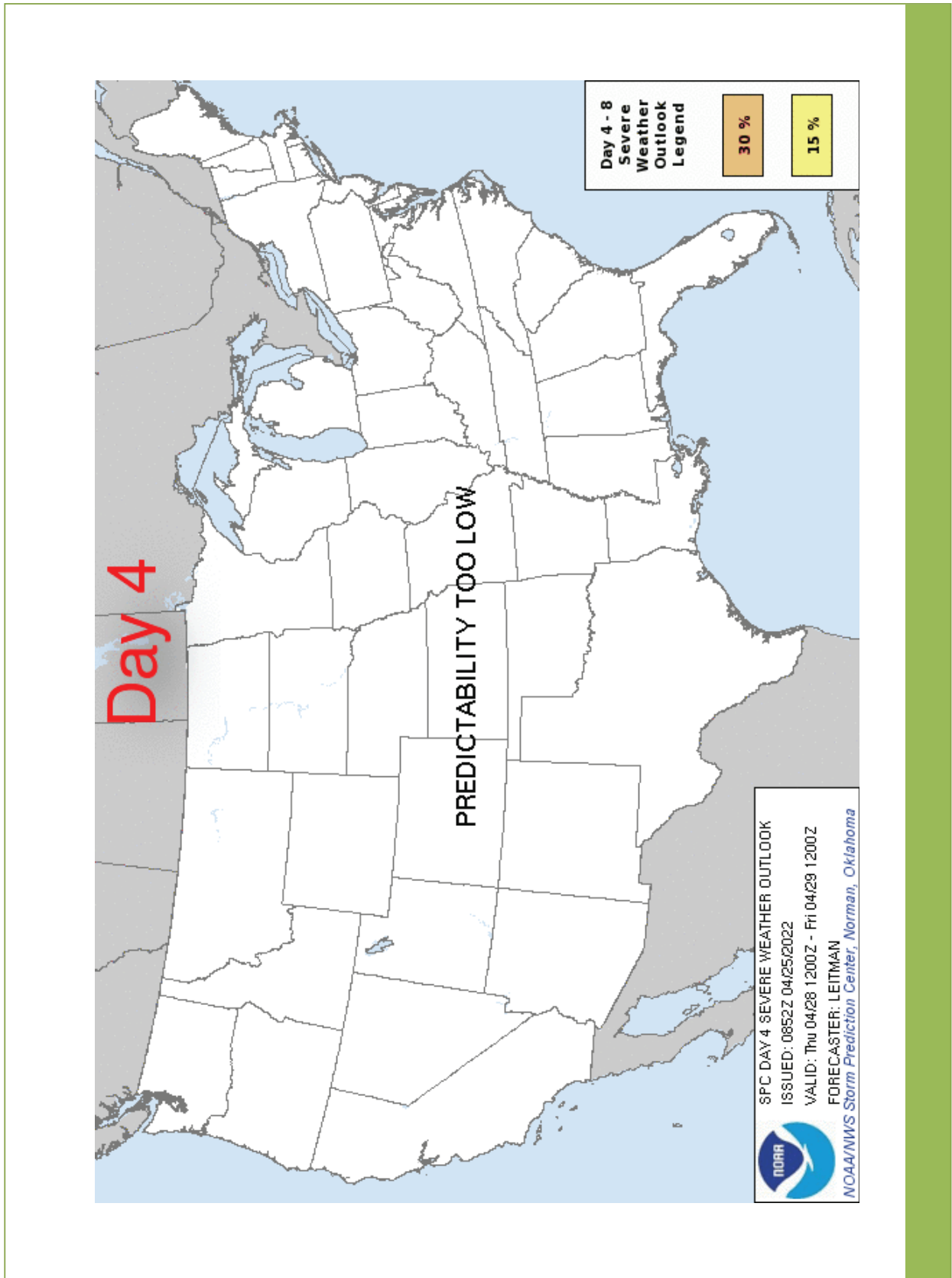
Tornado Occurrence (Krocak and Brooks 2020)

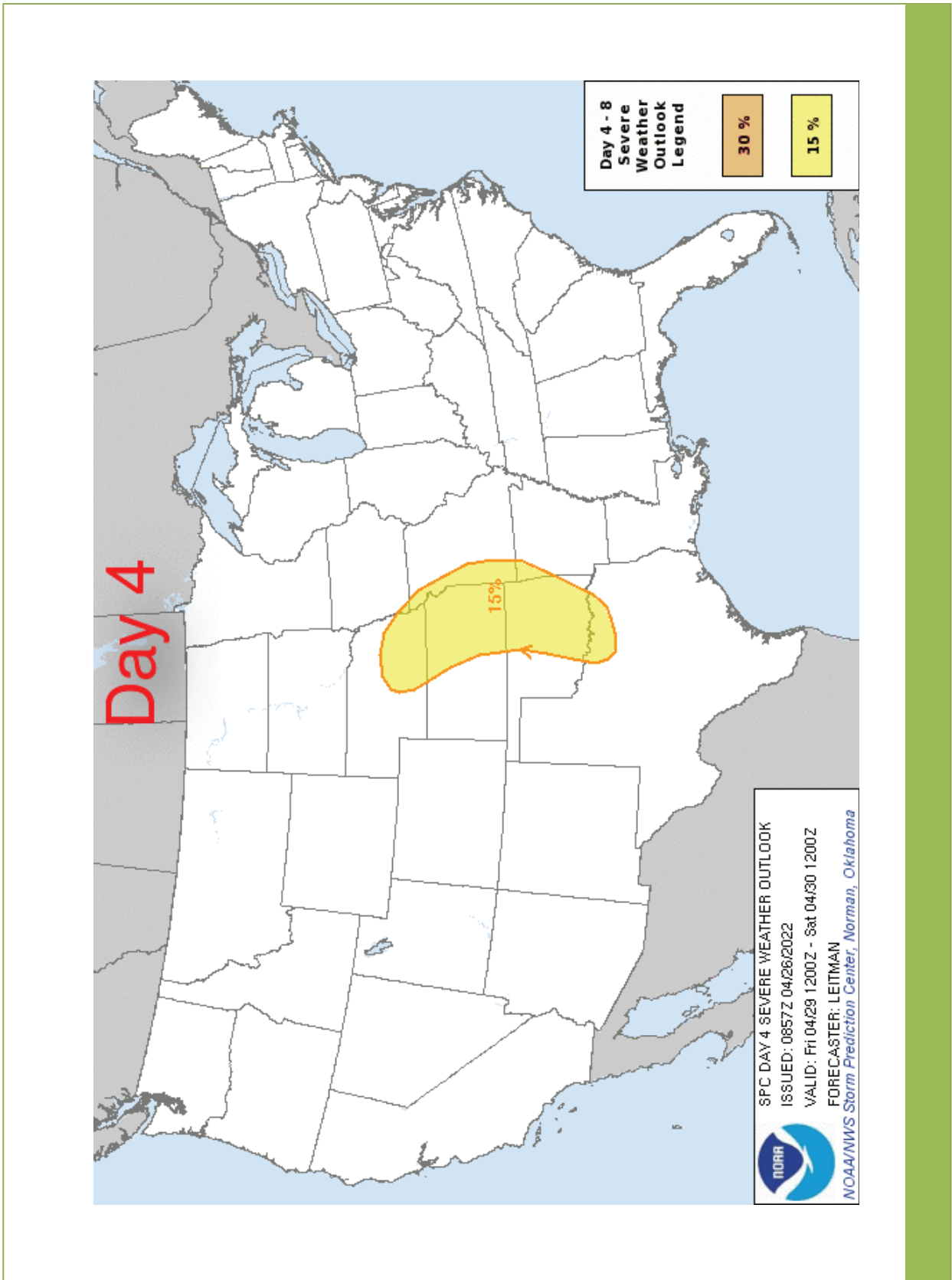


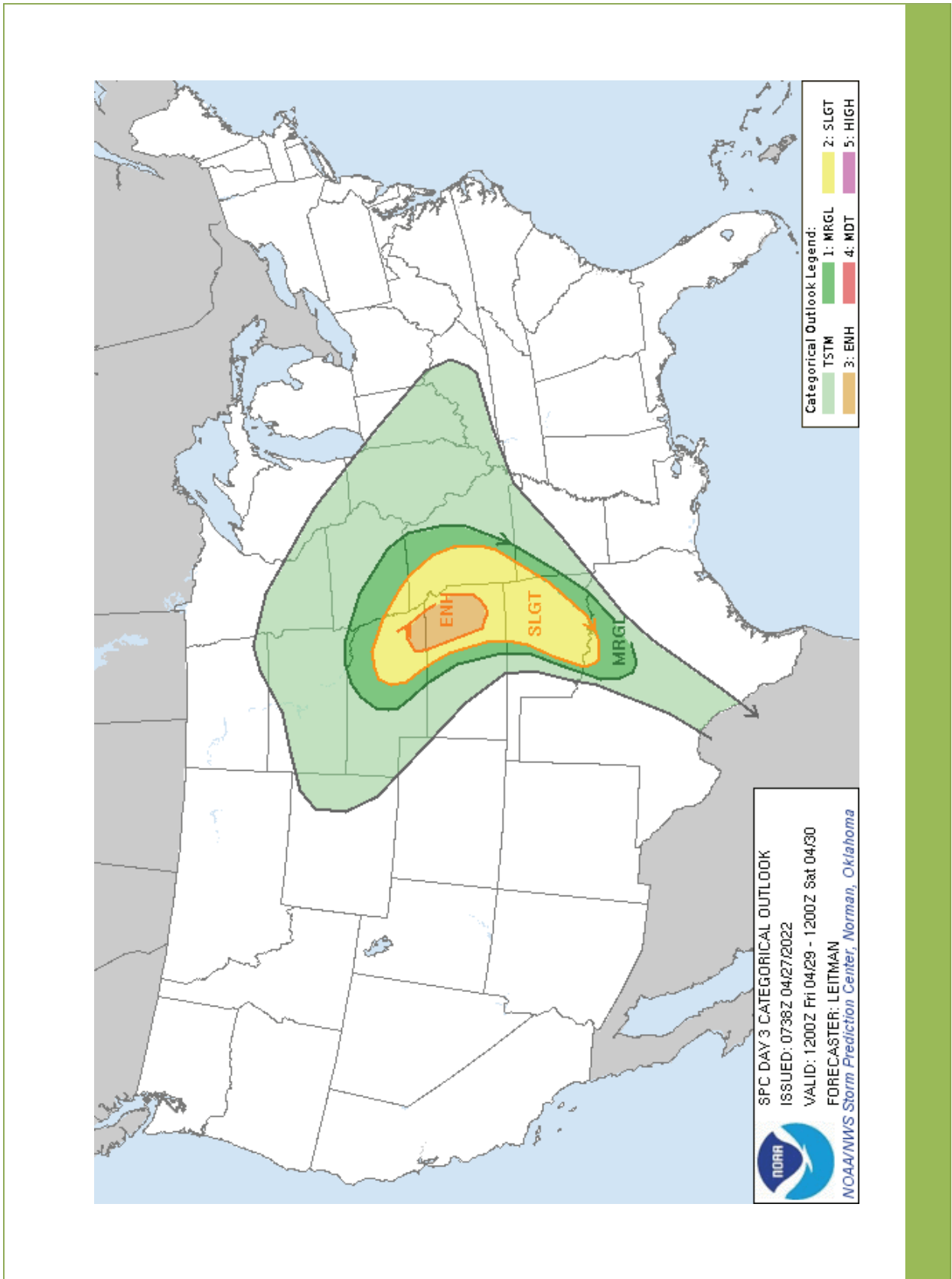
Forecasting Across Time and Space

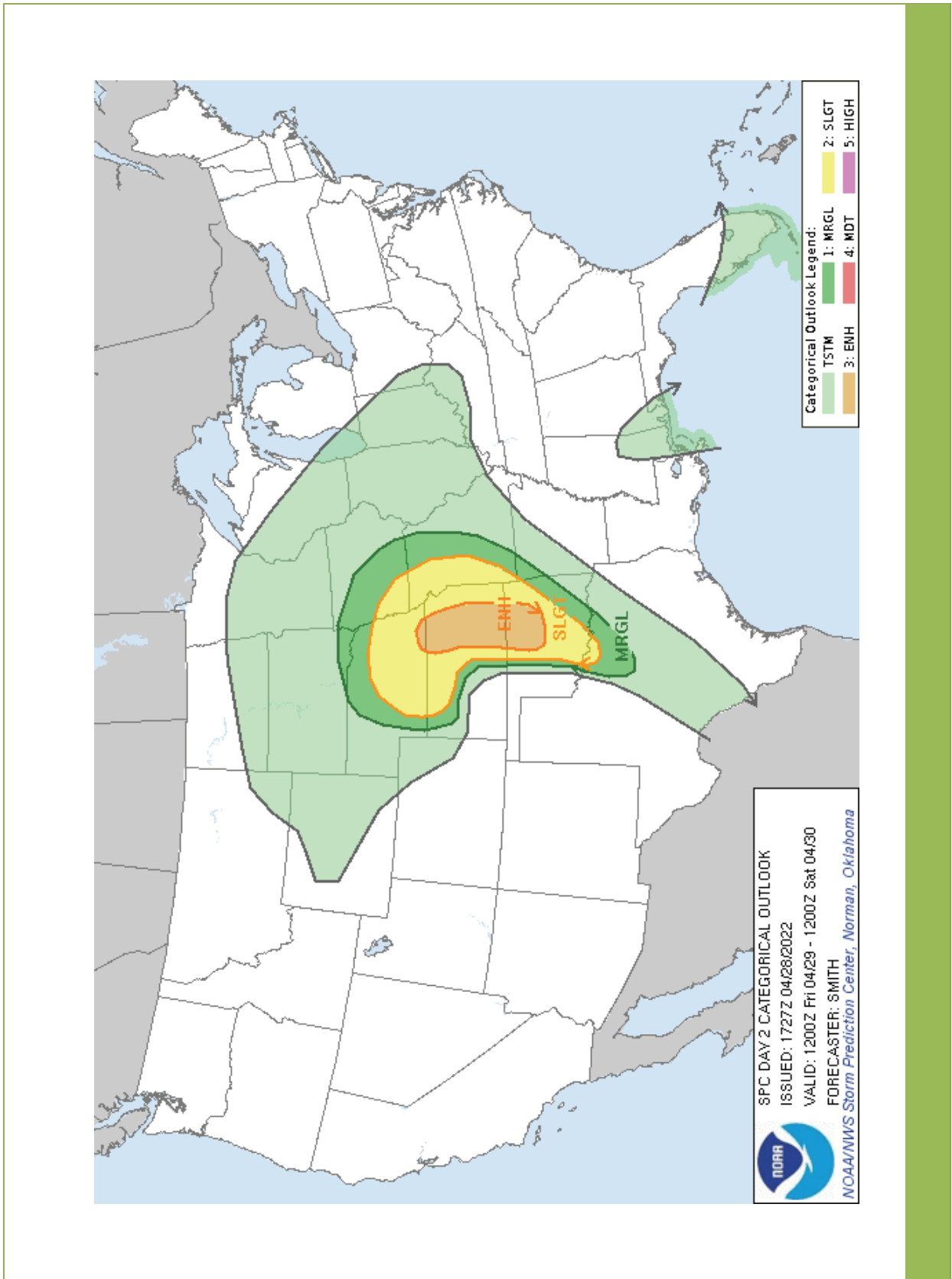


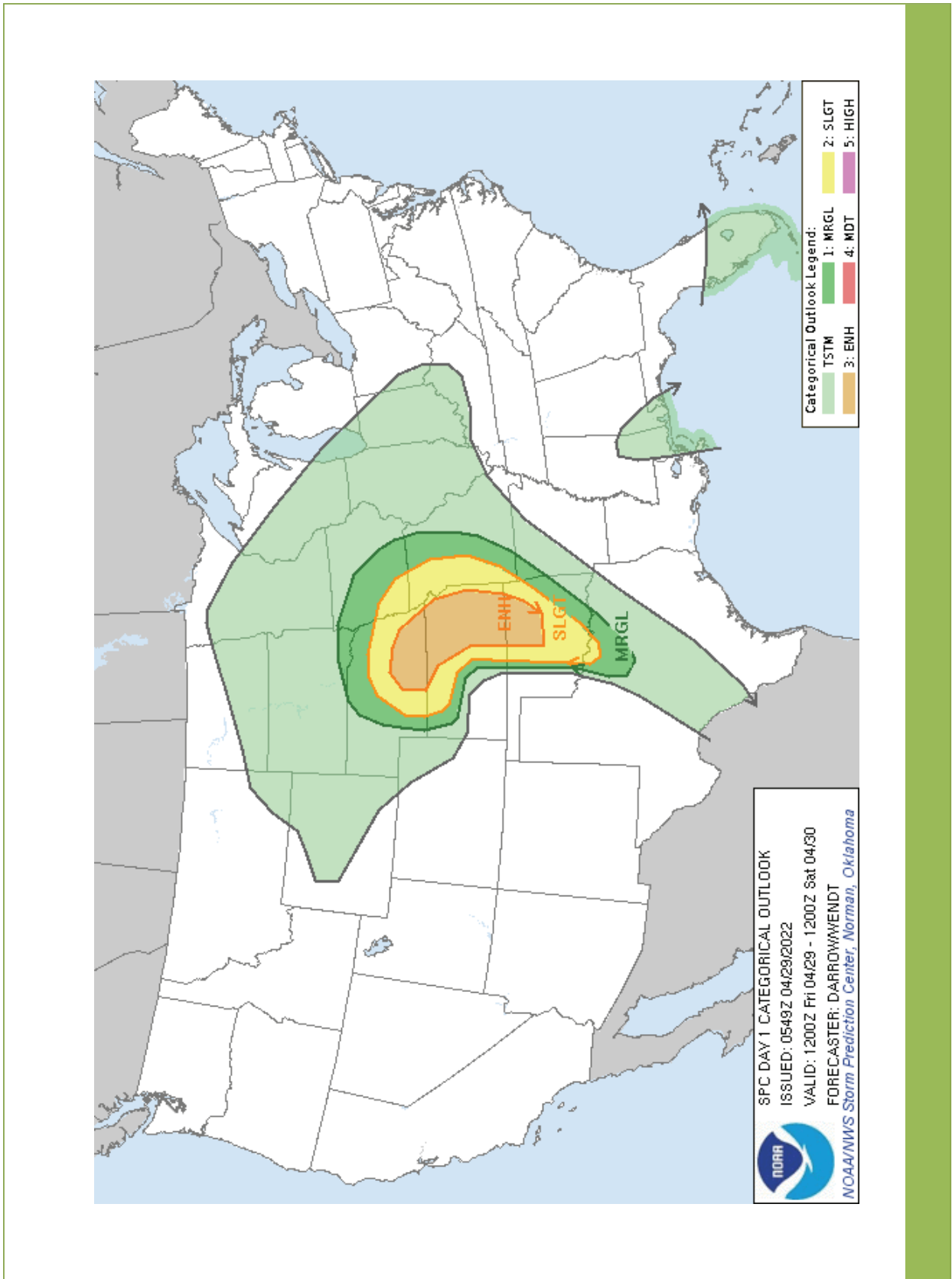
- **Currently, forecasts begin “Day 8” (SPC)**
 - ≥ 1 day are for coverage within 25 miles of a point on the day
- **Watches (SPC)**
 - Conditions are favorable for storms within area
 - ~State-size, 6 hours
- **Warnings (Local Forecast Office)**
 - This storm is severe or will be
 - 300 sq mi., 45 minutes

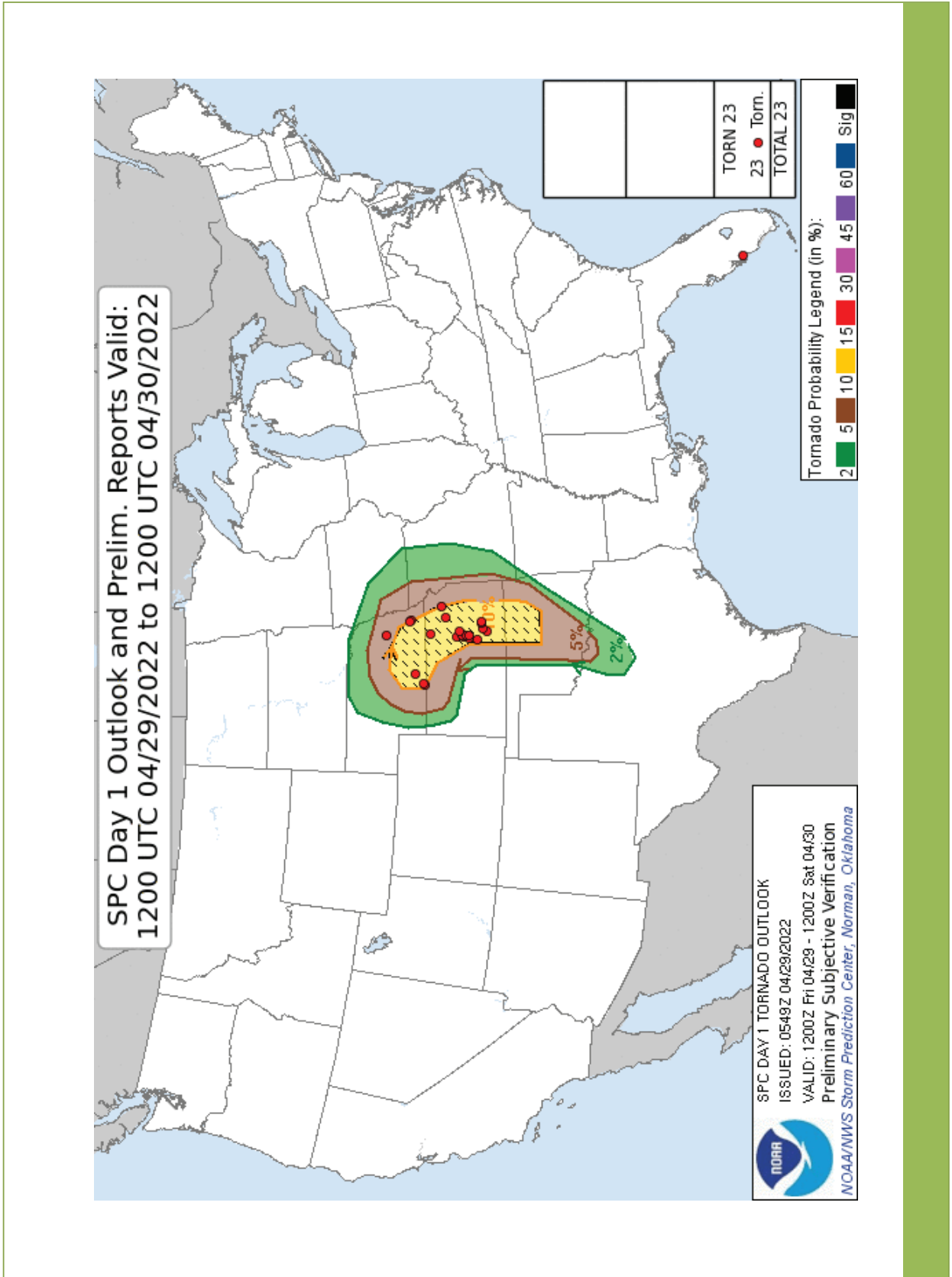


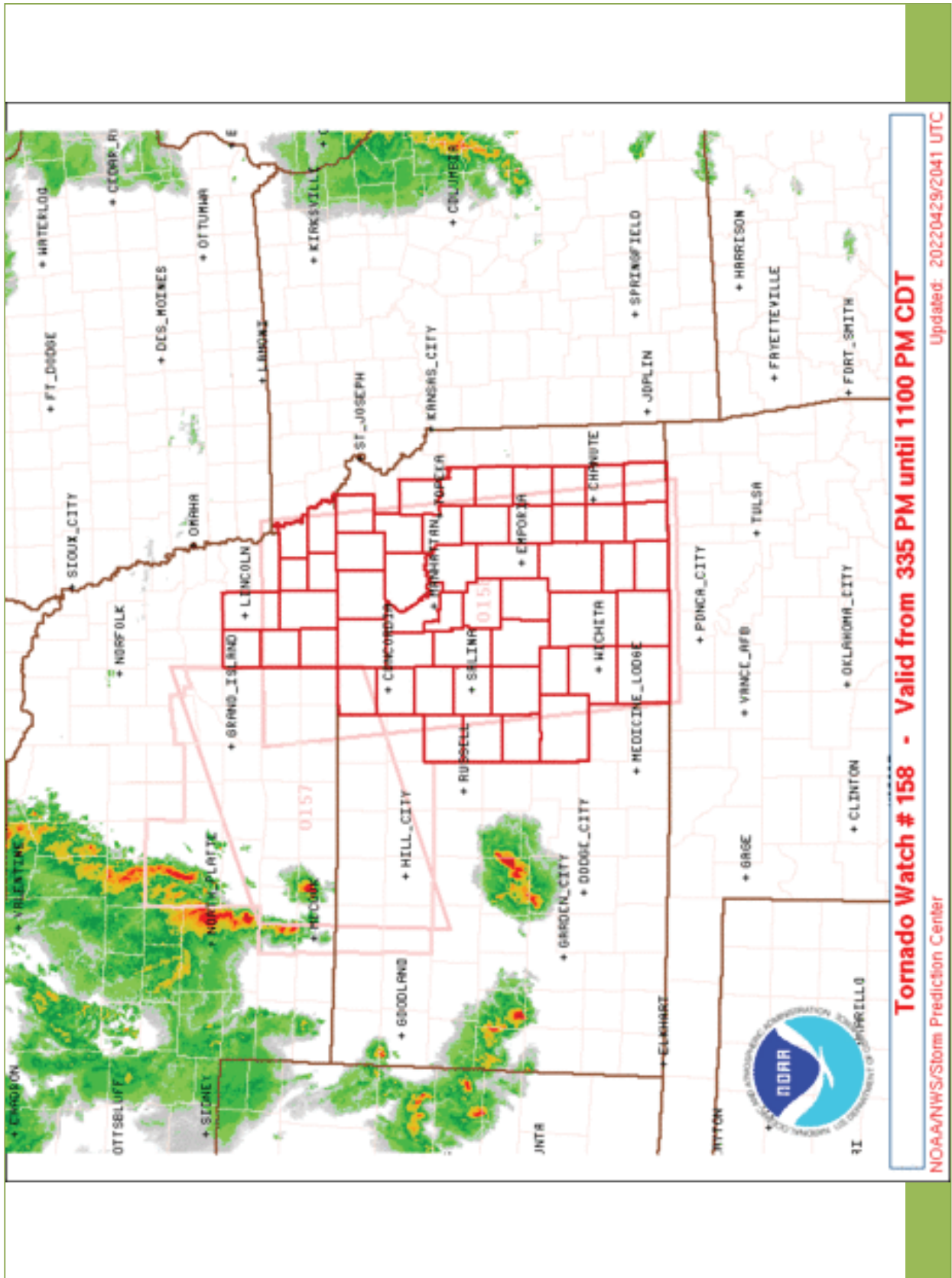


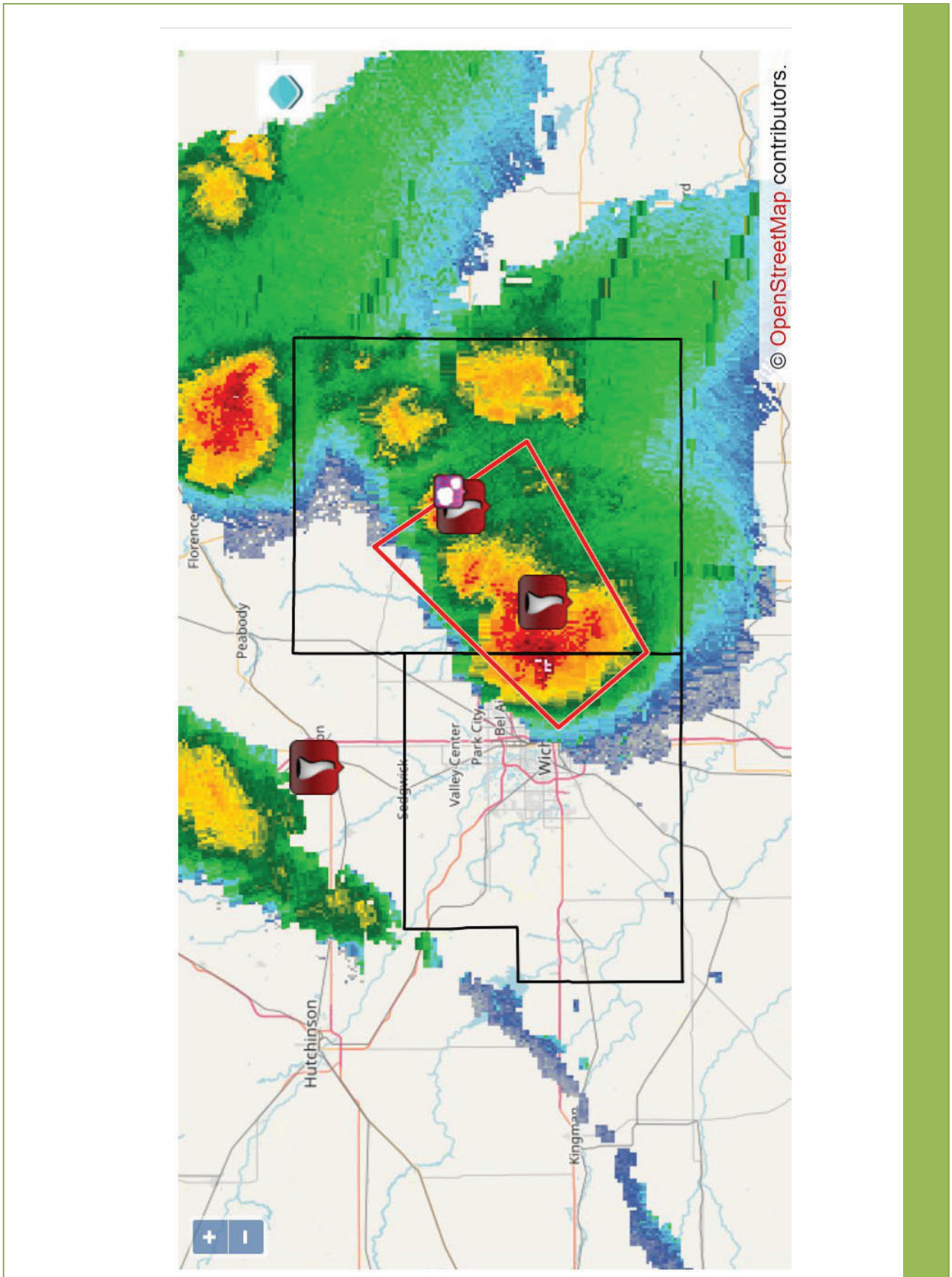












Research towards future



- 1-3 months
 - Currently hope for ~February-March in some conditions
- 2-4 weeks “Target of Opportunity skill”
- Probabilistic warnings
- “Useful” forecasts
 - Test products with users (EMs, broadcast, public)
 - Revise

Resilience with forecasts



- Primarily life protection from tornadoes
- Some kinds of property protection from non-tornadic

Tornado resilience



- Life protection comes from knowing safety guidance and getting information to use it
- Better building
 - Can we incentivize better construction (hurricane clips, straps to foundation, in-residence shelters)?
 - Adding ~2% to cost of building dramatically improves life protection and reduces property damage
 - The manufactured house problem
 - ✦ Old mobile homes are very dangerous
 - ✦ When new manufactured homes fail, tend to fail from ground up

Hail protection



- Mostly property
- Roofing?
 - Better shingles protect to ~golf balls
- Glass (buildings and auto)

How to be resilient



- Understanding of threat occurrence
 - “Peaked” regions probably are easier to get response
 - SPC has tools and we can make those more usable
- Using forecasts
 - Fixed property is hard to protect, obviously
 - Removing vulnerable things from threat
 - Saving lives-protection and building better

Draft: 8/21/22

Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group
Portland, Oregon
August 11, 2022

The RBC Investment Risk and Evaluation (E) Working Group of the Capital Adequacy (E) Task Force met Aug. 11, 2022. The following Working Group members participated: Philip Barlow, Chair (DC); Thomas Reedy (CA); Wanchin Chou (CT); Virginia Christy (FL); Carrie Mears and Kevin Clark (IA); Vincent Tsang and Bruce Sartain (IL); Fred Andersen (MN); Nolan Beal (NE); Bob Kasinow and Bill Carmello (NY); Dale Bruggeman and Tom Botsko (OH); Rachel Hemphill (TX); Steve Drutz (WA); and Adrian Jaramillo (WI).

1. Adopted its Spring National Meeting Minutes

Mr. Bruggeman made a motion, seconded by Mr. Chou, to adopt the Working Group's March 22 minutes (see *NAIC Proceedings – Spring 2022, Capital Adequacy (E) Task Force, Attachment Six*). The motion passed unanimously.

2. Adopted its Working Agenda

Mr. Barlow noted the number of items included in the working agenda and said the Working Group is going to prioritize those items directed to the Working Group by the Financial Condition (E) Committee, particularly the work on collateralized loan obligations (CLOs).

Ms. Mears made a motion, seconded by Mr. Bruggeman to adopt the working agenda (see *NAIC Proceedings – Summer 2022, Capital Adequacy (E) Task Force, Attachment Nine*). The motion passed unanimously.

3. Received Updates from the Valuation of Securities (E) Task Force and the Statutory Accounting Principles (E) Working Group

Mr. Barlow said it is important to have the chairs of these two groups as members of this Working Group because it is clear to him that there needs to be collaboration from the beginning in determining appropriate RBC charges. He said it is also important to have the chairs of the Capital Adequacy (E) Task Force and the other RBC working groups as members because, while most of the interest may be for life insurers, consistency in the RBC formulas is a goal where appropriate so it is good to have all parties involved as early in the process as possible.

Ms. Mears said the Valuation of Securities (E) Task Force is working to potentially give direction to NAIC staff to begin modeling CLOs. She said this work will be to remove CLOs from the filing exempt (FE) process and instead utilize a modeling process with the intent being to effectively normalize treatment across CLOs by making them subject to the same modeling process and results. At this point, she said the details of this process have not been fully defined but the Task Force exposed their intent to pursue this for comment with some of those comments suggesting aspects to be considered in more detail. She said the Task Force will be discussing these in what is planned to be a very transparent process involving all stakeholders. She said a referral to this working group to look at the risk-based capital (RBC) factors with some recommendations to be considered will likely be part of this process. She emphasized the point that, with or without any changes to the RBC framework, the modeling, and the resulting normalization of the treatment of CLOs will be incredibly valuable.

Mr. Bruggeman provided an update from the Statutory Accounting Principles (E) Working Group. He highlighted the work of regulators and key industry representatives on the principles-based bond project to better define

what is permitted to be reported as a bond on Schedule D, Part 1, to improve accounting and reporting, and ensure regulators have transparency to the investment risks held by insurers. As a result of this collaborative effort, he said the Working Group has been successful in developing and recently exposing several documents for comment. This included an updated bond definition, issue paper and proposed revisions to SSAP 26R—Bonds and SSAP No. 43R—Asset Backed Securities to incorporate the bond definition concepts into authoritative statutory accounting guidance. Mr. Bruggeman said these revisions, once adopted and in effect, will improve the designation of investments as bonds, requiring that the investments qualify as bonds in substance, not just legal form. He said the revisions should also significantly improve consistency with the allocation of bond investments between SSAP No. 26R and SSAP No. 43R, and the application of accounting provisions specific to each SSAP, such as the assessment of cash flows or impairment, for similar types of securities.

While these exposures are significant, Mr. Bruggeman said the exposures that occurred during an interim call on July 18 may be of more interest to this group. Those exposures reflect significant reporting revisions to Schedule D, Part 1 to capture valuable information on actual investments held by insurers. This includes a proposed expansion of Schedule D, Part 1 from one to two separate schedules. Schedule D-1-1 will include issuer obligations and schedule D-1-2 will include asset backed securities (ABS). The sum of the two schedules will still roll up to the Bonds line on the Assets page. With the separation of the schedules, different data columns can be designed based on the broad investment classification. A review of the reporting instructions has been completed and several revisions are proposed to streamline reporting, eliminate elements not applicable to certain securities, and propose new columns to capture desired information. Mr. Bruggeman said the revisions should result in providing improved information to regulators as well as eliminating inconsistency or uncertainty for industry in compliance. Lastly, he said a key change for more granular reporting, rather than classifying all bonds into one of four generic reporting groups, new reporting groups have been proposed to separate investments based on underlying characteristics. An example of this is instead of classifying all ABS as either residential mortgage-backed, commercial mortgage backed or other ABS, reporting lines are proposed to separate ABS based on whether they are financial asset-backed-self-liquidating, financial asset-backed-non-self-liquidating, non-financial asset-backed, etc. Although these categories provide valuable information, specific reporting lines within these categories have been proposed to be even more granular. Mr. Bruggeman noted the concern with being able to identify CLOs accurately in the financial statements and the use of the collateral codes in determining underlying investments. He said the proposed reporting revisions would separately capture CLOs as a type of financial asset backed security. Whether these granular reporting lines are utilized immediately for RBC, by having this structure in place, he said future assessments, along with ease of understanding the magnitude of certain types of investments, will be easier. He noted questions pertaining to the effective date and transition and said the earliest the guidance could be effective, with both accounting and reporting revisions in place, would be January 1, 2024, but it is likely the revisions will be effective January 1, 2025. With respect to transition, Mr. Bruggeman said there is no grandfathering planned for investments to continue to be reported as bonds that do not comply in order to ensure consistency with reporting across entities. Although grandfathering guidance is not expected, he said some practical transition assessments will be considered and reasonable accommodations are anticipated to prevent undue hardship for reporting entities in complying with the guidance.

4. Discussed the Working Group's Next Steps

As the Working Group addresses the items on its working agenda, Mr. Barlow said he has goals he would like for the Working Group to achieve in order to accomplish that work. He said the first of these is to have information, to the extent possible, easily identifiable from the annual statement through to the RBC charge with a minimum of reliance on company records so that the RBC charge for a particular asset is clear and that two companies having the same asset will end up with the same RBC charge. He said a second goal is to make sure it is clearly understood what risks are being analyzed in the process of assigning ratings to assets as well as those risks that may not be part of the analysis so that it is evident whether some adjustment is needed for the purpose of

developing an RBC charge. He said a third goal is to have a structure for RBC that facilitates new types of assets as they appear with the ability to identify them as new items that have not been evaluated yet and assign them an interim or introductory RBC treatment until any needed analysis can be done as opposed to trying to fit them into existing categories. He said he would like the Working Group to keep these goals in mind as it works through the individual projects before it.

Mr. Barlow said the Working Group has received direction from the Financial Condition (E) Committee to focus its attention on two items which the Working Group will look at simultaneously. He said the first is to develop an approach for determining RBC charges for CLOs and the second is to look at a potential interim approach to address concern about potential arbitrage in the structuring of assets through CLOs and similar kinds of assets. Whether it involves assets or other items in RBC, Mr. Barlow said he believes it is important that the opportunity to reconfigure risks and end up with a different RBC charge is eliminated. To that end, he said the Working Group will consider whether there is something that should be done in the shorter term to address that aspect. If there is an interim step that the Working Group pursues, he said it should be intended to stay in place only until a new more fully developed methodology is determined so it may not have the same degree of rigor but it should have sufficient analysis done so that there are no unintended consequences. He said there may be ways other than specific RBC charges to address an interim approach and said the Working Group is welcome to input from all parties. For clarification, Mr. Bruggeman asked if the work being considered for CLOs includes all of the tranches, those that would be on the bond schedule and residual tranches. Mr. Barlow said he meant all of the tranches. While the Valuation of Securities (E) Task Force is looking at CLOs currently, Ms. Mears said she believes it is important for this working group to be cognizant of the broader universe of structured assets.

Mr. Barlow said he has asked the American Academy of Actuaries (Academy) if this is a project they would be willing to assist with. Steve Smith (Academy) said the Academy is willing to help with the CLO project. He said the Academy's view is that it is important to have actuarial review of any model that has downstream impact on RBC and that includes a consideration of the broader statutory framework and broader solvency framework within RBC. Mr. Barlow agreed and said the Academy in general, and actuaries in particular, have contributed a lot of expertise to many if not all aspects of RBC and he would like to make sure that continues. He said he believes it is important to try to coordinate with the work that the Valuation of Securities (E) Task Force is doing on modeling CLOs and a good first step would be, as that work develops, to have it shared with the Academy. If some adjustment is needed for the purpose of RBC, he said as long as all parties are involved in the process from the beginning it will put the Working Group in a good position to consider if that can be done and have it work for the purposes of those involved.

5. Received a Referral from the Macroprudential (E) Working Group

Mr. Barlow said a referral from the Macroprudential (E) Working Group has been received and will be added to the working agenda.

Having no further business, the RBC Investment Risk and Evaluation (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/RBCIREWG 8-11-22 Minutes.docx

Capital Adequacy (E) Task Force
RBC Proposal Form

- | | | |
|---|---|--|
| <input type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input checked="" type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Op Risk RBC (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Stress Testing (E) Subgroup |

DATE: <u>6/14/2022</u>	FOR NAIC USE ONLY
CONTACT PERSON: <u>Eva Yeung</u>	Agenda Item # <u>2022-04-CR</u>
TELEPHONE: <u>816-783-8407</u>	Year <u>2022</u>
EMAIL ADDRESS: <u>eyeung@naic.org</u>	DISPOSITION
ON BEHALF OF: <u>Catastrophe Risk (E) Subgroup</u>	<input checked="" type="checkbox"/> ADOPTED <u>TF 8/11/22</u>
NAME: <u>Wanchin Chou</u>	<input type="checkbox"/> REJECTED _____
TITLE: <u>Chair</u>	<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>Connecticut Department of Insurance</u>	<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____
ADDRESS: <u>153 Market St,</u>	<input checked="" type="checkbox"/> EXPOSED <u>6/14/22</u>
<u>Hartford, CT 06103</u>	<input type="checkbox"/> OTHER (SPECIFY) _____

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|---|---|--|
| <input type="checkbox"/> Health RBC Blanks | <input type="checkbox"/> Property/Casualty RBC Blanks | <input type="checkbox"/> Life RBC Instructions |
| <input type="checkbox"/> Fraternal RBC Blanks | <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions |
| <input type="checkbox"/> Life RBC Blanks | <input type="checkbox"/> Fraternal RBC Instructions | <input checked="" type="checkbox"/> OTHER <u>Cat Event Lists</u> |

DESCRIPTION OF CHANGE(S)

2013-2021 U.S. and non-U.S. Catastrophe Event Lists

REASON OR JUSTIFICATION FOR CHANGE **

Adding 2013 through 2021 Wildfire events for 2022 RBC reporting

Additional Staff Comments:

The Cat Risk SG exposed this proposal for a 30-day public comment period ending July 13.
 The Cat Risk SG and PCRBC WG adopted this proposal at the 2022 summer national meeting.

** This section must be completed on all forms.

Revised 11-2013

U.S. List of Catastrophes for Use in Reporting catastrophe Data in PR036 and PR100+

Type of Event	Year	Name	Date	Location	Overall losses when occurred
Wildfire	2013	Black Forest	6/11/13-6/20/13	Colorado Springs	~420.5 million
Wildfire	2013	Rim	8/17/13-9/20/13	Sierra Nevada, California	> 100 million
Wildfire	2014	Texas	5/11/14-5/20/14	Texas, California	> 25 million
Wildfire	2015	Butte Fire	9/9/15-10/1/15	Amador County, California	~300 million
Wildfire	2015	Valley Fire	9/12/15-10/15/15	Lake, Napa and Sonoma County, California	~700 million
Wildfire	2016	Erskine Fire	6/23/16-7/11/16	Lake Isabella, Kern County, California	~26 million
Wildfire	2016	Soberanes Fire	7/22/16-9/30/16	Soberanes Creek, Garrapata State Park, Santa Lucia Preserve, Monterey County, California	> 200 million
Wildfire	2016	Chimney Fire	8/13/16-9/6/16	Santa Lucia Range, San Luis Obispo County, California	> 25 million
Wildfire	2016	Clayton Fire	8/13/16-8/26/16	Lake County, California	> 25 million
Wildfire	2016	Gatlinburg Wildfire	11/29/16-12/5/16	Sevier County, Gatlinburg, Pigeon Forge, Tennessee	~637 million
Wildfire	2017	Northern California Wildfires	10/8/17-10/31/17	Northern California	~ 11 billion
Wildfire	2017	Southern California Wildfires	12/4/17-12/23/17	Southern California	~ 2.2 billion
Wildfire	2018	Spring Creek Fire	6/27/18-7/17/18	Spring Creek, Colorado	< 100 million
Wildfire	2018	Carr, Mendocino California Wildfires	7/23/18-8/15/18	Northern California	> 1,000 million
Wildfire	2018	Northern California Camp Wildfire	11/8/18-11/25/18	Butte County, California	> 7.5 billion
Wildfire	2018	Southern California Woolsey Wildfires	11/8/18-11/21/18	Los Angeles and Ventura County, California	2.9 billion
Wildfire	2019	Australian Bushfires	9/2019-3/2020	New South Wales, Queensland, Victoria, South Australia, Western Australia, Tasmania and Northern Territory	~910 million
Wildfire	2019	Saddleidge Wildfire	10/10/19-10/23/19	Sylmar, Los Angeles, Calimesa, Riverside County, California	< 1,000 million
Wildfire	2019	Kincaid Wildfire	10/23/19-11/6/19	Northeast of Geyserville, Sonoma County, California	< 1,000 million
Wildfire	2020	Cameron Peak	08/13/20-12/02/20	Roosevelt National Forest, Larimer County, Colorado	~71 million
Wildfire	2020	SCU Lightning Complex Wildfire	8/16/20-9/16/20	San Francisco Bay Area, Central Valley, Santa Clara, Alameda, Contra Costa, San Joaquin, Merced, Stanislaus	< 1,000 million
Wildfire	2020	Beachie Creek Wildfire	8/16/20-10/10/20	Approx. 2 miles south of Jaw Bones flats in rugged terrain deep in the Opal Creek Wilderness.	> 1,000 million
Wildfire	2020	CZU Lightning Complex Wildfire	8/16/20-9/22/20	San Mateo and Santa Cruz Counties, California	> 1,000 million
Wildfire	2020	LNU Lightning Complex Wildfire	8/17/20-10/2/20	Lake, Napa, Sonoma, Solano, and Yolo Counties, California	> 1,000 million
Wildfire	2020	Carmel Fire	8/18/20-9/4/20	Carmel Valley, California	< 1,000 million
Wildfire	2020	North Complex Fire	8/18/20-10/12/20	Plumas and Butte Counties, California	< 1,000 million
Wildfire	2020	Creek Fire	9/4/20-10/12/20	Fresno and Madera Counties, California	< 1,000 million
Wildfire	2020	Bobcat Fire	9/6/20-10/23/20	Central San Gabriel Mountains, in and around the Angeles National Forest California	< 1,000 million
Wildfire	2020	Babb Road Fire	9/7/20-9/18/20	Malden and Pine City, Palouse County of Eastern Washington	< 1,000 million
Wildfire	2020	Alameda Fire	9/7/20-9/16/20	Jackson County, Oregon	< 1,000 million
Wildfire	2020	Holiday Farm Fire	9/7/20-10/3/20	Willamette National Forest	< 1,000 million
Wildfire	2020	Echo Mountain Complex Fire	9/7/20-9/23/20	north of Lincoln City, Oregon	< 100 million
Wildfire	2020	Riverside Fire	9/8/20-10/3/20	Valley Drive between Misty Ridge Drive and Mitchell Avenue, Oregon	< 100 million
Wildfire	2020	Slater Fire	9/8/20-10-9/20	Northern California and Southern Oregon	< 100 million
Wildfire	2020	Glass Fire	9/27/20-10/19/20	Napa and Sonoma Counties, California	> 1,000 million
Wildfire	2020	East Troublesome Fire	10/14/20-11/9/20	Grand County, Colorado	~543 million
Wildfire	2021	Booleg Wildfire	7/17/21-8/6/21	Northwest of Beauty, Oregon	< 1,000 million
Wildfire	2021	Dixie Wildfire	7/14/21-10/5/21	Butte, Plumas, Tehama, Lassen and Shasta Counties, California	> 1,000 million
Wildfire	2021	Caldor Fire	8/14/21-10/5/21	El Dorado National Forest and other areas of the Sierra Nevada in El Dorado, Amador, and Alpine County, California	< 1,000 million
Wildfire	2021	Corkscrew Fire	8/15/21-8/30/21	Fort, WA; Tum Tum, Springdale, City of Deer Park, Loon Lake, Clayton, H395, Scoop Mt	< 100 million
Wildfire	2021	Marshall Fire	12/30/21-1/1/22	Boulder County, Colorado	~ 2 billion

Non U.S. List of Catastrophes For Use in Reporting Catastrophe Data in PR036 and PR100+

Year	Event Type	Begin	End	Event	Country	Affected Area (Detail)	Munich Re NatCATService Insured losses (in original values, US\$m) Criteria: insured losses equal/greater US\$ 25m. Tries to reflect non-US losses only	Swiss Re Sigma: Insured Loss Est. US\$m (mid point shown if range given) Mostly reflect total US and nonUS losses combined.	Others
2013	Wildfire	11/01/12	04/01/13	Tasmanian Bushfires	Australia	Central Highlands, East coast (Bicheno), Forester and Tasman Peninsulas, Tasmania, Australia		~\$44m	
2013	Wildfire	10/17/13	10/31/13	New South Wales Bushfires	Australia	New South Wales		~\$138m	
2014	Wildfire	Summer 2014		Northwest Territories Fire	Canada	Northwest Territories, Canada		~\$3.6b	
2015	Wildfire	11/25/15	12/02/15	Pinery Bushfire	Australia	Lower Mid North, Light River, West Barossa, South Australia, Australia		\$7.5m	
2015	Wildfire	12/25/15		Wye River, Separation Creek bushfires,	Australia	Great Ocean Road region of Victoria, Australia		~\$110m	
2016	Wildfire	01/06/16		Waroona-Yarloop Bushfire	Western Australia			~\$71.25m	
2016	Wildfire	05/01/16	05/26/16	Canada Wildfire	Canada	Fort McMurray		\$3.52b	
2016	Wildfire	11/22/16	11/27/16	November 2016 Israel Fires	Israel	Various regions in Israel, mainly in Haifa, Judean Mountains and the Sharon Plain		>\$25m	
2017	Wildfire	06/06/17		Kynsna Fires	South Africa	Kynsna region of the Western Cape		~\$146m	
2017	Wildfire	07/01/17	08/01/17	British Columbia Wildfires	Canada	British Columbia		>\$78m	
2017	Wildfire	10/15/17	10/16/17	Iberian Wildfires	Portugal	Northern Portugal and Northwestern Spain		~\$210m	
2018	Wildfire	May-18	Aug-18	Sweden Wildfires	Sweden	ranging from north of Arctic Circle to the southern County of Scania.		>\$87m	
2018	Wildfire	Jul-18		Greece Wildfires	Greece	Aitica, Greece		~38.1m	
2020	Wildfire	10/04/20		Lake Ohau Fire	New Zealand	Northwest of Lake Ohau Village		~\$25m	
2020	Wildfire	02/05/21		Perth Hills Wildfire	Australia	Shire of Mundaring, Shire of Chittering, Shire of Northam City of Swan		~\$63m	

Capital Adequacy (E) Task Force

RBC Proposal Form

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> Investment RBC (E) Working Group | <input type="checkbox"/> Operational Risk (E) Subgroup |
| <input type="checkbox"/> C3 Phase II/ AG43 (E/A) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |

	DATE: <u>8/11/22</u>	<u>FOR NAIC USE ONLY</u>
CONTACT PERSON: <u>Eva Yeung</u>		Agenda Item # <u>2022-09-CA</u>
TELEPHONE: <u>816-783-8407</u>		Year <u>2023</u>
EMAIL ADDRESS: <u>eyeung@naic.org</u>		<u>DISPOSITION</u>
ON BEHALF OF: <u>Capital Adequacy (E) Task Force</u>		<input type="checkbox"/> ADOPTED _____
NAME: <u>Tom Botsko</u>		<input type="checkbox"/> REJECTED _____
TITLE: <u>Chair</u>		<input type="checkbox"/> DEFERRED TO _____
AFFILIATION: <u>Ohio Department of Insurance</u>		<input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____
ADDRESS: <u>50 West Town Street, Suite 300</u>		<input checked="" type="checkbox"/> EXPOSED <u>8/11/22</u>
<u>Columbus, OH 43215</u>		<input type="checkbox"/> OTHER (SPECIFY) _____

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- Health RBC Blanks Property/Casualty RBC Blanks Life and Fraternal RBC Instructions
 Health RBC Instructions Property/Casualty RBC Instructions Life and Fraternal RBC Blanks
 OTHER _____

DESCRIPTION OF CHANGE(S)

The proposed change would revise the instructions and structure for the Affiliated Investments for all lines.

REASON OR JUSTIFICATION FOR CHANGE **

The proposed revisions will improve the risk-based capital formulas and provide consistency to the treatment of affiliates for all lines of business.

Additional Staff Comments:

8/11/22 - The Task Force exposed this proposal for a 60-day public comment period ending Oct, 10.

** This section must be completed on all forms.

AFFILIATED/SUBSIDIARY STOCKS
XR002 – XR004

There are nine categories of affiliated/subsidiary investments that are subject to Risk-Based Capital requirements for common stock and preferred stock holdings. Those nine categories are:

1. Directly Owned U.S. Insurance Affiliates/Subsidiaries Subject to a Risk-Based Capital (RBC)-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries Subject to RBC-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries
4. Investment Subsidiaries
5. Directly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
7. Investments in Upstream Affiliate (Parent)
8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Health Insurance Companies and Health Entities Not Subject to RBC
 - b. Property and Casualty Insurance Companies Not Subject to RBC
 - c. Life Insurance Companies Not Subject to RBC
9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Entities with a capital requirement imposed by a regulatory body
 - b. Other Financial Entities without regulatory capital requirements
 - c. Other Non-financial entities

Enter applicable items for each affiliate/subsidiary in the Details for Affiliated/Subsidiary Stocks worksheet. The program will automatically calculate the risk-based capital charge for each affiliate/subsidiary. When the data is uploaded to the NAIC database, it will be crosschecked, and the company will be required to correct any discrepancies and refile a corrected version with the NAIC and/or any state that requires the company to file RBC with its department. The RBC report will display the number of affiliates/subsidiaries. These numbers should be reviewed to ensure that all affiliates/subsidiaries are appropriately reported.

Line 10 of XR003 – Fair Value Excess Subsidiary Common Stock equals the total of type codes 1.a. through 2.c., Column 13 of the Subsidiary Companies Risk – Details Page. The program will automatically calculate this figure.

The total of all reported affiliate/subsidiary stock should equal the amounts reported on Schedule D, Part 2, Section 1, Line 4409999999 plus Schedule D, Part 2, Section 2, Line 5979999999 and 93999999 and should also equal Schedule D, Part 6, Section 1, Line 09999999 plus Line 18999999.

Affiliated/Subsidiary investments fall primarily into two broad categories: (a) Insurance Affiliates/Subsidiaries that are Subject to risk-based capital; and (b) Affiliates/Subsidiaries that are Not Subject to risk-based capital. The risk-based capital for these two broad groups differs. A third category of Affiliates/Subsidiaries, publicly traded insurance affiliates/subsidiaries held at market value, has characteristics of both broader categories. As a result, it has a two-part RBC calculation. The general treatment for each is explained below.

Directly owned insurance and health entity affiliates/subsidiaries are affiliates/subsidiaries in which the reporting company owns the stock of the affiliate/subsidiary. Indirectly owned insurance affiliate/subsidiaries and health entities are those where the reporting company owns stock in a holding company, which in turn owns the stock of the insurance affiliate/subsidiary or health entity. Note that there could be multiple holding companies that control the downstream insurance company.

Enter the book/adjusted carrying value of: the common stock in Column (5), the preferred stock in Column (9), the total outstanding common stock in Column (7) and the total outstanding preferred stock of that affiliate/subsidiary in Column (10) of the appropriate worksheet. The percentage of ownership is calculated by summing the book/adjusted carrying values of the owned preferred and common stock and dividing that amount by the sum of all outstanding preferred and common stock.

Insurance Affiliates/Subsidiaries that are Subject to RBC

1. Directly Owned U.S. Affiliates/Subsidiaries:

The risk-based capital requirement for the reporting company for those insurance affiliates/subsidiaries that are subject to a risk-based capital requirement is based on the Total Risk-Based Capital After Covariance of the subsidiary, prorated for the percent of ownership of that affiliate/subsidiary.

For purposes of Affiliate/Subsidiary Risk all references to Total Risk-Based Capital After Covariance of the affiliate/subsidiary means:

- a. For a Health affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (XR025, Line (37)).
- b. For a P/C affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (PR032, Line (68)).
- c. For a Life affiliate/subsidiary RBC filing, the sum of
 - i. Total Risk-Based Capital After Covariance before Basic Operational Risk (LR031, Line (67)); and
 - ii. Primary Security shortfalls for all cessions covered by Actuarial Guideline XLVIII (AG 48) multiplied by two (LR031, Line (71)).

For RBC purposes, the reporting insurer must determine the carrying value and the RBC requirement of a directly owned RBC filing affiliate/subsidiary company, even if the RBC filing affiliate/subsidiary is non-admitted for financial reporting purposes. The value reported in annual statement Schedule D, Part 6, Section 1 will be used for RBC purposes. In addition to RBC, the carrying value of the RBC filer must be reported in total adjusted capital for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on **Line XXXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

Equity method Insurance Affiliates/Subsidiaries: Equity method is defined in SSAP 97, Paragraph 8b, as the underlying audited statutory equity of the respective entity's financial statements, adjusted for any unamortized goodwill as provided for in SSAP No. 68—Business Combinations and Goodwill. For those insurance Affiliates/Subsidiaries of the reporting company that are reported under the equity method, the H_0 charge of the ownership of the common and preferred stock in these Affiliates/Subsidiaries is limited to the lesser of:

- (a) the Total RBC After Covariance of the affiliate/subsidiary times the percentage of ownership, which is the total of common stock and preferred stock; or
- (b) the common and preferred stock book/adjusted carrying value at which the affiliate/subsidiary is carried

Market Value (including discounted market value) Insurance Affiliates/Subsidiaries (See SSAP No. 97, Paragraph 8a.): If the affiliate/subsidiary's common stock is publicly traded and the reporting company carries the affiliate/subsidiary at market value, after any "discount," there are generally two components to the reporting company's RBC generated by the affiliate/subsidiary. The prorated portion is the percentage of ownership of total common and preferred stock. The smaller of the prorated portion of the affiliate/subsidiary's own statutory surplus or the prorated portion of its RBC after covariance is added to the H_0 component of the reporting company. In the normal case, the common and preferred stock book/adjusted carrying value of the affiliate/subsidiary exceeds the prorated portion of the larger of its statutory surplus and its RBC after covariance. In this case, the addition to the H_1 component is the larger of a) 22.5 percent of the affiliate/subsidiary's common and preferred stock book/adjusted carrying value in excess of the prorated portion of the affiliate's/subsidiary's statutory surplus or b) the prorated portion of the affiliate's/subsidiary's RBC after covariance in excess of the prorated portion of its statutory surplus. If the affiliate/subsidiary's common and preferred stock book/adjusted carrying value is less than the prorated portion of its RBC after covariance, but greater than the prorated portion of its statutory surplus, 100 percent of the common and preferred stock book/adjusted carrying value in excess of the prorated portion of the affiliate/subsidiary's statutory surplus is added to the reporting company's H_1 component. If the affiliate/subsidiary's common and preferred stock book/adjusted carrying value is less than the prorated portion of the affiliate/subsidiary statutory surplus, there is no addition to the H_1 component.

2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries

For Indirectly Owned U.S. Insurance Affiliates/Subsidiaries, the carrying value and RBC is calculated in the same manner as for directly owned U.S. Insurance Affiliates/Subsidiaries. The RBC for the indirect affiliates/subsidiaries must be calculated prior to completing this RBC report.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned RBC filer may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an RBC filer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must "look-through" all intermediate holding and subsidiary companies to determine the carrying value and the RBC requirement of indirectly owned RBC filing affiliate/subsidiary companies. This involves drilling down to the first RBC filing insurance subsidiary and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both RBC and carrying value of the RBC filer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on **Line XXXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value for each indirect insurance affiliate/subsidiary is established based on company records using the statutory value of the insurer as reported in the NAIC annual financial statement blank submitted by the affiliate/subsidiary or market value when applicable, and the RBC requirement as determined in its

RBC Report adjusted for the ownership percentages (both the percentage of the indirectly owned RBC filing affiliate/subsidiary that is owned by the directly held downstream holding company and the reporting insurer's ownership percentage in that downstream entity). The value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis.

3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries

The carrying value of a U.S. Insurance Affiliate/Subsidiary that is subject to RBC is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each RBC filing insurer and each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The remaining value of the directly held holding company is then subject to a charge that is calculated in accordance with the instructions for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries as specified in the RBC formula. If the holding company is not admitted, report the excess carrying value as zero and the corresponding RBC charge will also be zero. If a negative excess value for the downstream holding company results from removing the value of U.S. RBC filing insurers from the downstream holding company's reported value, then the value of that holding company will be floored at zero and the corresponding RBC charge will also be zero.

The following hypothetical Balance Sheet indicates the view of a Holding Company - Holder, Inc. which is 100% owned by MEGA Health Insurance Company (it assumes that the value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis):

	Balance Sheet Holder, Inc. 12/31/XXXX			
Cm Stk:	ABC Life Company	10,000,000	Long Term Debt	5,000,000
	XYZ Casualty Company	15,000,000	Other Liabilities	2,000,000
	ANH Health Company	3,000,000		
	Other Common Stock	17,000,000	Total Liabilities	7,000,000
	Cash	7,000,000		
	Other Assets	5,000,000	Equity	50,000,000
	Total Assets	57,000,000	Total Liabilities & Equity	57,000,000

The RBC calculation for Holder, Inc.'s value in excess of the indirectly owned insurance affiliates/subsidiaries is as follows:

<u>Company</u>	<u>Stat. Book value</u>	<u>Source:</u>
Holder, Inc.	50,000,000	MEGA Health Sch D - Part 6, Section 1
<i>Holder, Inc. aff/subs subject to RBC</i>		
ABC Life Company	10,000,000	Holder, Inc. Stat. balance sheet
XYZ Casualty Company	15,000,000	Holder, Inc. Stat. balance sheet
ANH Health Company	3,000,000	Holder, Inc. Stat. balance sheet
Subtotal	28,000,000	
Holder, Inc. excl. RBC aff/subs	22,000,000	<i>(amount subject to the 30.0% factor for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries)</i>

The following table shows the XR002 entries that MEGA Health Insurance Company (which owns 100% owns of Holder, Inc.) would report for the indirectly owned insurance affiliates/subsidiaries under Holder, Inc. This table assumes that Holder, Inc. owns 40%, 50% and 25% of ABC Life, XYZ Casualty, and ANH Health, respectively. The table also assumes that the RBC values shown for these affiliates/subsidiaries at the 100% level are the correct RBC After Covariance but Before Operational Risk.

Affiliates/Subsidiaries	Affiliates/Subsidiaries Type	XR002 Column					
		4 100% RBC	5 Book Adjusted Carrying Value	7 Total Value of Affiliates/Subsidiaries	8 Statutory Surplus of Affiliates/Subsidiaries	11 % Owned	12 RBC Required
ABC Life Company	Indirect U.S. Life Aff/Sub	5,000,000	10,000,000	25,000,000	25,000,000	40%	2,000,000
XYZ Casualty Company	Indirect U.S. P&C Aff/Sub	12,000,000	15,000,000	30,000,000	30,000,000	50%	6,000,000
ANH Health Company	Indirect U.S. Health Aff/Sub	6,000,000	3,000,000	12,000,000	12,000,000	25%	1,500,000

The risk-based capital charge for the parent insurer preparing the calculation is a 30 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries as calculated in the prior example. Enter information in the appropriate columns of the worksheet, omitting those columns that do not apply (Column (3) – NAIC Company Code or Alien ID Number and Column (4) Affiliate's RBC After Covariance).

Affiliates/Subsidiaries that are Not Subject to RBC

4. Investment Subsidiaries

An investment subsidiary is a subsidiary that exists only to invest the funds of the parent company. The term investment subsidiary is defined in the annual statement instructions as any subsidiary, other than a holding company, engaged or organized primarily to engage in the ownership and management of investments for the insurer. An investment subsidiary shall not include any broker-dealer or a money management fund managing funds other than those of the parent company. The risk-based capital for an investment in an investment subsidiary is 30 percent of the carrying value of the common and preferred stock.

5. Directly Owned Alien Insurance Affiliates/Subsidiaries

For purposes of this formula, the Risk-Based Capital (RBC) of each directly owned alien insurance affiliate/subsidiary is the annual statement book adjusted carrying value of the reporting company's interest in the affiliate multiplied by 1.000. Enter information for any non-U.S. insurance affiliate/subsidiary: life, property and casualty, and health insurers.

For each affiliate/subsidiary, enter the following information:

- Company Name,
- Alien Insurer Identification Number,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's common and preferred stock columns (7) and (10), the program will assume 100 percent ownership.

6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries

For Indirectly Owned Alien Insurance Affiliates/Subsidiaries, the carrying value and RBC charge is calculated in a similar manner as for directly owned Alien Insurance Affiliates/Subsidiaries.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned Alien insurer may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an Alien insurer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must "look-through" all intermediate holding and subsidiary companies to determine the carrying value and the RBC charge that would be imposed had the Alien insurance affiliate/subsidiary companies been directly held by the reporting insurer. This involves looking down to the first alien insurer affiliate/subsidiary, unless there is an RBC filer in between, and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both the RBC charge and carrying value of the alien insurer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on Line XXXX of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value of an alien insurance affiliate/subsidiary is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each RBC filing insurer and each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The RBC charge to be applied to each indirectly owned alien insurance affiliate/subsidiary is the annual statement book adjusted carrying value of the reporting company's interest in the affiliate/subsidiary multiplied by 1.0 and adjusted to reflect the reporting company's ownership on the holding company. For example, assume NEWBIE Insurance Company acquired 100 percent shares of Holder (a holding company), and Holder owns an Alien Insurance Company, which represents 50 percent of the book adjusted carrying value of Holder. If Holder has a book adjusted carrying value of \$20,000,000, NEWBIE Insurance Company would enter \$10,000,000 (1/2 of \$20,000,000) as the carrying value of the Alien Insurance Company and the RBC charge for the indirect ownership of the alien insurance affiliate/subsidiary would be \$5,000,000 (0.500 times \$10,000,000). The risk-based capital charge for the parent insurer preparing the calculation is a 30 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries.

If NEWBIE Insurance Company only acquired 50 percent shares of Holder, NEWBIE Insurance Company would enter \$5,000,000 (50 percent of 1/2 of \$20,000,000) as the carrying value of the Alien Insurance Company and the RBC charge for the indirect ownership of the Alien insurance affiliate/subsidiary would be \$5,000,000 (1.0 times \$5,000,000). Enter information for any indirectly owned alien insurance subsidiaries.

		XR002 Column				
Affiliate/Subsidiary	Affiliate/Subsidiary Type	4 100% RBC	5 Book Adjusted Carrying Value	7 Total Value of Affiliate/Subsidiary	11 % Owned	12 RBC Required
Alien Insurance Company	Indirect Alien Life Affiliate/Subsidiary	5,000,000	10,000,000	20,000,000	50%	5,000,000

For each affiliate/subsidiary enter the following information:

- Company Name,
- Alien Insurer Identification Number,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's Common and preferred stock column.

7. Investment in Upstream Affiliate (Parent)

The risk-based capital (RBC) for an investment in an upstream parent is 30.0 percent of the book/adjusted carrying value of the common and preferred stock, regardless of whether that upstream parent is subject to RBC. Report the appropriate information from Schedule D, Part 6, Section 1, Lines 0199999 and 1099999 in Columns (1) through (10).

For each affiliate, enter the following information:

- Company Name,
- Affiliate Type Code,
- NAIC Company Code,
- Book Adjusted carrying value of common stock
- Book Adjusted carrying value of preferred stock,
- Total Outstanding value of common and preferred stock.

8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Health Insurance Companies and Health Entities Not Subject to RBC
- b. Property and Casualty Insurance Companies Not Subject to RBC, such as title insurers, monoline financial guaranty insurers, and monoline mortgage guaratee insurers
- c. Life Insurance Companies Not Subject to RBC, such as life insurance subsidiary exempted from RBC

The risk-based capital for insurers not subject to RBC is based on the underlying statute, regulation, or rule governing capital requirements for such entities. If not otherwise specified by statute regulation or rule, the risk-based capital for an investment in a U.S. insurer that is not required to file an RBC formula is 30 percent of the book/adjusted carrying value of the common and preferred stock.

9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Financial entities with a capital requirement imposed by a regulatory body (e.g., a bank)
- b. Other financial entities without regulatory capital requirements
- c. Other non-financial entities

The risk-based capital for entity types a, b, and c is 30 percent of the book/adjusted carrying value of the common and preferred stock. The affiliate/subsidiary code for Non-Insurer Affiliates/Subsidiaries Not Subject to RBC is "9". Reported amounts use Schedule D, Part 6, Section 1, Line 0899999, and Line 1799999 as the basis of reporting.

APPENDIX 3 – EXAMPLE USED FOR AFFILIATED/SUBSIDIARY STOCKS

To determine the value of total outstanding common stock or total outstanding preferred stock, divide the book/adjusted carrying value of the investment (found in Schedule D - Part 6 Section 1, Column 9) by the percentage of ownership (found in Schedule D – Part 6 – Section 1, Column 12). For example:

<u>Subsidiary Insurance Company</u>	<u>Owner's Book / Adjusted Carrying Value</u>	<u>Percentage Ownership</u>	<u>Total Stock Outstanding</u>
Subsidiary #1	\$1,000,000	100%	\$1,000,000
Subsidiary #2	\$1,000,000	75%	\$1,333,333
Subsidiary #3	\$1,000,000	50%	\$2,000,000
Subsidiary #4	\$1,000,000	25%	\$4,000,000
Subsidiary #5	\$1,000,000	10%	\$10,000,000

**AFFILIATED COMPANIES RISK – DETAILS
DETAILS FOR AFFILIATED STOCKS**

(1) Name of Affiliate	(2) Affiliate Code	(3) NAIC Company Code or Alien ID Number	(4) Affiliate's RBC after Covariance Before Basic Operational Risk (X8025 Line (37) + E8031 Line (67) + (71))	(5) Book/Adjusted Carrying Value (statement value) of Affiliate's Common Stock	(6) Valuation Basis of Col (5) M - Market Value A - All Other	(7) Total Value of Affiliate's Outstanding Common Stock	(8) Statutory Surplus of Affiliate Subject to RBC (Adjusted for % Owned)	(9) Book/Adjusted Carrying Value (statement value) of Affiliate's Preferred Stock	(10) Total Value of Affiliate's Outstanding Preferred Stock	(11) Percent Owned (Cols 5 + 9) / (Cols 7 + 10)	(12) RBC Required (H0 Component)	(13) Market Value Excess Component/Affiliated Common Stock RBC Required (H1 Component)
(01)										100.000%		
(02)										100.000%		
(03)										100.000%		
(04)										100.000%		
(05)										100.000%		
(06)										100.000%		
(07)										100.000%		
(08)										100.000%		
(09)										100.000%		
(10)										100.000%		
(11)										100.000%		
(12)										100.000%		
(13)										100.000%		
(14)										100.000%		
(15)										100.000%		
(16)										100.000%		
(17)										100.000%		
(18)										100.000%		
(19)										100.000%		
(20)										100.000%		
(21)										100.000%		
(22)										100.000%		
(23)										100.000%		
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(30)										100.000%		
(31)										100.000%		
(32)										100.000%		
(33)										100.000%		
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(36)										100.000%		
(37)										100.000%		
(38)										100.000%		
(39)										100.000%		
(40)										100.000%		
(41)										100.000%		
(42)										100.000%		
(43)										100.000%		
(44)										100.000%		
(45)										100.000%		
(46)										100.000%		
(47)										100.000%		
(48)										100.000%		
(49)										100.000%		
(50)										100.000%		
Total	XXX	XXX	0	0	XXX	0	0	0	0	XXX	0	0

(9999999)

Remark: Subcategory 8a, 8b and 8c are referring to the directly owned insurance affiliates not subject to RBC look-through

Indirectly owned insurance affiliate not subject to RBC will be included Category 4

If Col(2) \rightarrow \leq min(Col(6) \rightarrow F, D) \rightarrow Calculation

Calculation

Col(12) = Min(Col(4) * Col(11), Col(8) * Col(11))

If Col(5) \rightarrow Col(9) \rightarrow Max(Col(4) * Col(11), Col(8) * Col(11)) then

Col(13) = Max(Col(5) \rightarrow Col(9) \rightarrow Col(8) * Col(11)) * 225 / (Col(4) \rightarrow Col(8)) * Col(11)

If Col(4) * Col(11) \rightarrow Col(5) \rightarrow Col(9) \rightarrow Col(8) * Col(11) then

Col(13) = Col(5) \rightarrow Col(9) \rightarrow Col(8) * Col(11)

Otherwise

Col(13) = 0

Col(12) and (13) cannot be less than 0

**SUBSIDIARY, CONTROLLED AND AFFILIATED INVESTMENTS
AFFILIATED COMPANIES RISK**

	Type of Affiliate	Affiliate Type	Type Code	Basis	(1) Number of Companies	(2) Total RBC Required
(1)	Directly Owned Health Insurance Companies or Health Entities	Directly Owned Health Insurance Companies or Health Entities	1a	Affiliate's RBC	0	\$0
(2)	Directly Owned Property and Casualty Insurance Affiliates	Directly Owned Property and Casualty Insurance Affiliates	1b	Affiliate's RBC	0	\$0
(3)	Directly Owned Life Insurance Affiliates	Directly Owned Life Insurance Affiliates	1c	Affiliate's RBC	0	\$0
(4)	Indirectly Owned Health Insurance Companies or Health Entities	Indirectly Owned Health Insurance Companies or Health Entities	2a	Affiliate's RBC	0	\$0
(5)	Indirectly Owned Property and Casualty Insurance Affiliates	Indirectly Owned Property and Casualty Insurance Affiliates	2b	Affiliate's RBC	0	\$0
(6)	Indirectly Owned Life Insurance Affiliates	Indirectly Owned Life Insurance Affiliates	2c	Affiliate's RBC	0	\$0
(7)	Holding Company in Excess of Indirect Subs	Holding Company in Excess of Indirect Subs	3	Sub's RBC After Covariance	0	\$0
(8)	Investment Subsidiary	Investment Subsidiary	4	0.300	0	\$0
(9)	Directly Owned Alien Health Insurance Companies or Health Entities	Directly Owned Alien Health Insurance Companies or Health Entities	5a	0.300	0	\$0
(10)	Directly Owned Alien Property and Casualty Insurance Affiliates	Directly Owned Alien Property and Casualty Insurance Affiliates	5b	1.000	0	\$0
(11)	Directly Owned Alien Life Insurance Affiliates	Directly Owned Alien Life Insurance Affiliates	5c	1.000	0	\$0
(12)	Indirectly Owned Alien Health Insurance Companies or Health Entities	Indirectly Owned Alien Health Insurance Companies or Health Entities	6a	1.000	0	\$0
(13)	Indirectly Owned Alien Property and Casualty Insurance Affiliates	Indirectly Owned Alien Property and Casualty Insurance Affiliates	6b	1.000	0	\$0
(14)	Indirectly Owned Alien Life Insurance Affiliates	Indirectly Owned Alien Life Insurance Affiliates	6c	1.000	0	\$0
(15)	Investment in Upstream Affiliate (Parent)	Investment in Upstream Affiliate (Parent)	7	0.300	0	\$0
(16)	Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	8a	0.300	0	\$0
(17)	Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	8b	0.300	0	\$0
(18)	Directly Owned Life Insurance Companies Not Subject to RBC	Directly Owned Life Insurance Companies Not Subject to RBC	8c	0.300	0	\$0
(19)	Non-Insurance Entities with a Capital Requirement Imposed by a Regulatory Body	Non-Insurance Entities with a Capital Requirement Imposed by a Regulatory Body	9a	0.300	0	\$0
(20)	Non-Insurance Other Financial Entities without Regulatory Capital Requirements	Non-Insurance Other Financial Entities without Regulatory Capital Requirements	9b	0.300	0	\$0
(21)	Other Non-financial Entities	Other Non-financial Entities	9c	0.300	0	\$0
(22)	Total	Total			0	\$0

CROSS-CHECKING FOR AFFILIATED INVESTMENTS
SUMMARY FOR SUBSIDIARY, CONTROLLED AND AFFILIATED INVESTMENTS FOR CROSS-CHECKING STATEMENT VALUES

Affiliated Preferred Stock		(1)	(2)	(3)
Schedule D Part 6 Section 1 C7		Total Preferred Stock	Total From RBC Report	Difference
Annual Statement Line Number				
(1)	Parent	0	0	0
(2)	U.S. P&C Insurer	0	0	0
(3)	U.S. Life Insurer	0	0	0
(4)	U.S. Health Insurer	0	0	0
(5)	Alien Insurer	0	0	0
(6)	Non-Insurer Which Controls Insurer	0	0	0
(7)	Investment Subsidiary	0	0	0
(8)	Other Affiliates	0	0	0
(9)	Subtotal	0	0	0

Affiliated Common Stock		(1)	(2)	(3)
Schedule D Part 6 Section 1 C7		Total Common Stock	Total From RBC Report	Difference
Annual Statement Line Number				
(10)	Parent	0	0	0
(11)	U.S. P&C Insurer	0	0	0
(12)	U.S. Life Insurer	0	0	0
(13)	U.S. Health Insurer	0	0	0
(14)	Alien Insurer	0	0	0
(15)	Non-Insurer Which Controls Insurer	0	0	0
(16)	Investment Subsidiary	0	0	0
(17)	Other Affiliates	0	0	0
(18)	Subtotal	0	0	0

EQUITY ASSETS

PREFERRED STOCK - UNAFFILIATED

	Annual Statement Source	Bk/Adj Carrying Value	Factor	RBC Requirement
(1) NAIC 01 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.003	\$0
(2) NAIC 02 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.010	\$0
(3) NAIC 03 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.020	\$0
(4) NAIC 04 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.045	\$0
(5) NAIC 05 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.100	\$0
(6) NAIC 06 Preferred Stock	Included in Schedule D, Part 2, Section 1		0.300	\$0
(7) Total - Unaffiliated Preferred Stock	Sum of Lines (1) through (6)	\$0		

(Should equal Page 2, Column 3, Line 2.1 less Sch D Sum, Column 1, Line 18)

COMMON STOCK - UNAFFILIATED

(8) Federal Home Loan Bank Stock	Company Records		0.023	\$0
(9) Total Common Stock	Schedule D, Summary, Column 1, Line 25			
(10) Affiliated Common Stock	Schedule D, Summary, Column 1, Line 24			
(11) Other Unaffiliated Common Stock	Lines (9) - (8) - (10)	\$0	0.150	\$0
(12) Market Value Excess Affiliated Common Stock	XR002 C(13) L(9999999)			\$0
(13) Total Unaffiliated Common Stock	Lines (8) + (11) + (12)	\$0		\$0

CALCULATION OF TOTAL RISK-BASED CAPITAL AFTER COVARIANCE

	(1) RBC Amount
H0 - INSURANCE AFFILIATES AND MISC. OTHER AMOUNTS	
(1) Off-Balance Sheet Items	\$0
(2) Directly Owned Health Insurance Companies or Health Entities	\$0
(3) Directly Owned Property and Casualty Insurance Affiliates	\$0
(4) Directly Owned Life Insurance Affiliates	\$0
(5) Indirectly Owned Health Insurance Companies or Health Entities	\$0
(6) Indirectly Owned Property and Casualty Insurance Affiliates	\$0
(7) Indirectly Owned Life Insurance Affiliates	\$0
(8) Affiliated Alien Insurers - Directly Owned	\$0
(9) Affiliated Alien Insurers - Indirectly Owned	\$0
(10) Total H0	\$0
H1 - ASSET RISK - OTHER	
(11) Investment-Affiliates	\$0
(12) Holding Company Excess-of-Subsidiaries	\$0
(13) Investment-in-Parent	\$0
(14) Other-Affiliates	\$0
(15) Fair-Value-Excess-Affiliate-Common-Stock	\$0
(16) Holding Company in Excess of Indirect Subs	\$0
(17) Investment Subsidiary	\$0
(18) Investment in Upstream Affiliate (Parent)	\$0
(19) Directly Owned Health Insurance Companies or Health Entities	\$0
(20) Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	\$0
(21) Directly Owned Life Insurance Companies Not Subject to RBC	\$0
(22) Affiliated Non-Insurer	\$0
(23) Fixed Income Assets	\$0
(24) Replication & Mandatory Convertible Securities	\$0
(25) Unaffiliated Preferred Stock	\$0
(26) Unaffiliated Common Stock	\$0
(27) Property & Equipment	\$0
(28) Asset Concentration	\$0
(29) Total H1	\$0
H2 - UNDERWRITING RISK	
(30) Net Underwriting Risk	\$0
(31) Other Underwriting Risk	\$0
(32) Disability Income	\$0
(33) Long-Term Care	\$0
(34) Limited Benefit Plans	\$0
(35) Premium Stabilization Reserve	\$0
(36) Total H2	\$0
Sum Lines (1) through (9)	\$0
Sum Lines (11) through (23)	\$0
Sum Lines (25) through (30)	\$0

CALCULATION OF TOTAL RISK-BASED CAPITAL AFTER COVARIANCE

	(1)	RBC Amount
H3 - CREDIT RISK		
(32) Total Reinsurance RBC		\$0
(33) Intermediaries Credit Risk RBC	XR020, Credit Risk Page, Line (17)	\$0
(34) Total Other Receivables RBC	XR020, Credit Risk Page, Line (24)	\$0
(35) Total H3	XR021, Credit Risk Page, Line (30)	\$0
	Sum Lines (32) through (34)	\$0
H4 - BUSINESS RISK		
(36) Administrative Expense RBC	XR022, Business Risk Page, Line (7)	\$0
(37) Non-Underwritten and Limited Risk Business RBC	XR022, Business Risk Page, Line (11)	\$0
(38) Premiums Subject to Guaranty Fund Assessments	XR022, Business Risk Page, Line (12)	\$0
(39) Excessive Growth RBC	XR022, Business Risk Page, Line (19)	\$0
(40) Total H4	Sum Lines (36) through (39)	\$0
(41) RBC after Covariance Before Basic Operational Risk	$H0 + \text{Square Root of } (H1^2 + H2^2 + H3^2 + H4^2)$	\$0
(42) Basic Operational Risk	0.030 x Line (41)	\$0
(43) C-4a of U.S. Life Insurance Subsidiaries	Company Records	\$0
(44) Net Basic Operational Risk	Line (42) - (43) (Not less than zero)	\$0
(45) RBC After Covariance Including Basic Operational Risk	Lines (41) + (44)	\$0
(46) Authorized Control Level RBC	.50 x Line (45)	\$0

CALCULATION OF TOTAL ADJUSTED CAPITAL

	Annual Statement Source	(1) Amount	Factor	(2) Adjusted Capital
Company Amounts				
(1) Capital and Surplus	Page 3, Column 3, Line 33		1.000	\$0
Subsidiary Adjustments				
(2) AVR - Life Subs	Affiliate's Statement \$		1.000	\$0
(3) Dividend Liability - Life Subsidiaries	Affiliate's Statement		0.500	\$0
(4) Tabular Discounts - P&C Subsidiaries	Affiliate's Statement		-1.000	\$0
(5) Non-Tabular Discounts - P&C Subsidiaries	Affiliate's Statement		-1.000	\$0
(6) Carrying Value of Non-Admitted Insurance Affiliates	Included in XR002 Column 5 and Column 9	0	1.000	\$0
(7) Total Adjusted Capital, Post-Deferred Tax				\$0
SENSITIVITY TEST:				
(8) DTA Value for Company	Page 2, Column 3, Line 18.2		1.000	\$0
(9) DTL Value for Company	Page 3, Column 3, Line 10.2		1.000	\$0
(10) DTA Value for Insurance Subsidiaries	Company Records		1.000	\$0
(11) DTL Value for Insurance Subsidiaries	Company Records		1.000	\$0
(12) Total Adjusted Capital, Pre-Deferred Tax (Sensitivity)	Lines (7) - (8) + (9) - (10) + (11)			\$0
Ex DTA ACL RBC Ratio Sensitivity Test				
(13) Deferred Tax Asset	Page 2 Column 3, Line 18.2		1.000	\$0
(14) Total Adjusted Capital Less Deferred Tax Asset	Lines (7) less (13)			\$0
(15) Authorized Control Level RBC	XR027 Comparison of Total Adjusted Capital to Risk-Based Capital Line (4)			\$0
(16) Ex DTA ACL RBC Ratio	Line (14)/(15)			0.000%

§ The portion of the AVR that can be counted as capital is limited to the amount not utilized in asset adequacy testing in support of the Actuarial Opinion for reserves.

AFFILIATED/SUBSIDIARY STOCKS
LR042 – LR044

There are ten categories of affiliated/subsidiary investments that are subject to Risk-Based Capital requirements for common stock and preferred stock holdings. Those ten categories are:

1. Directly Owned U.S. Insurance Affiliates/Subsidiaries Subject to a Risk-Based Capital (RBC)-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries Subject to RBC-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries
4. Investment Subsidiaries
5. Directly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
7. Investments in Upstream Affiliate (Parent)
8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Health Insurance Companies and Health Entities Not Subject to RBC
 - b. Property and Casualty Insurance Companies Not Subject to RBC
 - c. Life Insurance Companies Not Subject to RBC
9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Entities with a capital requirement imposed by a regulatory body
 - b. Other Financial Entities without regulatory capital requirements
 - c. Non-financial entities
10. Publicly Traded Insurance Affiliates/Subsidiaries Held at Market Value

Enter applicable items for each affiliate/subsidiary in the Details for Affiliated/Subsidiary Stocks worksheet. The program will automatically calculate the risk-based capital charge for each affiliate/subsidiary. When the data is uploaded to the NAIC database, it will be cross-checked and the company will be required to correct any discrepancies and refile a corrected version with the NAIC and/or any state that requires the company to file RBC with its department. The RBC report will display the number of affiliates/subsidiaries. These numbers should be reviewed to ensure that all affiliates/subsidiaries are appropriately reported.

The total of all reported affiliate/subsidiary stock should equal the amounts reported on Schedule D, Part 2, Section 1, Line 4409999999 plus Schedule D, Part 2, Section 2, Line 5979999999 and should also equal Schedule D, Part 6, Section 1, Line 09999999 plus Line 18999999.

Affiliated/Subsidiary investments fall into two broad categories: (A) Insurance Affiliates/Subsidiaries that are Subject to risk-based capital; and (B) Affiliates/Subsidiaries that are Not Subject to risk-based capital. The risk-based capital for these two broad groups differs. Investment subsidiaries are a subset of category A in that they are subject to a risk-based capital charge that includes the life RBC risk factors applied only to the investments held by the investment subsidiary for its parent insurer. Publicly traded insurance affiliates/subsidiaries held at market value have characteristics of both broader categories. As a result, there is a two-part RBC calculation. The general treatment for each is explained below.

Directly owned insurance and health entity affiliates/subsidiaries are affiliates/subsidiaries in which the reporting company owns the stock of the affiliate/subsidiary. Indirectly owned insurance affiliates/subsidiaries and health entities are those where the reporting company owns stock in a holding company, which in turn owns the stock of the insurance affiliate/subsidiary or health entity. Note that there could be multiple holding companies that control the downstream insurance company.

Enter the book/adjusted carrying value of: the common stock in Column (5), the preferred stock in Column (7), the total outstanding common stock in Column (6) and the total outstanding preferred stock of that affiliate/subsidiary in Column (10) of the appropriate worksheet. The percentage of ownership is calculated by summing the book/adjusted carrying values of the owned preferred stock and common stock and dividing that amount by the sum of all outstanding preferred and common stock.

Insurance Affiliate/Subsidiaries that are Subject to RBC

1. Directly Owned U.S. Affiliates/Subsidiaries:

The risk-based capital requirement for the reporting company for those insurance affiliates/subsidiaries that are subject to a risk-based capital requirement is based on the Total Risk-Based Capital After Covariance of the affiliate/subsidiary, prorated for the percent of ownership of that affiliate/subsidiary.

For purposes of Subsidiary Risk all references to Total Risk-Based Capital After Covariance of the affiliate/subsidiary means:

- a. For a Health affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (XR024, Line (37));
- b. For a P/C affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (PR032, Line (68)); and
- c. For a Life affiliate/subsidiary RBC filing, the sum of
 - (a) Total Risk-Based Capital After Covariance before Basic Operational Risk (LR031, Line (67)); and
 - (b) Primary Security shortfalls for all cessions covered by Actuarial Guideline XLVIII (AG 48) multiplied by two (LR031, Line (71)).

For RBC purposes, the reporting insurer must determine the carrying value and the RBC requirement of directly owned RBC filing affiliate/subsidiary company, even if the RBC filing affiliate/subsidiary is non-admitted. The value reported in annual statement Schedule D, Part 6, Section 1 should be used for RBC purposes. In addition to RBC, the carrying value of the RBC filer must be reported in total adjusted carrying value for RBC purposes, in order to appropriately balance the numerator with the addition of the denominator value. Enter the carrying value of the insurer on **Line XXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

Equity method Insurance Affiliates/Subsidiaries: Equity method is defined in SSAP No. 97, Paragraph 8b. as the underlying audited statutory equity of the respective entity's financial statements, adjusted for any unamortized goodwill as provided for in SSAP No. 68—Business Combinations and Goodwill. For those Insurance Affiliates/Subsidiaries of the reporting company that are reported under the equity method, the C₀ charge of the ownership of the common and preferred stock in these Affiliates/Subsidiaries is limited to the lesser of:

- (a) the Total RBC After Covariance of the affiliate/subsidiary times the percentage of ownership, which is the total of common stock and preferred stock; or
- (b) the common and preferred stock book/adjusted carrying value at which the affiliate/subsidiary is carried.

Market Value (including discounted market value) Insurance Affiliates/Subsidiaries (See SSAP No. 97, Paragraph 8a.): See 10 below.

2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries

For Indirectly Owned U.S. Insurance Affiliates/Subsidiaries, the carrying value and RBC is calculated in the same manner as for directly owned U.S. Insurance Affiliates/Subsidiaries. The RBC for the indirect affiliates/subsidiaries must be calculated prior to completing this RBC report.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned RBC filer may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an RBC filer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must “look-through” all intermediate holding and subsidiary companies to determine the carrying value and the RBC requirement of indirectly owned RBC filing affiliate/subsidiary company. This involves drilling down to the first RBC filing insurance affiliate/subsidiary and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both RBC and carrying value of the RBC filer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on Line XXX of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value for each indirect insurance affiliate/subsidiary is established based on company records using the statutory value of the insurer as reported in the NAIC annual financial statement blank submitted by the affiliate/subsidiary or market value when applicable, and the RBC requirement as determined in its RBC Report adjusted for the ownership percentages (both the percentage of the indirectly owned RBC filing affiliate/subsidiary that is owned by the directly held downstream holding company and the reporting insurer's ownership percentage in that downstream entity). The value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis.

3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries:

The carrying value of a U.S. Insurance Affiliate/Subsidiary that is subject to RBC is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance affiliate/subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each RBC filing insurer and each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The remaining value of the directly held holding company is then subject to a charge that is calculated in accordance with the instructions for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries as specified in the RBC formula. If the holding company is not admitted, report the excess carrying value as zero and the

corresponding RBC charge will also be zero. If a negative excess value for the downstream holding company results from removing the value of U.S. RBC filing insurers from the downstream holding company's reported value, then the value of that holding company will be floored at zero and the corresponding RBC charge will also be zero.

The following hypothetical Balance Sheet indicates the view of a Holding Company - Holder, Inc. which is 100% owned by MEGA Life Insurance Company (it assumes that the value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis):

Balance Sheet	
Holder, Inc.	
12/31/XXXX	
Cm Stk:	
ABC Life Company	10,000,000
XYZ Casualty Company	15,000,000
ANH Health Company	3,000,000
Other Common Stock	17,000,000
Cash	7,000,000
Other Assets	5,000,000
Total Assets	57,000,000
	Long Term Debt
	Other Liabilities
	Total Liabilities
	Equity
	Total Liabilities & Equity
	57,000,000

The RBC calculation for Holder, Inc.'s value in excess of the indirectly owned insurance affiliates is as follows:

Company	Stat. Book value	Source:
Holder, Inc.	50,000,000	MEGA Life Sch D - Part 6, Section 1
Holder, Inc. aff/subs subject to RBC		
ABC Life Company	10,000,000	Holder, Inc. Stat. balance sheet
XYZ Casualty Company	15,000,000	Holder, Inc. Stat. balance sheet
ANH Health Company	<u>3,000,000</u>	Holder, Inc. Stat. balance sheet
Subtotal	28,000,000	
Holder, Inc. excl. RBC aff/subs	22,000,000	(amount subject to the 30.0% factor for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries)

The following table shows the LR044 entries that MEGA Life Insurance Company (which owns 100% owns of Holder, Inc.) would report for the indirectly owned insurance subsidiaries under Holder, Inc. This table assumes that Holder, Inc. owns 40%, 50% and 25% of ABC Life, XYZ Casualty, and ANH Health, respectively. The table also assumes that the RBC values shown for these subsidiaries at the 100% level are the correct RBC After Covariance but Before Operational Risk.

Affiliates/Subsidiaries	Affiliates/Subsidiaries Type	LR044 Column				
		4 100% RBC	5 Book Adjusted Carrying Value	6 Total Value of Affiliates/Subsidiaries	9 % Owned	10 RBC Required
ABC Life Company	Indirect U.S. Life Aff/Sub	5,000,000	10,000,000	25,000,000	40%	2,000,000
XYZ Casualty Company	Indirect U.S. P&C Aff/Sub	12,000,000	15,000,000	30,000,000	50%	6,000,000
ANH Health Company	Indirect U.S. Health Aff/Sub	6,000,000	3,000,000	12,000,000	25%	1,500,000

The risk-based capital charge for the parent insurer preparing the calculation is a 30.0 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries as calculated in the prior example. Enter information in the appropriate columns of the worksheet, omitting those columns that do not apply (Column (3) – NAIC Company Code or Alien ID Number and Column (4) Affiliate’s RBC After Covariance).

4. Investment Subsidiaries

An investment subsidiary is a subsidiary that exists only to invest the funds of the parent company. The term “investment subsidiary” is defined in the NAIC’s *Annual Statement Instructions* as any subsidiary, other than a holding company, engaged or organized primarily to engage in the ownership and management of investments for the insurer. An investment subsidiary shall not include any broker-dealer or a money management fund managing funds other than those of the parent company. The risk-based capital charge for the ownership of an investment subsidiary is based on the risk-based capital of the underlying assets, pro-rated for the degree of ownership. The basis for this calculation is the assumption that the charge should be the same as it would be if the life insurer held the assets directly.

Report information regarding any investment subsidiaries. Subsidiaries reported in this section will be assigned an affiliate code of “4” for investment subsidiaries. The amount of reported common stock should be the same as Schedule D, Part 6, Section 1, Line 1699999. Preferred stock information should be the same as Schedule D, Part 6, Section 1, Line 0799999.

Affiliates/Subsidiaries that are Not Subject to RBC

5. Directly Owned Alien Insurance Affiliates/Subsidiaries

For purposes of this formula, the risk-based capital of each alien insurance affiliate/subsidiary is zero. Report information for any non-U.S. insurance affiliate/subsidiary, both life and property and casualty.

For each affiliate/subsidiary, report the name and alien insurer identification number. For purposes of this formula, the statement value of common and preferred stock and the total outstanding value of common and preferred stock for alien insurance affiliates/subsidiaries should be entered as zero. Companies reported in this section will be assigned an affiliate/subsidiary code of “5” for alien insurers.

For each affiliate/subsidiary, enter the following information:

- Company Name,
- Alien Insurer Identification Number,

- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's/Subsidiary's common and preferred stock columns (6) and (8), the program will assume 100 percent ownership.

6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries

Consistent with the treatment of Directly Owned Alien Insurance Subsidiaries / Affiliates, for purposes of this formula, the carrying value and risk-based capital charge of each alien insurance affiliate is zero.

For each affiliate/Subsidiary enter the following information:

- Company Name,
- Alien Insurer Identification Number,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Lines 1499999 and 0599999. If no value is reported in the Total Value of Affiliate's/Subsidiary's Common and preferred stock columns (6) and (8), the program will assume 100 percent ownership.

7. Investment in Upstream Affiliate (Parent)

The pre-tax Risk-Based Capital (RBC) for an investment in an upstream parent is 30.0 percent of the book/adjusted carrying value of the common and preferred stock, regardless of whether that upstream parent is subject to RBC. Report the appropriate information from Schedule D, Part 6, Section 1, Lines 0199999 and 1099999 in Columns (1) through (6).

For each affiliate, enter the following information:

- Company Name,
- Affiliate Type,
- NAIC Company Code,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock.

8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Health Insurance Companies and Health Entities Not Subject to RBC
- b. Property and Casualty Insurance Companies Not Subject to RBC, such as title insurers, monoline financial guaranty insurers, and monoline mortgage guarantee insurers
- c. Life Insurance Companies Not Subject to RBC, such as life insurance affiliate/subsidiary exempted from RBC

The risk-based capital for insurers not subject to RBC is based on the underlying statute, regulation, or rule governing capital requirements for such entities. If not otherwise specified by statute, regulation or rule, the risk-based capital for an investment in a U.S. insurer that is not required to file an RBC formula investment is 0.300 times the book/adjusted carrying value of the common and preferred stock.

9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Financial entities with a capital requirement imposed by a regulatory body (e.g. a bank)
- b. Other financial entities without regulatory capital requirements
- c. Other Non-financial entities

The risk-based capital for entity types a, b, and c. is 0.300 times the book/adjusted carrying value of the common and preferred stock. The affiliate/subsidiary code for Non-Insurance Affiliates/Subsidiaries Not Subject to RBC is "9." Reported amounts use Schedule D, part 6, Schedule 1, Line 08999999, and Line 17999999 as the basis of reporting.

10. Publicly Traded Insurance Affiliates/Subsidiaries Held at Market Value

The risk-based capital for a publicly traded insurance affiliate/subsidiary held at market value after any "discount," is calculated in two parts. First, calculate and report the risk-based capital of the affiliate/subsidiary according to the relevant instructions above for Insurance Affiliates/Subsidiaries that are Subject to a RBC-look-through Calculation. Second, calculate the additional risk-based capital charge as 34.6 percent pre-tax of any excess of the market (statement) value over the book value of the affiliate/subsidiary. The result of the second calculation will be added to the C-10 component.

Report information regarding any publicly traded insurance affiliate/subsidiary held at market value. The reported market value of common stock should be the same as shown Schedule D, Part 2, Section 2, Column 8, Line 5919999999 plus Line 5929999999. The market value of preferred stock should be the same as shown in Schedule D, Part 2, Section 1, Column 10, line 4319999999 plus 4329999999. The reported book value of common stock should be the same as shown in Schedule D, Part 2, Section 2, Column 6, Line 5919999999 plus Line 5929999999. The reported book value of preferred stock should be the same as Schedule D, Part 2, Section 1, Column 8, Line 4319999999 plus 4329999999.

APPENDIX 3 – EXAMPLE USED FOR AFFILIATED/SUBSIDIARY STOCKS

To determine the value of total outstanding common stock or total outstanding preferred stock, divide the book/adjusted carrying value of the investment (found in Schedule D - Part 6 Section 1, Column 9) by the percentage of ownership (found in Schedule D – Part 6 – Section 1, Column 12). For example:

<u>Subsidiary Insurance Company</u>	<u>Owner's Book / Adjusted Carrying Value</u>	<u>Percentage Ownership</u>	<u>Total Stock Outstanding</u>
Subsidiary #1	\$1,000,000	100%	\$1,000,000
Subsidiary #2	\$1,000,000	75%	\$1,333,333
Subsidiary #3	\$1,000,000	50%	\$2,000,000
Subsidiary #4	\$1,000,000	25%	\$4,000,000
Subsidiary #5	\$1,000,000	10%	\$10,000,000

NAIC Company Code

Confidential when Completed

Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL

	ASSET RISKS	Source	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
	Bonds				
(001)	Long-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (2.8) + LR018 OF-Balance Sheet Collateral Column (3) Line (2.8)	X	0.1680	=
(002)	Long-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (3.4) + LR018 OF-Balance Sheet Collateral Column (3) Line (3.4)	X	0.1680	=
(003)	Long-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (4.4) + LR018 OF-Balance Sheet Collateral Column (3) Line (4.4)	X	0.1680	=
(004)	Long-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (5.4) + LR018 OF-Balance Sheet Collateral Column (3) Line (5.4)	X	0.1680	=
(005)	Long-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (6.4) + LR018 OF-Balance Sheet Collateral Column (3) Line (6.4)	X	0.1680	=
(006)	Long-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (7) + LR018 OF-Balance Sheet Collateral Column (3) Line (7)	X	0.2100	=
(007)	Short-term Bonds - NAIC 1	LR002 Bonds Column (2) Line (10.8)	X	0.1680	=
(008)	Short-term Bonds - NAIC 2	LR002 Bonds Column (2) Line (11.4)	X	0.1680	=
(009)	Short-term Bonds - NAIC 3	LR002 Bonds Column (2) Line (12.4)	X	0.1680	=
(010)	Short-term Bonds - NAIC 4	LR002 Bonds Column (2) Line (13.4)	X	0.1680	=
(011)	Short-term Bonds - NAIC 5	LR002 Bonds Column (2) Line (14.4)	X	0.1680	=
(012)	Short-term Bonds - NAIC 6	LR002 Bonds Column (2) Line (15)	X	0.2100	=
(013)	Credit for Hedging - NAIC 1 Through 5 Bonds	LR014 Hedged Asset Bond Schedule Column (13) Line (0199999)	X	0.1680	†
(014)	Credit for Hedging - NAIC 6 Bonds	LR014 Hedged Asset Bond Schedule Column (13) Line (0299999)	X	0.2100	†
(015)	Bond Reduction - Reinsurance	LR002 Bonds Column (2) Line (19)	X	0.2100	=
(016)	Bond Increase - Reinsurance	LR002 Bonds Column (2) Line (20)	X	0.2100	=
(017)	Non-Exempt NAIC 1 U.S. Government Agency	LR002 Bonds Column (2) Line (22)	X	0.1680	=
(018)	Bonds Size Factor	LR002 Bonds Column (2) Line (26) - LR002 Bonds Column (2) Line (21)	X	0.1680	=
	Mortgages				
	In Good Standing				
(019)	Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (1)	X	0.1575	=
(020)	Residential Mortgages - Other	LR004 Mortgages Column (6) Line (2)	X	0.1575	=
(021)	Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (3)	X	0.1575	=
(022)	Total Commercial Mortgages - All Other	LR004 Mortgages Column (6) Line (9)	X	0.1575	=
(023)	Total Farm Mortgages	LR004 Mortgages Column (6) Line (15)	X	0.1575	=
	90 Days Overdue				
(024)	Farm Mortgages	LR004 Mortgages Column (6) Line (16)	X	0.1575	=
(025)	Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (17)	X	0.1575	=
(026)	Residential Mortgages - Other	LR004 Mortgages Column (6) Line (18)	X	0.1575	=
(027)	Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (19)	X	0.1575	=
(028)	Commercial Mortgages - Other	LR004 Mortgages Column (6) Line (20)	X	0.1575	=
(029)	All Processes of Foreclosure				
(029)	Farm Mortgages	LR004 Mortgages Column (6) Line (21)	X	0.1575	=

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Denotes items that must be manually entered on the filing software.

LR030

NAIC Company Code

Confidential when Completed

Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

	Source	(1) REC Amount	Tax Factor	(2) REC Tax Effect
(030) Residential Mortgages - Insured	LR004 Mortgages Column (6) Line (22)	X	0.1575	=
(031) Residential Mortgages - Other	LR004 Mortgages Column (6) Line (23)	X	0.1575	=
(032) Commercial Mortgages - Insured	LR004 Mortgages Column (6) Line (24)	X	0.1575	=
(033) Commercial Mortgages - Other	LR004 Mortgages Column (6) Line (25)	X	0.1575	=
(034) Due & Unpaid Taxes Mortgages	LR004 Mortgages Column (6) Line (26)	X	0.1575	=
(035) Due & Unpaid Taxes - Foreclosures	LR004 Mortgages Column (6) Line (27)	X	0.1575	=
(036) Mortgage Reduction - Reinsurance	LR004 Mortgages Column (6) Line (28)	X	0.2100	†
(037) Mortgage Increase - Reinsurance	LR004 Mortgages Column (6) Line (29)	X	0.2100	=
(038) Unaffiliated Preferred Stock NAIC 1	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (1) + LR018 OFE-Balance Sheet Collateral Column (3) Line (9)	X	0.1575	=
(039) Unaffiliated Preferred Stock NAIC 2	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (2) + LR018 OFE-Balance Sheet Collateral Column (3) Line (10)	X	0.1575	=
(040) Unaffiliated Preferred Stock NAIC 3	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (3) + LR018 OFE-Balance Sheet Collateral Column (3) Line (11)	X	0.1575	=
(041) Unaffiliated Preferred Stock NAIC 4	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (4) + LR018 OFE-Balance Sheet Collateral Column (3) Line (12)	X	0.1575	=
(042) Unaffiliated Preferred Stock NAIC 5	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (5) + LR018 OFE-Balance Sheet Collateral Column (3) Line (13)	X	0.1575	=
(043) Unaffiliated Preferred Stock NAIC 6	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (6) + LR018 OFE-Balance Sheet Collateral Column (3) Line (14)	X	0.2100	=
(044) Preferred Stock Reduction-Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (8)	X	0.2100	=
(045) Preferred Stock Increase-Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (9)	X	0.2100	†
(046) Separate Accounts	LR006 Separate Accounts Column (3) Line (1)	X	0.1575	=
(047) Nominee Book Reserve	LR006 Separate Accounts Column (3) Line (2)	X	0.1575	=
(048) Separate Accounts Nominee Market Reserve	LR006 Separate Accounts Column (3) Line (3)	X	0.1575	=
(049) Separate Accounts Reduction-Reinsurance	LR006 Separate Accounts Column (3) Line (5)	X	0.2100	†
(050) Separate Accounts Increase-Reinsurance	LR006 Separate Accounts Column (3) Line (6)	X	0.2100	=
(051) Synthetic GICs	LR006 Separate Accounts Column (3) Line (8)	X	0.1575	=
(052) Separate Account Surplus	LR006 Separate Accounts Column (3) Line (13)	X	0.1575	=
(053) Company Occupied Real Estate	LR007 Real Estate Column (3) Line (3)	X	0.2100	=
(054) Foreclosed Real Estate	LR007 Real Estate Column (3) Line (6)	X	0.2100	=
(055) Investment Real Estate	LR007 Real Estate Column (3) Line (9)	X	0.2100	=
(056) Real Estate Reduction - Reinsurance	LR007 Real Estate Column (3) Line (11)	X	0.2100	=
(057) Real Estate Increase - Reinsurance	LR007 Real Estate Column (3) Line (12)	X	0.2100	=
(058) Sch BA Real Estate Excluding Low Income Housing Tax Credits	LR007 Real Estate Column (3) Line (16)	X	0.2100	=
(059) Guaranteed Low Income Housing Tax Credits	LR007 Real Estate Column (3) Line (17) + Line (19)	X	0.0000	=
(060) Non-Guaranteed and All Other Low Income Housing Tax Credits	LR007 Real Estate Column (3) Line (18) + Line (20) + Line (21)	X	0.0000	=
(061) Sch BA Real Estate Reduction - Reinsurance	LR007 Real Estate Column (3) Line (23)	X	0.2100	=
(062) Sch BA Real Estate Increase - Reinsurance	LR007 Real Estate Column (3) Line (24)	X	0.2100	=

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NAIC Company Code

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Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

Source	(1) RBC Amount	Tax Factor	(2) RBC Tax Effect
LR008 Other Long-Term Assets Column (5) Line (2)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (3)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (4)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (5)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (6)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (7)	X	0.2100	†
LR008 Other Long-Term Assets Column (5) Line (9)	X	0.2100	
LR008 Other Long-Term Assets Column (5) Line (10)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (12.3)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (13)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (14)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (15)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (16)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (17)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (19)	X	0.2100	†
LR008 Other Long-Term Assets Column (5) Line (20)	X	0.2100	
LR008 Other Long-Term Assets Column (5) Line (31)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (41)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (48.3)	X	0.2100	
LR008 Other Long-Term Assets Column (5) Line (50)	X	0.1575	
LR008 Other Long-Term Assets Column (5) Line (52.3) + LR018 Off-Balance Sheet Collateral Column (3) Line (17) + Line (18)	X	0.2100	†
LR008 Other Long-Term Assets Column (5) Line (54)	X	0.2100	
LR008 Other Long-Term Assets Column (5) Line (55)	X	0.2100	
LR009 Schedule BA Mortgages Column (6) Line (11)	X	0.1575	
LR009 Schedule BA Mortgages Column (6) Line (15)	X	0.1575	
LR009 Schedule BA Mortgages Column (6) Line (19)	X	0.1575	
LR009 Schedule BA Mortgages Column (6) Line (21)	X	0.2100	†
LR009 Schedule BA Mortgages Column (6) Line (22)	X	0.2100	
LR010 Asset Concentration Factor Column (6) Line (62) Grand Total Page	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (7)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (8) + (9) + (10)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (11)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (12)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (13)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (14)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (15)	X	0.1575	
LR012 Miscellaneous Assets Column (2) Line (16)	X	0.2100	†
LR012 Miscellaneous Assets Column (2) Line (19)	X	0.2100	
LR012 Miscellaneous Assets Column (2) Line (20)	X	0.2100	

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LR030

NAIC Company Code

Confidential when Completed

Company Name

CALCULATION OF TAX EFFECT FOR LIFE AND FRATERNAL RISK-BASED CAPITAL (CONTINUED)

		(1) RBC Amount	Tax Factor 0.1575	(2) RBC Tax Effect
(102) Replications	LR013 Replication (Synthetic Asset) Transactions and Mandatory Convertible Securities Column (7) Line (9999999)	X	0.1575	=
(103) Reinsurance	LR016 Reinsurance Column (4) Line (17)	X	0.2100	=
(104) Investment Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (8)	X	0.2100	=
(105) Investment in Upstream Affiliate (Parent)	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (15)	X	0.2100	=
(106) Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (16)	X	0.2100	=
(107) Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (17)	X	0.2100	=
(108) Directly Owned Life Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (18)	X	0.2100	=
(109) Other Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (19)	X	0.2100	=
(110) Subtotal for C-to Assets	Sum of Lines (001) through (109). Resizing the Declaration of Lines (013), (014), (015), (036), (044), (049), (056), (061), (069), (077), (084), (089) and (100)	X	0.1575	=
(111) C-to Affiliated Common Stock	LR017 OF-Balance Sheet and Other Items Column (5) Line (27)	X	0.2100	=
(112) OF-Balance Sheet and Other Items	LR017 OF-Balance Sheet and Other Items Column (5) Line (28)	X	0.2100	=
(113) OF-Balance Sheet Items Reduction - Reinsurance	LR017 OF-Balance Sheet and Other Items Column (5) Line (29)	X	0.2100	=
(114) Directly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (1)	X	0.2100	=
(115) Directly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (2)	X	0.2100	=
(116) Directly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (3)	X	0.2100	=
(117) Indirectly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (4)	X	0.2100	=
(118) Indirectly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (5)	X	0.2100	=
(119) Indirectly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (6)	X	0.2100	=
(120) Affiliated Alien Insurers - Directly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (9) + (10) + (11)	X	0.0000	=
(121) Affiliated Alien Insurers - Indirectly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (12) + (13) + (14)	X	0.0000	=
(122) Subtotal for C-to Affiliated Common Stock	Lines (101)-(112)+(114)-(119)+(117)-(118)+(119)+(120)+(121)+(122)	X	0.0000	=
(123) Common Stock				
(124) Unaffiliated Common Stock	LR008 Unaffiliated Preferred and Common Stock Column (5) Line (17) + LR018 OF-Balance Sheet Collateral Column (3) Line (16)	X	0.2100	=
(125) Credit for Hedging - Common Stock	LR015 Hedged Asset Common Stock Schedule Column (10) Line (02999999)	X	0.2100	=
(126) Stock Reduction - Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (19)	X	0.2100	=
(127) Stock Increase - Reinsurance	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (20)	X	0.2100	=
(128) BA Common Stock Unaffiliated	LR008 Other Long-Term Assets Column (5) Line (47)	X	0.2100	=
(129) Common Stock Concentration Factor	LR008 Other Long-Term Assets Column (5) Line (49.2)	X	0.2100	=
(130) NAIC 01 Working Capital Finance Notes	LR011 Common Stock Concentration Factor Column (6) Line (6)	X	0.1575	=
(131) NAIC 02 Working Capital Finance Notes	LR008 Other Long-Term Assets Column (5) Line (51.1)	X	0.1575	=
(132) Holding Company in Excess of Indirect Subs	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (7)	X	0.2100	=
(133) Affiliated Non-Insurers	Lines (125)-(124)+(126)-(127)+(128)+(129)+(130)+(131)+(132)+(133)	X	0.2100	=
(134) Total for C-to Assets				
(135) Insurance Risk	LR019 Health Premiums Column (2) Lines (21) through (27)	X	0.2100	=
(136) Disability Income Premium				
(137) Total for C-to Liabilities				

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Denotes items that must be manually entered on the filing software.

Company Name

Confidential when Completed

NAIC Company Code

CALCULATION OF TAX EFFECT FOR LIFE AND FRACTIONAL RISK-BASED CAPITAL (CONTINUED)

			(1)		(2)
			RBC Amount	Tax Factor	RBC Tax Effect
(136)	Long-Term Care		X	0.2100	=
(137)	Life Insurance C-2 Risk	LR019 Health Premiums Column (2) Line (28) + LR023 Long-Term Care Column (4) Line (7)	X	0.2100	=
(138)	Long-Term Care C-2 Risk	LR025 Life Insurance Column (2) Line (8)	X	0.2100	=
(138a)	Long-Term Care C-2 Risk	LR025 Life Insurance Column (2) Line (9) and (21)	X	0.2100	=
(139)	Disability and Long-Term Care Health Claim Reserves	LR054 Life Insurance Risk Column (2) Line (5)	X	0.2100	=
(140)	Premium Substitution Credit	LR024 Health Claim Reserves Column (4) Line (9) + Line (15)	X	0.2100	=
(141)	Total C-2 Risk	LR026 Premium Substitution Reserves Column (2) Line (10) $L(135) + L(136) + L(139) + L(140) + \text{Greatest of [Guardrail Factor}^* \text{ (} L(137) + L(138) \text{), Guardrail Factor}^* \text{ (} L(138b) \text{), Square Root of (} L(137) + L(138) \text{)]} + L(138b) \text{)]} + 2 * (\text{Correlation Factor}) * (L(137) + L(138)) * L(138b) \text{)]}$	X	0.0000	=
(142)	Interest Rate Risk	LR027 Interest Rate Risk Column (3) Line (36)	X	0.2100	=
(143)	Health Credit Risk	LR028 Health Credit Risk Column (2) Line (7)	X	0.0000	=
(144)	Market Risk	LR027 Interest Rate Risk Column (3) Line (37)	X	0.2100	=
(145)	Business Risk	LR029 Business Risk Column (2) Line (40)	X	0.2100	=
(146)	Health Administrative Expenses	LR029 Business Risk Column (2) Line (57)	X	0.0000	=
(147)	Total Tax Effect	Lines (110) + (122) + (134) + (141) + (142) + (143) + (144) + (145) + (146)	X	0.0000	=

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CALCULATION OF RISK-CONTROL LEVEL RISK-BASED CAPITAL

Confidential when Completed

NAIC Company Code (1)
RBC Requirement

	Source	
(1) Insurance Affiliates and Misc. Other Amounts (C-0)		
(2) Directly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (1)	
(3) Directly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (2)	
(4) Directly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (3)	
(5) Indirectly Owned Health Insurance Companies or Health Entities	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (4)	
(6) Indirectly Owned Property and Casualty Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (5)	
(7) Indirectly Owned Life Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (6)	
(8) Affiliated Alien Insurers - Directly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (9) + (10) + (11)	
(9) Affiliated Alien Insurers - Indirectly Owned	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (12) + (13) + (14)	
(10) Off-Balance Sheet and Other Items	LR017 Off-Balance Sheet and Other Items Column (5) Line (34)	
(11) Total (C-0) - Pre-Tax	Sum of Lines (1) through (9)	
(12) (C-0) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (122)	
(13) Net (C-0) - Post-Tax	Line (10) - Line (11)	
(14) Asset Risk - Unaffiliated Common Stock and Affiliated Non-Insurance Stock (C-1es)		
(15) Schedule D Unaffiliated Common Stock	LR005 Unaffiliated Common Stock Column (5) Line (21) + LR018 Off-Balance Sheet Collateral Column (3) Line (16)	
(16) Schedule BA Unaffiliated Common Stock	LR008 Other Long-Term Assets Column (5) line (47)	
(17) Schedule BA Affiliated Common Stock - C-1es	LR008 Other Long-Term Assets Column (5) line (49,2)	
(18) Common Stock Concentration Factor	LR011 Common Stock Concentration Factor Column (6) Line (6)	
(19) Holding Company in Excess of Indirect Subs	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (7)	
(20) Affiliated Non-Insurers	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Lines (19) + (20) + (21)	
(21) Total (C-1es) - Pre-Tax	Sum of Lines (15) through (18)	
(22) (C-1es) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (134)	
(23) Net (C-1es) - Post-Tax	Line (19) - Line (20)	
(24) Asset Risk - All Other (C-2) Bonds after Size Factor		
(25) Unaffiliated Preferred Stock	LR002 Bonds Column (2) Line (27) + LR018 Off-Balance Sheet Collateral Column (3) Line (8)	
(26) Mortgages (including past due and unpaid taxes)	LR004 Mortgages Column (6) Line (31)	
(27) Unaffiliated Preferred Stock	LR005 Unaffiliated Preferred and Common Stock Column (5) Line (10) + LR018 Off-Balance Sheet Collateral Column (3) Line (15)	
(28) Investment Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (8)	
(29) Investment in Upstream Affiliate (Parent)	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (15)	
(30) Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (16)	
(31) Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (17)	
(32) Directly Owned Life Insurance Companies Not Subject to RBC	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (18)	
(33) Publicly Traded Insurance Affiliates	LR042 Summary for Affiliated/Subsidiary Stocks Column (4) Line (22)	
(34) Separate Accounts with Guarantees	LR006 Separate Accounts Column (3) Line (7)	

Denotes items that must be manually entered on the filing software.

LR031

CALCULATION OF CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)

Confidential when Completed

NAIC Company Code

	Source	(1) RBC Requirement
(32) Synthetic GIC's (C-1o)		
(33) Surplus in Non-Guaranteed Separate Accounts	LR006 Separate Accounts Column (3) Line (8)	
(34) Real Estate (gross of encumbrances)	LR006 Separate Accounts Column (3) Line (13)	
(35) Schedule BA Real Estate (gross of encumbrances)	LR007 Real Estate Column (3) Line (13)	
(36) Other Long-Term Assets	LR008 Other Long-Term Assets Column (5) Line (56) + LR018 Off-Balance Sheet Collateral Column (3) Line (17) + Line (18)	
(37) Schedule BA Mortgages	LR009 Schedule BA Mortgages Column (6) Line (23)	
(38) Concentration Factor	LR010 Asset Concentration Factor Column (6) Line (62) Grand Total Page	
(39) Miscellaneous	LR012 Miscellaneous Assets Column (2) Line (21)	
(40) Replication Transactions and Mandatory Convertible Securities	LR013 Replication (Synthetic Asset) Transactions and Mandatory Convertible Securities Column (7) Line (999999)	
(41) Reinsurance	LR016 Reinsurance Column (4) Line (17)	
(42) Total (C-1o) - Pre-Tax	Sum of Lines (22) through (41)	
(43) (C-1o) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (110)	
(44) Net (C-1o) - Post-Tax	Line (42) - Line (43)	
(45) Insurance Risk (C-2)		
(46) Individual and Industrial Life Insurance	LR025 Life Insurance Column (2) Line (8)	
(47) Group and Credit Life Insurance and FEGISGLI	LR025 Life Insurance Column (2) Lines (20) and (21)	
(48) Longevity Risk	LR025-A Longevity Risk Column (2) Line (5)	
(49) Total Health Insurance	LR024 Health Claim Reserves Column (4) Line (18)	
(50) Premium Stabilization Reserve Credit	LR026 Premium Stabilization Reserves Column (2) Line (10)	
(51) Total (C-2) - Pre-Tax	Line (47) + Line (48) + Greatest of [Line (45) + Line (46)], Grandrail Factor * Line (46b), Square Root of [(Line (45) + Line (46)) ² + 2 * (Correlation Factor) * (Line (45) + Line (46))]]	
(52) (C-2) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (141)	
(53) Net (C-2) - Post-Tax	Line (49) - Line (50)	
(54) Interest Rate Risk (C-3a)		
(55) Total Interest Rate Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (56)	
(56) (C-3a) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (142)	
(57) Net (C-3a) - Post-Tax	Line (52) - Line (53)	
(58) Health/Credit Risk (C-3b)		
(59) Total Health/Credit Risk - Pre-Tax	LR028 Health/Credit Risk Column (2) Line (7)	
(60) (C-3b) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (143)	
(61) Net (C-3b) - Post-Tax	Line (55) - Line (56)	
(62) Market Risk (C-3c)		
(63) Total Market Risk - Pre-Tax	LR027 Interest Rate Risk Column (3) Line (57)	
(64) (C-3c) Tax Effect	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (144)	
(65) Net (C-3c) - Post-Tax	Line (58) - Line (59)	

Denotes items that must be manually entered on the filing software.

LR031

NAIC Company Code	(1) RBC Requirement	Source
Confidential when Completed	LR029 Business Risk Column (2) Lines (12) + (24) + (36)	LR029 Business Risk Column (2) Line (39)
	Lines (61) + (62)	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (145)
	Line (63) - Line (64)	LR029 Business Risk Column (2) Line (57)
	LR030 Calculation of Tax Effect for Life and Fraternal Risk-Based Capital Column (2) Line (146)	Line (60) - Line (67)
Confidential when Completed	REPORT AMOUNT ON PARENT COMPANY'S RBC IF APPLICABLE	$L(12) + L(65) + \text{Square Root of } [L(44) + L(54)]^2 + L(21) + L(60)]^2 + L(51)^2 + L(57)^2 + L(68)]^2$
	0.03 x L(69)	Company Records
	Line (70) - (Line (65) + Line (71)) (Not less than zero)	LR036 XXXXXXXX Reinsurance Primary Security Shortfall by Cession Column (7) Line (999999)
	Line (69) + Line (72) + Line (73)	Multiplied by 2
Confidential when Completed	Line (74) x 0.50	Line (74) x 0.50
	$L(10) + L(63) + \text{Square Root of } [L(42) + L(52)]^2 + L(19) + L(58)]^2 + L(49)^2 + L(55)^2 + L(66)]^2$	Line (76) x 0.50
	Line (76) x 0.50	
CALCULATION OF COMPANY RISK CONTROL LEVEL RISK-BASED CAPITAL (CONTINUED)	Business Risk (C-4a)	
	(61) Premium Component	
	(62) Liability Component	
	(63) Subtotal Business Risk (C-4a) - Pre-Tax	
	(64) (C-4a) Tax Effect	
	(65) Net (C-4a) - Post-Tax	
	Business Risk (C-4b)	
	(66) Health Administrative Expense Component of Business Risk (C-4b) - Pre-Tax	
	(67) (C-4b) Tax Effect	
	(68) Net (C-4b) - Post-Tax	
	Total Risk-Based Capital After Covariance Before Basis Operational Risk	
	(69) $C-0 + C-4a + \text{Square Root of } [(C-1o + C-3a)^2 + (C-1es + C-3e)^2 + (C-2)^2 + (C-3b)^2 + (C-4b)^2]$	
	(70) Gross Basic Operational Risk	
	(71) C-4a of U.S. Life Insurance Subsidiaries	
	(72) Net Basis Operational Risk	
	(73) Primary Security Shortfall Calculated in Accordance With Actuarial Guideline XLVIII	
	(74) Total Risk-Based Capital After Covariance (Including Basic Operational Risk and Primary Security Shortfall multiplied by 2)	
(75) Authorized Control Level Risk-Based Capital (After Covariance Adjustment and Shortfall)		
(76) Tax Sensitivity Test: Total Risk-Based Capital After Covariance		
(77) Tax Sensitivity Test: Authorized Control Level Risk-Based Capital		

Denotes items that must be manually entered on the filing software.

LR031

Company Name

Confidential when Completed

NAIC Company Code

SUMMARY FOR AFFILIATED/SUBSIDIARY INVESTMENTS STOCKS

	Affiliate Type	Affiliate Code	Book / Adjusted Carrying Value	Book Value †	Difference Col. (1) - (2)	RBC Basis	RBC Requirement	Number of Companies
(1)	Directly Owned Health Insurance Companies or Health Entities	1a		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(2)	Directly Owned Property and Casualty Insurance Affiliates	1b		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(3)	Directly Owned Life Insurance Affiliates	1c		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(4)	Indirectly Owned Health Insurance Companies or Health Entities	2a		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(5)	Indirectly Owned Property and Casualty Insurance Affiliates	2b		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(6)	Indirectly Owned Life Insurance Affiliates	2c		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(7)	Holding Companies in Excess of Indirect Subs	3		XXX	XXX	X 0.300		
(8)	Investment Subsidiary	4		XXX	XXX	Subsidiaries' Total Risk-Based Capital After Covariance / 0.79		
(9)	Directly Owned Alien Health Insurance Companies or Health Entities	5a		XXX	XXX	X 1.000		
(10)	Directly Owned Alien Property and Casualty Insurance Affiliates	5b		XXX	XXX	X 1.000		
(11)	Directly Owned Alien Life Insurance Affiliates	5c		XXX	XXX	X 1.000		
(12)	Indirectly Owned Alien Health Insurance Companies or Health Entities	6a		XXX	XXX	X 1.000		
(13)	Indirectly Owned Alien Property and Casualty Insurance Affiliates	6b		XXX	XXX	X 1.000		
(14)	Indirectly Owned Alien Life Insurance Affiliates	6c		XXX	XXX	X 1.000		
(15)	Investment in Upstream Affiliate (Parent)	7		XXX	XXX	X 0.300		
(16)	Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	8a		XXX	XXX	X 0.300		
(17)	Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	8b		XXX	XXX	X 0.300		
(18)	Directly Owned Life Insurance Companies Not Subject to RBC	8c		XXX	XXX	X 0.300		
(19)	Non-Insurance Entities with a Capital Requirement Imposed by a Regulatory Body	9a		XXX	XXX	X 0.300		
(20)	Non-Insurance Other Financial Entities without Regulatory Capital Requirements	9b		XXX	XXX	X 0.300		
(21)	Other Non-financial Entities	9c		XXX	XXX	X 0.300		
(22)	Publicly Traded Insurance Affiliates	10		XXX	XXX	X 0.346		
(23)	Total (Sum of Lines (1) through (22))	XXX		XXX	XXX	XXX		

† If different than book / adjusted carrying value.

Denotes items that must be manually entered on the filing software.

Company Name

Confidential when Completed

NAIC Company Code

CROSSCHECKING FOR AFFILIATED/SUBSIDIARY INVESTMENTS STOCKS

Affiliated Preferred Stock

	(1)	(2)	(3)
	Schedule D Part 6 Section 1 Type	Annual Statement Line Number	Annual Statement Total Preferred Stock†
(1)	Parent	0199999	
(2)	U.S. Property and Casualty Insurer	0299999	
(3)	U.S. Life Insurer	0399999	
(4)	U.S. Health Entity	0499999	
(5)	Alien Insurer	0599999	
(6)	Non-Insurer Which Controls Insurer	0699999	
(7)	Investment Subsidiary	0799999	
(8)	Other Affiliates	0899999	
(9)	Total (Sum of Lines (1) through (8))		
			Total from Life and Fraternal Risk-Based Capital Report‡
			Difference

Affiliated Common Stock

	(1)	(2)	(3)
	Schedule D Part 6 Section 1 Type	Annual Statement Line Number	Annual Statement Total Common Stock†
(10)	Parent	1099999	
(11)	U.S. Property and Casualty Insurer	1199999	
(12)	U.S. Life Insurer	1299999	
(13)	U.S. Health Entity	1399999	
(14)	Alien Insurer	1499999	
(15)	Non-Insurer Which Controls Insurer	1599999	
(16)	Investment Subsidiary	1699999	
(17)	Other Affiliates	1799999	
(18)	Total (Sum of Lines (10) through (17))		
			Total from Life and Fraternal Risk-Based Capital Report‡
			Difference

† Column (1) Lines (1) through (8) and (10) through (17) come from Schedule D Part 6 Section 1 Column 7 of the annual statement.
 ‡ Column (2) Lines (1) through (8) come from LR044 Details for Affiliated Investments Column (7).
 § Column (2) Lines (10) through (17) come from LR044 Details for Affiliated Investments Column (5).

Denotes items that must be manually entered on the filing software.

LR043

Company Name

Confidential when Completed

NAIC Company Code

DETAILS FOR AFFILIATED/SUBSIDIARY INVESTMENTS STOCKS

<p>Affiliate-Code for Column (2)</p> <p>1 Direct U.S. Property and Casualty Subsidiaries</p> <p>2 Direct U.S. Life Subsidiaries</p> <p>3 Direct and Indirect U.S. Health Subsidiaries</p> <p>4 Indirect U.S. Property and Casualty Subsidiaries</p> <p>5 Indirect U.S. Life Subsidiaries</p> <p>6 Investment Subsidiaries</p> <p>7 Holding Company in Excess of Indirect Subsidiaries</p>	<p>Affiliate-Type</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>0.300 x Book/Adj. Carrying Value</p>	<p>RBC-Basis</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>Subs-RBC-After-Covariance-0.79</p> <p>0.300 x Book/Adj. Carrying Value</p>	<p>Affiliate-Type</p> <p>Alien-Insurance-Subsidiaries-Canadian-Life</p> <p>Alien-Insurance-Subsidiaries-Other</p> <p>Investment in Parents</p> <p>Other-Affiliate-P&C-Insurers-not-subject-to-RBC</p> <p>Other-Affiliate-Life-Insurers-not-subject-to-RBC</p> <p>Other-Affiliate-All-Other</p>	<p>RBC-Basis</p> <p>Subsidiaries-MCCSR-0.79</p> <p>0.300 x Book/Adj. Carrying Value</p> <p>0.300 x Book/Adj. Carrying Value</p> <p>0.300 x Book/Adj. Carrying Value</p> <p>0.300 x Book/Adj. Carrying Value</p> <p>0.300 x Book/Adj. Carrying Value</p>
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	(1) Name of Affiliate	(2) Affiliate Code (1 to 21)	(3) NAIC Company Code or Alien ID Number†	(4) Affiliate's RBC After Covariance‡, LR031, Line (67)+(71), PR032, Line (67), XR025, Line (37)	(5) Book / Adjusted Carrying Value of Affiliate's	(6) Total Value of Affiliate's Outstanding	(7) Book / Adjusted Carrying Value of Affiliate's	(8) Total Value of Affiliate's Outstanding	(9) Percent Owned	(10) RBC Requirement*
(00000001)					Common Stock	Common Stock	Preferred Stock	Preferred Stock		
(00000002)										
(00000003)										
(00000004)										
(00000005)										
(00000006)										
(00000007)										
(00000008)										
(00000009)										
(00000010)										
(00000011)										
(00000012)										
(00000013)										
(00000014)										
(00000015)										
(00000016)										
(00000017)										
(00000018)										
(00000019)										
(00000020)										
(99999999) Total		XXXXX	XXXXX			XXXXX		XXXXX	XXXXX	

† If applicable.
‡ If applicable. For Canadian life subsidiaries, the Minimum Continuing Capital and Surplus Requirement (MCCSR) should be used.
* The RBC Requirement column is calculated on a pre-tax basis.
Denotes items that must be manually entered on the filing software.

#REF!

LR044

AFFILIATED/SUBSIDIARY STOCKS
PR003 – PR005

There are nine categories of affiliated/subsidiary investments that are subject to Risk-Based Capital requirement for common stock and preferred stock holdings. Those nine categories are:

1. Directly Owned U.S. Insurance Affiliates/Subsidiaries Subject to a Risk-Based Capital (RBC)-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries Subject to RBC-Look-Through Calculation
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries
4. Investment Subsidiaries
5. Directly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries
 - a. Health Insurance Company or Health Entity
 - b. Property and Casualty Insurance Company
 - c. Life Insurance Company
7. Investments in Upstream Affiliate (Parent)
8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Health Insurance Companies or Health Entities Not Subject to RBC
 - b. Property and Casualty Insurance Companies Not Subject to RBC
 - c. Life Insurance Companies Not Subject to RBC
9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC
 - a. Entities with a capital requirement imposed by a regulatory body
 - b. Other Financial Entities without regulatory capital requirements
 - c. Other Non-financial entities

Enter applicable items for each affiliate/subsidiary in the Details for Affiliated/Subsidiary Stocks worksheet. The program will automatically calculate the risk-based capital charge for each affiliate/subsidiary. When the data is uploaded to the NAIC database, it will be cross-checked and the company will be required to correct any discrepancies and refile a corrected version with the NAIC and/or any state that requires the company to file RBC with its department. The RBC report will display the number of affiliates/subsidiaries. These numbers should be reviewed to ensure that all affiliates/subsidiaries are appropriately reported.

The total of all reported affiliate/subsidiary stock should equal the amounts reported on Schedule D, Part 2, Section 1, Line 4409999999 plus Schedule D, Part 2, Section 2, Line 5979999999 and should also equal Schedule D, Part 6, Section 1, Line 09999999 plus Line 18999999.

Affiliate/Subsidiary investments fall primarily into two broad categories: (a) Insurance Affiliates/Subsidiaries that are Subject to risk-based capital; and (b) Affiliates/Subsidiaries that are Not Subject to risk-based capital. The risk-based capital for these two broad groups differs. A third category of Affiliates/Subsidiaries, publicly traded insurance affiliates/subsidiaries held at market value, has characteristics of both broader categories. As a result, it has a two-part RBC calculation. The general treatment for each is explained below.

Directly owned insurance and health entity affiliates/subsidiaries are affiliates/subsidiaries in which the reporting company owns the stock of the affiliate/subsidiary. Indirectly owned insurance affiliates/subsidiaries and health entities are those where the reporting company owns stock in a holding company, which in turn owns the stock of the insurance affiliate/subsidiary or health entity. Note that there could be multiple holding companies that control the downstream insurance company.

Enter the book/adjusted carrying value of: the common stock in Column (5), the preferred stock in Column (9), the total outstanding common stock in Column (7) and the total outstanding preferred stock of that affiliate/subsidiary in Column (10) of the appropriate worksheet. The percentage of ownership is calculated by summing the book/adjusted carrying values of the owned preferred and common stock and dividing that amount by the sum of all outstanding preferred and common stock.

Insurance Affiliates/Subsidiaries that are Subject to RBC

1. Directly Owned U.S. Affiliates/Subsidiaries:

The risk-based capital requirement for the reporting company for those insurance affiliates/subsidiaries that are subject to a risk-based capital requirement is based on the Total Risk-Based Capital After Covariance of the subsidiary, prorated for the percent of ownership of that affiliate/subsidiary.

For purposes of Affiliate/Subsidiary Risk all references to Total Risk-Based Capital After Covariance of the affiliate/subsidiary means:

- a. For a Health affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (XR025, Line (37).
- b. For a P/C affiliate/subsidiary RBC filing, Total Risk-Based Capital After Covariance before Basic Operational Risk (PR032, Line (68).
- c. For a Life affiliate/subsidiary RBC filing, the sum of
 - i. Total Risk-Based Capital After Covariance before Basic Operational Risk (LR031, Line (67)); and
 - ii. Primary Security shortfalls for all cessions covered by Actuarial Guideline XLVIII (AG 48) multiplied by two (LR031, Line (71)).

For RBC purposes, the reporting insurer must determine the carrying value and the RBC requirement of a directly owned RBC filing affiliate/subsidiary company, even if the RBC filing affiliate/subsidiary is non-admitted for financial reporting purposes. The value reported in annual statement Schedule D, Part 6, Section 1 will be used for RBC purposes. In addition to RBC, the carrying value of the RBC filer must be reported in total adjusted capital for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on **Line XXXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

Equity method Insurance Affiliates/Subsidiaries: Equity method is defined in SSAP 97, Paragraph 8b, as the underlying audited statutory equity of the respective entity's financial statements, adjusted for any unamortized goodwill as provided for in SSAP No. 68—Business Combinations and Goodwill. For those insurance

Affiliates/Subsidiaries of the reporting company that are reported under the equity method, the R_0 charge of the ownership of the common and preferred stock in these Affiliates/Subsidiaries is limited to the lesser of:

- (a) the Total RBC After Covariance of the affiliate/subsidiary times the percentage of ownership, which is the total of common stock and preferred stock; or
- (b) the common and preferred stock book/adjusted carrying value at which the affiliate/subsidiary is carried

Market Value (including discounted market value) Insurance Affiliates/Subsidiaries (See SSAP No. 97, Paragraph 8a.): If the affiliate/subsidiary’s common stock is publicly traded and the reporting company carries the affiliate/subsidiary at market value, after any “discount,” there are generally two components to the reporting company’s RBC generated by the affiliate/subsidiary. The prorated portion is the percentage of ownership of the total common and preferred stock. The smaller of the prorated portion of the affiliate/subsidiary’s own statutory surplus or the prorated portion of its RBC after covariance is added to the R_0 component of the reporting company. In the normal case, the common and preferred stock book/adjusted carrying value of the affiliate/subsidiary exceeds the prorated portion of the larger of its statutory surplus and its RBC after covariance. In this case, the addition to the R_2 component is the larger of a) 22.5 percent of the affiliate/subsidiary’s common and preferred stock book/adjusted carrying value in excess of the prorated portion of the affiliate/subsidiary’s statutory surplus or b) the prorated portion of the affiliate/subsidiary’s RBC after covariance in excess of the prorated portion of its statutory surplus. If the affiliate/subsidiary’s common and preferred stock book/adjusted carrying value is less than the prorated portion of the affiliate/subsidiaries’ s statutory surplus, there is no addition to the R_2 component.

2. Indirectly Owned U.S. Insurance Affiliates/Subsidiaries

For Indirectly Owned U.S. Insurance Affiliates/Subsidiaries, the carrying value and RBC is calculated in the same manner as for directly owned U.S. Insurance Affiliates/Subsidiaries. The RBC for the indirect affiliates/subsidiaries must be calculated prior to completing this RBC report.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned RBC filer may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an RBC filer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must “look-through” all intermediate holding and subsidiary companies to determine the carrying value and the RBC requirement of indirectly owned RBC filing affiliate/subsidiary companies. This involves drilling down to the first RBC filing insurance affiliate/subsidiary and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both RBC and carrying value of the RBC filer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on Line **XXX** of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value for each indirect insurance affiliate/subsidiary is established based on company records using the statutory value of the insurer as reported in the NAIC annual financial statement blank submitted by the affiliate/subsidiary or market value when applicable, and the RBC requirement as determined in its RBC Report adjusted for the ownership percentages (both the percentage of the indirectly owned RBC filing affiliate/subsidiary that is owned by the directly held

downstream holding company and the reporting insurer's ownership percentage in that downstream entity). The value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis.

3. Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries

The carrying value of a U.S. Insurance Affiliate/Subsidiary that is subject to RBC is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each RBC filing insurer and each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The remaining value of the directly held holding company is then subject to a charge that is calculated in accordance with the instructions for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries as specified in the RBC formula. If the holding company is not admitted, report the excess carrying value as zero and the corresponding RBC charge will also be zero. If a negative excess value for the downstream holding company results from removing the value of U.S. RBC filing insurers from the downstream holding company's reported value, then the value of that holding company will be floored at zero and the corresponding RBC charge will also be zero.

The following hypothetical Balance Sheet indicates the view of a Holding Company - Holder, Inc. which is 100% owned by MEGA P&C Insurance Company (it assumes that the value reported by the downstream holding company for the U.S. RBC filing insurer is the same as the statutory value established for the insurer on a look-through basis):

	Balance Sheet Holder, Inc. 12/31/XXXX	
Cm Stk:	ABC Life Company	10,000,000
	XYZ Casualty Company	15,000,000
	ANH Health Company	3,000,000
	Other Common Stock	17,000,000
	Cash	7,000,000
	Other Assets	5,000,000
	Total Assets	57,000,000
	Long Term Debt	5,000,000
	Other Liabilities	2,000,000
	Total Liabilities	7,000,000
	Equity	50,000,000
	Total Liabilities & Equity	57,000,000

The RBC calculation for Holder, Inc.'s value in excess of the indirectly owned insurance affiliates/subsidiaries is as follows:

<u>Company</u>	<u>Stat. Book value</u>	<u>Source:</u>
Holder, Inc.	50,000,000	MEGA P&C Sch D - Part 6, Section 1
<i>Holder, Inc. Aff/subs subject to RBC</i>		
ABC Life Company	10,000,000	Holder, Inc. Stat. balance sheet
XYZ Casualty Company	15,000,000	Holder, Inc. Stat. balance sheet
ANH Health Company	<u>3,000,000</u>	Holder, Inc. Stat. balance sheet
subtotal	28,000,000	
Holder, Inc. excl. RBC aff/subs	22,000,000	<i>(amount subject to the 22.5% factor for Holding Company Value in Excess of Indirectly Owned Insurance Affiliates/Subsidiaries)</i>

The following table shows the PR003 entries that MEGA P&C Insurance Company (which owns 100% owns of Holder, Inc.) would report for the indirectly owned insurance Affiliates/subsidiaries under Holder, Inc. This table assumes that Holder, Inc. owns 40%, 50% and 25% of ABC Life, XYZ Casualty, and ANH Health, respectively. The table also assumes that the RBC values shown for these affiliates/subsidiaries at the 100% level are the correct RBC After Covariance but Before Operational Risk.

Affiliates/Subsidiaries	Affiliates/Subsidiaries Type	PR003 Column					
		4	5	7	8	9	13
	100% RBC	Book Adjusted Carrying Value	Total Value of Affiliates/Subsidiaries	Statutory Surplus of Affiliates/Subsidiaries	% Owned	RBC Required	
ABC Life Company	Indirect U.S. Life Aff/Sub	10,000,000	25,000,000	25,000,000	40%	2,000,000	
XYZ Casualty Company	Indirect U.S. P&C Aff/Sub	15,000,000	30,000,000	30,000,000	50%	6,000,000	
ANH Health Company	Indirect U.S. Health Aff/Sub	3,000,000	12,000,000	12,000,000	25%	1,500,000	

The risk-based capital charge for the parent insurer preparing the calculation is a 22.5 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries as calculated in the prior example. Enter information in the appropriate columns of the worksheet, omitting those columns that do not apply (Column (3) – NAIC Company Code or Alien ID Number and Column (4) Affiliate's RBC After Covariance).

Affiliates/Subsidiaries that are Not Subject to RBC4. Investment Subsidiaries

An investment subsidiary is a subsidiary that exists only to invest the funds of the parent company. The term investment subsidiary is defined in the annual statement instructions as any subsidiary, other than a holding company, engaged or organized primarily to engage in the ownership and management of investments for the insurer. An investment subsidiary shall not include any broker-dealer or a money management fund managing funds other than those of the parent company. The risk-based capital for an investment in an investment subsidiary is 22.5 percent of the carrying value of the common and preferred stock.

5. Directly Owned Alien Insurance Affiliates/Subsidiaries

For purposes of this formula, the Risk-Based Capital (RBC) of each directly owned alien insurance affiliate/subsidiary is the annual statement book adjusted carrying value of the reporting company's interest in the affiliate multiplied by 0.500. Enter information for any non-U.S. insurance affiliate/subsidiary: life, property and casualty, and health insurers.

For each affiliate/subsidiary, enter the following information:

- Company Name,
- Alien Insurer Identification Number,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's common and preferred stock columns (7) and (11), the program will assume 100 percent ownership.

6. Indirectly Owned Alien Insurance Affiliates/Subsidiaries

For Indirectly Owned Alien Insurance Affiliates/Subsidiaries, the carrying value and RBC charge is calculated in a similar manner as for directly owned Alien Insurance Affiliates/Subsidiaries.

SSAP No. 97 provides guidance for the reporting and admittance requirements of SCAs. Accordingly, there may be cases where an indirectly owned Alien insurers may not be separately reported in the statutory financial statements (e.g., they are captured within the carrying value of an intermediate holding company). The SSAP No. 97 guidance permits reporting SCAs at the directly owned holding company level or via look-through to the downstream entity (including where the downstream entity is an Alien insurer), but an audit of the entity is required for admittance (i.e. if reporting is at the directly owned holding company level, the holding company must be audited, if the reporting is on a look-through basis then the downstream entity must be audited). Regardless of whether there is a look-through applied pursuant to Statutory Accounting Principles (SAP) for annual financial statement reporting, for RBC purposes the reporting insurer must "look-through" all intermediate holding and subsidiary companies to determine the carrying value and the RBC charge that would be imposed had the alien insurance affiliate/subsidiary companies been directly held by the reporting insurer. This involves looking down to the first alien insurer affiliate/subsidiary, unless there is an RBC filer in between and adjusting for percentage ownership of the intermediate entity directly owning the RBC filing affiliate/subsidiary. Both the RBC charge and carrying value of the alien insurer must be reported for RBC purposes, in order to appropriately balance the numerator with the addition to the denominator value. Enter the carrying value of the insurer on Line XXXX of the Calculation of Total Adjusted Capital page to satisfy these instructions.

The carrying value of an alien insurance Affiliate/Subsidiary is deducted from the value of the directly held holding company or other entity that in turn directly owns the U.S. Insurance Affiliate/Subsidiary that is subject to RBC, based on the value reported for each insurance subsidiary on the downstream immediate holding company or non-insurance owner's balance sheet. That value is prescribed by the NAIC Accounting Practices and Procedures Manual (SSAP No. 97, paragraph 22.a.). A similar exercise is required for each non-U.S. insurer in order to determine the remaining excess value of the holding company.

The RBC charge to be applied to each indirectly owned alien insurance affiliate/subsidiary is the annual statement book adjusted carrying value of the reporting company's interest in the affiliate/subsidiary multiplied by 0.500 and adjusted to reflect the reporting company's ownership on the holding company. For example, assume NEWBIE Insurance Company acquired 100 percent shares of Holder (a holding company), and Holder owns an Alien Insurance Company, which represents 50 percent of the book adjusted carrying value of Holder. If Holder has a book adjusted carrying value of \$20,000,000, NEWBIE Insurance Company would enter \$10,000,000 (1/2 of \$20,000,000) as the carrying value of the Alien Insurance Company and the RBC charge for the indirect ownership of the Alien insurance affiliate/subsidiary would be \$5,000,000 (0.500 times \$10,000,000). The risk-based capital charge for the parent insurer preparing the calculation is a 22.5 percent charge against the holding company value in excess of the indirectly owned insurance affiliates/subsidiaries.

If NEWBIE Insurance Company only acquired 50 percent shares of Holder, NEWBIE Insurance Company would enter \$5,000,000 (50 percent of 1/2 of \$20,000,000) as the carrying value of the Alien Insurance Company and the RBC charge for the indirect ownership of the Alien insurance affiliate/subsidiary would be \$2,500,000 (0.500 times \$5,000,000). Enter information for any indirectly owned alien insurance subsidiaries.

		PR003 Column				
		4	5	7	9	13
Affiliates/Subsidiaries	Affiliates/Subsidiaries Type	100% RBC	Book Adjusted Carrying Value	Total Value of Affiliates/Subsidiaries	% Owned	RBC Required
Alien Insurance Company	Indirect Alien Life Aff/Sub	5,000,000	10,000,000	20,000,000	50%	2,500,000

For each affiliate/subsidiary enter the following information:

- Company Name,
- Alien Insurer Identification Number,
- Book Adjusted carrying value of common and preferred stock,
- Total Outstanding value of common and preferred stock,
- Book/adjusted carrying value of the common and preferred stock from Schedule D, Part 6, Section 1, Line 1499999. If no value is reported in the Total Value of Affiliate's Common and preferred stock column.

7. Investment in Upstream Affiliate (Parent)

The Risk-Based Capital (RBC) for an investment in an upstream parent is 22.5 percent of the book/adjusted carrying value of the common and preferred stock, regardless of whether that upstream parent is subject to RBC. Report the appropriate information from Schedule D, Part 6, Section 1, Lines 0199999 and 1099999 in Columns (1) through (10).

For each affiliate, enter the following information:

- Company Name,
- Affiliate Type Code,
- NAIC Company Code,
- Book Adjusted carrying value of common stock
- Book Adjusted carrying value of preferred stock,
- Total Outstanding value of common and preferred stock.

8. Directly Owned U.S. Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Health Insurance Companies and Health Entities Not Subject to RBC
- b. Property and Casualty Insurance Companies Not Subject to RBC, such as title insurers, monoline financial guaranty insurers, and monoline mortgage guaratee insurers
- c. Life Insurance Companies Not Subject to RBC, such as life insurance subsidiary exempted from RBC

The risk-based capital for insurers not subject to RBC is based on the underlying statute, regulation, or rule governing capital requirements for such entities. If not otherwise specified by statute regulation or rule, the risk-based capital for an investment in a U.S. insurer that is not required to file an RBC formula is 22.5 percent of the book/adjusted carrying value of the common and preferred stock.

9. Non-Insurance Affiliates/Subsidiaries Not Subject to RBC

- a. Financial entities with a capital requirement imposed by a regulatory body (e.g., a bank)
- b. Other financial entities without regulatory capital requirements
- c. Other Non-financial entities

The risk-based capital for entity types a, b, and c is 22.5 percent of the book/adjusted carrying value of the common and preferred stock. The affiliate/subsidiary code for Non-Insurance Affiliates/Subsidiaries Not Subject to RBC is "9". Reported amounts use Schedule D, part 6, Schedule 1, Line 08999999, and Line 17999999 as the basis of reporting.

APPENDIX 3 – EXAMPLE USED FOR AFFILIATED/SUBSIDIARY STOCKS

To determine the value of total outstanding common stock or total outstanding preferred stock, divide the book/adjusted carrying value of the investment (found in Schedule D - Part 6 Section 1, Column 9) by the percentage of ownership (found in Schedule D – Part 6 – Section 1, Column 12). For example:

<u>Subsidiary Insurance Company</u>	<u>Owner's Book / Adjusted Carrying Value</u>	<u>Percentage Ownership</u>	<u>Total Stock Outstanding</u>
Subsidiary #1	\$1,000,000	100%	\$1,000,000
Subsidiary #2	\$1,000,000	75%	\$1,333,333
Subsidiary #3	\$1,000,000	50%	\$2,000,000
Subsidiary #4	\$1,000,000	25%	\$4,000,000
Subsidiary #5	\$1,000,000	10%	\$10,000,000

DETAILS FOR AFFILIATED STOCKS PR003

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Name of Affiliate	AMBI Type	NAIC Company Code or Alien ID Number	Affiliate's RBC After Covariance before Basic Operational Risk* LR031 L67 + L71 PR032 L67 XR025 L37	Book/Adjusted Carrying Value (statement value) of Affiliate's Common Stock**	Valuation Basis of Column (5) M - Market Value after any "discount" A - All Other	Total Value of Affiliate's Outstanding Common Stock	Statutory Surplus of Affiliate Subject to REC (Adjusted for % Owned)	Book/Adjusted Carrying Value (statement value) of Affiliate's Preferred Stock	Total Value of Affiliate's Outstanding Preferred Stock	Percent Owned	RBC Required (R0 Component)	Market Value Excess Component Affiliate Common Stock RBC Required (R2 Component)
0000001										100.000%	0	0
0000002										100.000%	0	0
0000003										100.000%	0	0
0000004										100.000%	0	0
0000005										100.000%	0	0
0000006										100.000%	0	0
0000007										100.000%	0	0
0000008										100.000%	0	0
0000009										100.000%	0	0
0000010										100.000%	0	0
0000011										100.000%	0	0
0000012										100.000%	0	0
0000013										100.000%	0	0
0000014										100.000%	0	0
0000015										100.000%	0	0
0000016										100.000%	0	0
0000017										100.000%	0	0
0000018										100.000%	0	0
0000019										100.000%	0	0
0000020										100.000%	0	0
0000021										100.000%	0	0
0000022										100.000%	0	0
0000023										100.000%	0	0
0000024										100.000%	0	0
0000025										100.000%	0	0
0000026										100.000%	0	0
0000027										100.000%	0	0
0000028										100.000%	0	0
0000029										100.000%	0	0
0000030										100.000%	0	0
0000031										100.000%	0	0
0000032										100.000%	0	0
0000033										100.000%	0	0
0000034										100.000%	0	0
0000035										100.000%	0	0
0000036										100.000%	0	0
0000037										100.000%	0	0
0000038										100.000%	0	0
0000039										100.000%	0	0
0000040										100.000%	0	0
0000041										100.000%	0	0
0000042										100.000%	0	0
0000043										100.000%	0	0
0000044										100.000%	0	0
0000045										100.000%	0	0
0000046										100.000%	0	0
0000047										100.000%	0	0
0000048										100.000%	0	0
0000049										100.000%	0	0
0000050										100.000%	0	0
(9999999)										100.000%	0	0
Total		XXX	0	0	XXX	XXX	XXX	0	XXX		0	0

Remark: Subcategory 8a, 8b and 8c are referring to the directly owned insurance affiliates not subject to RBC look-through. Indirectly owned insurance affiliate not subject to RBC will be included Category 4

Note: PR007 L1.2 should now refers to PR003 C(13) L9999999

PR003

#REF!

SUBSIDIARY, CONTROLLED AND AFFILIATED INVESTMENTS PR004

	Affiliate Types	Affil Code	RBC Basis	(1) Number of Companies	(2) Total RBC Required
(1)	Directly Owned Health Insurance Companies or Health Entities	1a	Sub's RBC After Covariance	0	0
(2)	Directly Owned Property and Casualty Insurance Affiliates	1b	Sub's RBC After Covariance	0	0
(3)	Directly Owned Life Insurance Affiliates	1c	Sub's RBC After Covariance	0	0
(4)	Indirectly Owned Health Insurance Companies or Health Entities	2a	Sub's RBC After Covariance	0	0
(5)	Indirectly Owned Property and Casualty Insurance Affiliates	2b	Sub's RBC After Covariance	0	0
(6)	Indirectly Owned Life Insurance Affiliates	2c	Sub's RBC After Covariance	0	0
(7)	Holding Company in Excess of Indirect Subs	3	0.225	0	0
(8)	Investment Subsidiary	4	0.225	0	0
(9)	Directly Owned Alien Health Insurance Companies or Health Entities	5a	0.5	0	0
(10)	Directly Owned Alien Property and Casualty Insurance Affiliates	5b	0.5	0	0
(11)	Directly Owned Alien Life Insurance Affiliates	5c	0.5	0	0
(12)	Indirectly Owned Alien Health Insurance Companies or Health Entities	6a	0.5	0	0
(13)	Indirectly Owned Alien Property and Casualty Insurance Affiliates	6b	0.5	0	0
(14)	Indirectly Owned Alien Life Insurance Affiliates	6c	0.5	0	0
(15)	Investment in Upstream Affiliate (Parent)	7	0.225	0	0
(16)	Directly Owned Health Insurance Companies or Health Entities Not Subject to RBC	8a	0.225	0	0
(17)	Directly Owned Property and Casualty Insurance Companies Not Subject to RBC	8b	0.225	0	0
(18)	Directly Owned Life Insurance Companies Not Subject to RBC	8c	0.225	0	0
(19)	Non-Insurance Entities with a Capital Requirement Imposed by a Regulatory Body	9a	0.225	0	0
(20)	Non-Insurance Other Financial Entities without Regulatory Capital Requirements	9b	0.225	0	0
(21)	Other Non-financial Entities	9c	0.225	0	0
(22)	Total			0	0

PR004

SUMMARY FOR SUBSIDIARY, CONTROLLED AND AFFILIATED INVESTMENTS FOR CROSS-CHECKING STATEMENT VALUES PR005

Affiliated Preferred Stock			(1)	(2)	(3)
Schedule D Part 6 Section 1 C7		Annual Statement Line Number	Annual Statement Total Preferred Stock	Total From RBC Report	Difference
(1)	Parent	0199999	0	0	0
(2)	U.S. P&C Insurer	0299999	0	0	0
(3)	U.S. Life Insurer	0399999	0	0	0
(4)	U.S. Health Insurer	0499999	0	0	0
(5)	Alien Insurer	0599999	0	0	0
(6)	Non-Insurer Which Controls Insurer	0699999	0	0	0
(7)	Investment Subsidiary	0799999	0	0	0
(8)	Other Affiliates	0899999	0	0	0
(9)	Subtotal	0999999	0	0	0

Affiliated Common Stock			(1)	(2)	(3)
Schedule D Part 6 Section 1 C7		Annual Statement Line Number	Annual Statement Total Common Stock	Total From RBC Report	Difference
(10)	Parent	1099999	0	0	0
(11)	U.S. P&C Insurer	1199999	0	0	0
(12)	U.S. Life Insurer	1299999	0	0	0
(13)	U.S. Health Insurer	1399999	0	0	0
(14)	Alien Insurer	1499999	0	0	0
(15)	Non-Insurer Which Controls Insurer	1599999	0	0	0
(16)	Investment Subsidiary	1699999	0	0	0
(17)	Other Affiliates	1799999	0	0	0
(18)	Subtotal	1899999	0	0	0

PR005

UNAFFILIATED PREFERRED AND COMMON STOCK PR007

	Annual Statement Source	(1) Book/Adjusted Carrying Value	Factor	(2) RBC Requirement
(1) Unaffiliated Preferred Stock				
(2) NAIC 01 Preferred Stock	Sch D Pt 2 Sn 1	0	0.003	0
(3) NAIC 02 Preferred Stock	Sch D Pt 2 Sn 1	0	0.010	0
(4) NAIC 03 Preferred Stock	Sch D Pt 2 Sn 1	0	0.020	0
(5) NAIC 04 Preferred Stock	Sch D Pt 2 Sn 1	0	0.045	0
(6) NAIC 05 Preferred Stock	Sch D Pt 2 Sn 1	0	0.100	0
(7) NAIC 06 Preferred Stock	Sch D Pt 2 Sn 1	0	0.300	0
(7) TOTAL - UNAFFILIATED PREFERRED STOCK (should equal P2 L2.1 C3 less Sch D-Sum C1 L18)	Sum of Ls (1) through (6)	0		0
(8) Unaffiliated Common Stock				
(9) Total Common Stock	Sch D - Summary C1 L25	0		
(10) Affiliated Common Stock	Sch D - Summary C1 L24	0		
(11) Non-Admitted Unaffiliated Common Stock	P2 C2 L2.2 - Sch D Pt6 Sn1 C9 L1899999	0		
(12) Admitted Unaffiliated Common Stock	L(8) - L(9) - L(10)	0	0.150	0
(13) Market Value Excess Affiliated Common Stock	PR003 C(13) L(9999999)	0		0
(13) Total Unaffiliated Common Stock	L(11) + L(12)	0		0

Denotes items that must be manually entered on the filing software.

PR007

CALCULATION OF TOTAL ADJUSTED CAPITAL PR029

	Annual Statement Reference	(1) Statement Value*	Factor	(2) Adjusted Capital
(1) Capital and Surplus	P3 C1 L37	0	1,000	0
(2) Non-Tabular Discount - Losses	Sch P P1-Sum C32 L12	0	1,000	0
(3) Non-Tabular Discount - Expense	Sch P P1-Sum C33 L12	0	1,000	0
(4) Discount on Medical Loss Reserves Reported as Tabular in Schedule P	Company Records	0	1,000	0
(5) Discount on Medical Expense Reserves Reported as Tabular in Schedule P	Company Records	0	1,000	0
(6) P&C Subs Non-Tabular Discount - Losses	Subs' Sch P P1-Sum C32 L12	0	1,000	0
(7) P&C Subs Non-Tabular Discount - Expense	Subs' Sch P P1-Sum C33 L12	0	1,000	0
(8) P&C Subs Discount on Medical Loss Reserves Reported as Tabular in Schedule P	Subs' Company Records	0	1,000	0
(9) P&C Subs Discount on Medical Expense Reserves Reported as Tabular in Schedule P	Subs' Company Records	0	1,000	0
(10) AVR - Life Subs \$	Subs P3 C1 L24.01 §	0	1,000	0
(11) Dividend Liability - Life Subs	Subs P3 C1 L6.1 + L6.2	0	0.500	0
(12) Carrying Value of Non-Admitted Insurance Affiliates	Included in PR003 Column 5 and Column 9	0	1,000	0
(13) Total Adjusted Capital Before Capital Notes	$L(1)+L(2)+L(3)+L(4)+L(5)+L(6)+L(7)+L(8)+L(9)+L(10)+L(11)+L(12)$	0		0
Credit for Capital Notes				
(14.1) Surplus Notes	Page 3 Column 1 Line 33	0		
(14.2) Limitation on Capital Notes	$0.5 \times [Line(13) - Line(14.1)]$; Line 14.1, but not less than zero	0		
(14.3) Capital Notes Before Limitation	PR028 Column (4) Line (18)	#REF!		#REF!
(14.4) Credit for Capital Notes	Lesser of Column (1) Line (14.2) or Line (14.3)			#REF!
(15) Total Adjusted Capital (Post-Deferred Tax)	Line (13) + Line (14.4)			#REF!
Sensitivity Test :				
(16) Deferred Tax Assets	Page 2, Column 3, Line 18.2	0	1,000	0
(16.1) Deferred Tax Liabilities	Page 3, Column 1, Line 7.2	0	1,000	0
(17) Deferred Tax Assets for Subsidiary	Company Record	0	1,000	0
(17.1) Deferred Tax Liabilities for Subsidiary	Company Record	0	1,000	0
(18) Total Adjusted Capital For Sensitivity Test	Line (15) - Line (16) + (16.1) - (17) + (17.1)			#REF!
Ex DTA ACL RBC Ratio Sensitivity Test				
(19) Deferred Tax Asset	Page 2 Column 3 Line 18.2	0	1,000	0
(20) Total Adjusted Capital Less Deferred Tax Asset	Line (15) less Line (19)			#REF!
(21) Authorized Control Level RBC	PR034 Comparison of Total Adjusted Capital to Risk-Based Capital Line (4)			#REF!
(22) Ex DTA ACL RBC Ratio	Line (20) / Line (21)			#REF!

* Report amounts in this column as whole dollars.
Denotes items that must be manually entered on the filing software.

§ The portion of the AVR that can be counted as capital is limited to the amount not utilized in asset adequacy testing in support of the Actuarial Opinion for reserves.

CALCULATION OF TOTAL RISK-BASED CAPITAL AFTER COVARIANCE PR030 R0-RI

R0 – Subsidiary Insurance Companies and Misc. Other Amounts	PRBC O&I Reference	RBC Amount
(1) Affiliated US P&C Insurers - Directly Owned	PR004 L(2)C(2)	0
(2) Affiliated US P&C Insurers - Indirectly Owned	PR004 L(5)C(2)	0
(3) Affiliated US Life Insurers - Directly Owned	PR004 L(3)C(2)	0
(4) Affiliated US Life Insurers - Indirectly Owned	PR004 L(6)C(2)	0
(5) Affiliated US Health Insurer - Directly Owned	PR004 L(1)C(2)	0
(6) Affiliated US Health Insurer - Indirectly Owned	PR004 L(4)C(2)	0
(7) Affiliated Alien Insurers - Directly Owned	PR004 L(9)+L(10)+L(11)C(2)	0
(8) Affiliated Alien Insurers - Indirectly Owned	PR004 L(12)+L(13)+L(14)C(2)	0
(9) Misc Off-Balance Sheet - Non-Controlled Assets	PR014 L(15) C(3)	0
(10) Misc Off-Balance Sheet - Guarantees for Affiliates	PR014 L(16) C(3)	0
(11) Misc Off-Balance Sheet - Contingent Liabilities	PR014 L(17) C(3)	0
(12) Misc Off-Balance Sheet - SSAP No.101 Par. 11A DTA	PR014 L(19) C(3)	0
(13) Misc Off-Balance Sheet - SSAP No.101 Par. 11B DTA	PR014 L(20) C(3)	0
(14) Total R0	L(1)+L(2)+L(3)+L(4)+L(5)+L(6)+L(7)+L(8)+L(9)+L(10)+L(11)+L(12)+L(13)	0
R1 - Asset Risk - Fixed Income		
(15) Bonds Subject to Size Factor	PR006 L(27)C(5)	0
(16) Bond Size Factor RBC	PR006 L(30)C(5)	0
(17) Off-balance Sheet Collateral & Sch DL, PFI - Total Bonds	PR015 L(27)C(4)	0
(18) Off-balance Sheet Collateral & Sch DL, PFI - Cash, & Short-Term Investments and Mort Loans on Real Est.	PR015 L(38)+L(39)C(4)	0
(19) Other Long-Term Assets - Mortgage Loans, LHHC & WCFI	PR008 L(10)+L(13)+L(14)+L(15)+L(16)+L(17)+L(20)+L(21)C(2)	0
(20) Misc Assets - Collateral Loans	PR009 L(13)C(2)	0
(21) Misc Assets - Cash	PR009 L(3)C(2)	0
(22) Misc Assets - Cash Equivalents	PR009 L(7)C(2)	0
(23) Misc Assets - Other Short-Term Investments	PR009 L(10)C(2)	0
(24) Replicated - Synthetic Asset: One Half	PR010 L(999999)C(7)	0
(25) Asset Concentration RBC - Fixed Income	PR011 L(21)C(3) Grand Total Page	0
(26) Total R1	L(15)+L(16)+L(17)+L(18)+L(19)+L(20)+L(21)+L(22)+L(23)+L(24)+L(25)	0

PR030

#REF!

CALCULATION OF TOTAL RISK-BASED CAPITAL AFTER COVARIANCE PR031 R2-R3

R2 - Asset Risk - Equity	PRBC O&I Reference	RBC Amount
(27) Common & Preferred- Affiliate Investment Subsidiary	PR004 L(8)C(2)	0
(28) Common & Preferred- Affiliate Hold. Company, in excess of Ins. Subs.	PR004 L(7)C(2)	0
(29) Common & Preferred- Investment in Parent	PR004 L(15)C(2)	0
(30) Common & Preferred- Aff'd US P&C Not Subj to RBC	PR004 L(17)C(2)	0
(31) Common & Preferred- Affil US Life Not Subj to RBC	PR004 L(18)C(2)	0
(32) Common & Preferred- Affil US Health Insurer Not Subj to RBC	PR004 L(16)C(2)	0
(33) Common & Preferred- Aff'd Non-insurer	PR004 L(19)+L(20)+L(21)C(2)	0
(34) Preferred - Aff'd Invest Sub	PR004 L(7)C(3)	0
(35) Preferred - Aff'd Hold. Co. in excess of Ins. Subs.	PR004 L(10)C(3)	0
(36) Preferred - Investment in Parent	PR004 L(11)C(3)	0
(37) Preferred - Affil US P&C Not Subj to RBC	PR004 L(12)C(3)	0
(38) Preferred - Affil US Life Not Subj to RBC	PR004 L(13)C(3)	0
(39) Preferred - Affil US Health Insurer Not Subj to RBC	PR004 L(14)C(3)	0
(40) Preferred - Affil Non-insurer	PR004 L(15)C(3)	0
(34) Unaffiliated Preferred Stock	PR007 L(7)C(2)+PR015 L(34)C(4)	0
(35) Unaffiliated Common Stock	PR007 L(13)C(2)+PR015 L(35)C(4)	0
(36) Other Long-Term Assets - Real Estate	PR008 L(7)C(2)	0
(37) Other Long-Term Assets - Schedule BA Assets	PR008 L(19)C(2)+PR015 L(36)+L(37)C(4)	0
(38) Misc Assets - Receivable for Securities	PR009 L(1)C(2)	0
(39) Misc Assets - Aggregate Write-ins for Invested Assets	PR009 L(2)C(2)	0
(40) Misc Assets - Derivatives	PR009 L(14)C(2)	0
(41) Replication - Synthetic Asset: One Half	PR010 L(9999999)(7)	0
(42) Asset Concentration RBC - Equity	PR011 L(33)C(3) Grand Total Page	0
(43) Total R2	L(27)+L(28)+L(29)+L(30)+L(31)+L(32)+L(33)+L(34)+L(35)+L(36)+L(37)+L(38)+L(39)+L(40)+L(41)+L(42)+L(43)+L(44)+L(45)+L(46)+L(47)+L(48)+L(49)	0
R3 - Asset Risk - Credit		
(44) Other Credit RBC	PR012 L(8)-L(1)-L(2)C(2)	0
(45) One half of Rein Recoverables	0.5 x (PR012 L(1)+L(2)C(2))	0
(46) Other half of Rein Recoverables	If R4 L(51)>R3 L(45) + R3 L(46), 0, otherwise, R3 L(46)	0
(47) Health Credit Risk	PR013 L(12)C(2)	0
(48) Total R3	L(45) + L(46) + L(47) + L(48)	0

PR031

CALCULATION OF TOTAL RISK-BASED CAPITAL AFTER COVARIANCE PR032 R4-Rcat

(1)

R4 - Underwriting Risk - Reserves	PRBC O&I Reference	RBC Amount
(49) One half of Reinsurance RBC	$\text{IF R4 L(51) > (R3 L(45) + R3 L(46)), R3 L(46), \text{ otherwise, } 0$	0
(50) Total Adjusted Unpaid Loss/Expense Reserve RBC	PR0017 L(15)C(20)	0
(51) Excessive Premium Growth - Loss/Expense Reserve	PR016 L(13) C(8)	0
(52) A&H Claims Reserves Adjusted for LCF	PR024 L(6) C(2) + PR023 L(6) C(4)	0
(53) Total R4	$L(50)+L(51)+L(52)+L(53)$	0
R5 - Underwriting Risk - Net Written Premium		
(54) Total Adjusted NWP RBC	PR018 L(15)C(20)	0
(55) Excessive Premium Growth - Written Premiums Charge	PR016 L(14)C(8)	0
(56) Total Net Health Premium RBC	PR022 L(2)C(2)	0
(57) Health Stabilization Reserves	PR025 L(8)C(2) + PR023 L(3) C(2)	0
(58) Total R5	$L(55)+L(56)+L(57)+L(58)$	0
Rcat- Catastrophe Risk		
(59) Total Rcat	PR027 L(3) C(1)	0
(60) Total RBC After Covariance Before Basic Operational Risk = $R0+\text{SQRT}(R1^2+R2^2+R3^2+R4^2+R5^2+Rcat^2)$		0
(61) Basic Operational Risk = $0.030 \times L(61)$		0
(62) C-4a of U.S. Life Insurance Subsidiaries (from Company records)		0
(63) Net Basic Operational Risk = Line (62) - Line (63) (Not less than zero)		0
(64) Total RBC After Covariance including Basic Operational Risk = $L(61)+L(64)$		0
(65) Authorized Control Level RBC including Basic Operational Risk = $.5 \times L(65)$		0

PR032

Priority 1 – High priority
Priority 2 – Medium priority
Priority 3 – Low priority

**CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022**

Capital Adequacy (E) Task Force

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
Ongoing Items – Life RBC							
1	Life RBC WG	Ongoing	Ongoing	Make technical corrections to Life RBC instructions, blank and /or methods to provide for consistent treatment among asset types and among the various components of the RBC calculations for a single asset type.			
2	Life RBC WG	1	2022 or later	1. Monitor the impact of the changes to the variable annuities reserve framework and risk-based capital (RBC) calculation and determine if additional revisions need to be made. 2. Develop and recommend appropriate changes including those to improve accuracy and clarity of variable annuity (VA) capital and reserve requirements. Provide recommendations for the appropriate treatment of longevity risk transfers by the new longevity factors.	CATF	Being addressed by the Variable Annuities Capital and Reserve (E/A) Subgroup	
3	Life RBC WG	1	2022 or later	Provide recommendations for the appropriate treatment of longevity risk transfers by the new longevity factors.	New Jersey	Being addressed by the Longevity (E/A) Subgroup	
Carry-Over Items Currently being Addressed – Life RBC							
4	Life RBC WG	1	2022 or later	Update the current C-3 Phase 1 or C-3 Phase II methodology to include indexed annuities with consideration of contingent deferred annuities as well	AAA		
5	Life RBC WG	1	2022 or later	Work with the Life Actuarial (A) Task Force and Conning to develop the economic scenario generator for implementation.			
6	Life RBC WG	1	2022	Review companies at action levels, including previous years, to determine what drivers of the events are and consider whether changes to the RBC statistics are warranted.			
7	Life RBC WG	1	2022	Update the C-2 mortality treatment based on the Academy's recommendation. Work with the Academy on creating guidance for the adopted C-2 mortality treatment for 2022 and next steps for 2023.			

Carryover Items – RBC IR & E							
Supplementary Investment Risks Interrogatories (SIRI)							
8	RBC IRE	2	2022 or Later		Referred from CADTF Referral from Blackrock and IL DOI	The Task Force received the referral on Oct. 27. This referral will be tabled until the bond factors have been adopted and the TF will conduct a holistic review all investment referrals.	1/12/2022 11/19/2020
9	RBC IRE	2	2022 or Later	NAIC Designation for Schedule D, Part 2 Section 2 - Common Stocks Equity investments that have an underlying bond characteristic should have a lower RBC charge? Similar to existing guidance for SVO-identified ETFs reported on Schedule D-1, are treated as bonds.	Referred from CADTF Referral from SAPWG 8/13/2018	10/8/19 - Exposed for a 30-day Comment period ending 11/8/2019 3-22-20 - Tabled discussion pending adoption of the bond structure and factors.	1/12/2022 10/11/2018
10	RBC IRE	2	2022 or Later	Structured Notes - defined as an investment that is structured to resemble a debt instrument, where the contractual amount of the instrument to be paid at maturity is at risk for other than the failure of the borrower to pay the contractual amount due. Structured notes reflect derivative instruments (i.e. put option or forward contract) that are wrapped by a debt structure.	Referred from CADTF Referral from SAPWG April 16, 2019	10/8/19 - Exposed for a 30-day Comment period ending 11/8/2019 3-22-20 - Tabled discussion pending adoption of the bond structure and factors.	1/12/2022 8/4/2019
11	RBC IRE	2	2022 or Later	Comprehensive Fund Review for investments reported on Schedule D Pt 2 Sn2	Referred from CADTF Referral from VOSTF 9/21/2018	Discussed during Spring Mtg. NAIC staff to do analysis. 10/8/19 - Exposed for a 30-day comment period ending 11/8/19 3-22-20 - Tabled discussion pending adoption of the bond structure and factors.	1/12/2022 11/16/2018
Ongoing Items – RBC IR&E							

Priority 1 – High priority
Priority 2 – Medium priority
Priority 3 – Low priority

CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022

Capital Adequacy (E) Task Force

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
12			2023 or later	New Items - RBC IR &E Evaluate the appropriate RBC treatment of Asset-Backed Securities (ABS), including Collateralized Loan Obligations (CLO), collateralized fund obligations (CFOs), or other similar securities carrying similar types of tail risk (Complex Assets).	Request from E Committee, SAPWG, VOSTF	Per the request of E Committee comments were solicited asking if these types of assets should be considered a part of the RBC framework.	1/12/2022
13			2023 or later	Evaluate the appropriate RBC treatment of Residual Tranches.	Request from E Committee, SAPWG, VOSTF	Per the request of E Committee comments were solicited asking if these types of assets should be considered a part of the RBC framework.	1/12/2022
14			2025 or later	Phase 2 Bond analysis - evaluate and develop an approach to map other ABS to current bond factors following the established principles from Phase 1 where the collateral has an assigned RBC. This project will likely require an outside consultant and the timeline could exceed 2-3 years.	Request from E Committee	Per the request of E Committee comment were solicited requesting the need for outside review.	1/12/2022

Carry-Over Items Currently being Addressed – P&C RBC							
15	Cat Risk SG	1	Year-end 2023 or later	Continue development of RBC formula revisions to include a risk charge based on catastrophic model output. a) Evaluate other catastrophe risks for possible inclusion in the change - determine whether to recommend developing charges for any additional perils, and which perils or perils those should be.	Referral from the Climate and Resiliency Task Force, March 2021	4/26/21 - The SG exposed the referral for a 30-day period. 6/1/21 - The SG forwarded the response to the Climate and Resiliency Task Force. 2/22/22 - The SG adopted proposal 2021-17-CR (adding the wildfire peril for informational purposes only). The SG continues reviewing other perils for possible inclusion in the Reat.	4/26/2021
16	P&C RBC WG	1	Year-end 2020 or later	Evaluate a) the current growth risk methodology whether it is adequately reflects both operational risk and underwriting risk; b) the premium and reserve based growth risk factors either as a stand-alone task or in conjunction with the ongoing underwriting risk factor review with consideration of the operational risk component of excessive growth; c) whether the application of the growth factors to NET proxies adequately accounts for growth risk that is ceded to reinsurers that do not trigger growth risk in their own right.	Refer from Operational Risk Subgroup	1) Sent a referral to the Academy on 6/14/18 conference call.	1/25/2018

Capital Adequacy (E) Task Force

CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022

Priority 1 – High priority
Priority 2 – Medium priority
Priority 3 – Low priority

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
17	P&C RBC WG	1	2020 Summer Meeting or later	Continue development of RBC formula revisions based on the Covered Agreement; consider whether the factor for uncollateralized, unrated reinsurers, runoff and captive companies should be adjusted		12/5/19 - The WG exposed Proposal 2018-19-P (Vulnerable 6 or unrated risk charge) for a 30-day exposure period. 2/3/20 - The WG adopted Proposal 2018-19-P. However, the WG intended to evaluate the data annually until reaching any agreed upon change to the factor and the structure. 3/15/21 - The WG exposed Proposal 2021-03-P (Credit Risk Instruction Modification) for a 30-day exposure period. 4/27/21 - The WG adopted proposal 2021-03-P. 6/30/21 - The CADTF adopted this proposal.	8/4/2018
18	P&C RBC WG	1	Year-end 2022 or later	Evaluate the proposed changes from the Affiliated Investment Ad Hoc Group related to P/C RBC Affiliated Investments			6/10/2019
19	P&C RBC WG	1	2023 Summer Meeting or later	Continue working with the Academy to review the methodology and revise the underwriting (Investment Income Adjustment, Loss Concentration, LOB UW risk) charges in the PRBC formula as appropriate.			6/10/2019
20	Cat Risk SG	1	Year-end 2023 or later	Evaluate the possibility of allowing additional third party models or adjustments to the vendor models to calculate the cat model losses		7/15/21 - The SG is continue evaluating this item. 10/27/21 - The SG exposed the proposal 2021-15-CR (adding KCC model). 12/16/21 - The SG adopted the proposal 2021-15-CR. 3/23/22 - The WG adopted this proposal.	12/6/2019
21	P&C RBC WG	1	2023 Spring Meeting	Evaluate if changes should be made to the P/C formula to better assess companies in runoff.		1/29/20 - received a referral from the Restructuring Mechanisms (E) WG 4/27/21 - The WG forwarded a response to the Restructuring Mechanism (E)	2/3/2020
22	P&C RBC WG	1	2023 Summer Meeting or later	Evaluate the Underwriting Risk Line 1 Factors in the P/C formula.			7/30/2020
23	Cat Risk SG	2	2023 Spring Meeting or later	Evaluate the possibility of enhancing the Independent Model Instructions.			3/22/2022
24	Cat Risk SG	1	2022 Spring Meeting or later	Implement Wildfire Peril in the Reat component (For Informational Purpose Only)		7/15/21 - The SG is continue studying this item. 2/22/22 - The SG adopted the proposal 2021-17-CR. 3/23/22 - The WG adopted the proposal.	3/8/2021

New Items – P&C RBC

Priority 1 – High priority
Priority 2 – Medium priority
Priority 3 – Low priority

**CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022**

Capital Adequacy (E) Task Force

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
24	Cat-Risk-SG	1	4/7/23	Evaluate the possibility of modifying exemption criteria for different cat perils in the PR027 Interregatories.		3/22/2022 - The SG exposed proposal 2022-01-CR for 30-day comment period.	3/22/2022
24	PCRB-CG	1	2023 Spring Meeting	Changing the RBC PR035 Line of Business categories to match the Lines of Business categories in the Annual Statement, Underwriting and Investment Exhibit, Part 1B.		8/9/22 - The WG exposed proposal 2022-07-P for a 30-day comment period.	7/7/2022
25	Cat-Risk-SG	2	2023 Spring Meeting or later	Evaluate the possibility of enhancing the Independent Model Instructions.			3/22/2022
26	PC&C-RBC-WG	1	4/7/24	Remove the trend test footnote in PR033.		3/23/2022 - The WG exposed proposal 2022-02-P for 30-day comment period.	3/22/2022
Ongoing Items – Health RBC							
25	Health RBC WG	Yearly	Yearly	Evaluate the yield of the 6-month U.S. Treasury Bond as of Jan. 1 each year to determine if further modification to the 0.5% adjustment to the Comprehensive Medical, Medicare Supplement and Dental and Vision underwriting risk factors is required. Any adjustments will be rounded up to the nearest 0.5%.	HRBCWG		11/4/2021
26	Health RBC WG	3	Ongoing	Continue to monitor the Federal Health Care Law or any other development of federal level programs and actions (e.g. state reinsurance programs, association health plans, mandated benefits, and cross-border) for future changes that may have an impact on the Health RBC Formula.	4/13/2010 CATF Call	Adopted 2014-01H Adopted 2014-02H Adopted 2014-05H Adopted 2014-06H Adopted 2014-24H Adopted 2014-25H Adopted 2016-01-H Adopted 2017-09-CA Adopted 2017-10-H The Working Group will continually evaluate any changes to the health formula as a result of ongoing federal discussions and legislation.	
27	Health RBC WG	2	Year-End 2024 RBC or Later	Carry-Over Items Currently being Addressed – Health RBC Consider changes for stop-loss insurance or reinsurance.	AAA Report at Dec. 2006 Meeting	Discuss and monitor the development of federal level programs and the potential impact on the HRBC formula.	11/11/2018
28	Health RBC WG	2	Year-end 2023 RBC or later	Review the individual factors for each health care receivables line within the Credit Risk H3 component of the RBC formula.	HRBC WG	(Based on Academy report expected to be received at YE-2016) 2016-17-CA Adopted 2016-06-H Rejected 2019-04-H Annual Statement Guidance (Year-End 2020) and Annual Statement Blanks Proposal (Year-End 2021) referred to the Blanks (E) Working Group	

**CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022**

Priority 1 – High priority
Priority 2 – Medium priority
Priority 3 – Low priority

Capital Adequacy (E) Task Force

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
29	Health RBC WG	1	Year-end 2023 or later	Continue to review the premium and reserve ratio in the Health Test Ad Hoc Group in the Health Test and review possible annual statement changes for reporting health business in the Life and P/C Blanks.	HRBCWG	Evaluate the applicability of the current Health Test in the Annual Statement instructions in today's health insurance market. Discuss ways to gather additional information for health business reported in other blanks. Referred Proposal 2022-06BWG to Blanks Working Group for exposure and consideration.	8/4/2018 2/25/2022
30	Health RBC WG	1	Year-end 2023 RBC or later	Work with the Academy to perform a comprehensive review of the H2 - Underwriting Risk component of the Health RBC formula including the Managed Care Credit review (Item 18 above) Review the Managed Care Credit calculation in the Health RBC formula - specifically Category 2a and 2b. Review Managed Care Credit across formulas. As part of the H2 - Underwriting Risk review, determine if other lines of business should include investment income and how investment income would be incorporated to the existing lines if there are changes to the structure.	HRBCWG	Review the Managed Care Category and the credit calculated, more specifically the credit calculated when moving from Category 0 & 1 to 2a and 2b.	4/23/2021 12/3/2018
31	Health RBC WG	1	Year-end 2023 or later	Review referral letter from the Operational Risk (E) Subgroup on the excessive growth charge and the development of an Ad Hoc group to change.	HRBCWG	Review if changes are required to the Health RBC Formula	4/7/2019
32	Health RBC WG	2	Year-End 2023 or later	Consider impact of COVID-19 and pandemic risk in the Health RBC formula.	HRBCWG		7/30/2020
33	Health RBC WG	3	Year-End 2023 or later	Discuss and determine the re-evaluation of the bond factors for the 20 designations.	Referral from Investment RBC July/2020	Working Group will use two- and five-year time horizon factors in 2020 impact analysis. Proposal 2021-09-H - Adopted 5/25/21 by the WG	9/11/2020
New Items – Health RBC							
34	Health RBC WG	1	Year-end 2023 or later	Evaluate the proposed changes from the Affiliated Investment Ad Hoc Group related to Health RBC Affiliated Investments			5/4/2022
New Items – Task Force							
Ongoing Items – Task Force							
35	CAD/TF	2	2023	Affiliated Investment Subsidiaries Referral Ad Hoc group formed Sept. 2016	Ad Hoc Group	Structural and instructions changes will be exposed by each individual working group for comment in 2022 with an anticipated effective date of 2023.	
Carry-Over Items not Currently being Addressed – Task Force							
				All investment related items referred to the RBC Investment Risk & Evaluation (E) Working Group			1/12/2022

Capital Adequacy (E) Task Force

CAPITAL ADEQUACY (E) TASK FORCE
WORKING AGENDA ITEMS FOR CALENDAR YEAR 2022

- Priority 1 – High priority
- Priority 2 – Medium priority
- Priority 3 – Low priority

2022 #	Owner	2022 Priority	Expected Completion Date	Working Agenda Item	Source	Comments	Date Added to Agenda
36	CADTF	3	2021	Receivable for Securities factor		Consider evaluating the factor every 3 years. (2021, 2024, 2027, etc.) Factors are exposed for comment. Comments due May 28, 2021 for consideration on June 30th. Factors Adopted for 2021.	

Carry-Over Items Currently being Addressed – Task Force

CADTF Working Agenda_v1_2022

EXAMINATION OVERSIGHT (E) TASK FORCE

Examination Oversight (E) Task Force Aug. 11, 2022, Minutes..... 9-781
Financial Examiners Handbook (E) Technical Group April 18, 2022, Minutes (Attachment One)..... 9-783
Information Technology (IT) Examination (E) Working Group May 2, 2022, Minutes
(Attachment Two) 9-786

Draft: 8/24/22

Examination Oversight (E) Task Force
Portland, Oregon
August 11, 2022

The Examination Oversight (E) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Amy L. Beard, Chair, represented by Roy Eft (IN); Karima M. Woods, Vice Chair, represented by Rebecca Davis (DC); Mark Fowler represented by Sheila Travis (AL); Lori K. Wing-Heier represented by David Pfifer (AK); Alan McClain represented by Leo Liu (AR); Ricardo Lara represented by Susan Bernard (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by William Arfanis (CT); Trinidad Navarro represented by Rylynn Brown (DE); Doug Ommen represented by Daniel Mathis (IA); Dean L. Cameron represented by Jessie Adamson (ID); Gary D. Anderson represented by John Turchi (MA); Anita G. Fox represented by Judy Weaver (MI); Chlora Lindley-Myers represented by Debbie Doggett (MO); Troy Downing represented by Kari Leonard (MT); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by John Sirovetz (NJ); Judith L. French represented by Dwight Radel (OH); Glen Mulready represented by Diane Carter (OK); Larry D. Deiter represented by Johanna Nickelson (SD); Carter Lawrence represented by Joy Little (TN); Cassie Brown represented by Jamie Walker (TX); Scott A. White represented by Greg Chew and David Smith (VA); Nathan Houdek represented by Amy Malm (WI); and Jeff Rude represented by Doug Melvin (WY).

1. Adopted its 2021 Fall National Meeting Minutes

Ms. Bernard made a motion, seconded by Mr. Radel, to adopt the Task Force's Dec. 1, 2021, minutes (*see NAIC Proceedings – Fall 2021, Examination Oversight (E) Task Force*). The motion passed unanimously.

2. Adopted the Reports of its Working Groups

A. Financial Examiners Coordination (E) Working Group

Mr. Eft provided the report of the Financial Examiners Coordination (E) Working Group. He stated that the Working Group met April 14 in regulator-to-regulator session, pursuant to paragraph 3 of the NAIC Policy Statement on Open Meetings, to continue work on its goals.

B. Financial Analysis Solvency Tools (E) Working Group

Mr. Eft provided the report of the Financial Analysis Solvency Tools (E) Working Group. He stated that the Working Group met Aug. 1 and June 13, in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings, to continue work on its goals.

C. Electronic Workpaper (E) Working Group

Ms. Bernard provided the report of the Electronic Workpaper (E) Working Group. She stated that the Working Group met July 20, May 23, April 18, Feb. 24, and Jan. 24 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings. She said that the Working Group continues its work on the TeamMate+ Transition project.

Ms. Bernard provided an overview of the status of the TeamMate+ Transition project. She stated that state insurance regulators have completed sandbox testing and that pilot testing is underway. Results of this testing

will be discussed with the vendor, and configuration updates will be made, as appropriate. She stated that legal representatives from the NAIC and the vendor are negotiating special terms for software licensing and cloud hosting, with an expectation that the contract will be finalized by the end of September. Ms. Bernard stated that training content is being developed, and she expects that specific training will begin rolling out later this early and early next year to help state insurance regulators prepare for the transition. Finally, Ms. Bernard stated that state-specific databases are expected to be available by January 2023 and that those databases may be installed in TeamCloud as states sign and execute the NAIC rider incorporating the finalized vendor contract.

D. Financial Examiners Handbook (E) Technical Group

Ms. Bernard provided the report of the Financial Examiners Handbook (E) Technical Group. She stated that the Technical Group met April 18 discuss its 2022 project list, which includes possible updates to: 1) Exhibit G – Fraud Considerations; and 2) the Capital and Surplus Examination Repository.

Ms. Bernard gave an overview of work being led by other NAIC groups that are expected to eventually be referred to the Technical Group to consider. These include: 1) a referral from the Financial Analysis (E) Working Group requesting the Technical Group to consider additional guidance related to terrorism insurance, uncollected premiums and agent balances, and monitoring startup insurers; 2) a future referral from the Group Solvency Issues (E) Working Group related to its work to incorporate guidance for examining internationally active insurance groups (IAIGs); 3) a future referral from the Climate and Resiliency (EX) Task Force to incorporate guidance to ensure climate-related risks are considered as part of a financial condition exam; and 4) a future referral from the Risk-Focused Surveillance (E) Working Group to incorporate guidance to assist examiners in evaluating affiliated service agreements.

E. Information Technology (IT) Examination (E) Working Group

Mr. Ehlers provided the report of the IT Examination (E) Working Group. He stated that the Working Group met May 2 to discuss its 2022 project list, which includes the following topics: 1) possible guidance for monitoring small to mid-size companies that heavily outsource IT functions; and 2) possible guidance for addressing prospective IT risks. Mr. Ehlers stated that a drafting group has been formed to develop guidance related to these topics and that proposed revisions will be brought before the Working Group for consideration later this year.

Ms. Bernard made a motion, seconded by Mr. Kaumann, to adopt reports of the Electronic Workpaper (E) Working Group, the Financial Analysis Solvency Tools (E) Working Group, the Financial Examiners Coordination (E) Working Group, the Financial Examiners Handbook (E) Technical Group (Attachment One), and the IT Examination (E) Working Group (Attachment Two). The motion passed unanimously.

Having no further business, the Examination Oversight (E) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/EOTF/EOTF Summer NM Minutes Draft.docx

Draft: 4/22/22

Financial Examiners Handbook (E) Technical Group
Virtual Meeting
April 18, 2022

The Financial Examiners Handbook (E) Technical Group of the Examination Oversight (E) Task Force met April 18, 2022. The following Technical Group members participated: Susan Bernard, Chair (CA); John Litweiler, Vice Chair (WI); Blasé Abreo (AL); Michael Estabrook (CT); N. Kevin Brown (DC); Cindy Andersen (IL); Shannon Schmoeger (MO); Justin Schrader (NE); Doug Bartlett (NH); Nancy Lee Chice (NJ); Tracy Snow (OH); Eli Snowbarger (OK); Matt Milford (PA); and John Jacobson (WA). Also participating were: Levi Nwasoria (KS); Monique Smith (NC); and Joy Little (TN).

1. Discussed its 2022 Project Listing

a. Exhibit G

Ms. Bernard introduced the Technical Group's 2022 project listing, and she said the first project to consider is enhancements to Exhibit G and the consideration of fraud during an examination. She noted that Exhibit G is structured in a way that is more conducive to the former exam approach when it was designed like a financial statement audit, and modifications to Exhibit G help to align the fraud review with the current risk-focused exam approach. While NAIC staff have made a few minor revisions to clean up and organize Exhibit G, no substantive changes have been made yet. Ms. Bernard said a drafting group would be beneficial to consider further revisions to Exhibit G, and she instructed anyone who is interested in volunteering for the drafting group to contact Bailey Henning (NAIC) or Elise Klebba (NAIC).

b. Capital and Surplus Repository Updates

Ms. Bernard said the next item on the project list to discuss is updates to the capital and surplus repository, which would help to align the recently added Own Risk and Solvency Assessment (ORSA) procedures to the work conducted in evaluating risks related to an insurer's capital and surplus. She stated that NAIC staff are working with a group of state insurance regulators who are familiar with the new ORSA review procedures and have used the procedures during recent exams to draft revisions to the capital and surplus exam repository. Once the proposed revisions are finished, they will be brought to the Technical Group for consideration.

c. Projects Led by Other NAIC Groups

Ms. Bernard stated that the next few items on the Technical Group's project listing are related to the *Financial Condition Examiners Handbook* but are currently being led by other NAIC groups. Since the projects will eventually be referred to the Technical Group to consider for adoption, it is important to keep the Technical Group aware of these projects.

Ms. Bernard mentioned that the first project related to the *Financial Condition Examiners Handbook* is Affiliated Service Agreements, which is currently being led by the Risk-Focused Surveillance (E) Working Group. This project considers additional procedures to assess the appropriateness of using a market-based expense allocation within affiliated agreements. Ms. Bernard said the Working Group started to develop guidance surrounding this topic in 2021, and it has formed a joint industry/state insurance regulator drafting group to revise the proposed revisions considering the comments received at the end of last year.

Ms. Bernard said the next project to discuss is related to the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame), which is a global supervisory framework developed by the International Association of Insurance Supervisors (IAIS). ComFrame is aimed at facilitating effective group-wide supervision of internationally active insurance groups (IAIGs). This work is being led by the Group Solvency Issues (E) Working Group, which formed three distinct drafting groups to review and consider if additional guidance is deemed necessary within the *Financial Analysis Handbook*, the *Financial Condition Examiners Handbook*, and the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* (ORSA Guidance Manual). Ms. Bernard noted that NAIC staff have been working diligently alongside the examination drafting group to incorporate relevant ComFrame revisions into the Examination process. It is anticipated that this project will be completed within the next few months.

Ms. Bernard indicated that the last project related to the *Financial Condition Examiners Handbook* to discuss is Climate-Related Risks. The Climate Risk and Resiliency (EX) Task Force is leading this work, which is focused on considering updates to enhance the integration of climate change risks into the financial examination process. Ms. Bernard noted that there is a referral out for exposure that outlines specific examination areas in which the Task Force believes guidance should be added. When the referral is finalized, it will be sent to the Technical Group to discuss and develop revisions.

d. Premium Tax Considerations

Ms. Bernard mentioned that the last item to discuss related to the 2022 project listing is premium tax considerations, and she asked the Technical Group to consider if the existing guidance is sufficient or if enhancements should be developed. Mr. Litweiler noted that Wisconsin is a premium tax coordinator and does extensive reviews of incoming files, so he believes this project would be beneficial to clarify how much work is necessary.

Ms. Smith said because the North Carolina Department of Revenue (NCDOR) only ties the premium tax return to the Schedule T, it is important to validate all information reported on Schedule T. She mentioned that policy fees have recently been recorded incorrectly, and North Carolina has noticed issues with its insurers underpaying premium taxes; therefore, she believes it is important that states work to validate Schedule T.

Bruce Jenson (NAIC) asked members if there is an expectation that all states are validating premium information on Schedule T for their domestic insurers that are licensed in other states. Ms. Smith and Mr. Litweiler agreed that their states would be relying on the other states to ensure Schedule T information is validated. Mr. Nwasoria added that he agrees with Ms. Smith, and he wants to understand how the Technical Group is going to consider this issue and where it would be addressed.

Ms. Bernard explained that the Technical Group wants to clarify what the expectation is with respect to premium tax considerations in an exam. Mr. Smith added that he has used the procedures included within the *Financial Condition Examiners Handbook* to assure the Virginia Department of the Treasury, which is responsible for the collection of premium taxes, that other states are looking at premium taxes. Furthermore, he expressed concern that if the procedures in the *Financial Condition Examiners Handbook* get changed or reduced, various state treasury departments may start to require audits if they believe premium taxes are not being appropriately reviewed during financial exams.

Mr. Bartlett noted that New Hampshire wants to make sure the Schedule T is accurate but struggles knowing what the retaliatory taxes are in a state tax return and can only note that the premium being reported is accurate. Ms. Little agreed that some work should be done on Schedule T, and she noted that while a lot has changed under the risk-focused approach, some things, such as premium taxes, are a requirement by law. Ms. Bernard concluded

that a reminder in a state insurance regulator newsletter regarding premium tax is the best path forward, and multiple Technical Group members agreed.

Having no further business, the Financial Examiners Handbook (E) Technical Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/EOTF

Draft: 5/2/22

Information Technology (IT) Examination (E) Working Group
Virtual Meeting
May 2, 2022

The IT Examination (E) Working Group of the Examination Oversight (E) Task Force met May 2, 2022. The following Working Group members participated: Jerry Ehlers, Chair (IN); Ber Vang, Vice Chair (CA); Blasé Abreo (AL); Mel Anderson (AR); William Arfanis and Ken Roulier (CT); Ginny Godek (IL); Dmitriy Valekha (MD); Kim Dobbs and Cynthia Amann (MO); Eileen Fox (NY); Metty Nyangoro (OH); Eli Snowbarger (OK); Melissa Greiner and Matt Milford (PA).

1. Discussed its 2022 Project List

Mr. Ehlers called the meeting to order and said that the purpose of the meeting was to discuss the 2022 Project List. Mr. Ehlers said that prior to the meeting, preliminary feedback regarding possible projects was collected from the Working Group members via an email survey. The results of that survey are captured in the 2022 Project List. Mr. Ehlers then gave a summary of the Working Group's Project List which included: 1) consideration of guidance updates within the Financial Condition Examiners Handbook (Handbook) pertaining to cloud storage environments and insurers that outsource portions of their IT activities; 2) consideration of possible guidance updates within the Handbook to add the concept of prospective risks to the IT Review; and, 3) development of general best practices for supplemental parts of an IT Review, like coordination activities across states or communication with state insurance analysts and/or contract resources (e.g., examiners, specialists, etc.).

Mr. Ehlers proposed the formation of a drafting group to address the projects and bring guidance suggestions back to the Working Group for consideration. There were no objections. Mr. Ehlers asked that individuals interested participating in the drafting group reach out to Jacob Steilen (NAIC) by May 9.

Jenny Jeffers (Jennan Enterprises, LLC) asked if contractors could be on the drafting group. Mr. Steilen said the drafting group would allow contractors due to the specialized knowledge required to accomplish these projects.

Tom Finnell (America's Health Insurance Plans—AHIP) asked how the projects would be brought back to the full working group for review. Specifically, if the full working group would review the projects individually or as a package. Mr. Steilen stated that the changes would be presented to the Working Group as a package and would be exposed for a public comment period prior to the Working Group considering any changes for adoption into the Handbook.

Bruce Jenson (NAIC) asked if the second project related to IT prospective risks is intended to help clarify whether the investigation of prospective risks related to IT systems should be documented on Exhibit V as part of the financial examination or within Exhibit C as part of the IT Review. Mr. Steilen affirmed that is the intention of the project.

Having no further business, the IT Examination (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/EOTF

FINANCIAL STABILITY (E) TASK FORCE

Financial Stability (E) Task Force Aug. 12, 2022, Minutes 9-788

Financial Stability (E) Task Force and Macroprudential (E) Working Group June 27, 2022, Minutes
(Attachment One)..... 9-794

Industry Comment Letters on Proposed State Insurance Regulator Responses to the Plan for the
List of Macroprudential (E) Working Group Considerations – Private Equity (PE)-Related and
Other (Attachment One-A) 9-797

Plan for the List of Macroprudential (E) Working Group Considerations – PE-Related and Other
(Attachment One-B)..... 9-819

Draft: 8/23/22

Financial Stability (E) Task Force
and Macroprudential (E) Working Group
Portland, OR
August 12, 2022

The Financial Stability (E) Task Force met in Portland, OR, Aug. 12, 2022, in joint session with the Macroprudential (E) Working Group. The following Task Force members participated: Marlene Caride, Chair (NJ); Elizabeth Kelleher Dwyer, Vice Chair (RI); Evan G. Daniels represented by David Lee (AZ); Ricardo Lara represented by Susan Bernard (CA); Andrew N. Mais represented by Jack Broccoli (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Charles Santana (DE); Doug Ommen represented by Carrie Mears (IA); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Kathleen A. Birrane represented by Lynn Beckner (MD); Timothy N. Schott (ME); Chlora Lindley-Myers represented by John Rehagen (MO); Eric Dunning represented by Justin Schrader (NE); Adrienne A. Harris represented by Bob Kasinow (NY); Mike Causey represented by Monique Smith (NC); Judith L. French represented by Dale Bruggeman (OH); Andrew R. Stolfi represented by Doug Hartz (OR); Michael Humphreys represented by Melissa Greiner (PA); Michael Wise represented by Michael Shull (SC); Carter Lawrence represented by Trey Hancock (TN); Cassie Brown represented by Jamie Walker (TX); Scott A. White (VA); and Nathan Houdek represented by Amy Malm (WI). The following Working Group members participated: Justin Schrader, Chair (NE); Carrie Mears, Vice Chair (IA); Susan Bernard (CA); Kenneth Cotrone (CT); Philip Barlow (DC); Lynn Beckner (MD); Vanessa Sullivan (ME); Steve Mayhew (MI); Fred Andersen (MN); John Rehagen (MO); Marlene Caride (NJ); Bob Kasinow (NY); Melissa Greiner (PA); Ted Hurley (RI); Jamie Walker (TX); and Doug Stolte (VA). Also participating was: Stephanie McGee (NV).

1. Heard Opening Remarks

Commissioner Caride said materials for consideration and discussion for this meeting are available on the NAIC website in the Committees section under the Financial Condition (E) Committee.

2. Adopted the Task Force's June 27 and Spring National Meeting Minutes

Superintendent Dwyer made a motion, seconded by Mr. Schrader, to adopt the Task Force's June 27 (Attachment One) and April 5 (*see NAIC Proceedings – Spring 2022, Financial Stability (E) Task Force*) minutes. The motion passed unanimously.

3. Heard an Update on FSOC Developments

Superintendent Dwyer reported on a few Financial Stability Oversight Council (FSOC) discussions; issues identified publicly that are most directly related to the NAIC's work or could be of interest down the road include:

- The FSOC's report issued late last year called on member agencies to take action to address climate risk, which was identified as an increasing threat to financial stability. The president's executive order on climate accelerated the FSOC's focus.
- The NAIC is participating in several groups formed under the FSOC to enhance monitoring and information sharing on climate risk and resiliency. The NAIC's focus is on identifying data needs to assess climate-related risks, creating a mechanism for FSOC members to share relevant data and information, providing a forum to collaborate on agency priorities, and building capacity for climate risk assessment and monitoring through scenario analysis.
- FSOC member agencies have made considerable progress to address capacity building, enhance disclosure, and identify data needed to assess and mitigate risks. FSOC members share progress through the climate risk and resilience groups, including a recently established staff-level interagency committee

to serve as a coordinating body to share information, facilitate standard-setting, and foster communication across FSOC members.

Superintendent Dwyer stressed that the work the NAIC has done and will continue to do through the Climate and Resiliency (EX) Task Force and other groups like the Task Force has enhanced the NAIC's position in the context of FSOC discussions. She reported that with respect to digital assets, the FSOC is focused on various types of monetary digital assets, such as forms of cryptocurrency and other types of related investments, which could propagate the impact of shocks on the financial system or broader economy. She added that June and July have been extremely hard on such companies with the demise of many such assets, including Terra and Luna. She said the FSOC is focused on understanding and documenting the various risks and uncertainties of such digital assets in the context of financial stability and determining appropriate action to mitigate such risks. She concluded that actions may include different recommendations for agency members and market participants as well as monitoring and contributing to these discussions to better understand whether or how they would affect insurers or state regulation.

4. Received a Working Group Update

Mr. Schrader said on June 27, the Task Force adopted a document detailing:

- 1) A list of the Working Group's considerations, private equity (PE)-related and other.
- 2) Summaries of state insurance regulator discussions and interested party comments.
- 3) A recommended disposition for each consideration.

He added that NAIC staff converted that document of proposals into a final document of regulatory intent titled the "Plan for the List of MWG Considerations – PE Related and Other" because there were only editorial changes and no substantive edits to the 13 considerations. He said the Financial Condition (E) Committee adopted the "Plan for the List of MWG Considerations – PE Related and Other" during its July 21 meeting. He said the "Plan for the List of MWG Considerations – PE Related and Other" included referrals to other NAIC committee groups as new work items as well as in recognition of existing work at other NAIC committee groups, while a few items were held for further discussion at the Working Group. He said the Working Group will monitor activities at other NAIC committee groups and provide periodic status updates.

Mr. Schrader summarized the status of the 13 Working Group considerations as follows:

1. Holding Company Structures

- Sent a referral for new work to the Group Solvency Issues (E) Working Group.

2. Ownership and Control

- Sent a referral for new work to the Group Solvency Issues (E) Working Group.

3. Investment Management Agreements (IMAs)

- Sent a referral to the Risk-Focused Surveillance (E) Working Group to add this consideration to existing work involving affiliated agreements and Form D filings.
- Sent a referral to the Valuation of Securities (E) Task Force to highlight the regulatory discussion involving topics it administers.

4. Owners of Insurers with a Short-Term Focus and/or Are Unwilling to Support a Troubled Insurer

- Sent a referral to the Risk-Focused Surveillance (E) Working Group to add this consideration to existing work involving affiliated agreements and fees.
- Sent a referral to the Life Actuarial (A) Task Force recognizing its existing work to ensure the long-term life liabilities (reserves) and future fees are paid out of the insurer and supported by appropriately modeled assets.

5. Operational, Governance, and Market Conduct Practices

- The Working Group will keep developing more specific suggestions before likely referring this consideration to the Risk-Focused Surveillance (E) Working Group.

6. Definition of PE

- No action was deemed necessary for this consideration.

7. Identifying Related Party-Originated Investments, Including Structured Securities

- Sent a referral to the Statutory Accounting Principles (E) Working Group recognizing its existing work regarding disclosures for related party issuance/acquisition.
- The Working Group may consider further regulatory guidance as needed once state insurance regulators work with these Statutory Accounting Principles (E) Working Group disclosures and regulatory enhancements from referrals to other groups.

8. Identifying Underlying Affiliated/Related Party Investments and/or Collateral in Structured Securities

- Sent a referral to the Statutory Accounting Principles (E) Working Group in recognition of existing work to develop disclosures to identify the role of the related party in the investment and codes for relationships in securitizations or similar investment.
- Sent a referral for new work to the Examination Oversight (E) Task Force for the collateralized loan obligation (CLO)/structured security considerations.

9. Asset Manager Affiliates and Disclaimers of Affiliation

- The Working Group is comfortable waiting to realize the benefits of the recently implemented Schedule Y, Part 3, along with the changes other NAIC committee groups will make for several of the previously listed referrals, before determining if additional work is needed.
- Sent a referral to the Statutory Accounting Principles (E) Working Group recognizing its existing work to revamp Schedule D reporting, along with the previously mentioned code disclosures.

10. Privately Structured Securities

- Sent a referral to the Life Actuarial (A) Task Force recognizing its existing work on an actuarial guideline, including disclosure requirements for the risks of privately structured securities and how the insurer is modeling the risks.
- Sent a referral to the Valuation of Securities (E) Task Force highlighting the Working Group's support for the blanks proposal to add market data fields for private securities.
- The Working Group will wait on any further work or referrals until there is an opportunity to work with the results of the Valuation of Securities (E) Task Force proposal and the Statutory Accounting Principles (E) Working Group Schedule D revamp project.

- Sent a referral for new work to the Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group to address the tail risk concerns not captured by reserves.

11. Reliance on Rating Agencies

- Sent a referral to the Valuation of Securities (E) Task Force indicating the Working Group's agreement to monitor the work of its ad hoc group addressing various rating agency considerations.

12. Pension Risk Transfer (PRT) Business Supported by Complex Investments

- Life Actuarial (A) Task Force's Actuarial Guideline
 - Sent a referral to the Life Actuarial (A) Task Force recognizing its work on an actuarial guideline, which should address the reserve considerations of PRT business.
 - Sent a referral to the Statutory Accounting Principles (E) Working Group to address the related disclosure considerations, as the goal was to have them in the Notes to Financial Statements.
- U.S. Department of Labor (DOL) Protections
 - NAIC staff have engaged the DOL to begin discussions.
- State Guaranty Funds Compared to Pension Benefit Guaranty Corporation (PBGC) Protection – National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) 2016 Study
 - No further action was deemed necessary.
- RBC Treatment of PRT Business
 - Sent a referral to the Longevity Risk (E/A) Subgroup recognizing that its work will also address PRT business and indicating that the Working Group will monitor this work.

13. Offshore/Complex Reinsurance

- The Working Group is scheduling and has already held some confidential discussions with industry participants regarding the use of offshore reinsurers and complex affiliated reinsurance vehicles, as well as other activities included in this list. These meetings are held pursuant to paragraph 3 (specific companies, entities or individuals) and paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement of Open Meetings. The Working Group will consider further work and/or referrals once it has gained more insights.

Mr. Schrader concluded that the Working Group will still be addressing these considerations for some time to come, as some of these projects will be ongoing for several years. He added that NAIC staff will be posting a tracking document for the 13 Working Group considerations and copies of the referral letters sent to the committee groups to the Documents tab of the Working Group web page.

Mr. Schrader reported that NAIC staff received and performed initial reviews on a total of 21 groups' 2021 Liquidity Stress Test (LST) filings. He added that the 2021 LST filings were due on June 30 and were based on year-end 2021 annual statement amounts, which were projected over the specified time frames of one month, three months and one year for five stress scenarios:

- Baseline.
- Adverse, Adverse What-If.
- Interest Rate Spike.
- Worst-Case.

He said the in-depth reviews are still ongoing, but he shared some preliminary high-level observations:

- Most of the assumptions for all five scenarios remain consistent with the 2020 LST assumptions; although, some additional updates were made to the market assumptions to reflect the current economic environment.
- After aggregating the results for each stress scenario and comparing them to the 2020 LST aggregated results, the total assets sold increased for the Baseline and Adverse scenarios, while decreasing for the other three scenarios. These changes appear reasonable based on the initial review.
- The 2021 LST filing results continue to show that the amount of asset sales from the U.S. life insurance industry during these stress events would not be significant to the broader financial markets, satisfying the primary macroprudential objective of the LST.
- Consistent with last year's results, a few groups reported no cash deficit for the worst-case scenario, which will require further study to address the question of whether these groups' assumption models were stressful enough.
- For the modeled asset sales, the majority are from Treasury and Agency Bonds, along with Investment-Grade Public Corporate Bonds.

He added that the Working Group plans to publish a public summary of the 2021 LST results in September. He reported the formation of the LST Separate Account Study Group, another informal group, that includes volunteer state insurance regulators and companies from the larger LST Study Group, along with an American Council of Life Insurers (ACLI) representative, and it is led by Ms. Mears. He added that the LST Separate Account Study Group is charged with considering how to include non-insulated separate accounts into the LST filings, discuss liquidity risk in the insulated separate accounts, and consider which insulated separate account products are subject to existing U.S. Securities and Exchange Commission (SEC) stress testing requirements compared to those that are not, and if warranted, the design of an appropriate LST for macroprudential purposes. He reported that the LST Separate Account Study Group held its first meeting on July 29 and is in the process of scheduling its next meeting sometime in September. He said the LST Study Group will consider the results of the 2021 LST filings and the LST Separate Account Study Group's work to construct the 2022 Liquidity Stress Testing Framework (LST Framework).

Mr. Schrader reported that at the Spring National Meeting, the Working Group adopted a Macroprudential Risk Assessment process document that describes what the NAIC's system of macroprudential risk assessment entails at a high level. He added that the Working Group has been executing the process outlined in the document, which included frequent meetings with state insurance regulators on each risk category to agree on the key risk indicators to use to assess the trend of the risk and the risk assessment level as Low, Mod-Low, Mod-High, and High. He announced a plan to have a detailed confidential report for state insurance regulators to review in late September and have a public high level summary dashboard report to be published later this year. He added that the Working Group will consider whether it would be appropriate to take any actions based on the contents of that report, such as sending referrals to other NAIC working groups.

5. Heard an International Update

Mr. Nauheimer reported that the International Association of Insurance Supervisors (IAIS) completed numerous data calls and analysis as part of the annual Global Monitoring Exercise (GME), which includes individual insurer monitoring (IIM) and sector-wide monitoring (SWM). He added that the GME is part of the IAIS Holistic Framework

for Systemic Risk monitoring, which takes a broader approach to financial stability and macroprudential surveillance. He noted that the IAIS has completed the following:

- The IIM quantitative data analysis from its annual exercise in June.
- The quantitative and qualitative SWM data collection due June 30, which now includes separate data collections for climate and cyber data.
- The reinsurance SWM data collection due July 31.

Mr. Nauheimer added that after all the data call submissions and analysis thereof, the IAIS will complete the Global Insurance Market Report (GIMAR). He added that for the annual GIMAR, the IAIS Climate Risk Steering Group (CRSG), along with the Macroprudential Monitoring Working Group (MMWG), will draft a new chapter on climate related risks. He said the NAIC will continue to monitor and contribute to the development of these reports.

Mr. Nauheimer reported that IIM and SWM help determine the scope for an annual collective discussion by the IAIS on potential systemic risk issues. He clarified that the collective discussion is generally among supervisors regarding views on and responses to overall risk themes and individual insurers who have been scoped in based on long running established criteria. He noted that the IAIS asked for the following due Aug. 12:

- A detailed SWM questionnaire regarding the nature and extent of the risk themes and the supervisory measures in place to address those risks.
- An IIM questionnaire with a focus on firms identified by a quantitative scoring, as well as overarching themes related to financial stability identified through expert judgment.

He added that the collective discussions will take place at the Macroprudential Committee and Executive Committee meetings from Sept. 14 to Sept. 16.

Mr. Nauheimer reported that the MMWG continues to review the IIM Assessment Methodology, which the IAIS updates every three years. He added that the IAIS is also finalizing the reports on the targeted jurisdictional assessment of the implementation of the Holistic Framework Supervisory materials, which includes a report to the Financial Stability Board (FSB) on a review of the Holistic Framework for Systemic Risk in the Insurance Sector, which will inform the FSB's decision to re-establish or end the identification of global systemically important insurers (G-SIIs).

Mr. Nauheimer said the IAIS Liquidity Workstream will meet at the end of August to analyze data received as part of the GME to develop a liquidity metric, which utilizes a company's cash flow projections and aligns more with the NAIC's adopted domestic approach to assessing liquidity risk. He added that after incorporating comments from two public consultations, the IAIS intends to complete a publication titled "Liquidity Metrics as an Ancillary Indicator" this year, which will serve as a guidance document for liquidity monitoring within the GME.

Mr. Nauheimer reported that the IAIS also formed a Private Equity Workstream within the Macroprudential Supervision Working Group (MSWG) to produce an internal briefing memo to the Macroprudential Committee that provides an update on the involvement of PE in members' jurisdictions. He added that the MSWG will continue to monitor PE ownership in the global insurance industry.

Having no further business, the Financial Stability (E) Task Force and Macroprudential (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/

Draft: 7/26/22

Financial Stability (E) Task Force
and Macroprudential (E) Working Group
Virtual Meeting
June 27, 2022

The Financial Stability (E) Task Force met June 27, 2022, in joint session with the Macroprudential (E) Working Group. The following Task Force members participated: Marlene Caride, Chair (NJ); Elizabeth Kelleher Dwyer, Vice Chair (RI); Ricardo Lara represented by Susan Bernard (CA); Andrew N. Mais represented by Kathy Belfi (CT); Trinidad Navarro represented by Tom Hudson (DE); David Altmaier represented by Ray Spudeck (FL); Doug Ommen (IA); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Gary D. Anderson represented by John Turchi (MA); Kathleen A. Birrane represented by Lynn Beckner (MD); Timothy N. Schott represented by Vanessa Sullivan (ME); Chlora Lindley-Myers represented by John Rehagen (MO); Mike Causey represented by Jackie Obusek (NC); Eric Dunning represented by Justin Schrader (NE); Adrienne A. Harris represented by Bob Kasinow (NY); Judith L. French represented by Dale Bruggeman (OH); Michael Humphreys and Melissa Greiner (PA); Michael Wise represented by Daniel Morris (SC); Carter Lawrence represented by Trey Hancock (TN); Cassie Brown represented by Jamie Walker (TX); Scott A. White represented by Doug Stolte (VA); and Nathan Houdek represented by Amy Malm (WI). The following Working Group members participated: Justin Schrader, Chair (NE); Carrie Mears, Vice Chair (IA); Susan Bernard (CA); Kathy Belfi (CT); Carolyn Morgan (FL); Vanessa Sullivan (ME); Steve Mayhew (MI); Fred Andersen (MN); John Rehagen (MO); Bob Kasinow (NY); Melissa Greiner (PA); Ted Hurley (RI); Jamie Walker (TX); and David Smith (VA). Also participating was: Susan Berry (IL).

1. Heard Opening Remarks

Commissioner Caride said materials for consideration and discussion for this meeting are available on the NAIC website in the Committees section under the Financial Condition (E) Committee. She said to simplify the process, the Task Force and Working Group will consider reception of five comment letters and adoption of the Proposed Regulator Responses to the List of the Working Group's Considerations together.

2. Received comments on the Proposed Regulator Responses to the List of the Working Group's Considerations

Mr. Schrader said the Macroprudential (E) Working Group met April 22 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) and paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings, to finalize the "Proposed Regulator Responses to the List of the Working Group's Considerations." The Working Group exposed the document on April 27 for a public comment period ending June 13. Mr. Schrader expressed the Working Group's appreciation for five comment letters received from: 1) Risk & Regulatory Consulting (RRC); 2) American Council of Life Insurers (ACLI); 3) American Investment Council (AIC); 4) UNITE HERE; and 5) Northwestern Mutual.

With respect to the UNITE HERE comment letter, Mr. Schrader said that none of the comments were included in the comment letters because they were not actionable or practical. He added that state insurance regulators must have laws allowing them confidential access to such documents so arguments for the public to get access to such documents are beyond the scope of current considerations. He reported that confidential regulatory tools are not to be presented for the public to assess if they are effective, but instead, the Working Group will focus on presenting the actions regulators propose to take within the NAIC committee structure, recognizing that the specifics of those confidential regulatory processes and their results will continue to remain confidential. Mr. Schrader summarized that insurance companies provide significant transparency and offered to set up a separate meeting with NAIC staff to explain specifics of the regulatory process in detail including:

- Publicly traded companies in the U.S. must file generally accepted accounting principles (GAAP) financial statements.
- Non-publicly traded companies are not required to provide public GAAP financial statements.
- Statutory financial statements are publicly available for all non-captive life insurers.
- Statutory financial statements provide significantly more detail than GAAP financial statements.
- Statutory financial statements provide information on the legal entity level compared to GAAP, which does so at the group level.
- Statutory financial statements include an annual listing of investments acquired, disposed of, and owned, so actual investment issuers can be assessed by anyone reviewing the filings rather than group-level GAAP financial statements.
- For publicly traded insurers, the public may access the group’s GAAP financial statements, as well as the statutory financial statements for each legal entity in the group.

Mr. Schrader concluded that the nature of the UNITE HERE comments and concerns seemed more focused on actual solutions that will be developed for the Working Group’s considerations rather than the exposed document listing how the Working Group plans to assign the work. He suggested the Working Group redirect some of those comments to specific work to address those Working Group considerations once they have been referred to the appropriate group and work begins.

For the Working Group, Ms. Mears made a motion, seconded by Ms. Bernard, to receive the five comments letters on the “Proposed Regulator Responses to the List of the Working Group’s Considerations” (Attachment One-A). The motion passed unanimously.

For the Task Force, Ms. Malm made a motion, seconded by Ms. Bernard, to receive the five comments letters on the “Proposed Regulator Responses to the List of the Working Group’s Considerations” (Attachment One-A). The motion passed unanimously.

3. Adopted the Proposed Regulator Responses to the List of the Working Group’s Considerations

Mr. Schrader summarized how to incorporate the comments received to the “Proposed Regulator Responses to the List of the Working Group’s Considerations” with no further changes discussed to the redlined document.

For the Working Group, Mr. Spudeck made a motion, seconded by Ms. Bernard, to adopt the “Proposed Regulator Responses to the List of the Working Group’s Considerations” (Attachment One-B). The motion passed unanimously.

For the Task Force, Mr. Schrader made a motion, seconded by Mr. Kasinow, to adopt the “Proposed Regulator Responses to the List of the Working Group’s Considerations” (Attachment One-B). The motion passed unanimously.

Commissioner Caride said that with the adoption, the word “Proposed” will be removed from the title of the final version of the document.

4. Received an Update on Key Initiatives

Mr. Schrader said that the Liquidity Stress Test (LST) Study Group has met to discuss several questions for potential modifications to the 2022 LST framework. He added that these questions included concepts such as providing more consistency in certain stress test assumptions. Mr. Schrader reported that an LST Separate Accounts Study Group is going to be formed to tackle the questions of how to address non-insulated separate account sales, as

well as whether, and if so how, to address insulated separate accounts in terms of macroprudential impacts to broader financial markets. He said that the LST Study Group will also be reviewing the results of running the most recent 2021 year-end data through the 2021 LST scope criteria and assessing the list of LST participants, as well as whether changes need to be made to the 2022 LST scope criteria. Mr. Schrader summarized that state insurance regulators are anticipating receipt of the 2021 LST filing on June 30, at which point results will be reviewed, assessed, and then provided to the Working Group and Task Force.

Mr. Schrader said that at the Spring National Meeting, the Working Group received comments on and later adopted a Macroprudential Risk Assessment Process document, which essentially describes what the system of Macroprudential Risk Assessment entails at a high level. He added that state insurance regulators had several volunteer group meetings to complete the 2020 Macroprudential Risk Assessment. Mr. Schrader said that after completing several further scheduled meetings, NAIC staff and state insurance regulators will turn to the report writing phase, which will summarize the results of the risk assessment and may offer ideas for additional areas of research or regulator action. He added that the report will likely represent the next opportunity for extended discussion on the Macroprudential Risk Assessment Process reflecting regulator views of industry risks and allow discussion of those views, as well as potential responses in a public setting. Mr. Schrader said that he expects a first edition of the Risk Assessment Process report later this year. He clarified that the analysis underlying the Macroprudential Risk Assessment Process is not new as regulators have long monitored industry developments with assistance from the NAIC. What is new is the publication of a summary risk dashboard report. As a result of the Risk Assessment Process further analysis of specific risks may be warranted. If further study is deemed necessary, the Working Group may seek input from the public prior to a consideration for a referral or further study of specific matters. He noted that even after a referral, there will be an opportunity for public input.

Having no further business, the Financial Stability (E) Task Force and Macroprudential (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Summer National Meeting/



Memo

To: Justin Schrader, Chair, Macroprudential (E) Working Group

From: Tricia Matson, Partner and Edward Toy, Director

Date: May 20, 2022

Subject: RRC comments regarding Regulatory Considerations Applicable (But Not Exclusive) to PE Owned Insurers

Background

The Macroprudential (E) Working Group (MWG) exposed a document on April 27 for further comment on Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers (Considerations). RRC appreciates the opportunity to offer our comments. Should you have any questions, we would be glad to discuss our comments with you and the MWG members.

RRC Comments

- We have the following general comments on the Considerations:
 - We applaud these efforts. Overall, we agree with the considerations listed, and have encountered nearly all of them in our work with regulators reviewing insurer complex investments, PE acquisitions, captive formations, ownership changes, and use of offshore reinsurance.
 - We also agree with and encourage considerations that are as much as possible activities based and not specific to PE owned insurers or specific types of transactions or investments.
- We have the following specific comments on the continuing discussions:
 - In a Form A transaction, whether the owner of the insurer is a PE fund or another type of investor, expectations and structures behind insurer ownership may have changed. Because of that, RRC believes that the stipulations, either limited time or continuing, should protect against adverse policyholder outcomes resulting from that change in dynamic.
 - The regulatory expectation is that owners of insurers should have a long, if not indefinite, time horizon. It is not uncommon for PE funds in general and other similar investment vehicles to have a limited time frame because they are specifically structured investment vehicles such as limited partnerships. For example, requiring that limited partnerships should not have a specific end date would bring that ownership vehicle into line with regulatory expectations.
 - While there are typically no guarantees of additional funding in any ownership situation, having a structure that allows for backstop capital in the event that a need arises should be considered. This could be achieved through a parental guarantee or a capital maintenance agreement.
 - With regards to dividends, even if dividends are permitted, it may be advisable to

- structure a claw back period. This could be effectuated with allowing dividends to the limited partnership structure but requiring that the funds not be paid out to the partners for some period of time to ensure that the availability is not short-lived.
- In a limited partnership structure, the limited partners may be considered passive investors and arguably should not be subject to the typical expectations of owners. However, additional understanding and restrictions on the interest of the general partner would be appropriate.
 - In the event that the Form A includes transfer of business to offshore entities, requiring continued maintenance of capital levels similar to those in place prior to the transaction, and ongoing reporting to the U.S. regulator that is in line with the Statutory reporting framework, to ensure that there are no adverse implications to policyholders.
 - Ensuring that corporate governance appropriately balances the desire for strong returns with the need to protect policyholders. For example, the Board and senior management should include members with appropriate background and knowledge of insurance laws and operations. In addition, risk and compliance functions should have appropriate reporting and communication lines to the Board.
 - Policyholder non-guaranteed elements, such as credited rates and dividends, should not be inappropriately reduced from existing levels.
- With respect to an Investment Management Agreement (IMA), RRC encourages an approach that includes a thorough review of the IMA to ensure that it is fair and reasonable to the insurer. In addition to the specific items noted for consideration,
 - Are there detailed and reasonable investment guidelines?
 - Is there sufficient expertise at the insurer and on the insurer's Board to properly assess the performance and compliance of the investment manager?
 - Is the investment manager registered as such under the Investment Advisers Act of 1940, and recognizes the standard of care as a fiduciary?
 - The exposure cites collateralized loan obligations (CLOs) several times as a source of concern and therefore a focus for additional disclosure. While there has been a continuing level of concern about CLOs in general, RRC encourages the working group to take a broader view as well. As a general matter, investments in CLOs are at least subject to disclosure and conflicts of interest standards under various securities laws and regulations. On the other hand, there are other potentially problematic investments that do not benefit from that regulatory oversight.
 - Private funds – Some of the issues noted with respect to concerns about overlapping interests in CLOs may also be prevalent in various kinds of funds, especially privately placed funds that are reported on Schedule BA. Such investment vehicles may have significant areas that have the potential for a conflict of interest that would not be captured by securities laws. Such investment vehicles may also include substantial management fees for management of the fund.
 - Collateral Loans – The U.S. insurance industry's reported exposure to Collateral Loans that are reported on Schedule BA has grown substantially in the last ten years. In addition to the same potential conflicts, it may be appropriate to revisit valuation and reporting guidance.

- The exposure also cites “privately structured securities which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency”.
 - While the lack of available public data does present a significant issue and does mean there is in theory a lower degree of liquidity, we caution at being overly concerned about the private nature of such transactions.
 - Any highly structured transaction is going to lack liquidity.
 - The NAIC had at one time a disclosure for Structured Notes. This allowed regulators to see when that represented an excessive risk. We encourage the reinstatement of that disclosure.
 - A potential consideration related to complex asset structures would be to incorporate this risk factor into the criteria for additional liquidity risk analysis outlined in the NAIC 2021 Liquidity Stress Test Framework (Framework). Considering the amount of effort spent on developing the Framework, it may be helpful to leverage its requirements for situations in which significant complex securities are used to back insurer liabilities.

The exposure references the work by the Life Actuarial Task Force (LATF) on requirements for modeling complex assets within asset adequacy testing, as a mechanism to address the increased risk associated with complex assets. We agree that this work will support improved capture of the risk; however, we also recognize that reserving is not intended to capture tail risk. Some of the complex assets in question may not present significant risk in a reserving analysis (which is focused on moderately adverse conditions). We also suggest referencing regulatory review of capital requirements for such complex assets so their tail risks are captured in RBC, since new owners may rely on shifting investments into complex asset structures with relatively low RBC charges as a way to increase RBC ratios and remove “excess” capital at deal inception. The NAIC’s RBC Investment Risk and Evaluation Working Group has recently begun a holistic review of this, and their work could be referenced in the document.

Thank you for the opportunity to provide comments on this important initiative. We can be reached at tricia.matson@riskreg.com/(860) 305-0701 and edward.toy@riskreg.com/(917) 561-5605 if you or other MWG members have any questions.

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Justin Schrader Chief Examiner, Nebraska Insurance Department

Todd Sells Director, Financial Regulatory Policy & Data

Tim Nauheimer Sr. Financial Markets Advisor – Macroprudential Surveillance

June 9, 2022

Re: Comments Regarding NAIC Macroprudential (E) Working Group exposed “Regulatory Considerations Applicable (but not exclusive to) Private Equity Owned Insurers”

Thank you for the opportunity to provide additional comments regarding the NAIC Financial Stability Task Force (FSTF) and Macroprudential (E) Working Group (MWG) exposure, “Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers” (hereafter, “Regulatory Considerations”). The MWG exposed the document to allow stakeholders to comment on the addition of the regulatory process summaries, as well as the results of regulator discussions on how to move forward with respect to each Consideration.

As noted in our January 18, 2022, comment letter, ACLI supports efforts to ensure that the insurance regulatory framework continues to provide robust consumer protection and safeguards. The U.S. state regulatory system fosters the life insurance industry’s ability to provide financial protection and promote financial security to the 90 million Americans who count on us to plan for tomorrow, so they can live confidently today. We appreciate and support the decision to appoint the MWG as a coordinator for the Regulatory Considerations and new workstreams. Coordination and collaboration between different NAIC working groups and FSTF is key to maintaining a coherent process that provides maximum relevance and transparency to regulators.

We are appreciative of regulators’ thoughtful and deliberative approach to each Consideration. In general, ACLI supports the MWG’s proposed referrals and agrees with the MWG’s determination to take an activities-based approach to the Regulatory Considerations rather than focusing on a particular type of ownership structure. ACLI also supports the regulators’ efforts to leverage existing

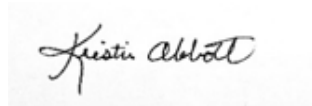
NAIC workstreams and promote the enhancement of existing tools to protect consumers and preserve financial stability.

The Regulatory Considerations document, dated April 27, 2022, made several referrals that are intended to improve transparency into insurer operations and investments. It also recommended providing additional training opportunities for state regulators. ACLI is generally supportive of these efforts, which will better enable regulators to identify and address potential risks and/or potential conflicts of interest. ACLI looks forward to working with the NAIC and regulators as these efforts progress and is willing to provide additional support and assistance with the development of the training resources.

The Regulatory Considerations document also reflects several issues that regulators would like to better understand, like the applicability of Department of Labor protections for pension beneficiaries in a Pension Risk Transfer (PRT)¹ transaction, as well as certain reinsurance transactions. With respect to the latter, regulators deferred specifying action on this item and noted a desire to gather additional information from industry representatives and non-U.S. regulators. This appears to be a reasonable approach – and ACLI welcomes the opportunity to assist with this engagement, upon request.

Thank you for the opportunity to provide these comments. ACLI looks forward to continuing to work with regulators and other interested parties on these issues. ACLI welcomes the opportunity to provide additional assistance as needed.

Sincerely,



Kristin Abbott
Counsel



Mariana Gomez
Senior Vice President, Policy & Development

¹ In No. 12(b), regulators discussed directing NAIC legal staff to review the applicability of DOL protections for pension beneficiaries in a PRT transaction. The 2016 American Academy of Actuaries Issue Brief, “Pension Risk Transfer” may provide a useful starting point for this research. <https://www.actuary.org/content/pension-risk-transfer-0#:~:text=KEY%20POINTS%3A,unique%20perspectives%20on%20these%20transactions.>

To: Justin Schrader, Chair, Macroprudential (E) Working Group and Marlene Caride, Chair, Financial Stability (E) Task Force

Cc: Todd Sells (tsells@naic.org), and Tim Nauheimer (tnauheimer@naic.org)

Date: June 13, 2022

Re: UNITE HERE Comments on First Six Regulatory Considerations Applicable (But Not Exclusive) to PE Owned Insurers

Thank you for this opportunity to comment on the first six of the Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers. We applaud the NAIC officers and staff as well as members of the Macroprudential (E) Working Group and the Financial Stability (E) Task Force for their thoughtful consideration of this complex and controversial topic.

For the most part, as regulators on both task forces have noted, the Considerations reflect concerns that are neither new nor emergent. Large private equity firms have been involved in the life and annuity business for well over a decade.

Nor is this the first time the NAIC or individual state regulators have raised concerns about how private equity firms have altered the life insurance landscape. For example, in 2013, New York Department of Financial Services Superintendent Benjamin Lawsky issued a report that raised concerns about the quality of the investments backing annuity reserves at PE-affiliated insurers and called for reforms to prevent insurers from using offshore reinsurance affiliates to “artificially inflate” their reported levels of risk-based-capital.¹

That same year, when the Iowa Insurance Division held hearings in conjunction with Apollo’s application to purchase Aviva’s US operations, UNITE HERE provided testimony raising concerns about Apollo’s use of a Bermuda-based reinsurance affiliate and how that arrangement might affect reported RBC ratios for its US affiliates; the level and complexity of asset management fees Apollo charged its regulated insurance affiliates; and the relatively large percentage of related-party investments on those insurers’ books. We urged then-Commissioner Nick Gerhardt to require Athene to enter into a capital maintenance agreement, limit Athene’s ability to invest in Apollo-managed products and limited partnerships, and conduct on-going targeted examinations of Apollo’s investment strategies.²

One of our concerns (regarding Athene’s ability to continue Aviva’s “permitted practice” with respect to reserving methodologies for deferred annuities with embedded guarantees) was addressed as one of four “conditions” imposed by Commissioner Gerhart in his subsequent Order approving the acquisition.³ The remaining three of these conditions were substantially similar to “stipulations” included in the 2013 guidance cited by the Task Force in its response to Consideration 1 (see below.) But even with these conditions/stipulations, the potential risks to annuity policyholders posed by Apollo’s “spread investing” model have, in our view, only grown larger.

Athene has become Apollo’s fastest engine of growth, essentially quadrupling its assets under management since the Aviva acquisition.⁴ At yearend 2021, Athene claimed the number one market share in US fixed indexed annuities.⁵ Athene has also become the largest player in the Pension Risk Transfer (PRT) market,⁶ assuming responsibility for paying the monthly benefits and managing retirement assets for more than 300,000⁷ workers and retirees who were beneficiaries of pension plans

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sponsored by companies including J.C. Penney, Lockheed, Alcoa, and Lumen Technologies. Following these “buyout” PRT transactions, workers and retirees lose the ERISA rights and PBGC protections they previously held as pension beneficiaries.

Additionally, Apollo and or Athene has over the past decade acquired or created at least ten non-bank lender affiliates, most of which operate outside the purview of prudential regulation.⁸ According to an October 2021 presentation, Apollo estimated that these “origination platforms” will generate \$25 billion annually in origination volume.⁹ This includes leveraged loans and commercial leases to private equity firms, small and medium sized businesses, airlines, and homebuyers around the world. Those loans and leases are then packaged into Collateralized Loan Obligations (CLOs) or other Asset Backed Securities (ABS) and sold to Apollo’s state-regulated insurance units, as well as to Apollo’s institutional clients, managed funds and third parties. At yearend 2021, approximately \$34.9 billion or 14.8% of Athene’s total assets were invested in these and other related party investments.¹⁰ Apollo has referred to this arrangement as a “virtuous feedback loop,” whereby CLOs and ABS backed by loans and leases originated by Apollo affiliates increase the firm’s fee-generating opportunities and allow Apollo’s insurance companies as well as its clients to “manufacture spread”, i.e., garner investment spreads that Apollo says have been 100 to 200 basis points higher than those available from the broadly syndicated market.¹¹

Apollo’s much-touted success in fashioning Athene as a “permanent capital vehicle” for fee-generating asset management has spawned a bevy of private equity-affiliated imitators,¹² transforming what we and others once viewed as a potential retirement security concern affecting a few thousand annuity owners into a much broader macroprudential challenge. Managing the systemic risks posed by this new breed of global life insurance asset manager in our view will depend upon the coordinated efforts of state, federal and international regulators.

What follows are our specific comments on the Task Force’s responses to the first six Considerations.

Consideration 1: Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated/related party agreements impacting the insurer’s risks may be structured to avoid disclosure (for example, by not including the insurer as a party to the agreement).

The Task Force’s response to this consideration was to cite guidance that was added to the NAIC Financial Analysis Handbook in 2013 to assist regulatory reviews of merger and acquisition proposals (aka Form A Applications.) The 2013 guidance provided “examples of stipulations, both limited time and continuing, regulators could use when approving the acquisition to address solvency concerns, as well as for use in ongoing solvency monitoring.”

UNITE HERE supports the notion of regulators having more rather than fewer tools to monitor solvency, and we can imagine scenarios in which all of the stipulations listed by the Task Force in their response to Consideration 1 could be useful tools in the context of proposed mergers and acquisitions. We note, however, that the Financial Analysis Handbook contains voluntary guidance, not regulations with the force of law.

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Moreover, it is difficult for the public to assess how effective such stipulations may be given the opacity of regulatory merger review. Since the stipulations cited by the Task Force were added to the Handbook nine years ago, it would be helpful to know the extent to which they have been used, and whether regulators believe they have proven to be useful tools for monitoring solvency and protecting policyholders. For example:

- In how many instances since 2013 were stipulations attached to merger approvals?
- Which stipulations were most commonly used?
- How often have regulators imposed stipulations that require on-going monitoring and/or reporting? Has such monitoring and reporting helped regulators detect potential problems?
- When stipulations required periodic reports from an insurer or its parent, were those reports made available to other state regulators? Were they made available to the public?

The NAIC maintains a Form A database so presumably answering these questions would not be overly time consuming. In any event, without such answers, it is difficult to evaluate whether the 2013 stipulations could be useful tools in uncovering the types of hidden risks or undisclosed related party agreements referenced in Consideration 1.

Consideration 2: Control is presumed to exist where ownership is $\geq 10\%$, but control and conflict of interest considerations may exist with less than 10% ownership. For example, a party may exercise a controlling influence over an insurer through Board and management representation or contractual arrangements, including non-customary minority shareholder rights or covenants, investment management agreement (IMA) provisions such as onerous or costly IMA termination provisions, or excessive control or discretion given over the investment strategy and its implementation. Asset-management services may need to be distinguished from ownership when assessing and considering controls and conflicts.

The Task Force decided to refer this item to the NAIC Group Solvency Issues (E) Working Group, and suggested that the Working Group “consider if Form B (Insurance Holding Company System Annual Registration Statement) disclosure requirements should be modified to address these considerations.”

We do not have an opinion about this recommendation, other than to note that in many states Form B Annual Statements are held to be confidential documents exempt from state open records laws and procedures, making it difficult for the public to form an opinion as to whether they could be, or ever have been, effective regulatory tools.¹³

Consideration 3: The material terms of the IMA [Investment Management Agreements] and whether they are arm’s length or include conflicts of interest — including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.

The Task Force decided to refer this item to the NAIC Risk-Focused Surveillance (E) Working Group, and suggested that the Working Group “consider training and examples, such as unique termination clauses and use of sub-advisors with the potential for additive fees, and strategies to address these.” They

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further suggested “addressing pushback on obtaining sub-advisor agreements as Form D disclosures and some optional disclosures for the Form A.”

UNITE HERE has no opinion on this recommendation, other than to observe that merger applications offer a limited window during which to make inquiries and procure information about asset management arrangements entered into by life insurers. Such arrangement and agreements can and presumably do change over time. Aside from Form A reviews and routine Form D disclosures, what tools do regulators have at their disposal to monitor on an on-going basis asset management agreements, including fee arrangements and sub-advisor agreements?

Intra-company agreements within an insurance holding company or group can be particularly opaque to regulators, policyholders and the public-at-large. For example, the securities lending program that contributed to AIG’s insolvency and the subsequent Federal Reserve Board bailout of AIG’s life insurance units in the wake of the 2008 financial crisis was run not by personnel employed by AIG’s state-regulated life insurers, but by senior executives at the parent company level.¹⁴ Similarly, substantially all of Athene’s investing activities are conducted not by employees of Athene’s state-regulated insurance units in Iowa, New York or Delaware, but by El Segundo, CA-based Athene Insurance Solutions, a non-insurance subsidiary of Apollo Global Management.¹⁵

To the extent regulators do have access to investment management contracts, parental guarantees or other intra-company documents, we believe those documents should be made available to the public as well as to rating agencies so annuity consumers can better understand the incentive structures and/or potential conflicts that may arise pursuant to such agreements.

Consideration 4: Owners of insurers, regardless of type and structure, may be focused on short-term results which may not be in alignment with the long-term nature of liabilities in life products. For example, investment management fees, when not fair and reasonable, paid to an affiliate of the owner of an insurer may effectively act as a form of unauthorized dividend in addition to reducing the insurer’s overall investment returns. Similarly, owners of insurers may not be willing to transfer capital to a troubled insurer.

The Task Force noted that this topic is already under the purview of the Life Actuarial (A) Task Force (LATF) insofar as the work of that group is to help “ensure the long-term life liabilities (reserves) and future fees to be paid out of the insurer are supported by appropriately modeled assets.” Regulators also recommended referring this consideration to the NAIC Risk-Focused Surveillance (E) Working Group, “as it is already looking at some of this work related to affiliated agreements and fees.” The regulators suggested this Working Group should consider: what are the appropriate entities to provide capital maintenance agreements and how can such agreements be made stronger?

UNITE HERE considers the Task Force response to this consideration to be non-responsive. Consideration 4 in our view requires a historical analysis that answers the questions embedded within it. Have some insurers been focused more on short-term results which may not be in alignment with the long-term nature of liabilities in life products? Are there specific examples of investment management fees paid to an insurer’s affiliate that regulators consider to be not fair or reasonable or that “effectively act as a form of unauthorized dividend”? Have there been instances when upstream owners have been unwilling to transfer capital to a troubled regulated affiliate? Without answers to these questions, it is

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difficult for the public to understand whether or to what extent regulators are concerned about these issues or are interested in devising more effective tools for managing these potential risks.

Consideration 5: Operational, governance and market conduct practices being impacted by the different priorities and level of insurance experience possessed by entrants into the insurance market without prior insurance experience, including, but not limited to, PE owners. For example, a reliance on TPAs [third party administrators] due to the acquiring firm’s lack of expertise may not be sufficient to administer the business. Such practices could lead to lapse, early surrender, and/or exchanges of contracts with in-the-money guarantees and other important policyholder coverage and benefits.

In response to this consideration, the Task Force noted that “the NAIC Financial Analysis Handbook includes guidance specific to Form A consideration and post approval analysis processes regarding PE owners of insurers (developed previously by the Private Equity Issues (E) Working Group).” The task Force also made various other suggestions including that regulators consider optional Form A disclosures and guidance for less experienced states.

UNITE HERE has no opinion about these recommendations except to note again that the Financial Analysis Handbook provides guidance that states can choose to follow or not, and that Form A application process provides a limited time period for monitoring TPAs or tracking actual performance of operational competencies and customer service.

Consideration 6: No uniform or widely accepted definition of PE and challenges in maintaining a complete list of insurers’ material relationships with PE firms. (UCAA (National Treatment WG) dealt with some items related to PE.) This definition may not be required as the considerations included in this document are applicable across insurance ownership types.

The Task Force response to this consideration was that “regulators do not believe a PE definition is needed, as the considerations are activity based and apply beyond PE owners.”

UNITE HERE agrees in principle that regulations and procedures should be activity based, but notes that the spread investment model perfected by Apollo and its private equity peers involves a discreet set of activities that, especially in combination, are markedly distinct from the more traditional investment practices of large life insurance groups founded prior to 2010. Private equity affiliated life insurers have engaged in four main activities that, especially in combination, set them apart from their non-private equity competitors: 1) acquiring large blocks of annuities from other life insurers; 2) replacing a portion of the acquired government and corporate bonds with less liquid asset-backed securities and alternative investments; and 3) entering into investment management agreements and/or sub-advisor agreements with noninsurance PE affiliates; and 4) reinsuring most of their acquired liabilities with Bermuda affiliates, thereby freeing up “excess capital.”¹⁶

Managing growing macroprudential risks will require a coordinated approach

Thank you for this opportunity to provide comments on the first six of the Task Force’s 13 Considerations. We look forward to your response to the remaining seven Considerations. We applaud the Task Force’s attention to these important questions. Although we understand the NAIC is a deliberative body that seeks to build consensus among state regulators, industry representatives and

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other interested parties when developing its model laws and procedures, we are concerned that with respect to this set of issues the process is ill-suited to the urgent task of protecting policyholders (especially group annuity beneficiaries) and the public from the growing macroprudential risks associated with private equity stewardship of life insurance companies.

These are not new risks. Regulators, lawmakers, legal scholars and other academic researchers have been drawing attention to these issues for at least a decade. Many have pointed out that the activities most contributing to that risk – particularly the regulatory and capital arbitrage,¹⁷ and the pursuit of the “illiquidity premium”¹⁸ - frequently take place outside the purview of state insurance regulators or indeed any prudential regulators.

For this reason, we believe that it will ultimately require state, federal and international regulators working together to protect the public from the risks of large life insurer insolvencies and/or contagion to the larger financial system to which they are interconnected.

UNITE HERE would be happy to discuss these concerns with the combined Task Force or staff. Please contact Marty Leary at 703-608-9428 if you have any questions about these comments.

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ENDNOTES

¹ New York State Department of Financial Services, (Benjamin Lawsky), “Shining a Light on Shadow Insurance, June 2013, p.2. <http://02ec4c5.netsolhost.com/blog/wp-content/uploads/2013/06/NY-shadow-reinsurance-report-June-2013.pdf>

² Testimony of Jim Baker, UNITE HERE, before the Insurance Commissioner of the State of Iowa, In the matter of application of Apollo Global Management LLC, Leon Black, Joshua Harris, and Marc Rowan for the approval of a plan to acquire control of Aviva Life and Annuity Company, Aviva of Iowa, Inc., Aviva Re Iowa II, Inc, and Aviva Re Iowa III, Inc., July 17, 2013.

³ Findings of Fact, Conclusions of Law and Order, In the Matter of Application of Apollo Global Management, LLC, Leon Black, Joshua Harris and Marc Rowan for Approval of a Plan to Acquire Control of Aviva Life and Annuity Company, Aviva of Iowa, Inc., Aviva Re Iowa II, Inc, and Aviva Re Iowa III, Inc., Before the Insurance Commissioner of the State of Iowa, July 2013, p.9. Among the “conditions” placed on Apollo’s acquisition of AVIVA were: a five year prohibition on dividends without prior approval from the IID (Condition 1); required prior approval from the IID for deviations in Athene’s plan of operations (Condition 2) as well as for transactions with affiliates (Condition 3), and a reversion to Actuarial Guideline 33 for all fixed annuity contracts issued after December 31, 2013 (Condition 4).

⁴ Athene Holding reported \$240 billion in assets as of March 31, 2022 (see 10-Q for 1Q2022, p.8.) compared to just over \$60 billion immediately following the Aviva acquisition. (See: Victor Epstein, “2.6 billion Aviva deal is complete,” *Des Moines Register*, October 2, 2013.)

<https://www.desmoinesregister.com/story/money/business/1/01/01/26b-aviva-deal-is-complete/2913493/>

⁵ Apollo Investor Day Presentation 2021, October 2021, p.158.

⁶ Apollo Investor Day Presentation 2021, October 2021, p.158.

⁷ “Athene Completes Significant Pension Risk Transfer Transaction with JCPenney,” Athene Press Release, April 1, 2021.

<https://www.prnewswire.com/news-releases/athene-completes-significant-pension-risk-transfer-transaction-with-jcpenny-301261013.html>

⁸ These entities include MidCap, which provides leveraged loans to third party private equity firms (\$15b in assets); Redding Ridge, a registered investment adviser specializing in leveraged loans and global CLO management in both the US and Europe (\$15b); commercial aircraft leasing companies PK AirFinance and Merx Aviation (\$8b in combined assets); Foundation Home Loans, a UK-based let-to-buy specialty lender (\$4b); automobile leasing and fleet management company Donlen (\$2b); Apollo Net Lease Co., which owns more than 100 triple net lease retail and industrial properties (\$2B); Haydock Finance, a UK-based small business lender (\$500m); Newfi, a technology-driven mortgage lender (\$300m); an agreement to acquire up to 50% of Australian commercial real estate finance company MaxCap (\$3B); and an agreement to purchase up to \$500 million in senior secured credit facilities and securitized assets originated by Victory Park Capital to companies that aggregate third-party sellers on Amazon and other e-commerce sites. (See Apollo Investor Day Presentation 2021, October 2021, p.107.)

⁹ Apollo Investor Day Presentation 2021, October 2021, p.92. “Run Rate” for platforms included on graph.

¹⁰ 2021 Athene Holding 10-K, filed 2/25/2021, p.99.

<https://www.sec.gov/ix?doc=/Archives/edgar/data/1527469/000152746922000018/ahl-20211231.htm>

¹¹ Apollo Investor Day Presentation 2021, October 2021, p.106-108.

¹² Blackstone bought FGL in 2017 and Allstate’s Life and Annuity businesses in 2020; KKR bought Global Financial Group in July 2020; Ares bought Pavonia Life in 2019 (and renamed it Aspida), and F&G Reinsurance in September 2020; Brookfield bought a 19.9% stake and entered into a strategic partnership with American Equity Investment Life in October 2020; and Sixth Street Partners (formerly an arm of TPG) bought Talcott Resolution in January 2021; see also Alwyn Scott and David French, “U.S. insurance asset sales attract new private equity players, strategies,” Reuters, 2/8/2021.

<https://www.reuters.com/article/us-insurance-m-a/u-s-insurance-asset-sales-attract-new-private-equity-players-strategies-idUSKBN2A811G>

Additionally, in July 2021, Blackstone entered into a long-term agreement with AIG to manage the assets backing AIG’s life and annuity policies. Pursuant to that transaction, Apollo paid \$2.2 billion for a 9.9% stake in AIG and initially assumed asset management over \$50 billion in AIG’s assets. See Gottfried, Miriam and Scism, Leslie, “Blackstone Enters Deal to Manage AIG Life and Retirement Assets,” *Wall Street Journal*, July 14, 2021.

<https://www.wsj.com/articles/blackstone-near-deal-to-manage-aig-life-and-retirement-assets-11626294156>

In March 2022, AIG made an S-1 filing with the SEC to begin the process of an initial public offering of its life and retirement business, to be renamed Corebridge Financial. At the same time, AIG announced that AIG’s more liquid portfolio comprised primarily of fixed income and private placement securities would be managed by BlackRock. See Masters, Brooke, Fontanella-Kahn, James, Megaw, Nicholas, and Smith, Ian, “AIG files to float its life insurance and asset management business,” *Financial Times*, March 28, 2022. <https://www.ft.com/content/56b547e5-82d4-4f8a-b341-39eda8bf9bd5> In its S-1 filing, Corebridge affirmed its “strategic partnership” with Blackrock, pursuant to which Corebridge expected BlackRock to have invested more than \$92 billion of the insurer’s assets by 2027, “primarily in Blackstone-originated investments across a range of asset classes, including private and structured credit.” See Corebridge S-1, filed 3/28/2022, p.5.

https://www.sec.gov/Archives/edgar/data/0001889539/000114036122011373/nv20001795x5_s1.htm

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¹³ Uniform Certificate of Authority Applications, Public Records Requirements, NAIC, 2/12/2020, found at: https://www.naic.org/documents/industry_ucaa_chart_public_records.pdf

¹⁴ McDonald, Robert and Paulson, Ann, “AIG in Hindsight,” *Journal of Economic Perspectives*, Volume 29, Number 2, Spring 2015, p.85.

<https://www.aeaweb.org/articles?id=10.1257/jep.29.2.81>

¹⁵ Athene Holding 2021 10-K, filed 2/25/2022, p.13.

¹⁶ Through the use of modified co-insurance reinsurance contracts, Athene can lower its required capitalization and thus free-up capital for reinvestment or other purposes. Here is how an Athene subsidiary describes the process: “*Due to these various reinsurance relationships, the amount of capital and surplus that AAILA [Athene’s state-regulated Iowa life insurance affiliate] is required to maintain is less than what would be required if the insurance liabilities were not ceded to its affiliates. Therefore, AAILA may have fewer permitted assets available to make payments under its insurance liabilities in the event that the applicable account is insufficient to satisfy amounts due thereunder as the result of a default by the respective counterparty under the reinsurance arrangements.*” See also: Kirti, Divya and Sarin, Natasha, “What Private Equity Does Differently: Evidence from Life Insurance,” (February 14, 2020). U of Penn, Inst for Law & Econ Research Paper No. 20-17, Available at SSRN: <https://ssrn.com/abstract=3538443>

¹⁷ Kojien, Ralph S.J. & Yogo, Motohiro, “Shadow Insurance,” Minneapolis Fed Research, Staff Report 505, Revised May 2016. <https://tinyurl.com/2p8cbwhm>

See also Kirti, Divya and Sarin, Natasha, “What Private Equity Does Differently: Evidence from Life Insurance,” (February 14, 2020). U of Penn, Inst for Law & Econ Research Paper No. 20-17, Available at SSRN: <https://ssrn.com/abstract=3538443>

See also Kim, Kyeonghee, Leverty, J. Tyler, and Schmit, Joan, “Regulatory Capital and Asset Risk Transfer,” 2019, pp. 8-10. <https://tinyurl.com/2p8c6tn3>

¹⁸ Upon acquiring closed annuity blocks or pension liabilities, Apollo replaces some of the lower-yielding assets that back those obligations with riskier and/or less liquid financial products, then reinsures most of the annuity obligations via affiliates incorporated and regulated in Bermuda. Unlike traditional reinsurance with third-party reinsurers, these inter-company reinsurance transactions do not actually transfer risk. But they allow Athene to lower its overall level of capital and reserves without corresponding declines in its state-regulated affiliates’ reported risk-based capital (RBC) ratios. See: Foley-Fisher, Nathan, and Verani, Stepane, “Capturing the Illiquidity Premium,” Authors work in the Research and Statistics Division of the Federal Reserve Board, February 2020.

<https://www.californiainsurancelawyerblog.com/wp-content/uploads/sites/275/2021/02/Federal-Reserve-Board-Capturing-the-Illiquidity-Premium-February-2020.pdf>

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June 13, 2022

Mr. Justin Schrader
Chair, NAIC Macroprudential Working GroupMr. Todd Sells
Director, Financial Regulatory Policy & Data

Re: Regulator Responses to List of MWG Considerations - April 27, 2022

Dear Messrs. Schrader and Sells:

Northwestern Mutual appreciates the opportunity to submit comments on the Regulator Responses to List of MWG Considerations, also referred to as the Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers (MWG Considerations). Northwestern Mutual, headquartered in Milwaukee, Wisconsin, was founded in 1857 and today is the country's largest direct provider of individual life insurance. Our company continues to earn the highest financial strength ratings awarded to any U.S. life insurer from Moody's, A.M. Best Company, Fitch Ratings, and Standard & Poor's. We engage in solvency-related regulatory issues, such as those listed in the MWG Considerations, with the goal of maintaining the stability and vibrancy of the life insurance marketplace in the United States.

We agree with the Macroprudential Working Group (Working Group) that the critical issue presented by the MWG Considerations is not the nature of a company's ownership structure. Rather, it is the potential for gaps in the existing solvency regulatory system to be exploited to the potential detriment of consumers, the life insurers that compete in our national marketplace and, ultimately, the integrity and stability of the state insurance regulatory system itself. Therefore, we strongly support the work of the Working Group to develop and address the MWG Considerations. We recognize and commend the progress made and referrals proposed for many of the 13 items listed in the MWG Considerations.

As the Working Group holds further discussions on each of the MWG Considerations, Northwestern Mutual would like to offer three core concepts of insurance regulation that should form the basis for future NAIC activity: uniformity; transparency; and strong reserving and capital standards.

- **Uniformity.** Solvency regulation should be uniform across the states to maintain the protection of policyholders in the United States. Companies should not have to establish complex and costly structures and rely on disparate solvency standards across jurisdictions to compete on a level playing field.
- **Transparency.** Transparency should allow both regulators and interested parties, without excessive effort, to be able to understand the impact of key transactions on the reported financial condition and solvency of the ceding company. Without transparency, market discipline fails and consumer confidence dwindles, increasing risks to policyholders, the industry, and the state-based regulatory and guaranty systems.
- **Strong Reserving and Capital Standards.** Life insurance should have strong, appropriately conservative reserve and capital requirements for the long-term promises made to policyholders. Industry and regulatory credibility could be questioned if a transaction involving a block of business could meaningfully reduce the total reserve and capital requirements while the risks associated with that business remain substantively the same.

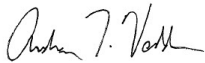
Notably, regulator discussion has not yet led to substantial progress on item #13 which pertains to insurers' use of offshore reinsurance structures. Reinsurance transactions can and often do serve a valuable function by reallocating risk. However, offshore reinsurance can also result in lower total reserves and capital, reduced state regulatory oversight, and diminished stakeholder transparency from what would be required by the statutory accounting and risk-based capital requirements the NAIC has established to protect policyholders in the United States.

Without progress and action on the item pertaining to offshore reinsurance, the Working Group's progress on other MWG Considerations could further incentivize even more utilization of offshore reinsurance transactions and undercut the NAIC's efforts to close other solvency regulatory gaps domestically. In the long run, a system that encourages companies to transfer business to a related offshore entity in order to alter their reserves and capital from uniform standards diminishes the strength of reserve and capital regulation in the United States. If capital standards are deemed to be too conservative in the US, they should be addressed transparently and uniformly through the NAIC and not through the alternate means of offshore reinsurance.

As the Working Group advances in addressing each of the MWG Considerations, we encourage efforts to refine and to strengthen state insurance regulatory levers and to overcome any perceived obstacles on this issue, so that offshore reinsurance does not undermine the outcomes on the other MWG Considerations.

We appreciate the efforts of the Working Group thus far to coordinate NAIC activities related to the MWG Considerations.

Sincerely,



Andrew T. Vedder
Vice President – Enterprise Risk Management



June 13, 2022

VIA ELECTRONIC SUBMISSION

Justin Schrader
Chief Financial Examiner
Nebraska Department of Insurance
Chair, NAIC Macroprudential (E) Working Group

Todd Sells
Director, Financial Regulatory Policy & Data
National Association of Insurance Commissioners

Aida Guzman
Senior Administrative Assistant, Government Affairs
National Association of Insurance Commissioners

**Re: Comments Regarding NAIC Macroprudential (E) Working Group Exposed
“Regulatory Considerations Applicable (but not exclusive to) Private Equity Owned
Insurers”**

The American Investment Council (“AIC”)¹ is pleased to have the opportunity to provide additional comments regarding the National Association of Insurance Commissioners (“NAIC”) Financial Stability (E) Task Force (“FSTF”) and Macroprudential (E) Working Group (“MWG”) exposure, “*Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers*” (“Exposure Document”). As the advocacy, communications, and research organization for the world’s leading private equity and private credit firms, which have substantial experience assisting insurers with their investment needs, we believe we are well-positioned to share an important perspective with the NAIC.

As noted in our January 18, 2022 comment letter, the AIC commends the FSTF and MWG for seeking to further understand the longstanding and mutually beneficial

¹ The American Investment Council, based in Washington, D.C., is an advocacy, communications, and research organization established to advance access to capital, job creation, retirement security, innovation, and economic growth by promoting responsible long-term investment. In this effort, the AIC develops, analyzes, and distributes information about private equity and private credit industries and their contributions to the U.S. and global economy. Established in 2007 and formerly known as the Private Equity Growth Capital Council, the AIC’s members include the world’s leading private equity and private credit firms which have experience with the investment needs of insurance companies. As such, our members are committed to growing and strengthening the companies in which, or on whose behalf, they invest, to helping secure the retirement of millions of pension holders and to helping ensure the protection of insurance policyholders by investing insurance company general accounts in appropriate, risk-adjusted investment strategies. For further information about the AIC and its members, please visit our website at <http://www.investmentcouncil.org>.

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relationship between private equity firms, asset managers, the insurance industry and the policyholders they serve. In particular, we applaud the NAIC for taking a deliberative and transparent approach to determining what additional work, if any, should be undertaken to address state insurance regulators' concerns pertaining to the ongoing shift in insurer investment strategies in a persistent low interest rate environment. We also appreciate the recognition by the NAIC in its May 31, 2022, letter to Senate Banking Chairman Sherrod Brown that: (i) many of the Exposure Document's considerations are not unique to one particular category of investors or insurers; (ii) a number of related considerations are currently, or were recently, the subject of deliberation of other NAIC working groups unrelated to private equity, and (iii) notwithstanding the recent attention on the subject, a wide range of insurers have been utilizing alternative investment strategies under the supervision of state insurance regulators for some time. We agree, as you note in the letter, that state insurance regulators are fully capable of assessing and supervising any insurance activity, regardless of ownership structure.²

We welcome the opportunity to discuss any questions or comments that FSTF or MWG members may have regarding the Exposure Document or the role of private equity and alternative asset managers in insurance generally, and we would like to call particular attention to the following four Exposure Document Considerations.

Consideration 1 (Disclosure)³

We appreciate the recognition by FSTF/MWG that there is no “one size fits all” approach to regulatory disclosures and that this issue is not limited to one category of investors or one sub-set of insurers. To that end, we encourage the FSTF and MWG to extend these fundamental considerations to the entirety of the Exposure Document workstream and to continue to focus on specific *activities*, rather than a particular type of investor or insurer.

As a general matter, we understand that a regulator may need to request that affiliated/related party agreements be submitted as part of certain insurance holding company act review processes, but would request that those materials receive customary confidential treatment. In addition, if and when the Group Solvency Issues (E) Working Group (“GSWG”) takes this Consideration up for discussion, we believe it would be

² Like insurers, private fund advisers are also subject to significant oversight and regulation. For example, private fund advisers are registered as investment advisers under the Investment Advisers Act of 1940 with the U.S. Securities and Exchange Commission (“SEC”). The SEC seeks to administer and enforce legal obligations on alternative asset managers through an active examination and oversight program, including with an announced focus on conflicts. Insurance companies advised by private fund advisers also receive the benefits of this oversight.

³ Consideration 1 states: “Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated/related party agreements impacting the insurer’s risks may be structured to avoid disclosure (for example, by not including the insurer as a party to the agreement).”

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helpful for the GSWG to assess, among other items: (i) the need to provide regulatory certainty *vis a vis* when and on what basis additional disclosures could be required; and (ii) whether the additional disclosures would extend approval timelines. We believe such items are critical to insurers being able to access the capital markets effectively and efficiently.

We also note that there are legitimate business reasons why investors enter into agreements with insurer parent companies or other affiliates that are unrelated to regulator disclosure considerations. Investors enter into these arrangements with insurer affiliates to ensure that those parties support and otherwise refrain from undermining the commitments made at the insurer legal entity level in connection with engaging an alternative manager for services, particularly where the investment manager has made an equity investment in the parent company. These mutually beneficial arrangements ensure that long-term equity investments made in an insurer by an investment manager support the insurer’s operations, validate the potential growth of the insurer to other potential investors, and provide alignment between the investment manager and the insurer as a means to ensure the investment manager acts in the interest of the insurer and its policyholders.

Consideration 2 (“Control”)⁴

The NAIC *Insurance Holding Company System Regulatory Act* (#440) (“Model Act”) defines “control” and provides that control is presumed to exist “if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person.”⁵ To be sure, the Model Act also provides state insurance regulators with the discretionary authority to determine “that control exists notwithstanding the absence of a presumption [of control].”⁶

An established standard as to the facts and circumstances under which control is presumed – and the well-established practices and conventions so associated – is an essential component to providing insurers and investors with regulatory certainty. The need for a clear and predictable presumption to remain in place is critical in order for insurers to effectively and efficiently access capital with predictability, while balancing

⁴ Consideration 2 states: “Control is presumed to exist where ownership is $\geq 10\%$, but control and conflict of interest considerations may exist with less than 10% ownership. For example, a party may exercise a controlling influence over an insurer through Board and management representation or contractual arrangements, including non-customary minority shareholder rights or covenants, investment management agreement (IMA) provisions such as onerous or costly IMA termination provisions, or excessive control or discretion given over the investment strategy and its implementation.”

⁵ See Model Act Section 1(C).

⁶ Per the Model Act, such a determination is subject “furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination [of control].”

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the need for state insurance regulators to have the necessary discretionary authority to effectively supervise insurer transactions.

Moreover, we believe that the Model Act’s current definition of “control” continues to be the proper determinant for actual control. Absent traditional indicia of control, contractual arrangements relating to service agreements – including investment management agreements – should not be viewed as providing an indicia of control. Stated differently, contractual terms contained in service agreements that are negotiated on an arm’s length basis are not sufficient to convey the power to direct or cause the direction of an insurer, so long as they are subject to the ultimate supervision and control by the insurer through general oversight of the service provider and other customary contractual provisions. To conclude otherwise would impose undue uncertainty on contractual arrangements between insurers and their counterparties, and would likely have a chilling effect on the ability of insurers to enter into agreements that are in the best interest of their policyholders.

Consideration 3 (Investment Management Agreements)⁷

Conflict of Interest

As a general matter, the terms of a contractual agreement should not be viewed as giving rise to a conflict of interest when the agreement is negotiated on an arm’s length basis. Notwithstanding the foregoing, current law provides an established process to address potential conflicts (for example, requirements to appoint independent directors and traditional corporate law processes to ensure fairness and, under certain circumstances, review of transactions by regulators pursuant to Form D filings). Accordingly, investments sourced and allocated by alternative asset managers on behalf of insurance company clients should not, absent other factors, be viewed as presenting a potential conflict of interest, particularly where insurers retain full control over asset allocation (for example, insurers retain control over the asset classes in which they invest, as well as the amounts and periods of time over which such asset exposure is achieved).

Fees

Importantly, as an initial consideration, any fees paid to investment managers cannot be considered in isolation, rather they should be considered on a “net” basis – i.e., on the basis of total return (after fees are taken into account). Sophisticated institutional investors (including insurers) have a successful history of investing in a range of

⁷ Consideration 3 states: “The material terms of the IMA and whether they are arm’s length or include conflicts of interest—including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.”

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strategies despite certain investment products generally having higher fees than other available investment opportunities. On a net basis, private equity has consistently outperformed more traditional asset classes such as publicly traded stocks and public mutual funds⁸ Net-of-fees private debt funds have also consistently outperformed bond and equity market benchmarks.⁹ Insurers continue to recognize the value of investment opportunities that outperform when considered on a net basis.¹⁰ This approach has enabled the consistent delivery of industry leading investment results, which ultimately leads to a high level of financial strength.

Termination

Asset managers often dedicate extensive resources at the outset of a new arrangement in support of managing an insurer's general account assets (e.g., dedicating or reassigning existing personnel, hiring new employees, investing in information technology systems, expanding office space, further enhancing compliance and regulatory processes). As such, and because, in our experience, insurers have the right to terminate their investment management agreements (e.g., upon 30 days' notice), the desire for external asset managers to seek contractual protections (subject to arms' length negotiations) should an insurer decide to terminate the arrangement earlier than was originally anticipated by the parties is entirely appropriate.

⁸ See e.g., Hamilton Lane data (February 2021) available at: <https://www.investmentcouncil.org/wp-content/uploads/deck-pe-outperformance-aic-2022.02.02.pdf>.

⁹ Private debt funds outperformed versus investment grade, high yield, and S&P 500 benchmarks by 8 percentage points, 6 percentage points and 6 percentage points, respectively. See Private Debt Fund Returns, Persistence, and Market Conditions (Böni and Manigart, April 2022), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3932484. Additionally, this report observed the average (median) private debt fund provided an internal rate of return of 9.2 (8.5) percent net of fees to limited partners. Moreover, there was a relatively equal outperformance for distressed debt, mezzanine and special situations funds of 8 to 10 percentage points, while direct lending funds outperformed the market by 4 percentage points.

¹⁰ For example, insurers currently comprise approximately 12% of the invested capital in private equity funds. See e.g., Global Private Equity & Venture Capital Report (Preqin, 2021) available at: <https://www.preqin.com/insights/global-reports/2021-preqin-global-private-equity-and-venture-capital-report>. The attractiveness of the net returns offered by private equity investments is also evidenced by the extent to which institutional investors will be increasing or maintaining their allocation to such investments in the next year. See LP Perspectives 2021 (Private Equity International, December 2020) available at: <https://www.investmentcouncil.org/wp-content/uploads/deck-pe-outperformance-aic-2022.02.02.pdf>.

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Consideration 10 (Privately Structured Securities)¹¹

As you are aware, insurance company asset managers are tasked with producing enough yield from their investments to keep pace with benefits and obligations embedded in policies that often stretch years into the future, while not running afoul of state insurance investment laws. These obligations have been challenging as of late due to the persistent low interest rate environment, leaving insurers with two essential choices: (i) take more risk along the yield curve in search of higher rates of return; or (ii) seek other types of debt instruments that provide for more attractive returns without incremental credit risk. This set of circumstances is increasingly driving insurers to seek the services of alternative asset managers with significant asset origination capabilities and private credit expertise to manage a portion of their assets, which provide a number of benefits to the insurer and their policyholders. Those benefits include:

- A natural alignment between the long-dated insurance liabilities and the long-term investment approach taken by alternative asset managers, including in the private credit space;
- Alternative asset managers have the ability to source, underwrite and execute private credit transactions that require skill sets, experience, and scale that many insurance companies do not possess in-house;
- Private equity and private credit firms also provide an opportunity for smaller and midsized insurers to access these asset classes, which historically have been the primary purview of large insurers that have the scale to afford in-house asset management functions that can originate these assets, making the industry more competitive to the ultimate benefit of policyholders;
- Engaging asset managers with differentiated capabilities can be more cost efficient than making significant investments in an internal asset management function. By availing themselves of these advantages, insurers can benefit from cost-effective sourcing and origination capabilities in attractive asset classes, resulting in enhanced long-term adequacy margins for policyholders, increased

¹¹ Consideration 10 states: “The material increases in privately structured securities (both by affiliated and non-affiliated asset managers), which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. (The NAIC Capital Markets Bureau continues to monitor this and issue regular reports, but much of the work is complex and time-intensive with a lot of manual research required. The NAIC Securities Valuation Office will begin receiving private rating rationale reports in 2022; these will offer some transparency into these private securities.)”

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spread/earnings, and more competitive product pricing that inures to the benefit of policyholders;

- Asset-backed security default rates are substantially similar to corporate investment grade debt default rates while CLO default rates are substantially lower than corporate default rates¹²;
- The focus on private investments is belied by the fact that institutions with higher allocations to private investments have outperformed (with less volatility) those with less.¹³

We welcome the opportunity to serve as a resource to the NAIC as it continues to address this important matter.

Respectfully submitted,



Rebekah Goshorn Jurata
General Counsel
American Investment Council

¹² See Analysis of Historical NRSRO Ratings Data (Morgan Stanley, February 2022), available at: https://mcusercontent.com/65ee38c99561aeba4a1f82919/files/ff9650b4-dfa7-2815-f41a-fa7a60d85fbf/Final_Morgan_Stanley_Report_18_.pdf.

¹³ See e.g., Cambridge Associates data (August 2021) available at: <https://www.investmentcouncil.org/wp-content/uploads/deck-pe-outperformance-aic-2022.02.02.pdf>. In fact, prominent institutional investors believe that the inclusion of private investment can produce high returns with lower risk. See Yale Endowment Report (2019) available at: <https://static1.squarespace.com/static/55db7b87e4b0dca22fba2438/t/5ebbf53c4b59573668cd85cf/1589376317984/2019+Yale+Endowment.pdf>.

Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers**-Plan adopted by FSTF/MWG on June 27, 2022**

A summary of currently identified regulatory considerations follows with no consideration of priority or importance (green underlined font indicates current or completed work by another NAIC committee group). Most of these considerations are not limited to PE owned insurers and are applicable to any insurers demonstrating the respective activities. A summary of the regulatory process has been added to this document since it is being used by individuals less familiar with the state insurance regulatory system, and the results of regulator discussions on how to move forward have been added to specific considerations in blue font. Interested party comments are included in purple font and are followed by the regulators' decision on how to address the comments.

State insurance regulators monitor the solvency of each legal entity insurer, including assessing risks from the broader holding company when an insurer is part of a group, making use of routinely required disclosures, both public, such as the statutory financial statements, and confidential, such as the Risk-Based Capital (RBC) supplemental filing and Holding Company form filings. Regulators also use many analysis and examination tools and procedures for each insurer and/or insurance group. Regulatory responses to the analysis and examination work depend upon the results of those reviews. One specific area of solvency monitoring work focuses on potential acquisitions of a US legal entity insurer, involving a Form A filing. In 2013, guidance was added to the NAIC Financial Analysis Handbook for Form A reviews when a private equity owner was involved, although these considerations are not limited to PE acquisitions. The guidance provides examples of stipulations, both limited time and continuing, regulators could use when approving the acquisition to address solvency concerns, as well as for use in ongoing solvency monitoring. Examples follow:

Limited Time Stipulations:

- Requiring RBC to be maintained at a specified amount above company action level/trend test level. Because capital serves as a buffer that insurers use to absorb unexpected losses and financial shocks, this would better protect policyholders.
- Requiring quarterly RBC reports rather than annual reports as otherwise required by state law.
- Prohibiting any dividends, even ordinary.
- Requiring a capital maintenance agreement or prefunded trust account.
- Enhancing the scrutiny of operations, dividends, investments, and reinsurance by requiring material changes in plans of operation to be filed with the commissioner (including revised projections), which, at a minimum, would include affiliated/related party investments, dividends, or reinsurance transactions to be approved prior to such change.
- Requiring a plan to be submitted by the group that allows all affiliated agreements and affiliated investments to be reviewed, despite being below any materiality thresholds otherwise required by state law. A review of agreements between the insurer and affiliated entities may be particularly helpful to verify there are no cost-sharing agreements that are abusive to policyholder funds assessment.

Continuing Stipulations:

- Requiring prior commissioner approval of material arms-length, non-affiliated reinsurance treaties or risk-sharing agreements.
- Requiring notification within 30 days of any change in directors, executive officers or managers, or individuals in similar capacities of controlling entities, and biographical affidavits and such other information as shall reasonably be required by the commissioner.

- Requiring filing of additional information regarding the corporate structure, controlling individuals, and other operations of the company.
- Requiring the filing of any offering memoranda, private placement memoranda, any investor disclosure statements or any other investor solicitation materials that were used related to the acquisition of control or the funding of such acquisition.
- Requiring disclosure of equity holders (both economic and voting) in all intermediate holding companies from the insurance company up to the ultimate controlling person or individual but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of audit reports/financial statements of each equity holder of all intermediate holding companies but considering the burden on the acquiring party against the benefit to be received by the disclosure.
- Requiring the filing of personal financial statements for each controlling person or entity of the insurance company and the intermediate holding companies up to the ultimate controlling person or company. Controlling person could include for example, a person who has a management agreement with an intermediate holding company.

Among many other concepts, regulators are considering the need for any additional stipulations, if there are some stipulations that should be required instead of used subjectively, and use of some stipulations beyond the Form A acquisition process (e.g., for insurers acquired in the past).

RRC Comments “In a Form A transaction” (7 bullet points) – These bullet points will be included in the referrals to the NAIC Group Solvency Issues (E) Working Group and the NAIC Risk-Focused Surveillance (E) Working Group for consideration when addressing Consideration numbers 1, 2, 4 and 5.

1. Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated/related party agreements impacting the insurer’s risks may be structured to avoid disclosure (for example, by not including the insurer as a party to the agreement).

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Items discussed:
 - Instead of requiring for all Form A acquisitions to provide additional disclosures, structure an optional disclosure requirement that can be used when unresolved regulatory concerns exist with the acquisition. For example:
 - Disclosures to allow regulators to assess the goal of the potential owner in acquiring the insurer, how the potential owner will be paid and in what amounts, and the ability of the potential owner to provide capital support as needed.
 - Copies of disclosures provided to the potential owner’s investors.
 - Provide training as needed to states with less experience reviewing complex Form A transactions and refer those states to more experienced states for live help.
 - These options include highlighting the need to use external expertise for complex transactions, especially to understand non-U.S. affiliations and when assessing multiple complex Form A applications, and at the expense of the Form A applicant.

AIC Comment (recommended 2 items) – These two items will be included in the referral to the NAIC Group Solvency Issues (E) Working Group for its work on Consideration #1.

- Recommendation: The Working Group should assess, among other items: (i) the need to provide regulatory certainty *vis a vis* when and on what basis additional disclosures could be required; and (ii) whether the additional disclosures would extend approval timelines. We believe such items are critical to insurers being able to access the capital markets effectively and efficiently.
2. Control is presumed to exist where ownership is $\geq 10\%$, but control and conflict of interest considerations may exist with less than 10% ownership. For example, a party may exercise a controlling influence over an insurer through Board and management representation or contractual arrangements, including non-customary minority shareholder rights or covenants, investment management agreement (IMA) provisions such as onerous or costly IMA termination provisions, or excessive control or discretion given over the investment strategy and its implementation. Asset-management services may need to be distinguished from ownership when assessing and considering controls and conflicts.

Regulator discussion results:

- Refer this item to the NAIC Group Solvency Issues (E) Working Group. Regulators recognized the integral connection of the first two considerations. Items discussed:
 - o An emphasis on training and providing detailed examples to address the complexity and creativity involved in some of these Form A agreements and holding company structures.
 - o It is not practical to get copies of operating agreements from every entity in a group to assess control impacts to the insurers. Consider ways of better targeting the pertinent agreements to assess, including a potential list of questions about less than 10% owners for use when considering Form A applications and/or ongoing analysis.
 - o Consider if Form B (Insurance Holding Company System Annual Registration Statement) disclosure requirements should be modified to address these considerations.

AIC Comment (2 primary concerns) – Regulators asked the AIC to follow the work of the NAIC Group Solvency Issues (E) Working Group on Consideration #2 and make comments on specific recommendations if needed.

- Concerns: The 10% presumption of control needs to remain; and contractual terms contained in service agreements that are negotiated on an arm's length basis are not sufficient to convey the power to direct or cause the direction of an insurer, so long as they are subject to the ultimate supervision and control by the insurer.
3. The material terms of the IMA and whether they are arm's length or include conflicts of interest—including the amount and types of investment management fees paid by the insurer, the termination provisions (how difficult or costly it would be for the insurer to terminate the IMA) and the degree of discretion or control of the investment manager over investment guidelines, allocation, and decisions.

Regulator discussion results:

- Refer this item to the NAIC Risk-Focused Surveillance (E) Working Group. Regulators recognized similar dynamics to the first two considerations, but this Working Group was selected because it

is already currently focused on a project involving affiliated agreements and Form D filings. Items discussed:

- Consider training and examples, such as unique termination clauses and use of sub-advisors with the potential for additive fees, and strategies to address these.
 - This included addressing pushback on obtaining sub-advisor agreements as Form D disclosures and some optional disclosures for the Form A.
- Given the increasing prevalence of bespoke agreements, does it make sense to tie this work in to the work of the NAIC Valuation of Securities (E) Task Force and/or the NAIC Securities Valuation Office? If yes, how best to do so?
- Surplus Notes and appropriate interest rates given their special regulatory treatment, including whether floating rates are appropriate; follow any Statutory Accounting Principles (E) Working Group projects related to this topic and provide comments needed.

RRC Comments “With respect to an Investment Management Agreement (IMA)” (3 bullet points) – These bullet points will be included in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for Consideration #3.

AIC Comments on “Conflict of Interest, Fees, Termination” (3 individual comments) – These comments will be included in the referral to the NAIC Risk-Focused Surveillance (E) Working Group for its work on Consideration #3.

4. Owners of insurers, regardless of type and structure, may be focused on short-term results which may not be in alignment with the long-term nature of liabilities in life products. For example, investment management fees, when not fair and reasonable, paid to an affiliate of the owner of an insurer may effectively act as a form of unauthorized dividend in addition to reducing the insurer’s overall investment returns. Similarly, owners of insurers may not be willing to transfer capital to a troubled insurer.
 - a. Life Actuarial (A) Task Force (LATF) work addresses this – helping to ensure the long-term life liabilities (reserves) and future fees to be paid out of the insurer are supported by appropriately modeled assets.

Regulator discussion results:

- In addition to LATF’s work, refer this item to the NAIC Risk-Focused Surveillance (E) Working Group, as it is already looking at some of this work related to affiliated agreements and fees. Items discussed:
 - Capital maintenance agreements, suggesting guidance for the appropriate entities to provide them and considering ways to make them stronger.

5. Operational, governance and market conduct practices being impacted by the different priorities and level of insurance experience possessed by entrants into the insurance market without prior insurance experience, including, but not limited to, PE owners. For example, a reliance on TPAs due to the acquiring firm’s lack of expertise may not be sufficient to administer the business. Such practices could lead to lapse, early surrender, and/or exchanges of contracts with in-the-money guarantees and other important policyholder coverage and benefits.
 - a. The NAIC Financial Analysis Handbook includes guidance specific to Form A consideration and post approval analysis processes regarding PE owners of insurers (developed previously by the Private Equity Issues (E) Working Group).

Regulator discussion results:

- Regulators considered referring this consideration to the NAIC Risk-Focused Surveillance (E) Working Group but opted to keep developing more specific suggestions for now. Items discussed:
 - o Consider optional Form A disclosures and guidance for less experienced states; review EU conduct of business language and consider if similar concepts would help target the optional use.
 - o Consider more detailed guidance for financial examinations.
 - o Besides just inexperience, the consideration also includes intentional actions that ignore known concerns to achieve owner's results; might need to consider Market Conduct group(s).
6. No uniform or widely accepted definition of PE and challenges in maintaining a complete list of insurers' material relationships with PE firms. (UCAA (National Treatment WG) dealt with some items related to PE.) This definition may not be required as the considerations included in this document are applicable across insurance ownership types.

Regulator discussion results:

- Regulators do not believe a PE definition is needed, as the considerations are activity based and apply beyond PE owners.
7. The lack of identification of related party-originated investments (including structured securities). This may create potential conflicts of interests and excessive and/or hidden fees in the portfolio structure, as assets created and managed by affiliates may include fees at different levels of the value chain. For example, a CLO which is managed or structured by a related party.
- a. An agenda item and blanks proposal are being re-exposed by SAPWG. Desire for 2022 year-end reporting to include disclosures identifying related-party issuance/acquisition.

Regulator discussion results:

- Regulators are comfortable the SAPWG's work is sufficient as a first step since it involves code disclosures to identify various related party issues. They also recognize that existing and/or referred work at the Risk-Focused Surveillance (E) Working Group may address some items in this consideration. Once regulators work with these SAPWG disclosures and other regulatory enhancement, further regulatory guidance may be considered as needed.
8. Though the blanks include affiliated investment disclosures, it is not easy to identify underlying affiliated investments and/or collateral within structured security investments. Additionally, transactions may be excluded from affiliated reporting due to nuanced technicalities. Regulatory disclosures may be required to identify underlying related party investments and/or collateral within structured security investments. This would include, for example, loans in a CLO issued by a corporation owned by a related party.
- a. An agenda item and blanks proposal are being re-exposed by SAPWG. The concept being used for investment schedule disclosures is the use of code indicators to identify the role of the related party in the investment, e.g., a code to identify direct credit exposure as well as codes for relationships in securitizations or similar investments.

Regulator discussion results:

- Like the previous consideration, regulators are looking forward to using these code disclosures to help target areas for further review. However, specific to CLO/structured security considerations, regulators support a referral to the Examination Oversight (E) Task Force. Specific items discussed include:
 - o Since investors in CLOs obtain monthly collateral reports, regulators should consider asking for such reports when concerns exist regarding a company’s potential exposure to affiliated entities within their CLO holdings.
 - o Regulators would like to have more information regarding the underlying portfolio companies affiliated with a CLO manager to help quantify potential exposure between affiliates and related parties.
 - o Regulators request NAIC staff to consider their ability to provide tools and/or reports to help regulators target CLOs/structured securities to consider more closely.

RRC Comments on “collateralized loan obligations (CLOs)” (2 bullet points) – These bullet points will be included in the referrals to the NAIC Examination Oversight (E) Task Force and the NAIC Risk-Focused Surveillance (E) Working Group for Consideration numbers 7, 8 and 9, but also sent to the NAIC Statutory Accounting Principles (E) Working Group for its existing work related to these Considerations.

9. Broader considerations exist around asset manager affiliates (not just PE owners) and disclaimers of affiliation avoiding current affiliate investment disclosures. A new Schedule Y, Pt 3, has been adopted and is in effect for year-end 2021. This schedule will identify all entities with greater than 10% ownership – regardless of any disclaimer of affiliation - and whether there is a disclaimer of control/disclaimer of affiliation. It will also identify the ultimate controlling party.
 - a. Additionally, SAPWG is developing a proposal to revamp Schedule D reporting, with primary concepts to use principles to determine what reflects a qualifying bond and to identify different types of investments more clearly. For example, D1 may include issuer credits and traditional ABS, while a sub-schedule of D1 could be used for additional disclosures for equity-based issues, balloon payment issues, etc. This is a much longer-term project, 2024 or beyond.

Regulator discussion results:

- Regulators recognize the new Schedule Y, Part 3, will give them more insights for owners of greater than 10%, but it does not provide insights for owners of less than 10%. However, regulators also recognize that existing and/or referral work of the Risk-Focused Surveillance (E) Working Group may help with some of this dynamic. Additionally, since the SAPWG 2022 code project and its longer-term Schedule D revamp project will help provide further disclosures that will assist with this consideration, regulators are comfortable waiting to see if further regulatory guidance is needed after using the resulting disclosures and other enhancements from these projects.
 - o Specific to owners of less than 10%, regulators discussed the April 19, 2022, Insurance Circular Letter No. 5 (2022) sent by the New York Department of Financial Services to all New York domiciled insurers and other interested parties. This letter highlights that avoiding the levels deemed presumption of control, e.g., greater than 10% ownership, does not create a safe harbor from a control determination and the related regulatory requirements. The circular letter was distributed to all MWG members and interested regulators.

10. The material increases in privately structured securities (both by affiliated and non-affiliated asset managers), which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. (The NAIC Capital Markets Bureau continues to monitor this and issue regular reports, but much of the work is complex and time-intensive with a lot of manual research required. The NAIC Securities Valuation Office will begin receiving private rating rationale reports in 2022; these will offer some transparency into these private securities.)
- a. LATF's exposed AG includes disclosure requirements for these risks as well as how the insurer is modeling the risks.
 - b. SVO staff have proposed to VOSTF a blanks proposal to add market data fields (e.g., market yields) for private securities. If VOSTF approves, a referral will be made to the Blanks WG.

Regulator discussion results:

- Regulators focused on the need to assess whether the risks of these investments are adequately included in insurers' results and whether the insurer has the appropriate governance and controls for these investments. Regulators discussed the potential need for analysis and examination guidance on these qualifications.
- To assist regulators in identifying concerns in these investments, regulators expressed support for the VOSTF proposal to obtain market yields to allow a comparison with the NAIC Designation. Once such data is available, regulators ask NAIC staff to develop a tool or report to automate this type of initial screening. Also, regulators again recognized the SAPWG Schedule D revamp work will help in identifying other items for initial screening.
- The regulators discussed LATF's exposed AG, noting the Actuarial Memorandum disclosures that would be required for these privately structured securities along with the actuarial review work, and recognizing how those would be useful for analysts and examiners when reviewing these investments. Additionally, the Valuation and Analysis (E) Working Group would be able to serve as a resource for some of these insights for states without in house actuaries.
- As a result of the above discussions, regulators agreed to a referral to the Examination Oversight (E) Task Force to address the disclosures that will be available from LATF's exposed AG. They agreed to wait for any further work or referral until they have an opportunity to work with the results of the VOSTF proposal and the SAPWG Schedule D revamp project.
- Since reserves are not intended to capture tail risk, refer this item to the NAIC RBC Investment Risk and Evaluation (E) Working Group and monitor the Working Group's progress. (Regulators adopted this recommendation from the RRC comment letter.)

RRC Comments on "privately structured securities" (2 bullet points, 1 with 2 sub-bullets) – These bullet and sub-bullet points will be included in the referral to the NAIC Examination Oversight (E) Task Force for Consideration #10 but also sent to the NAIC Valuation of Securities (E) Task Force for its existing work related to this Consideration.

AIC Comment on "Privately Structured Securities" (6 bullets) – Regulators asked the AIC to follow the work of the NAIC Examination Oversight (E) Task Force and the NAIC Valuation of Securities (E) Task Force and provide comments on specific recommendations if needed.

11. The level of reliance on rating agency ratings and their appropriateness for regulatory purposes (e.g., accuracy, consistency, comparability, applicability, interchangeability, and transparency).
- a. VOSTF has previously addressed and will continue to address this issue. A small ad hoc group is forming (key representatives from NAIC staff, regulators, and industry) to develop a framework for assessing rating agency reviews. This will be a multi-year project, will include

discussions with rating agencies, and will include the inconsistent meanings of ratings and terms.

Regulator discussion results:

- Regulators agreed to monitor the work of the ad hoc group in lieu of any specific recommendations at this time. Recognizing this will likely be a multi-year project, regulators reserve the right to raise specific concerns that may arise as the various NAIC committee groups work to address this list of considerations.

12. The trend of life insurers in pension risk transfer (PRT) business and supporting such business with the more complex investments outlined above. ([Enhanced reporting in 2021 Separate Accounts blank](#) will specifically identify assets backing PRT liabilities.) Considerations have also been raised regarding the RBC treatment of PRT business.

- a. [LATF has exposed an Actuarial Guideline](#) to achieve a primary goal of ensuring claims-paying ability even if the complex assets (often private equity-related) did not perform as the company expects, and a secondary goal to require stress testing and best practices related to valuation of non-publicly traded assets (note – LATF’s considerations are not limited to PRT). [Comment period for the 2nd exposure draft ends on May 2.](#)

Regulator discussion results:

- Regulators focused on the need to have disclosures on the risks to the General Account from the Separate Account PRT business – for guarantees but also reporting/tracking when the Separate Account is not able to support its own liabilities. Regulators noted the need to address the differences between buy in PRT transactions and buy out.
- Regulators are comfortable LATF is addressing the reserve considerations. To address the disclosure considerations, regulators support sending a referral to the Statutory Accounting Principles (E) Working Group since regulators suggested it be an item in the Notes to Financial Statements. (Regulators noted it might help to discuss such disclosure concepts with LATF’s Valuation Manual 22 (A) Working Group.)
 - While the exposed AG is not limited to PRT, and general disclosures may be helpful, regulators recognized additional and/or more specific disclosures may be needed for PRT business.
- b. Review applicability of Department of Labor protections resulting for pension beneficiaries in a PRT transaction.

Regulator discussion results:

- Regulators discussed concerns regarding potential differences between the pension benefit and the group annuity benefit in the PRT transaction.
- Regulators directed NAIC staff to further research this item for the MWG to address in the near future, including potential discussions with Department of Labor representatives.
- c. Review state guaranty associations’ coverage for group annuity certificate holders (pension beneficiaries) in receivership compared to Pension Benefit Guaranty Corporation (PBGC) protection.
 - i. NOLHGA provided 2016 study of state guaranty fund system vs. PBGC.

Regulator discussion results:

- Regulators recognized the difficulty in comparing the state guaranty system to the Pension Benefit Guarantee Corporation, as detailed in the NOLHGA study. However, they agreed policyholders should appreciate the benefit of having solvency regulators actively monitoring and working with the insurance companies in an attempt to prevent the need for any guaranty fund usage, as standard corporations holding pension liabilities have significantly less regulatory oversight.
- Regulators found the NOLHGA study responsive to this consideration, thus they suggested no further action.

d. “Considerations have also been raised regarding the RBC treatment of PRT business.”

Regulator discussion results:

- Regulators recognized the work of the Longevity Risk Transfer (LRT) Subgroup of the Life Risk-Based Capital (E) Working Group covers PRT business. A new LRT charge was included in the 2021 Life Risk-Based Capital (LRBC) formula. Regulators agreed the results of this new charge should be monitored.
- While regulators agreed to follow the work of the LRT Subgroup, they suggested no further action at this time.

13. Insurers’ use of offshore reinsurers (including captives) and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk, and introduce complexities into the group structure.

- a. LATF’s exposed AG was modified to require the company to provide commentary on reinsurance collectability and counterparty risk in the asset adequacy analysis memorandum. The original concept of requiring life insurers to model the business itself even if it uses these mechanisms to share/transfer risk was deferred to allow time to consider and address concerns over potential violations with EU/UK covered agreements and the 2019 revisions to NAIC Models 785 and 786.

Regulator discussion results:

- Regulators held candid conversations about the need to understand why insurers are using these types of offshore reinsurers. If there are problems in the U.S. regulatory system that are driving insurers to utilize offshore reinsurers (e.g., “excess” reserves), we should know of those problems so we can consider if there are appropriate changes to make.
- If there are other drivers, per the common theme in the regulators’ review of this list of considerations, there isn’t a presumption that the use of these transactions is categorically bad. Rather, there is a need to understand the economic realities of the transactions so the regulators can effectively perform their solvency monitoring responsibilities.
 - o Regulators discussed the potential concept of additional Holding Company Act requirements if these are affiliated reinsurers, disclosing the insurer benefits (reserves, capital, etc.).
- Regulators deferred specifying action on this item at this time, instead noting the desire to have meetings with industry representatives using these transactions and regulators from some of the offshore jurisdictions to gain more insights.

Northwestern Mutual Comment (2 cautions) – These cautions will be included as part of the MWG’s future discussions and work for this Consideration.

- Caution: Reinsurance transactions can and often do serve a valuable function by reallocating risk. However, offshore reinsurance can also result in lower total reserves and capital, reduced state regulatory oversight, and diminished stakeholder transparency from what would be required by the statutory accounting and risk-based capital requirements the NAIC has established to protect policyholders in the United States.
- Caution: Without progress and action on the item pertaining to offshore reinsurance, the Working Group's progress on other MWG Considerations could further incentivize even more utilization of offshore reinsurance transactions and undercut the NAIC's efforts to close other solvency regulatory gaps domestically. In the long run, a system that encourages companies to transfer business to a related offshore entity in order to alter their reserves and capital from uniform standards diminishes the strength of reserve and capital regulation in the United States. If capital standards are deemed to be too conservative in the US, they should be addressed transparently and uniformly through the NAIC and not through the alternate means of offshore reinsurance.
- **Additional regulator discussion result:**
 - Similar to the result of discussions for the 13th consideration, regulators expressed a desire to meet with various industry representatives to discuss the incentives behind private equity ownership of insurers and conversely the concerns other industry members may have with such ownership. Regulators believe the insights from these conversations will benefit their ability to monitor and, when necessary, contribute to the work occurring in the various NAIC committee groups regarding these considerations.

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE

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Draft: 8/17/22

Receivership and Insolvency (E) Task Force
Portland, OR
August 11, 2022

The Receivership and Insolvency (E) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: James J. Donelon, Chair (LA); Cassie Brown, Vice Chair, represented by Brian Riewe (TX); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Jared Kosky (CT); Trinidad Navarro represented by Charles Santana (DE); David Altmaier represented by Anoush Brangaccio (FL); Colin M. Hayashida represented by Sherri Sakamoto (HI); Doug Ommen represented by Kim Cross (IA); Dana Popish Severinghaus represented by Kevin Baldwin (IL); Vicki Schmidt represented by Justin McFarland (KS); Sharon P. Clark represented by Jeff Gaither (KY); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott represented by Robert Wake (ME); Chlora Lindley-Myers represented by John Rehagen (MO); Edward M. Deleon Guerrero (MP); Troy Downing represented by Erin Snyder (MT); Mike Causey represented by Angela Hatchell (NC); Eric Dunning represented by Justin Schrader (NE); Marlene Caride represented by David Wolf (NJ); Glen Mulready represented by Donna Willson (OK); Michael Humphreys represented by Crystal McDonald (PA); Alexander S. Adams Vega (PR); Elizabeth Kelleher Dwyer (RI); Carter Lawrence represented by Trey Hancock (TN); Jon Pike represented by Reed Stringham (UT); and Mike Kreidler represented by Charles Malone (WA).

1. Adopted its June 2 Meeting Minutes

The Task Force met June 2 and took the following action: 1) adopted its Spring National Meeting minutes; and 2) adopted a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540).

Ms. Cross made a motion, seconded by Mr. Kaumann, to adopt the Task Force's June 2 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Report of the Receiver's Handbook (E) Subgroup

Mr. Baldwin said the Receiver's Handbook (E) Subgroup met July 19 and took the following action: 1) adopted its Nov. 18 minutes (*see NAIC Proceedings – Fall 2021, Receivership and Insolvency (E) Task Force, Attachment Five*); 2) adopted the re-drafted version of Chapter 1 and Chapter 2 of the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook); and 3) exposed revisions to Chapter 3, Chapter 4, and Chapter 5 of the Receiver's Handbook for a 30-day public comment period ending Aug. 19. Mr. Baldwin said the drafting groups are continuing their work on Chapter 6 and Chapter 7. The drafting groups have worked diligently on this project, and based on the progress to date and the extensive nature of the revisions, the Subgroup would agree to extend the deadline of the Receiver's Handbook re-drafting project until the fall of 2023, which is reflected in the 2023 proposed charges for the Subgroup.

Ms. McDonald made a motion, seconded by Mr. Kaumann, to adopt the report of the Receiver's Handbook (E) Subgroup (Attachment Two). The motion passed unanimously.

3. Adopted the Report of the Receivership Law (E) Working Group

Mr. Baldwin said the Receivership Law (E) Working Group met July 18, June 10, and May 12 to address a referral from this Task Force to consider proposals presented by the National Conference of Insurance Guaranty Funds (NCIGF) related to pre-liquidation coordination and information sharing. The NCIGF had proposed several options for improving pre-liquidation information sharing between receivers and guaranty funds. The first option was

model law amendments to Model #540, the *Insurance Holding Company System Regulatory Act* (#440), and the *Model Law on Examinations* (#390). Mr. Baldwin said that while some states may need to consider statutory language to enable information sharing, the Working Group agreed this option may not be necessary in all states. Mr. Baldwin said the NCIGF's second option was a memorandum of understanding that could be entered into by receivers and guaranty funds during the process of planning for a liquidation to provide a legal ability to share information in advance of liquidation. The memorandum is an optional tool that can be customized to the unique circumstances of a receivership. The Working Group agreed to pursue this option. Mr. Baldwin said the final recommendation was to draft additional guidance and best practices on pre-receivership coordination, which will be considered as part of the Receiver's Handbook revisions.

Mr. Baldwin said the Working Group reviewed the memorandum by section and proposed edits. During its July 18 meeting, the Working Group exposed the draft memorandum for a 45-day public comment period ending Sept. 1. He encouraged all states and interested parties to review the memorandum and submit any comments or proposed edits.

Mr. Stringham made a motion, seconded by Mr. Joyce, to adopt the report of the Receivership Law (E) Working Group (Attachment Three). The motion passed unanimously.

4. Adopted the Report of the Receivership Financial Analysis (E) Working Group

Ms. Wilson said the Receivership Financial Analysis (E) Working Group met Aug. 11 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership and related topics.

Ms. Wilson made a motion, seconded by Mr. Schrader, to adopt the report of the Receivership Financial Analysis (E) Working Group. The motion passed unanimously.

5. Adopted its 2023 Proposed Charges

Commissioner Donelon discussed the 2023 proposed charges of the Task Force and its working groups and subgroup. The proposed charges would remain the same, with one exception. The charges of the Receiver's Handbook (E) Subgroup would be extended through the fall of 2023. While the Subgroup has made progress on the Receiver's Handbook revisions so far and expects to make even more progress through the remainder of the year, it is anticipated that some of the work may not be finalized before this year-end.

Mr. Rehagen made a motion, seconded by Mr. Wake, to adopt the Task Force's 2023 proposed charges (Attachment Four). The motion passed unanimously.

6. Heard an Update on International Activities

Mr. Wake said the Resolution Working Group of the International Association of Insurance Supervisors (IAIS) plans to meet in September in person to work on the application paper on policyholder protection schemes. Commissioner Donelon asked if the IAIS is looking at a guaranty system like Lloyd's of London's system for its syndicates or a system like the U.S. guaranty fund system. Mr. Wake said the IAIS is more focused on systems like the U.S. system and continental guaranty fund systems, rather than one like Lloyd's of London's. Mr. Wake said the U.S. recently completed the IAIS-targeted jurisdictional assessment to evaluate the implementation of the holistic framework, which included an assessment of insurance receivership, and recovery and resolution planning. The reports are currently being finalized.

7. Discussed Other Matters

Ms. Wilson announced the International Association of Insurance Receivers (IAIR) is holding its Technical Development Series (TDS), which is focused on various claims issues, in Oklahoma City, OK, Oct. 26–28. She said registration is open on the IAIR website for in-person or virtual attendance.

Having no further business, the Receivership and Insolvency (E) Task Force adjourned.

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Draft: 6/15/22

Receivership and Insolvency (E) Task Force
Virtual Meeting
June 2, 2022

The Receivership and Insolvency (E) Task Force met June 2, 2022. The following Task Force members participated: James J. Donelon, Chair (LA); Cassie Brown, Vice Chair, represented by Brian Riewe (TX); Lori K. Wing-Heier represented by Jeffery Bethel (AK); Jim L. Ridling represented by William Rodgers (AL); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Jared Kosky (CT); Colin M. Hayashida represented by Martha Im (HI); Doug Ommen represented by Kim Cross (IA); Dana Popish Severinghaus represented by Kevin Baldwin (IL); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Jeff Gaither (KY); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott represented by Robert Wake (ME); Chlora Lindley-Myers represented by Shelley Forrest and John Rehagen (MO); Edward M. Deleon Guerrero represented by Charlette C. Borja (MP); Mike Causey represented by Jackie Obusek (NC); Eric Dunning represented by Lindsay Crawford (NE); Glen Mulready represented by Donna Wilson (OK); Michael Humphreys represented by Crystal McDonald (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Carter Lawrence represented by Hui Wattanaskolpant (TN); Jon Pike represented by Reed Stringham (UT); and Mike Kreidler represented by Charles Malone (WA).

1. Adopted its Spring National Meeting Minutes

Ms. Wilson made a motion, seconded by Mr. Kaumann, to adopt the Task Force's April 6 minutes (*see NAIC Proceedings – Spring 2022, Receivership and Insolvency (E) Task Force*). The motion passed unanimously.

2. Adopted a Request for NAIC Model Law Development to Amend Model #540

Commissioner Donelon said the Restructuring Mechanisms (E) Working Group was charged to look at state laws regarding insurance business transfers (IBTs) and corporate divisions (CDs). The Working Group is in the process of developing a white paper on the topic. One area the Working Group identified where model laws may need to be amended is regarding how policyholders retain guaranty fund coverage after such transactions. The Working Group received input from the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF). The NCIGF suggested that possible technical gaps may exist in states that have adopted the *Property and Casualty Insurance Guaranty Association Model Act* (#540) within certain definitions.

Commissioner Donelon said the Restructuring Mechanisms (E) Working Group referred a draft Request for NAIC Model Law Development to amend Model #540, which was discussed at the Task Force's April 6 meeting and exposed for a 30-day public comment ending May 6. Comments were received from Maine, Missouri, and the NOLHGA. The comment letters do not indicate any objection to the Request for NAIC Model Law Development. The primary question outlined in the comments is whether there is a need to also consider amendments to the *Life and Health Insurance Guaranty Association Model Act* (#520).

Mr. Wake summarized Maine's comment letter (Attachment One-A). He said the Task Force should look at Model #520 and determine if changes are in order. He said Model #520 has an orphan clause that provides coverage by the domiciliary guaranty fund. He said the NOLHGA suggested not relying heavily on the domiciliary guaranty fund and instead focusing on the goal of the same guaranty fund providing coverage that would have provided coverage before the transfer.

Ms. Forrest summarized Missouri's comment letter (Attachment One-B). She said Missouri commented on the review of Model #520 similar to Mr. Wake's comments. She said Missouri's second comment is on the timing of making model amendments regarding the timing of the Restructuring Mechanisms (E) Working Group's work on its white paper. She said she recognizes the urgency since some of these transactions are already occurring. The concern is that if the Task Force adopts amendments to Model #540 now, then issues, such as the licensing for successor entities, are addressed by the Working Group; those issues may change the direction of the necessary amendments to Model #540. Therefore, it might be premature to open Model #540 if the Working Group has unresolved issues.

Mr. Rehagen asked if there is a need to open Model #540 if the issue is licensing. If the entity is licensed, it would be a member of the guaranty fund.

Barbara F. Cox (NCIGF) said the NCIGF studied this issue over a year with legal experts and an NCIGF subcommittee. She said most current laws are written such that they call for the product to be issued by the now insolvent insurer. This creates a technical difficulty that needs to be fixed in Model #540 to ensure policyholder protection. This is especially true since these new CD and IBT laws extend to personal lines and workers' compensation claimants. There was no objection at the Restructuring Mechanisms (E) Working Group to opening Model #540. Ms. Cox said to address Ms. Forrest's concern, the Task Force can work to amend Model #540 in tandem with the work of the Restructuring Mechanisms (E) Working Group so states can begin updating their laws.

Peter Gallanis (NOLHGA) summarized the NOLHGA's comment letter (Attachment One-C). He said the NOLHGA does not take a position on endorsing or opposing IBT or CD transactions. The NOLHGA believes there has been good regulatory discussion that they follow and participate in. Mr. Gallanis said the NOLHGA has no concerns about the current proposal to amend Model #540. He said the NOLHGA's comment letter addresses whether Model #520 should consider IBT and CD transactions. This is fundamentally different for life and health. Property/casualty (P/C) guaranty association coverage is retrospective; i.e., coverage of claims that occurred prior to insolvency. By contrast, life and health guaranty associations' coverage expenditures has been for prospective coverage on contracts; i.e., the continuation of coverage under life and annuity contracts and non-cancellable health insurance, like long-term care (LTC) or disability. A view of industry and state insurance regulators reflected in Model #520 is that a high level of regulatory oversight of companies is important for contracts that are consumer-oriented and cannot be easily, or even at all, replaced in the marketplace 10 or more years after issuance. A cardinal principle built into Model #520 is the member company requirement. For a state's guaranty association to provide coverage, the insolvent company is obliged to have been a member company in that guaranty association's state. Oversight of the company is not only provided by the domiciliary state but also licensed states. Mr. Gallanis said a fundamental principle in reviewing IBT and CD transactions is that policyholders and other stakeholders are not left worse off. Continued significant regulatory oversight of companies that have emerged from restructuring mechanisms is why the NOLHGA has moved forward with the existing member company requirement.

Mr. Wake made a motion, seconded by Mr. Stringham, to adopt the Request for NAIC Model Law Development with the edits proposed by Maine (Attachment One-D). The motion passed unanimously.

Having no further business, the Receivership and Insolvency (E) Task Force adjourned.

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The Maine Bureau of Insurance has the following comments on the Request for Model Law Development:

As we commented in Kansas City, the Request as currently worded might be too narrow in scope, for two reasons. One is that the need to clarify Model # 540 isn't limited to insurance business transfers. The real issue here is that any time a covered policy is novated to a new insurer, the new insurer's needs to be deemed to be a guaranty association member by operation of law, relating back to the date the old insurer issued the covered policy. We don't see any new issues arising from IBTs that aren't already relevant to assumption reinsurance, similar regulatory processes such as bulk reinsurance, or novation by contractual agreement.

The other issue is that we should consider whether to look at Model # 520 as well as Model # 540. Under Model # 520, if a foreign insurer becomes insolvent, This State's guaranty association only covers resident policyholders and their beneficiaries (*e.g.*, covered household members) if the insolvent insurer is a Member Insurer. This is a fairly broad protection, because on the life and health side, membership under the Model isn't based on licensure at any specific time – as the term “member insurer” is defined, it “includes an insurer or health maintenance organization whose license or certificate of authority in this State may have been suspended, revoked, not renewed or voluntarily withdrawn.” And even if the insurer was never licensed in This State, coverage is still available as long as the failed insurer's domiciliary state has an “Orphan Clause,” substantially similar to Subparagraph 3(A)(2)(b) of Model 520. However, as the NOLHGA comment explained (*emphasis added*), “policyholders [should] maintain eligibility for guaranty association coverage from the **same** guaranty association that would have provided coverage immediately prior to a restructuring transaction,” so as to minimize the domiciliary guaranty association's exposure under the Orphan Clause.

What all this means is that if I understand the situation correctly, we don't need to revisit Model 520 if all we care about is whether protection is still available from **some** guaranty association, but if we want to ensure that protection is still available from the guaranty association in the consumer's state of residence in most or all cases, I think 520 does raise the same general issue as 540 – whether we need to add some mechanism to specify that the resulting insurer inherits the membership obligations of the original insurer. Relating back to policy issuance isn't a 520 issue because it doesn't matter when they were licensed or deemed to have been licensed, but the issue of novations in general (as opposed to IBTs/CDs) is still relevant on the life and health side.

NOLHGA has proposed an alternative approach, but it doesn't seem realistic: “the resulting insurer must be licensed in all states where the transferring insurer was licensed or had ever been licensed with respect to the policies being transferred.” This gives a veto to every state where the transferring insurer has ever been licensed to issue one or more transferred policies, and legislatures seem unlikely to be willing to do this if they have any inclination to allow transfers at all.

I agree that we should review the guaranty association model laws to ensure that policyholders impacted by IBTs or CDs retain guaranty fund coverage, and while I believe it is appropriate for the Receivership Law (E) Working Group to complete the drafting for any changes to the model law, I am wondering about the timing. The Restructuring Mechanisms (E) Working Group is still in the process of revising a White Paper on the various issues related to IBT and CD transactions. Before we start making changes to model laws, we may want to be sure that there is a clear consensus among parties regarding these transactions. As the NAIC continues working through the issues, it is possible that additional changes to the model acts will become necessary.

To the extent that the NAIC moves forward at this time with revising the *Property & Casualty Insurance Guaranty Association Model Act* (#540), we may also want to consider reviewing the *Life and Health Insurance Guaranty Association Model Act* (#520) to see if any changes need to be made.

Best regards,

Shelley L. Forrest
Receivership Counsel
Missouri Department of Commerce and Insurance

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1100 Walnut Street, Suite 1500
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Re: Request for NAIC Model Law Development for the P&C Insurance Guaranty Association Model Act

Dear Ms. Koenigsman:

This letter is submitted with respect to the Receivership and Insolvency Task Force's recent exposure of a "Request for NAIC Model Law Development" ("MLD") relating to the Property & Casualty Insurance Guaranty Association Model Act (the "P&C Model Act"). We understand that the MLD's sole purpose is to propose changes to the P&C Model Act tailored to ensure that P&C guaranty fund coverage is not lost, expanded, or otherwise affected by corporate division ("CD") or insurance business transfer ("IBT") transactions (collectively, "Restructuring Transactions"). Given that the MLD is solely focused on P&C GA coverage, NOLHGA has no position on the MLD but rather will defer to the views of those with expertise in P&C guaranty funds (e.g., the NCIGF and its members).¹

NOLHGA, however, would like to address comments submitted in response to the MLD that suggested consideration also should be given to amending the Life and Health Insurance Guaranty Association Model Act ("L&H GA Model Act"). In particular, one of the comments suggested that the L&H GA Model Act should be amended to deem successor entities in Restructuring Transactions, irrespective of their licensing status, to be member insurers of the life and health guaranty associations (L&H GA).

For the reasons that will be discussed further below, NOLHGA would reiterate its view that successor entities in Restructuring Transactions involving life and health policies should be licensed in all states where the predecessor entity was ever licensed with respect to the policies being transferred. This not only will ensure that the successor entity's inherited life and health policies will remain eligible for coverage by the L&H GAs in those states, but it also will ensure that the successor entity is subject to regulatory oversight in each of those states for the benefit of each state's insurance consumers. As reflected in the draft Restructuring Mechanisms White Paper², requiring licensing of a successor entity where it inherits business could be important to ensuring ongoing regulatory control over the entity and avoiding potential harm to insurance consumers.

¹ As previously noted, NOLHGA also does not have a position on whether states should adopt laws authorizing Restructuring Transactions. That is, NOLHGA neither supports nor opposes such laws but rather is focused on the potential implications of Restructuring Transactions to its member life and health insurance guaranty associations, and the protection its members provide to insurance consumers when their insurance company is placed in liquidation.

² The above reference, and similar references to "White Paper" in this letter, refer to the draft Restructuring Mechanisms White Paper, dated March 28, 2022, that was created by the Restructuring Mechanisms (E) Working Group of Financial Condition (E) Committee.

Most Life and Health Products Evidence Long-Term Policyholder Obligations

Virtually all life and annuity products, and many health products, represent long-term obligations by an insurer to provide essential financial security protection to its policyholders.³ Consumers who buy these products have an expectation that their insurer will provide this protection for decades into the future, or even for a lifetime (or longer, in the case of some annuities). This long-term commitment of life and health insurers is extremely important to policyholders since, as they age and/or experience health problems, they will find it increasingly difficult, if not impossible, to obtain similar coverage on comparable terms.

The nature of life and health products is quite different from most property and casualty products. Property and casualty products typically provide coverage on an annually renewable basis. This permits property and casualty policyholders to go back into the marketplace to seek replacement coverage if they become dissatisfied with their insurer's performance or the terms of their policy, or if their insurance company fails. In addition, property and casualty coverage typically does not become prohibitively expensive or completely unavailable to consumers because of advancing age or developing health conditions. As a result, property and casualty policyholders should have the ability to non-renew their coverage and obtain comparable replacement coverage if they became dissatisfied with the insurer that takes over their policy in a Restructuring Transaction. Importantly, many life and health insurance policyholders would not have that option, for the reasons stated above.

L&H GAs have Long-Term Obligations to Continue Coverage for Policyholders

Given the long-term nature of many life, annuity, and health insurance policy obligations, and the difficulty consumers may experience in replacing this coverage, L&H GAs have explicit statutory obligations to continue coverage for policyholders of insolvent insurers. This statutory duty to continue coverage often results in L&H GAs having obligations that continue for many years into the future. As an example, L&H GAs affected by the Penn Treaty/ANIC insolvencies have obligations for covering long term care policies that are projected to continue for the next 30 years or more.

There are Important Policy Reasons Member Insurers of L&H GAs Should be Licensed

Given the long-term nature of L&H GA Coverage obligations, and concerns about the risks to L&H GAs of backstopping the obligations of insurers that are not subject to regulation, the L&H Model Act has provided from its inception that insurers must be licensed to be members of a state's L&H GA.⁴ In effect, the licensing requirement ensures a level, regulatory playing field among insurers that will be eligible to have their products covered by the L&H GA. In this way, the L&H GA Model Act is designed

³ Certain forms of health insurance, which are renewed on an annual basis, are exceptions to this statement (e.g., most forms of conventional medical insurance issued today). However, other forms of health insurance (e.g., individual long term care insurance and disability income insurance) are guaranteed renewable for the life of the policyholder and therefore do represent long-term obligations to policyholders.

⁴ "Member Insurer" was defined in § 5(7) of the 1970 Model to include any person authorized to transact in this state any kind of insurance to which this Act applies under Section 3. **1971-4 NAIC Proc. 157, 162 (Dec. 14, 1970)**. "Authorized" was changed to "licensed" in this definition as part of the 1975 revisions. **1976-4 NAIC Proc. 296, 300 (Dec. 9, 1975)**. The commentary notes that this change was intended to ensure that all unauthorized insurers are excluded from the Act. **1976-4 NAIC Proc. 296, 299 (Dec. 9, 1975)**. The 1975 version of the Model also included a comment at the end of section entitled Scope, which included the following language: "Furthermore, it [this Model Act] applies only to direct insurance issued by persons licensed to transact insurance in this state at any time. Coverage issued by insurers which have not submitted to the application of a state's regulatory safeguards is excluded from protection by this act".

to protect L&H GAs (and their member insurers) from being generally responsible for the insurance obligations of entities that are not subject to state licensing and regulatory requirements.

In 1985, the L&H Model Act was amended to provide that the definition of “member insurer” includes insurers whose license or certificate of authority in this State may have been suspended, revoked, not renewed, or voluntarily withdrawn. This language was not intended to create a general exception to the requirement that insurers should be licensed to be members of the L&H GA, but rather was intended to avoid having policyholders become ineligible for GA coverage due to a state regulatory action.⁵ In many cases, financially troubled insurers will have their licenses suspended or revoked even before they are placed in receivership. The 1985 revision to the definition of member insurer was intended to avoid policyholders losing eligibility for GA coverage in those kinds of circumstances.

Concerns with Deeming Non-Licensed Successor Entities to be Member Insurers

As noted in the draft Restructuring Mechanisms White Paper, there is a fundamental regulatory interest in ensuring the licensing status of successor entities in Restructuring Transactions. If a successor entity to a Restructuring Transaction operates without a license in a state, it could result in a lack of regulatory knowledge and control regarding the company’s ongoing operations in that state, which in turn could make harm to consumers more likely. This harm potentially could encompass all aspects of state insurance regulation.

These potential harms also could expose L&H GAs to increased risks if successor entities in Restructuring Transactions are deemed member insurers of the GAs without being licensed and subject to regulation in the GAs’ home states. These risks could increase, based on the structure and the nature of the business that is the subject of the Restructuring Transaction. As an example, if the successor company is a newly formed or limited purpose entity running off risky forms of business (e.g., long term care policies), there could be substantial increased risk to a GA from such an entity not being licensed and regulated in the GA’s home state. This is exactly the type of situation that the drafters of the L&H Model Act sought to prevent by generally requiring member insurers to be licensed entities.

There is an additional concern with unlicensed, successor companies being deemed member insurers of the L&H GAs. This concern relates to Section 11.B of the L&H GA Model Act, which empowers the Commissioner to suspend or revoke the license of a member insurer that fails to timely pay its guaranty association assessments. This provision is commonly viewed as a practical and effective way to ensure that member insurers timely pay their L&H GA assessments. In the event successor companies are deemed to be member insurers without being licensed, the power of a commissioner to enforce the payment of assessments by those insurers by revoking their licenses would not be available.

In addition to the above concerns, NOLHGA believes that obtaining amendments to all 51 L&H GA Acts to include unlicensed entities as member insurers may not be a practical or realistic solution. While the Life and Health GA System has been quite successful over the years working with regulators and legislators to update state GA Acts to be consistent with the Model Act, those results have only been

⁵ As reflected in the NAIC Proceedings, the industry proponents of the 1985 amendments to the definition of “member insurer” provided the following explanation for those changes: “To emphasize the importance of what should be the clear dependence of coverage under the act on adequate regulation for solvency and competitive equality, the term “member insurer” has been modified and used to link more clearly the sections of the act relating to purpose, coverage, powers and duties, and assessments. Thus, the definition of member insurer has been expanded to include entities whose license may have been suspended or revoked. Insureds should not lose guaranty association coverage because of enforcement actions against an insurer under the laws and regulations designed to assure solvency, proper market conduct and competitive equality that all member insurers must adhere to. Equally, insurers should not be expected to extend coverage to entities that are not required to adhere to the same laws and regulations.” **1984-2 NAIC Proc. 440, 462 (June 3, 1984).**

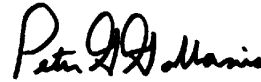
possible because of the widespread support of state regulators and industry members for various Model Act improvements. Given the fundamental change and potential increased risks of deeming unlicensed insurers to be L&H GA members, amendments to achieve that purpose could be considered controversial and difficult to accomplish in many states.

The Draft White Paper’s Recommendation for a Possible Solution to Licensing Issues

NOLHGA sees some promise in the draft White Paper’s recommendation for a possible solution to addressing licensing issues in Restructuring Transactions. That recommendation, which appears on the last page of the draft White Paper, is to have the appropriate NAIC working group consider whether changes should be made to the licensing process for companies resulting from Restructuring Transactions of runoff blocks. In that regard, the draft White Paper notes, “A streamlined process that still ensures appropriate regulatory oversight (and any licensure necessary to preserve guaranty association coverage) may be appropriate in limited circumstances.”

As noted above, the draft White Paper recognizes that the failure of a successor entity to be licensed in relevant states could result not only in the loss of L&H GA coverage, but also in a lack of regulatory knowledge and control regarding the company’s ongoing operations, which in turn could result in harm to insurance consumers. This risk to consumers, by itself, would seem to be of sufficient concern to justify the NAIC’s consideration of an alternative licensing process for successor entities in Restructuring Transactions.

Very truly yours,



Peter G. Gallanis
President

Adopted by the Receivership and Insolvency (E) Task Force, 06/02/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force to complete the drafting. Referred by the Restructuring Mechanisms (E) Working Group.

2. NAIC staff support contact information:

Jane Koenigsman
jkoenigsman@naic.org
816-783-8145

Dan Daveline
ddaveline@naic.org
816-783-8134

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

- *Property and Casualty Insurance Guaranty Association Model Act (#540)*

In 2019, the Financial Condition (E) Committee formed the Restructuring Mechanisms (E) Working Group who was charged with the following:

1. Evaluate and prepare a white paper that:
 - a. Addresses the perceived need for restructuring statutes and the issues those statutes are designed to remedy. Also, consider alternatives that insurers are currently employing to achieve similar results.
 - b. Summarizes the existing state restructuring statutes.
 - c. Addresses the legal issues posed by an order of a court (or approval by an insurance department) in one state affecting the policyholders of other states.
 - d. Considers the impact that a restructuring might have on guaranty associations and policyholders that had guaranty fund protection prior to the restructuring.
 - e. Identifies and addresses the legal issues associated with restructuring using a protected cell.

Background for Proposed Change

This proposed change is being precipitated by discussions within the NAIC's Restructuring Mechanisms (E) Working Group initiative, which is focused on documenting in the form of a White Paper, the various issues related to insurance business transfers (IBT) and corporate division (CD) transactions. The number of states adopting laws that permit either of these transactions is still relatively low; however, one of the most significant issues that has been discussed during the meetings of the Working Group is the need for policyholders subject to such transactions to retain guaranty fund coverage. Representatives of the National Conference of Insurance Guaranty Funds (NCIGF) have suggested that an amendment to a state's guaranty fund act, or other related law, is necessary to address this issue. They have specifically suggested that the NAIC update the Property and Casualty Insurance Guaranty Association Model Act, and they have developed specific language to address this issue. An amendment will better enable those states that have incorporated #540 into their laws to update their laws for this important issue, to ensure policyholders in all states retain their coverage. Because guaranty association coverage follows the state of licensure rather than the state of

domicile, adequately addressing these concerns is necessary regardless of the type of transfer and regardless of how few states adopt changes to their laws to allow IBT and CD transactions.

Scope of the Proposed Revisions to Model 540

The scope of the request is limited to addressing the issue of continuity of guaranty fund coverage when a policy is transferred from one insurer to another. The request is therefore to the specific proposal to revise the definition of “Covered Claim” within #540, or other language determined to be appropriate to address the need for continuity of protection. The following is the additional language (underlined language) that has been proposed to be added to Section 5, Definitions, within #540.

H. “Covered claim” means the following:

- (a) The claimant or insured is a resident of this State at the time of the insured event, provided that for entities other than an individual, the residence of a claimant, insured or policyholder is the State in which its principal place of business is located at the time of the insured event; or
- (b) The claim is a first party claim for damage to property with a permanent location in this State.
- (c) Notwithstanding any other provision in this Act, an insurance policy issued by a member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of another insurer, pursuant to a state statute providing for the division of an insurance company or the statutory assumption or transfer of designated policies and under which there is no remaining obligation to the transferring entity (commonly known as “Division” or “Insurance Business Transfer” statutes), shall be considered to have been issued by a member insurer which is an Insolvent Insurer for the purposes of this Act in the event that the insurer to which the policy has been allocated, transferred, assumed or otherwise made the sole responsibility of is placed in liquidation.
- (d) An insurance policy that was issued by a non-member insurer and later allocated, transferred, assumed by or otherwise made the sole responsibility of a member insurer under a state statute described in subsection (a) shall not be considered to have been issued by a member insurer for the purposes of this Act.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

This proposed change is needed to ensure policyholders in all states retain their guaranty fund coverage, which is necessary regardless of how few states adopted changes to their laws to allow IBT and CD transactions.

It should be noted that with respect to guaranty fund coverage for life and health insurance, the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is suggesting a different approach to address the same issue in the life and health context. NOLHGA’s proposal centers around the need for such transaction to require the assuming or resulting insurer to be licensed in all states where the issuing insurer was licensed or ever was licensed to retain the needed coverage for policyholders.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?
 Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. **What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?**

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: See previous discussion.

7. **What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?**

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple and because they have the potential to reduce expenses incurred by receivership estates, we believe such changes will be widely supported by all parties.

8. **Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?**

Not referenced in Accreditation Standards.

9. **Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.**

No.

Draft: 7/22/22

Receiver's Handbook (E) Subgroup
Virtual Meeting
July 19, 2022

The Receiver's Handbook (E) Subgroup of the Receivership and Insolvency (E) Task Force met July 19, 2022. The following Subgroup members participated: Kevin Baldwin, Chair (IL); Miriam Victorian, Vice Chair (FL); Joe Holloway (CA); James Gerber (MI); Leatrice Geckler (NM); Donna Wilson and Jamin Dawes (OK); Laura Lyon Slaymaker and Crystal McDonald (PA); and Brian Riewe (TX).

1. Adopted its Nov. 18, 2021, Minutes.

The Subgroup met Nov. 18, 2021, and took the following action: 1) adopted its June 14, 2021, minutes; 2) and exposed Chapter 1 and Chapter 2 of the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook).

Ms. Slaymaker made a motion, seconded by Mr. Holloway, to adopt the Subgroup's Nov. 18, 2021, minutes (Attachment Two-A). The motion passed unanimously.

2. Adopted Revised Chapter 1 and Chapter 2 of the Receiver's Handbook

Mr. Baldwin thanked the volunteers who had participated in the drafting groups for the chapters of the Receiver's Handbook. Sherry Flippo (NAIC) summarized the changes to Chapters 1 and Chapter 2 based on the exposure period.

Ms. Victorian made a motion, seconded by Ms. Slaymaker, to adopt Chapter 1 and Chapter 2 of the Receiver's Handbook with the revisions from the exposure period (Attachment Two-B, Attachment Two-C, and Attachment Two-D). The motion passed unanimously.

3. Exposed Revised Chapter 3, Chapter 4, and Chapter 5 of the Receiver's Handbook

Chapter 3, Chapter 4, and Chapter 5 had extensive revisions and were presented in the meeting materials as a clean copy. To view the original Receiver's Handbook, the current Receiver's Handbook version is posted on the Subgroup's website under the documents tab.

Ms. Victorian made a motion, seconded by Ms. Geckler, to expose Chapter 3, Chapter 4, and Chapter 5 of the Receiver's Handbook (Attachment Two-E) for a 30-day public comment period ending Aug. 19. The motion passed unanimously.

Having no further business, the Receiver's Handbook (E) Subgroup adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/RITF/2022 Summer NM/RHS 071922Minutes.docx

OVERVIEW

Each state and territory have a statute that provides for the appointment of the state's insurance regulator as the receiver of an insurer that is placed in a delinquency proceeding. This Handbook is intended as a guide for insurance regulators and others who assist with carrying out the Receiver's duties.

The Handbook is organized by subject matter. Each chapter contains an introduction to the subject, followed by an in-depth discussion. In some chapters, checklists are included as an aid to implementing the actions described in the chapter.

References are provided to the applicable provisions of the NAIC model receivership laws and relevant case law in each chapter. As the legal references reflect the NAIC models and case law existing at the time the Handbook was drafted, a practitioner should always review the current state of the law.

While receiverships typically share essential principles and elements, there are important variances:

- Each state's receivership statute may contain unique provisions that are not derived from an NAIC model act or shared with other states.
- Case law interpreting the statutes governing receiverships can vary between states.
- A receivership is a court proceeding, and the judicial process is governed by the state's court system and rules of procedure.
- Each state insurance department is structured to meet the circumstances of the particular state, and the administrative process for handling receiverships may differ between the states.
- As receiverships vary in size and complexity, a range of approaches may be appropriate.

A practitioner should be aware of the process for handling a receivership in the relevant state, and how it may differ from the examples provided in this Handbook. As described above in the Disclaimer, this Handbook is not an instructional manual for handling a receivership but should be viewed as guidance.

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CHAPTER 1 – COMMENCEMENT OF THE PROCEEDING

I. INTRODUCTION

Insurer receiverships are governed by state law rather than federal bankruptcy law. Although the proceeding is governed principally by the law of the state in which the insurer is domiciled, the laws of the various states and other jurisdictions in which an insurer conducted business, has assets, or has creditors, may also be implicated. Consequently, during the commencement and administration of proceeding involving a troubled or insolvent insurer, it is important for the receiver to consider the laws of those states and jurisdictions.

Most states have enacted statutes that govern the conservation, rehabilitation and liquidation of insurance companies that are patterned at least in part after one of three model acts that have been adopted by the NAIC over the years: the Uniform Insurers Liquidation Act (“Uniform Act”); the Insurers Rehabilitation and Liquidation Model Act (“IRLMA”); and the Insurer Receivership Model Act (“IRMA”).¹ In this handbook, the model acts will be referred to collectively as the “NAIC Model Acts.”² Because of their widespread influence, the NAIC Model Acts are basis for discussion of issues involved in the commencement and administration of troubled or insolvent insurers. Even so, the laws of the individual states may deviate from the models, in whole or part. In some jurisdictions, affiliated service providers (e.g., agencies, premium finance companies, administrative service providers) whose purpose is to provide services solely to the insolvent insurer may be subject to the laws that apply to impaired or insolvent insurers.³

Receivership proceedings⁴ are usually commenced against an insolvent, financially impaired or otherwise troubled insurer in the insurer’s domiciliary state (the state in which the insurer is incorporated) and in specific courts within that state, generally either the court in the judicial district encompassing the state’s capital or the judicial district of the insurer’s principal office. The NAIC Model Acts require that the chief insurance regulator of the insurer’s domiciliary state be appointed receiver of the insurer to administer the receivership under court supervision. The chief insurance regulator in the individual state may be referred to as commissioner, treasurer, superintendent, or director. For purposes of this handbook, the term “regulator” is used to encompass all such officials. If the insurer is an “alien” insurer admitted to the U.S. market through a “port of entry,” the state through which the insurer was admitted will administer the receivership.

See Chapter 9 – Legal Considerations for each type of proceeding.

II. FORMS OF PROCEEDINGS

A. ADMINISTRATIVE SUPERVISION

Most states authorize the regulator to issue short-term administrative supervision orders against insurers operating in a manner that poses a hazard to policyholders, creditors, or the public. Under such orders, the regulator or their special deputies serves as administrative supervisor of the insurer. In states

¹ Refer to Appendix XXX for a chart outlining key differences between the Uniform Act, the Liquidation Model Act and IRMA.

² Refer to NAIC website for state charts that provide state law citations to determine which version of IRMA a state has adopted. <https://content.naic.org/model-laws>. Note that some states that have not adopted IRMA in full; but may have adopted specific provisions from IRMA.

³ In 2021, the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) that bring affiliate service providers deemed “integral” or “essential” to an insurer’s operations under the jurisdiction of a rehabilitator, conservator, or liquidator for purposes of interpreting, enforcing, and overseeing the affiliate’s obligations under the service agreement.

⁴ The NAIC Global Receivership Information Database provides publicly available information about insolvent insurers including receivership orders (conservation, rehabilitation, and liquidation). <https://isiteplus.naic.org/grid/gridDisc.jsp>

where administrative supervision orders may be issued without formal court proceedings, the orders are subject to administrative review and are often confidential. Administrative supervision can enhance regulatory oversight while the insurer overcomes what is envisioned as a temporary challenge, such as a crisis in the broader economy. It is also useful in temporarily stabilizing a deteriorating situation prior to the entry of an order of rehabilitation or liquidation. Where administrative supervision is authorized, statutes typically empower the regulator to prohibit the insurer from doing any of the following during the period of supervision, without the prior approval of the regulator:

- Dispose of, convey, or encumber any of its assets or its business in force;
- Spend over specified spending limitations;
- Close any of its bank accounts;
- Lend any of its funds;
- Invest any of its funds;
- Transfer any of its property;
- Incur any debt, obligation, or liability;
- Merge or consolidate with another insurer;
- Enter into any new reinsurance contract or treaty;
- Terminate or cancel reinsurance;
- Terminate, surrender, forfeit, convert, or lapse any policy or contract of insurance (except for nonpayment of premiums due) or to release, pay or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy or contract;
- Make changes in the senior management team; and
- Make extraordinary changes in staff.

In addition, supervision orders frequently impose heightened regulatory reporting requirements, such as monthly financial reporting, increased market conduct reporting, and specified special reporting such as changes in reinsurance or performance of invested assets. Supervision is often also a vehicle for more intense analysis of an insurer's affairs and condition. If the insurer fails to comply with the order of administrative supervision, other grounds exist under the applicable statute, or the company is found to be insolvent, the regulator may petition for a receivership order.

B. SEIZURE ORDERS

In many cases, the proceeding begins with a seizure order (see IRMA §201). Some statutes enacted prior to IRMA may use different terms for this order, such as a conservation or receivership order. In IRMA, this order is referred to as a seizure order; the term conservation order refers to an order entered under IRMA §301.

In the majority of states, the regulator may obtain a seizure order from a court of competent jurisdiction. Generally, a petition for a seizure order must allege: 1) the existence of one or more statutory grounds justifying a formal delinquency proceeding, and 2) that the interests of policyholders, creditors or the public is endangered by a delay in entering such an order. Specific requirements for obtaining a seizure order vary. The thrust of a seizure order is preservation of the insurer pending further analysis and proceedings. Such orders are not intended to be the final stage in regulatory action for a troubled insurer.

In the rare case in which further analysis reveals the absence of grounds for additional proceedings, or that the problems have been corrected, the regulator will move for dissolution of the seizure order and return control of the insurer to management. More frequently, analysis leads the regulator to seek commencement of formal receivership proceedings.

A seizure order may be issued by the court *ex parte*—without notice—and without a hearing upon allegations of statutory grounds. However, in such cases, a hearing is typically set shortly thereafter to permit the insurer to demonstrate that seizure is not appropriate.

Following issuance of a seizure order, if the regulator determines that further court orders are necessary to protect policyholders, creditors, the insurer or the public, the court may hold hearings to extend or modify the terms of the order. However, the court must vacate the seizure order as soon as practicable or where the regulator, after having had a reasonable opportunity to do so, has failed to institute rehabilitation or liquidation proceedings.

Most state statutory schemes allow the regulator to apply to the court *ex parte* for an order of seizure. In these circumstances, the proceedings are often sequestered and remain confidential until the court orders otherwise. The *ex parte* application allows the regulator to take over the insurer without giving notice, thereby preventing the potential diversion of funds and dissipation of assets, while the continued confidentiality of the proceedings allows the receiver to assess the insurer's current status. Confidentiality allows the receiver to discharge the seizure and, if appropriate, return to normal business operations without public knowledge and the resultant harm to the insurer's business. A seizure order gives the regulator the power to make an immediate hands-on determination of an insurer's condition as well as preserve and protect its assets. The order is designed to maintain the status quo of an insurer while the regulator decides whether to release the insurer or initiate formal receivership proceedings, whether conservation, rehabilitation, or liquidation. State statutes may require that all records and papers relating to a judicial review of a seizure be confidential (IRMA, §206(A)).

If the regulator determines that formal receivership proceedings are not needed, or if the regulator is successful in resolving the insurer's difficulties, he or she can release control and return the insurer to its previous management without seriously damaging the insurer's business. If, however, creditors and the public become aware of an insurer's potential problems, the insurer could suffer irreparable harm even though the condition requiring seizure has been removed.

C. RECEIVERSHIP PROCEEDINGS GENERALLY

IRMA incorporates three distinct receivership actions—conservation, rehabilitation, and liquidation. In many states, the statutes only contemplate receivership proceedings for rehabilitation or liquidation.

A receivership order authorizes the receiver to conserve, rehabilitate or liquidate the insurer, with various statutory and judicially imposed restrictions that may vary from state to state and case to case. Subject to these restrictions and to the supervision of the court, the receiver controls all aspects of the insurer's operations, from the initial order until the receiver is discharged. The receiver's responsibilities extend to policyholders, creditors, regulators, and other interested parties. The receiver should communicate with these parties and keep them informed of the progress of the receivership.

IRMA §207 lists 22 independent grounds, any one of which suffices for the issuance of a receivership order. Many of the same grounds support such orders in most states. A troubled company does not move systematically from one form of receivership to another, but rather, the regulator may choose to petition for the form of receivership appropriate to the circumstances at any given time.

Receivership proceedings are commenced at the behest of the regulator. In some states, creditors and other interested persons may also request that the commissioner be appointed receiver. Such proceedings may seek rehabilitation or liquidation of the insurer or may initially seek conservation, deferring election of one of these other paths until a later day.

1) Control of the Insurer

Per IRMA §104.X the Receiver in a receivership proceeding means liquidator, rehabilitator, conservator, or ancillary receiver, as the context requires. IRMA §209.C states a receiver may appoint special deputies that have all the powers and responsibilities of the receiver.

A seizure, conservation, or other receivership order that vests in the receiver control of the insurer also has the effect of making the receiver responsible for the company. Even while conducting further analysis to ascertain the company's financial condition and prepare for any hearing, the receiver must implement measures to safeguard the insurer's property and affairs. Such measures include:

- Providing for physical security for the insurer's facilities, including proper controls and limits on staff access;
- Establishing security for information systems and obtaining a forensic backup of company information;
- Familiarization with company staff responsibilities, capabilities, and potential to interfere with receivership proceedings;
- Identification of cash flow pressures;
- Control of company investment, financial institution accounts, and other assets;
- Notification of policyholders, claimants and other interested parties as ordered by court or allowed by statute;
- Communication with landlords and other providers of essential services;
- Court filings necessary to impart notice to the public, and
- Other measures identified as necessary for the preservation of the *status quo*.

2) Preparation for the Hearing

Apart from relying on documents in the insurance department's control (such as filed financials and examination reports) and those available from third parties, much of the case in support of receivership may consist of the insurer's own documents. It is important that receivership or supervision staff consult with counsel about the manner of gathering and preserving such documents so that they will be admissible evidence. At the same time the key problems should be identified, and steps taken to assure that they don't worsen pending resolution of the challenge to the receivership.

3) Contents of the Order

Generally, the receivership order directs the regulator to take possession and control of the property, books, accounts, documents and other records and assets of the insurer. Further, the order usually gives control of the insurer's physical premises to the regulator. The order is usually accompanied by an injunction prohibiting the insurer, its officers, directors, managers, agents, and employees from disposing of property or transacting business, except upon the regulator's permission or further court order. The order may enjoin anyone having notice of its provisions from interfering with the receiver or the proceedings, may suspend pending litigation involving the insurer, and may require that all claims and proceedings against the insurer be brought exclusively in the receivership court. In addition, the order may include special provisions like moratoria on cash surrenders, authority for disavowal of executory contracts, and prohibition of creditor self-help.

4) Duration

The duration of a seizure order can vary. In rare cases, the order will specifically prescribe the time period that it is to remain in effect. Typically, however, the order prescribes that it will remain in effect pending the court's further orders or for such time as the receivership court may deem necessary for the regulator to ascertain the insurer's condition, and to request authority to rehabilitate or liquidate the company.

5) Review

If the proceeding commenced with a temporary seizure order and the insurer wishes to contest the proceeding, it may petition the court for a hearing and review of the order. IRMA, §201(F), provides that the court shall hold such a hearing within 15 days of the request.

6) Conservation of Property of Foreign or Alien Insurers

Most states also authorize the regulator to apply to the court for an ancillary order to conserve the property of an alien or foreign insurer (IRMA, §10015). The grounds and terms of such an order generally include those necessary to obtain a similar order against a domiciliary insurer, but there may be some differences. Usually, if the foreign or alien insurer has had property sequestered by official action in its domiciliary state or a foreign country, or if its certificate of authority in the state has been revoked or had never been issued, the regulator may seek an order of seizure or conservation.

Commencement of the proceedings may be by agreement with company owners and management (uncontested) or may be contested vigorously when the insurer maintains that there are insufficient grounds for receivership under applicable law. Most frequently, such contested cases focus on disagreements over the insurer's financial condition and prospects. When the proceedings are contested much of the work done before the hearing will be in preparation to establish the adequacy of grounds for receivership. That work can also commence during the insurer's supervision.

D. CONSERVATION

In some states, a court of competent jurisdiction may enter an order of conservation upon the petition of a regulator (IRMA, §301). An order of conservation is designed to give the regulator an opportunity to determine the course of action that should be taken with respect to the troubled insurer. Within 180 days (or up to 360 days if allowed by the court) of the issuance of the order, the regulator/conservator must file a motion to release the insurer from conservation or petition the court for an order of rehabilitation or liquidation (IRMA, §302). Unlike a seizure order, a conservation, rehabilitation, or liquidation order constitutes the commencement of formal receivership proceedings, which is not an *ex parte* proceeding.

E. REHABILITATION

A rehabilitation proceeding is a formal proceeding, commencing with a complaint filed by the regulator (IRMA, §401). Rehabilitation can be used as a mechanism to remedy an insurer's problems, to run off its liabilities to avoid liquidation, or to prepare the insurer for liquidation. The regulator will allege the specific statutory grounds in a complaint for placing the insurer in rehabilitation based on the grounds cited in the state's receivership act. The insurer is served with a complaint and summons. The insurer may respond and must be afforded an opportunity to be heard. When judgment is entered, the losing party may appeal. Note that in some states, the time for filing notice of an appeal may be much shorter than in other causes of action—perhaps just a matter of days.

Refer to Chapter 9 of this Handbook for further description and guidance regarding rehabilitation.

1) Coordination with Guaranty Associations

Early coordination with the life and health insurance guaranty associations and the property and

⁵ Under IRMA, the proceeding is referred to as an ancillary conservation and the commissioner is appointed as conservator.

casualty guaranty funds (collectively the “guaranty associations”) is essential for maximizing protections and achieving optimal outcomes for policyholders and claimants whenever guaranty association covered business is involved. The importance of early coordination with the guaranty associations is reflected in IRMA and was also the subject of a 2004 NAIC Whitepaper.⁶ Ideally, such coordination should begin as soon as it appears that there is a significant possibility of liquidation. As noted in the NAIC Whitepaper, the need for coordination among regulators, receivers and guaranty associations may occur even before the insurer is placed under administrative supervision or in conservation or rehabilitation.

At a minimum, IRMA §208 requires notice to all potentially affected guaranty associations upon issuance of any order for conservation, rehabilitation, or liquidation. IRMA also specifically contemplates and requires consultation and coordination with potentially affected guaranty associations upon entry of an order of conservation or rehabilitation *to determine the extent to which guaranty associations will be impacted by or may assist in the efforts to conserve/rehabilitate the insurer, and to provide appropriate information to the guaranty associations to allow them to evaluate and discharge their statutory responsibilities.* See IRMA §303, §404-405. Confidentiality agreements, addressed both in IRMA and in the NAIC Whitepaper, are commonly used to protect the information disclosed.

This early coordination is essential for several reasons:

- On the life and health side, advanced planning and coordination provides opportunities for guaranty associations to obtain necessary policy data and related information to evaluate, develop and implement strategies for maximizing consumer protections and avoiding disruption to the provision of policy benefits. These strategies could involve negotiated assumption reinsurance transfers of covered blocks of business, which may be timed to coincide with the liquidation order or having in place the infrastructure (including third party administrators, where applicable) needed for seamless policy and claims administration by guaranty associations immediately upon being triggered. In the case of covered health business, policy administration could involve the retention or replacement of providers, such as hospitals, health care providers and pharmacy benefit networks as well as pre-certification and other related service providers. In certain circumstances, the life and health insurance guaranty associations have created captive insurers to administer large blocks of covered business. While guaranty associations have in some cases had to respond to a liquidation with short notice, the best outcome for policyholders occurs when guaranty associations have the lead time necessary to identify, develop and prepare to implement strategies that will maximize value for policyholders and avoid any disruption in benefits. Whatever solution or approach is used, it will require time to coordinate, plan and execute the necessary steps to provide coverage to policyholders on a timely basis.
- On the P&C side, successful, secure data transition is essential for policy and claims administration. Data is typically voluminous in modern insolvencies and may reside on unique or legacy data processing systems which may be under the control of one or more third parties and in different locations. Working together, the receiver and guaranty funds can effectively transition data and work out any third party contractual or practical issues that may arise. However, this must be done well in advance of liquidation in order to avoid disruption in benefits and claims payments. The property and casualty guaranty funds and NCIGF utilize the Uniform Data Standards (UDS) and have developed processes to facilitate UDS data transition that may be helpful and result in cost savings for the transition process.

⁶ The NAIC’s Receivership and Insolvency Task Force (RITF) published a Whitepaper dated August 12, 2004, and titled “Communication and Coordination Among Regulators, Receivers, and Guaranty Associations: An Approach to a National State Based System.”

- Modern insurance policies and coverage programs can be complex – for example, there may be blocks of cyber liability business, large deductible policies, variable annuity policies with guaranteed living benefits or long-term care policies that have unique policy terms or servicing obligations. There may also be related, ceded reinsurance treaties in place that would have to be evaluated and considered for purposes of life and health insurance guaranty association election rights to assume such reinsurance. Identifying and understanding these complex policies and programs to assure uninterrupted policy and claims handling can require extensive advance planning, coordination, and due diligence.
- The amount of lead time needed for guaranty associations to prepare for a liquidation varies based on the facts and circumstances presented in each case, including the type of insurance business written by the insolvent company. The property and casualty guaranty funds need to analyze the data to adequately protect policyholders - more in complex situations or very large cases. For complex life, health and annuity companies, the lead time needed may be substantially longer.
- In addition to the benefits of early coordination to prepare for liquidation, NOLHGA and the life and health insurance guaranty associations can provide valuable technical expertise and assistance to receivers and regulators considering possible non-liquidation solutions. This includes analyzing financial issues, evaluating reserves, and identifying potential acquiring entities for blocks of business.

See Section F(4) below for a discussion of guaranty association triggering and Chapter 6 on the guaranty associations' role and specifics of coordination and information sharing.

The threshold criteria that a proposed plan of rehabilitation must meet is that claimants against an insolvent estate will fare at least as well under the proposed rehabilitation plan as they would if the insurer were placed into liquidation. *See Neblett v. Carpenter*, 305 U.S. 297, 304, 59 S. Ct. 170, 173–74, 83 L. Ed. 182 (1938) (“The order of the Superior Court recites that the [rehabilitation] plan makes adequate provision for each class of policy holders, for the creditors, and for the stockholders; that the plan is fair and equitable; that it does not discriminate unfairly or illegally in favor of any class of policy holders; that the intangible assets conserved by the plan are worth several million dollars and that if the old company were dissolved and its assets sold their value would be substantially less than the amount which will be realized from them under the plan.”) The so-called Carpenter rule, named after the aforementioned United States Supreme decision, provides that a rehabilitation plan must be fair and equitable, and that it does not discriminate unfairly or illegally in favor of any class of policyholders; *see also, Foster v. Mut. Fire, Marine & Inland Ins. Co.*, 531 Pa. 598, 613, 614 A.2d 1086, 1093–94 (1992) (“Under *Neblett*, creditors must fare at least as well under a rehabilitation plan as they would under a liquidation,...”); and *In re Frontier Ins. Co.*, 36 Misc. 3d 529, 532, 945 N.Y.S.2d 866, 869 (Sup. Ct. 2012) (*Neblett* “requires a plan of rehabilitation to provide claimants with no less favorable treatment than they would receive in liquidation.”).

F. CONSIDERATIONS COMMON TO BOTH CONSERVATION AND REHABILITATION

1) Issues to be Addressed

The receiver’s review of the insurer’s operations should be made at least in part with a view toward identifying and developing a plan to remedy its weaknesses. Areas to be considered include:

- Undercapitalization;
- Mismanagement by directors and officers;
- Uncollectible assets;
- Assets of minimal value;

- Dishonest or incompetent agents;
- Insolvent or weak reinsurers;
- Reinsurance disputes;
- Intercompany, affiliate or subsidiary indebtedness;
- Unprofitable business;
- Long-tail or long-term liabilities;
- Rate increases needed on business and insurer's ability to secure those increases from regulatory authorities;
- Marketing;
- Deceptive or misleading practices;
- Insurance management experience;
- Claim adjustment experience for lines of business being written;
- Risky investments;
- Non-admitted assets;
- Software and hardware problems;
- Inadequate reserves;
- Reserving practices;
- Excessive operating expenses;
- Staffing problems;
- Backlog of mail and filing problems;
- Market conduct studies;
- Unfunded agents' balances or finance notes;
- Management of the insurer's assets and investments;
- Numerous/recent changes in Information Technology or software applications, particularly accounting, claims or policy management systems;
- Failure to collect all outstanding reinsurance receivables;
- Failure to collect all balances due from agents; and
- Failure to collect outstanding judgments in favor of the insurer.

In addition, the receiver may bring causes of action on behalf of the estate, including to prevent or reverse preferences; voidable transfers; fraudulent transfers; other improper conveyances; fraud; misrepresentation by directors, officers, management, and auditors; and negligence, gross negligence and mismanagement by directors, officers, management, and auditors. (*See Chapter 4—*

Investigation and Asset Recovery). The receiver also may diversify the insurer's investment portfolio, coordinate with guaranty associations, and prepare the insurer for future business operations for sale or liquidation

In cases of limited liquidity, the receiver should evaluate which assets can be marshaled and which liabilities compromised in order to provide sufficient cash flow to administer the insurer's day-to-day operations. Generally, the receivership prevents the insurer from incurring further liabilities and increasing the impairment or insolvency. Conversely, it is essential that the insurer's profitable lines of business be identified and maximized for underwriting profit, cash flow and possible sale to investors. A determination should be made whether there is an opportunity for a contribution by the owner, an outside investor or purchaser to stabilize the insurer's cash flow problems pending a comprehensive corrective action plan to conserve or rehabilitate the insurer. Once the insurer's cash flow is stabilized, the receiver should continue efforts to marshal the insurer's assets and reduce outstanding liabilities.

2) Operational Issues

The receiver may need to make periodic budget projections and cash flow studies to establish whether the insurer has sufficient cash flow for its operational needs and to determine the amount of money that would be required from an investor to fund the insurer's future operations and meet statutory surplus requirements. The rehabilitation of the insurer might depend upon the valuation of certain assets or the future profitability of the insurer's book of business. It may be necessary to value those assets in accordance with Generally Accepted Accounting Principles ("GAAP") and Statutory Accounting Principles ("SAP") to determine their value in a rehabilitation, acquisition, merger, or asset sale. It may be prudent to prepare a balance sheet based on current market values. (*See Chapter 3—Accounting & Financial Analysis and the exhibits thereto.*) A determination may need to be made as to the diversification of the receivership's investment portfolio as of the date of the receivership.

The receiver should assess the marketability of the insurer or its assets, including its subsidiaries and investments in affiliates. There should be some focus on the value of the insurer's book of business and its agency network. A decision needs to be made as to whether the insurer will write or limit new or existing business. The strengths and weaknesses of the business need to be determined. Actuaries may need to be retained to perform rate studies and other evaluations, including an evaluation of whether new or pending changes in the law will affect the profitability of the insurer's products (e.g., no fault laws).

In order to preserve the value of the books of business, the payment of claims and cash surrender requests (if applicable) need to be carefully analyzed by the receiver. In some situations, claim handling may be continued in the normal course of business. In life and health insolvencies, the receiver should also consider whether a moratorium on cash surrenders, policy loans and dividends should be imposed.

3) Possible Sale of Insurer

During conservation/rehabilitation, the sale of the insurer to outsiders may be considered, if allowed by state law. A plan for the sale of the insurer should identify the areas that a receiver or investor should cover in any bid or proposal to acquire or invest in the insurer. Among those subjects that should be addressed in a proposed acquisition are the following:

- The purchaser/investor's financial stability and ability to fund the transaction from existing or readily available funds;
- The source of the funds for the acquisition;
- The identity and background of the acquiring party;
- The ability of the purchaser to comply with statutory and regulatory requirements;

- The expected impact of the transaction on the insurer’s policyholders and creditors;
- The likelihood of success in completing the transaction;
- Whether the transaction presents other regulatory or public policy concerns; and
- Whether the proposed transaction would adversely impact guaranty association/guaranty fund coverage available to policyholders in the event of a future liquidation.

G. LIQUIDATION

The regulator may petition the court for an order of liquidation when any of the grounds set forth in the applicable statute exists (see IRMA §207), or, if the company is in rehabilitation or conservation, the regulator believes that further attempts to rehabilitate or conserve the insurer would substantially increase the risk of loss to policyholders or the public or would be futile. In liquidation, the liquidator must identify creditors and marshal and distribute assets in accordance with statutory priorities and dissolve the insurer.

1) Order of Liquidation

Once a petition for liquidation is filed, the company will have an opportunity to defend itself, which can result in a trial or an evidentiary hearing. If the court determines that the regulator has sufficiently established any of the statutory grounds for liquidation, it shall enter an order of liquidation, appointing the regulator as the liquidator of the insurer and vesting the liquidator with title to all of the insurer’s assets and records. The order enables the liquidator to control all aspects of the insurer’s operations under the general supervision of the court. Orders of liquidation may be appealed by management and/or shareholders of the insurer.

Statutes in most states provide that upon issuance of the order, all of the rights and liabilities of the insurer, its creditors and policyholders are fixed as of the date of entry of the order of liquidation. State statutes may describe the effect of the order of liquidation upon contracts of the insolvent insurer.

Upon entry of the order of liquidation, the receiver is charged with the duty to secure, marshal, and distribute the assets of the estate. The power to perform these duties is provided by the order of liquidation and the state receivership statute. It is important for the order of liquidation to include certain other items, which should be determined by applicable provisions of the law in the state of domicile of the insurer. These items typically include provisions for: the appointment of the liquidator; delineation of the powers of the liquidator as provided by state statute; the immediate delivery of all books, records, and assets of the insurer to the liquidator; and enjoinder of other parties from proceeding with actions against the liquidator, the insurer, or policyholders. In addition, it may provide for notice to policyholders and cancellation of policies.

2) Effect on Policies

The cancellation of policy obligations raises several legal issues with respect to the obligations of property/casualty insurers and the cancelable obligations of life insurers. In general, the courts enforce the statutes that provide for the cancellation of insurance policies upon liquidation. Several cases have considered the question of whether a policyholder’s claim would be accepted if filed after the bar date established in the order. Courts have held that the order of liquidation effectively cancels outstanding policies and fixes the date for ascertaining debts and claims against the insolvent insurer. However, the insolvency of a life insurer presents a unique situation. The NAIC Model Acts provide for the continuation of life, health, and annuity policies. Typically, life and annuity contracts (and, to a lesser extent, health contracts) are transferred to solvent third-party insurers.

3) Powers and Duties of the Liquidator

The liquidator is granted certain powers by statute and/or court order, which include the following:

- Vesting the receiver with title to all assets;

- Authorizing the receiver to marshal assets;
- Authorizing the receiver to sue and defend in the receiver's name or in the name of the insurer;
- Enjoining lawsuits in other courts, whether in the same jurisdiction or elsewhere;
- Enjoining interference with the receivership;
- Enjoining creditor self-help;
- Appointing one or more special deputies;
- Authorizing the retention of attorneys, consultants, accountants, and other specialists as necessary;
- Authorizing the sale, abandonment, or other disposition of the insurer's assets;
- Borrowing on the security of the insurer's assets;
- Coordinating with guaranty associations;
- Coordinating with NCIGF and/or NOLHGA, as necessary; and
- Entering into and canceling contracts.

Most jurisdictions hold that the liquidator generally steps into the shoes of the insolvent insurer and possesses the rights and obligations of the insurer. There is also authority for the proposition that the standing of the receiver is broader than that of the insurer to the extent he or she also represents the interest of policyholders and creditors. Several cases have focused on the liquidator's specific duties. These cases allow liquidators to compound or sell any uncollectible or doubtful claims owed to the insolvent insurer, to disaffirm fraudulent conveyances, to disavow leases and other executory contracts, to act as statutory receiver of the insolvent insurer's property, to sell the insurer's property, to conduct business using the insurer's assets, and to control bonds and mortgages held as collateral security.

4) Triggering of Guaranty Associations

As a general rule, the guaranty association laws provide for the mandatory triggering of coverage by guaranty associations upon the entry of an order of liquidation with a finding of insolvency against a member insurer. Advanced coordination with affected guaranty associations and/or NOLHGA (in life and health cases) or NCIGF (in property and casualty cases) with respect to the liquidation petition and proposed liquidation order will help to ensure consistency in triggering in multi-state insolvencies.

On the life and health side, there are a small number of states where mandatory triggering may also occur, under certain circumstances, during rehabilitation if the member insurer is not timely paying claims. In property and casualty cases, guaranty fund triggering normally occurs upon an order of liquidation with a finding of insolvency. There are a minority of states that can be triggered with a finding of insolvency only.

Most of the state life and health insurance guaranty association laws also provide a mechanism for permissive triggering, at the discretion of the association, where a member insurer has been placed under an order of rehabilitation or conservation. (Generally, no such permissive triggering exists in the property and casualty state laws.) These provisions are based on the NAIC Life and Health Insurance Guaranty Association Model Act, Section 8(B), which provides the guaranty association discretion to provide coverage if a member insurer is an impaired insurer (i.e., placed under an order of conservation or rehabilitation). This authority is subject to any conditions imposed by the

guaranty association that do not impair the contractual obligations of the impaired insurer and that are approved by the Commissioner in the guaranty association's state. Some state statutes also provide life and health guaranty associations limited discretion to act in cases where the impaired insurer has been deemed by the Commissioner to be potentially unable to fulfill its contractual obligations. This language dates back to the original definition of “impaired insurer” in the 1970 version of the NAIC Model Act. This language was later removed from the model act as part of the 1997 amendments but still remains in a small minority of state statutes.

Given the possibility of subtle variations in triggering provisions in place from state to state, it is important to coordinate with affected guaranty associations and NOLHGA or NCIGF for purposes of confirming guaranty association triggering. Refer to Exhibits 1-1 and 1-2 for recommended liquidation order language to ensure consistent guaranty association triggering.

5) Notice

Most state statutes set forth the minimum requirements for notice to creditors and all persons known, or reasonably expected, to have claims against the insurer. The receiver must give notice to the regulator of each jurisdiction in which the insurer does business, affected guaranty associations, the agents of the insurer, and policyholders at their last known address. The liquidator may also be required to give notice by publication, usually in a newspaper of general circulation in the county in which the insurer has its principal place of business. Potential claimants are required to file their claims on or before the bar date specified in the notice.

Disputes may arise when the claimant alleges that he or she did not receive notice of the liquidation. The cases addressing this issue turn on the specific facts. Courts have allowed late claims where the receiver should have known of the claimant’s existence and should have provided notice.

See Chapter 5 – Claims for additional discussion.

6) Deadline for Filing Claims

Unless established by statute, the court establishes a deadline for the filing of claims against the assets of the insolvent insurer. In IRMA, the date is not later than 18 months after the entry of the liquidation order, unless extended by the receivership court (IRMA, §701(A)). The liquidator may be required to permit a claimant to file a late claim under certain circumstances (IRMA, §701(B)). If a claimant does satisfy the criteria for filing a late claim, the claim will be subordinated to a lower distribution priority (IRMA, §801(I)). Some statutes enacted prior to IRMA may provide that such a claim is barred from participating in a distribution. Policyholders covered by guaranty associations typically are not required to file claims with the liquidator.

See Chapter 5 – Claims for additional discussion.

7) Ancillary Proceedings

Liquidation of an insurer is conducted by the liquidator in the insurer’s state of domicile. When an insurer is licensed to do business in another state, that state may have authority to establish an ancillary receivership. Receivership statutes typically permit the commissioner of a state where an insurer is licensed to commence an ancillary proceeding if the insurer is placed in liquidation in the domiciliary state. Some statutes also require the commissioner to commence an ancillary proceeding upon the request of certain residents of the state who have claims against the insurer. If the court grants the petition for an ancillary proceeding, the commissioner of that state is appointed as the ancillary liquidator.

The ancillary liquidator is generally entitled to recover the insurer’s assets in the ancillary state and pay claims of residents in the state with such assets. Some statutes permit a claimant who resides in an ancillary state to file a claim in either the domiciliary or ancillary proceeding.

Owners of secured claims can be affected when there are one or more ancillary proceedings. The owner of the secured claim is entitled to surrender his security and file his claim as an unsecured

creditor. Any deficiency in the claim is treated as a claim against the insurer's general assets on the same basis as claims of unsecured creditors.

IRMA clarified the procedures for ancillary proceedings and the handling of deposits. Under §1001 of IRMA, the need for an ancillary receivership has been curtailed. IRMA allows the appointment of an ancillary conservator under limited circumstances. A domiciliary receiver is automatically vested with title to property in any state adopting IRMA, and the test of whether a state is a "reciprocal state" has been eliminated. IRMA also clarifies the procedures for handling deposits; however, most states have not adopted §1001.

While an ancillary proceeding is required in limited circumstances, the regulator often has discretion to initiate it. When deciding whether to commence an ancillary proceeding, several issues should be considered, particularly if it involves a pre-IRMA statute. As an ancillary proceeding requires the separate administration of the insurer's assets and claims, it generally will increase costs. It can also complicate the processing and payment of claims, and potentially confuse claimants. Separate distributions to claimants from ancillary and domiciliary receiverships may differ, which can result in disparate payments to creditors in the same class. Finally, the insurer's debtors may be reluctant to pay amounts owed to the insurer due to the potential for competing claims by domiciliary and ancillary liquidators. To address these potential problems, the domiciliary and ancillary liquidator can enter into an agreement to facilitate the coordination between the proceedings. An agreement could cover matters such as bar dates, claims procedures, the liquidation and disposition of deposits, and the collection of other assets.

See Section E(9) of Chapter 9 – Legal Considerations for additional discussion.

III. INTERESTED PERSONS

A. GUARANTY ASSOCIATIONS

Guaranty associations have been established in each state, as well as the District of Columbia and Puerto Rico, to provide a measure of protection to policyholders in the event of the impairment or insolvency of an insurer. When guaranty association covered business is involved, it is beneficial to begin coordination as soon as it appears there is a significant possibility of liquidation or that guaranty associations will be triggered.

See II(D)(2) in this chapter and Chapter 6 for additional discussion.

B. PARENT COMPANY AND AFFILIATES

An insurer may have a parent company and/or affiliates that may or may not be insurance companies. The interaction of these companies should be reviewed and analyzed carefully including any service agreements, management agreements, pooling agreements, tax sharing agreements and reinsurance agreements. Under certain circumstances, the receiver may want to obtain control of these other entities thru substantive consolidation.

See Chapter 4 – Investigation and Asset Recovery and Chapter 9 – Legal for further discussion.

C. GOVERNMENT AGENCIES

Federal, state, and local government regulations may require notice of the proceeding and are potentially creditors.

The Federal Priority Act (31 U.S.C 3713) imposes personal liability on the representative of persons or estates to the extent that other debts are paid (or otherwise compensated) prior to claims of the federal government. A 3713 Release from the United States of America through the Department of Justice may be requested. As much of the information required for the release is historical, the Receiver should start collecting the information at the inception of the liquidation.

See Chapter 5 – Claims, Chapter 9 - Legal and Chapter 10 – Closing Estates for additional

discussion of federal government involvement.

IV. RECEIVERSHIP ADMINISTRATION

A. PLANNING

The regulator who expects to successfully administer a receivership action must become familiar with the insurer's operations and business as soon as possible. The checklists included in the exhibits at the end of this chapter include a list of documents that should be reviewed.

1) Identify Problems

It is critically important to meet with the regulator's staff before the receivership order is entered, to discuss the perceived causes of the insurer's difficulties and the potential for a successful rehabilitation or liquidation. While state statutes may prevent regulator's staff from sharing documents not available to the general public with non-regulators, insight from financial examiners, financial analysts, market conduct examiners and licensing agents might assist in determining the causes of the insolvency.

It is also important to meet with the insurer's officers and/or directors, when possible. These meetings are usually clear indicators of how cooperative or hostile the insurer's management will be after appointment. Hostile environments require additional personnel and security measures at the company location to secure the assets and records. In some circumstances, it may be important to maintain confidentiality about an intended action, in which case a meeting with management may not be possible.

2) Identify Key Transitional Elements

As previously discussed, coordination with guaranty associations is essential. When liquidation is reasonably foreseeable and guaranty association covered business is involved, that coordination becomes critical to maximizing protections and achieving optimal outcomes for policyholders and claimants. With proper confidentiality arrangements, this can and should occur even while liquidation is a possibility but there are still other alternatives that might salvage the company. Particular attention should be given to definitions of "covered claim" or "covered policy" for each guaranty association.

The insurer's officers, directors and employees may be willing and able to advise about the existence of service providers and outside consultants employed by the insurer, including legal counsel, accountants, and actuaries. Access to the insurer's records and contracts with all consultants and service providers should be secured and determination made which, if any, of the various service providers to retain. It should also be determined if the insurer is a member of a FHL Bank and, if so, identify key individuals at the insurer and at the FHL Bank.

It is also beneficial to obtain employee agreements and other documents regarding personnel arrangements. The receiver will have to develop a plan to maintain required positions and retain key staff. *See X. Personnel in this chapter for additional discussion.*

Additional steps to consider during the planning phase are in the checklists included in the exhibits at the end of this chapter.

3) Working Business Plan

During the planning phase of a receivership, it may be helpful for the receiver to develop an internal working business plan with reasonable timeline and objectives that consider multiple paths, taking into consideration claimants, policyholders, taxpayers, and stakeholders (e.g., lenders, shareholder, affiliates, etc.) The development of a multi-option plan (e.g., option A, B or C) in order of most beneficial may help in planning for and supporting each phase of the receivership process and in ultimately developing the Rehabilitation Plan required by the Rehabilitation Order.

4) Monitoring and Progress Report

Once the receivership proceeding commences, the receiver should consider maintaining weekly or monthly progress reports that serve as high level report cards of the key issues and the progress made in servicing policyholders and the effectiveness of the working business plan. The progress reports include a view of the whole insurance company—financial and operational, highlights key data about company activities of each division and also identifies critical compliance areas for financial, operational, legal, and statutory guidelines. Included in this monitoring process may be specific accomplishments and updates that should be made available to policyholders and claimants and the courts. Depending on complexity of the receivership a weekly meeting of managers/staff is recommended to exchange information between the receiver and the managers/staff.

B. RECEIVERSHIP ORDER

A receivership order may be issued because the insurer is impaired (generally, a conservation or rehabilitation) or insolvent (liquidation or, in special circumstances, a rehabilitation). The order may also be issued to protect an insurer operating under severe financial impairment, as evidenced by a variety of factors, such as investments in an undiversified portfolio of stocks or bonds, writings to surplus in excess of the allowable amount, issuance of total insurance business by one MGA or TPA or entering into non-risk bearing surplus relief contracts. A receivership may also be instituted if current management is found to be detrimental to the management and/or financial stability of the insurer.

Some common issues addressed in receivership orders are:

- Writing of new or renewal business;
- Handling of reinsurance;
- Dividends or transfer of assets without the receiver’s approval;
- Payments to affiliates;
- Limitations on new investments;
- Seizure of physical and liquid assets;
- Liquidation of certain investments;
- Change or dismissal of officers and/or directors;
- Ownership of records and data of the insurer or related entities;
- Cancellation of certain MGA, TPA or general agency agreements;
- Limitations on funding by premium finance companies;
- Injunctions;
- Payment of loss and loss adjustment expense, etc.;
- Triggering of the guaranty associations, if intended;
- Provisions to pre-pay ongoing claims benefits such as workers compensation indemnity benefits while claims data is being transitioned to the guaranty associations;
- Moratoria on claims, cash surrenders, withdrawals, policy loans, etc.;
- WARN (Worker Adjustment and Retraining Notifications) State and Federal - if layoffs of existing staff are anticipated; and

- Hardship provisions (refer to state statutes, state guaranty associations or to www.ncigf.org and www.nolhga.com).

Once the receivership order is entered, the receiver is empowered to operate the insurer. Officers may be retained or terminated, and directors may be relieved of duties, though these actions must be carefully evaluated because of possible adverse effects on litigation involving directors and officers. In fact, a careful evaluation prior to termination of any employee is recommended. An immediate determination may be made as to the need for outside consultants or professionals, such as accountants, actuaries, computer specialists, attorneys, investment counselors, etc.

The insurer may remain in receivership for a fixed period of time or until the occurrence of specified events, e.g., the rehabilitation of the insurer or the liquidation of the estate and the discharge of the receiver.

C. NOTICES

Notice of the insurer's status should be in accordance with the receivership court's direction. The court may direct the notice to be issued by mail and/or by publication in a newspaper of general circulation. In the case of a conservation (under IMRA) or rehabilitation, the notices may be issued to assist the receiver in informing the policyholders and sustaining the business of the insurer. Notice may be sent to the following persons, among others, when the court requires, as their rights or interests are affected:

- Policyholders and beneficiaries;
- Agents;
- Guaranty associations;
- State insurance departments;
- Third-party claimants;
- NAIC;
- Internal Revenue Service;
- U.S. Department of the Treasury;
- U.S. Department of Justice;
- State and local offices;
- Banks;
- Brokerage or investment banking firms;
- Managing general agents, general agents, and all agents of record;
- Reinsurers;
- Intermediaries;
- Creditors, including secured creditors; (including the Federal Home Loan Bank, if applicable)
- Claim adjusters;
- Third-party administrators;
- Premium financiers;

- Vendors;
- Accountants, actuaries, lawyers and other professionals;
- Landlords and tenants;
- Officers and directors;
- Stockholders and other equity holders; and
- Other necessary parties.

Notice may vary depending upon whether the insurer is in rehabilitation or liquidation. Under IRMA, conservation is similar to rehabilitation, and the notice requirement is the same. If the notice is pre-approved by the court, it will avoid potential claims of non-disclosure or omission of material facts.

D. IMPLEMENTATION OF THE ORDER

The order typically includes provisions that enable the receiver to prevent additional financial drain. Throughout this period, the receiver should pay particular attention to preventing illegal preferences, unauthorized set-offs, fraudulent transfers and improper conveyances or distributions.

It is vital that the order be served immediately on the insurer. The receiver should take steps to maintain the integrity of the insurer's assets, books, and records as of the date of the order and to control the insurer's operations so that the assets, books, and records are not removed, dissipated, or destroyed. The checklists at the end of this chapter include some of the initial steps that may be taken to ensure the receiver's control.

E. ASSETS

1) Initial Asset Control

A principal objective in the initial phase is to identify and secure the assets and determine the liabilities of the insurer. The insurer's annual and quarterly statements, along with the current general ledger and chart of account listings, should help in locating some of the assets.

Once the assets have been identified and secured, the short-term emphasis shifts to the cash and invested assets, those being the most liquid. These assets should be tightly controlled to prevent any theft or misappropriation. Examples of the various types and forms of assets, as well as immediate actions that can be taken, are provided in the checklists at the end of this chapter. However, as stated, the primary emphasis at this stage should be assets easily converted to cash, such as petty cash, operating bank accounts and investments. Usually, the remaining illiquid assets will be addressed in the ongoing management and administration of the estate. These types of assets will be the focus of various accounting, collection, and legal efforts in the endeavor to marshal all assets of the estate.

It is important to immediately institute appropriate controls and procedures for the processing of cash and cash receipts. The objective of controlling all cash receipts and subsequent processing is to ensure that cash, the most liquid asset, does not disappear. This requires more stringent controls, including immediate deposit of all cash and an accurate daily accounting. Therefore, the receiver should immediately institute procedures for routing of daily cash receipts (create receipt log). With respect to life and health insolvencies (including HMOs if covered by the triggered guaranty association), consideration should be given to coordination with the guaranty associations and/or NOLHGA regarding the treatment of premium billings, reinsurance payments and any other matters necessary to keep the policies in force, pending the sale of the business or assumption of the business by the guaranty association(s). In the case of an HMO insolvency, direct coordination with the entities providing health care protection to the members is crucial. The receiver may find it necessary to open bank accounts in the name of the receivership in order to have complete control of the cash. In a health insurance related insolvency, the receiver should check on the status of

coordination of benefits (cob) receivables, hospital credit balances and check the state's treasury department to see if any providers have escheated funds on behalf of the health insurer. In order to ensure no misappropriation of funds, the receiver must also institute effective controls over disbursements. This includes instituting new check issuance procedures, including the establishment of new check signing and wire transfer authority, and the issuance of new passwords for electronic banking.

The valuation and control of the remaining assets in the estate will necessarily fall into the continuing management and administration stages. Those assets are less liquid in nature and are, therefore, more difficult to value, marshal and misappropriate.

2) Administration and Ongoing Asset Management

Once the initial phase has been accomplished and control has been instituted over the liquid cash and other invested assets, attention should be directed toward the remaining assets and potential assets of the estate. Immediate identification of some of the remaining assets may be accomplished by reviewing the balance sheet, general ledger, and chart of accounts. The identification of these assets has been accomplished to a degree in the initial phase. The receiver should take a physical inventory including laptops and mobile devices, office equipment, computer hardware and office furniture. The various checklists at the end of this chapter provide details of types of assets to look for and steps to take with those assets.

Aside from the traditional or listed assets on the balance sheet, insurer operations need to be reviewed to identify any potential non-traditional assets. Simply stated, the receiver is responsible for identifying value in the operations and evaluating the potential for the recovery or collection and conversion of this value. This concept will become clearer as the various categories of assets are revealed. Some of the issues to be considered include the following:

- Reinsurance

With respect to life insolvencies, it is critical that the receiver immediately analyze whether to continue or cancel ceded reinsurance contracts. The Life and Health Insurance Guaranty Association Model Act, the life and health guaranty association statutes in most states and IRMA give the life and health guaranty associations the authority to continue ceded reinsurance contracts that relate to covered obligations of the associations in order to facilitate a sale of the business or to minimize the association's exposure. The affected guaranty association must make the election to allow a particular treaty to expire or continue within a statutorily established time. If the treaty is continued, the guaranty association becomes liable for the payment of the ongoing premiums. The guaranty association may transfer the reinsurance agreement to a solvent insurer that assumes the underlying policies. (See IRMA §612 and NAIC Life and Health Insurance Guaranty Association Model Act §8N.)

- Audit premiums

Certain property/casualty premiums are based on loss experience, sales volumes, or payroll amounts. This criteria will differ depending on the type of policy being issued. For example, a "minimum" or "deposit premium" is paid upon issuance of the policy. Final premiums are billed after audit on the basis of loss experience. The additional premium generated is known as audit premium or retro-rated premium and may represent a significant asset of the estate.

Life insurance premiums may be affected by the amounts of dividends paid or by the difference between current billed premiums and maximum billed premiums allowed by the contractual guarantees in the policies. In life insurance insolvencies, the receiver should consider the possibility of Phase III tax liability. (See Chapter 3—Accounting and Financial Analysis, Section VIII.)

- Taxes

Value to the estate may be generated through the sale of the corporate charter or shell. An analysis of any net operating loss situation and qualification under IRS rules should be made with the advice of tax experts, both in the accounting and legal fields.

Also review the validity and correctness of other state and local taxes paid. A review of prior returns and state tax authority records may uncover overpayments and possible recoverable amounts.

Tax sharing agreements with affiliates and any prior consolidated tax returns should be secured, if possible, and reviewed to determine if any refunds paid to the parent should be remitted to the estate.

- Property/casualty salvage and subrogation

With respect to property/casualty insurers, a determination should be made as to how the insurer identified and recovered salvage and subrogation. This amount will not be readily identifiable from the statutory statements, as statutory principles prohibit the recognition of salvage and subrogation until it is collected. However, many insurers maintain salvage/subrogation logs, which are a good source for identification of such receipts or potential recoverables. Salvage and subrogation on claims where reinsurance has been received may be held in a segregated account. Because these aggregated funds may be subject to setoff, a portion of the funds may be due the reinsurer.

- Indemnity

A surety, prior to issuing a bond, will usually require indemnity agreements from the principal and other indemnitors in order to secure the surety from any claims that may be made against the bonds. The agreement is a contractual obligation that provides security for the surety. The indemnity agreement sets forth and expands upon the separate common law obligations between the principal and the surety. A separate indemnity agreement may be issued for each bond. However, more frequently, the parties enter into a general indemnity agreement covering any bonds that the surety may issue to that principal.

Accordingly, all indemnity agreements should be secured and reviewed to identify potential recoverables.

- Deductibles

Many property and casualty insurance policies contain deductibles that are to be paid by the insured. If the insurer (or a guaranty association) pays the full amount of the loss to an injured third party, the amount of the deductible becomes a claim against the insured. The receiver should evaluate the likelihood and cost of collection, and if appropriate, attempt to recover the amount paid within the deductible. It is important that the collection process be resumed as quickly as possible. Most often the receiver is best situated to continue the collection process as he or she is in possession of the related records. In some cases, the insured will have posted some form of collateral to secure its obligations under the deductible. Pursuant to statute in some states, or agreement between the receiver and the applicable guaranty associations, the amount collected is delivered to the associations that paid the claim. For a fuller discussion of large deductibles, see Chapter 6—Guaranty Associations.

- Excess expense payments, especially over-billed loss adjustment expenses

A complete review of historical expense payments should be made, paying close attention to the rates charged, hours worked, necessity of work performed and supporting documentation for expenses itemized in defense attorney bills. Reimbursement should be sought, as appropriate.

- Voidable preferences/fraudulent transfers

Early in the administration of an estate, the receiver should review the insurer's recent pre-receivership transactions for purposes of determining whether potential voidable preferences or

fraudulent transfers of assets were made. See Chapter 9—Legal Considerations, Section VIII, C and D for a discussion of voidable preferences and fraudulent transfers.

F. TAKE CONTROL OF BOOKS AND RECORDS

One of the receiver's first steps should be to locate, control and organize certain files. Securing and organizing the records of an insurer in receivership is of paramount importance to successfully completing the receivership.

A plan to deal with records, including all electronic records, should be developed. The plan should provide for the creation of a records inventory. The plan should identify the data to be captured from the insurer's records, i.e., the names and locations of insureds, reinsurers, etc., and should deal with both the location and maintenance of the files.

It is best to have experienced personnel and legal counsel with an insurance operations background develop this plan. In crafting the plan, the receiver should consider:

- Establishing a central clearing house for all records or having the receiver's staff review records in each department to identify and secure key records. In this manner, the receiver will be able to ensure that all records are recovered, reviewed, and appropriately maintained for further use.
- Determining the location of various records, such as those of MGAs, TPAs, agents, independent adjusting firms, attorneys, branch offices and subsidiaries.
- Determining the various categories of documents—such as policies, claims, data processing, banking, accounting, corporate, state, and federal tax, marketing, personnel files, reinsurance files, and administrative files—and how they should be maintained.

Checklists found at the end of this chapter identify items that should be secured and organized under each area.

It is important to limit access to the premises or other facilities to preserve the integrity of the books and records and to prevent the dissipation of receivership assets. It is also essential to provide notice to consultants used by the insurer—such as accountants, actuaries, and lawyers—of the receivership order, demanding that all records of the insurer in their possession be turned over to the receiver. Failure to turn over the insurer's records to the receiver is a violation of most state statutes (IRMA §118A). In the event a consultant is unwilling to turn over records of the insurer, the receiver should consult with legal counsel.

G. INVENTORY

The receiver should inventory the assets, books, and records as soon as possible. This inventory may not only be required by state law, but it may also be useful in determining whether items have been misplaced or were later removed from either the insurer's premises or the receiver's offices and facilities. The inventory should be conducted at the insurer's offices. The items listed in the checklists included in the exhibits at the end of this chapter should be itemized and secured.

While conducting the inventory of books and records, the receiver should begin identifying documents relative to the cause of the insurer's insolvency. Statute of limitations vary by state. The receiver may have a limited amount of time to file actions against other parties. The NAIC and FBI have developed a questionnaire to be used by a receiver in reporting fraud and other white-collar crimes to the United States Department of Justice for the purposes of initiating a criminal investigation (See Exhibit 1-3). Among the typical causes of insurer insolvency are:

- Undercapitalization;
- Uncollectible, illiquid, or inflated assets;
- Insufficient loss reserves for risks assumed;

- Misappropriation or conversion of insurer funds by management, affiliates, agents, TPAs, or others;
- Commitment to unprofitable business by uninformed or undisciplined agents;
- Collectability of reinsurance;
- Negative cash flows due to unprofitable lines of business;
- Poor underwriting;
- Unnecessarily risky investments;
- Fraudulent transactions; and
- Other forms of mismanagement.

Any indication of fidelity bonds, directors and officer's policies, error and omission policies or other indemnification coverage should be identified, segregated, and made accessible to the receiver and receivership counsel. The documents should be reviewed immediately, and carriers placed on notice to preserve the rights of the estate.

H. MOVE TO CONSOLIDATE

Consolidation of the receivership's offices and storage facilities could result in increased productivity and reduction of labor and storage costs. For that reason, an assessment of the value of maintaining the insurer's offices and storage sites should be made in the early days of the receivership. Consolidation of the books and records should take place only after: 1) an inventory is completed; 2) the receiver has considered the impact upon the insurer's ability to handle claims in an orderly and efficient manner; and 3) the receiver has considered the potential impact upon the insurer's relations with any existing agency network. If the insurer is in conservation or rehabilitation, the receiver should weigh the effect a consolidation might have upon the insurer's marketing program.

I. COORDINATION WITH ANCILLARY RECEIVERS

Any assets of an insurer in liquidation that are held by a non-domiciliary state should be returned to the domiciliary receiver of the insurer. Under §1001 of IRMA, the need for an ancillary receivership has been curtailed. IRMA allows the appointment of an ancillary conservator under limited circumstances. A domiciliary receiver is automatically vested with title to property in any state adopting IRMA, and the test of whether a state is reciprocal has been eliminated. IRMA also clarifies the procedures for handling deposits.

The NAIC models prior to IRMA permit reciprocal states to establish receiverships ancillary to the domestic state's receivership. Typically, an ancillary receivership would be established to distribute assets in the ancillary state (i.e., statutory deposits) to claimants residing in that state. However, an ancillary receivership may be established for purposes unrelated to claims handling. In certain instances, the domiciliary receiver may request that an ancillary receivership be established for a variety of reasons, e.g., to assist the domiciliary receiver in selling real property located in the ancillary state or to assist the domiciliary receiver in handling litigation pending in the ancillary state.

State statutes based upon NAIC models prior to IRMA allow or may require ancillary receiverships under certain circumstances. If an ancillary receivership is not required by statute, it should be opened only after carefully evaluating the additional administrative costs that would be incurred by the insolvent insurer. The activities of the domiciliary and ancillary receivers should be coordinated to minimize the cost of the ancillary proceedings.

Domiciliary receivers must consider the following issues, which commonly occur between the domestic and ancillary receivers:

- The security of the insurer’s assets and records;
- The security of the insurer’s out-of-state offices or storage facilities;
- Consistency and reciprocity of authority;
- Coordination of the transfer of policy/claim files to guaranty associations;
- The need for a receivers’ agreement (see discussion below regarding receivers’ agreement);
- The need for local counsel in other jurisdictions;
- The status of litigation by the ancillary receiver; and
- The method of funding and payment of approved ancillary claims.

To facilitate coordination, the ancillary receiver should request copies (certified, if available) of all domiciliary pleadings and orders, together with the names, addresses (including e-mail addresses), and phone and fax numbers of personnel in the domiciliary state.

Legal counsel for the domiciliary receiver should review the proposed ancillary petition and order as soon as they are received to assure that: 1) under the order, the rights of the ancillary receiver are subordinate to the rights of the domiciliary receiver; and 2) the ancillary receiver’s bar date is no later than the bar date established by the domiciliary receiver. Some state statutes permit ancillary receivers to establish shorter claim filing periods but prohibit claims deadlines that exceed those established by the domiciliary receiver.

In the event that the proposed ancillary order is not acceptable to the domiciliary receiver, the domiciliary receiver should request a revision. If the ancillary receiver refuses, the domiciliary receiver may be required to file an objection in the ancillary proceeding, asserting that the ancillary order violates the law of either or both states.

1) Receivers’ Agreement

In some situations, it may be possible to negotiate a receivers’ agreement, with the goal to consolidate functions and to clarify the authority and obligations of the domestic receiver and the ancillary receiver concerning:

- Coordinating the preparation of a jointly acceptable proof of claim form;
- Filing and processing proofs of claims;
- Funding and maintaining an account for payment of approved claims;
- Identifying and locating TPAs and MGAs licensed by the insurer in each state;
- Identifying and locating all bank and financial accounts;
- Locating outstanding claims files and arranging for shipment of files between states;
- Coordinating policy cancellation and impairment order dates;
- Collecting agents’ balances;
- Controlling director and officer litigation by the domiciliary state;
- Administering and closing out-of-state offices;
- Marshaling assets located in the ancillary receiver’s jurisdiction;

- Determining the disposition of assets collected by the ancillary receiver;
- Controlling and securing information (e.g., claim files, policy files, premium volume in the ancillary state, etc.) that is essential for the orderly administration of the estate; and
- Coordinating the oversight of the insurer’s out-of-state litigation.

2) Claims Handling

When there is no ancillary receivership, citizens of non-reciprocal states should file their claims in the domiciliary state. Some pre-IRMA state statutes provide that a resident of an ancillary state has the right to file a claim in either the domiciliary or the ancillary proceeding. Other states leave the decision to establish a claims procedure in the ancillary state to the discretion of the ancillary receiver.

3) Ancillary Proceedings Without a Domiciliary Receiver

Ancillary receiverships are usually established only after a domiciliary receiver has been appointed. However, some states do not have the limitations imposed by IRMA and, even when no domestic receiver has been appointed, do permit the establishment of an ancillary conservatorship or liquidation, provided that the non-domestic regulator can prove one or more of the grounds required to establish a domestic receivership. Nonetheless, the ancillary receivership order operates only upon the assets found in the ancillary jurisdiction.

V. ACCOUNTING

Please refer to Chapter 3—Accounting and Financial Analysis and Chapter 4—Investigation and Asset Recovery when reviewing this section.

Upon taking control, one of the receiver’s primary responsibilities is to secure the insurer’s assets—particularly the most liquid assets, such as cash and securities. This responsibility includes identifying lines of credit, limiting, or removing access to company credit cards and preparing an inventory of all accounting records and documentation as soon as possible. The accounting area will also be responsible for financial statement analyses to determine the true status of the insurer and the continued reporting of financial information for internal decision-making processes.

A. SECURE ASSETS

Because cash and securities are liquid, the receiver must quickly identify, locate, and secure assets. The receiver should immediately notify all depositories and custodians of the receivership order, provide the new authorized signatories, and establish the procedures to be implemented for all financial transactions. Letters of credit should be identified and secured by the receiver. Once the assets are secure, the receiver will evaluate and value them.

B. INVENTORY ACCOUNTING RECORDS

As soon as practical, the receiver should identify and secure the on-site and off-site books, records, systems, and documents necessary to maintain and review the accounting functions of the insurer and to determine the actual financial condition of the insurer. These should include most recent insurance department examination workpapers if allowed under state law and CPA audit workpapers.

C. INVESTIGATION OF INSURER’S FINANCIAL STATEMENTS

The receiver should develop an understanding of the accounting organization, including evaluation of the staff. Flowcharts and narratives of the accounting procedures should be obtained or completed with particular attention to the areas of cash receipts and cash disbursements focusing on decision points and internal controls. To the extent procedures need to be modified to protect the assets, new procedures should be put in place as quickly as possible. From the information developed here, the receiver should begin to investigate the make-up of the balance sheet line items, validate the existence of the assets, and value them.

D. FINANCIAL REPORTS

Accounting and financial reporting by the insurer will continue to be necessary and important. Financial reports will be required by the receivership court, and cash flow and budget information will be essential for the day-to-day operations of the receivership. Continued filing of the various types of tax forms is mandatory (although some may be eliminated) during the existence of the estate. Additionally, the continued reporting of paid claim information for reinsurance billing and actuarial reserving will also be crucial.

At the beginning of the receivership, the appropriate parties should determine the type of information to be reported to various entities, the frequency of the reporting and the formats the information should take.

VI. INFORMATION SYSTEMS AND TECHNOLOGY

Please refer to Chapter 2—Information Systems when reviewing this section.

This section highlights the activities that should take place for a receiver to understand and take control of the insurer's systems. To the extent possible, the receiver should not allow anyone access to the insurer's computer system until a complete backup of the system is complete. It is not uncommon for the insurer's computer systems to be intertwined with that of its affiliates; therefore, legal consultation is advised prior to taking any action that may impact the affiliates' operations.

Detailed tasks are listed in the checklist included in the exhibits at the end of this chapter.

A. EVALUATING HARDWARE/SOFTWARE

For any hardware/software owned by the insurer, the receiver should determine whether to maintain it or sell it. Prior to the sale of any equipment, the receiver should determine if that equipment is required to support any ongoing or contemplated litigation. A sale may require court approval.

B. SYSTEM SHUT DOWN

The receiver should arrange for the orderly shutdown of the computer system. Prior to shut down, the receiver should ensure that all records have been updated and all final reports have been run. It is suggested that a data processing checklist of all reports and programs to be run be completed prior to the shutdown period.

With all data updated, the receiver should make certain the information systems department performs a full system backup prior to the clearing of all files on the system. Once completed, the system may be powered down.

VII. CLAIM OPERATIONS**A. TAKE CONTROL OF CLAIM PROCESSING AND PAYMENT**

A receiver should plan to put in place appropriate controls over claim processing and payment authority of the insurer's claim department and establish the capability to control and review the insurer's claim records. Claim records may be contained in hard copy files, electronic records, or a combination of both, and may be under the control of the insurer's claim department at its main office, branch offices, or by a TPA.

Some of the initial goals in establishing control may include a review of claim policy and procedure manuals, the coverage confirmation process, claim reserving methodology, settlement practices, and applicable electronic claim processing systems. If written documentation of the insurer's claim policies and procedures does not exist, a receiver may wish to interview key claim personnel to develop and document claim processing procedures.

For Health receiverships additional considerations include prior authorization requirements, capitated arrangements and referrals, and outside claims handling by PBM mental health and or durable

medical equipment]

B. DEVELOP AN UNDERSTANDING OF CLAIM OPERATIONS

A receiver needs to understand the operations of the claim department, including its organization and workflow, processing systems and data, type, and nature of claims, and gather key information on the number of pending claims and outstanding reserves by category of business.

C. REVIEW OF CLAIM HANDLING

A receiver may wish to review the claim handling process by obtaining or preparing an overview of the typical workflow for processing a claim. This workflow might include a summary of all key interactions between claim personnel and other departments. If workflows vary by claim type and product line, the preparation of a separate workflow summary for each product line may be necessary.

The receiver should determine whether the insurer uses an active diary system for claims. Such a system monitors the claim handling process and records the dates of each step in the process. As part of the claim diary system investigation, obtain an overview of the diary functions, including the relationship between the manual and the electronic elements of the processing system.

With a basic understanding of claim handling policy and procedures, a receiver may wish to determine whether there are any constrictions in the claim resolution process such as:

- Setup of new claims;
- Correspondence files;
- Claim diaries;
- Indemnity payments;
- Loss adjustment expense payments;
- The handling of insurance department complaints;
- Reinsurer claim inquiry;
- Reporting to reinsurers;
- Subrogation and salvage recovery; or
- Inventory of unprocessed claims including those claims not yet entered on the claims system.

D. REVIEW OUTSIDE INVOLVEMENT IN CLAIM HANDLING

In addition to TPAs, several other types of outside parties may participate in claim handling, e.g., legal counsel, independent adjusters, appraisers, investigators, etc. A receiver should review these roles and determine whether to confirm or reject contracts with such vendors.

E. CLAIMS HANDLING IN CONSERVATION/REHABILITATION

Depending upon the insurer's financial position and liquidity, circumstances may require a receiver to impose a moratorium on the continued ordinary payment of claims, defense of insureds, cash surrenders, policy loans or dividends. In such circumstances, consideration may be given to hardship exceptions for claims that meet certain established criteria for continued payment or partial payment, such as claim category or payment percentage. Hardship exceptions to a claim payment moratorium should be approved by the supervising court and based on exigent circumstances such as disability of an employee or policyholder, the impoundment of an automobile undergoing repairs, or the future availability of guaranty association coverage.

For detailed information on how to handle claims in a liquidation, see Chapter 5—Claims.

F. UNIFORM DATA STANDARDS

In December 1993, the NAIC adopted the Uniform Data Standards (UDS) for use in reporting policy and claim information between property and casualty guaranty associations and receivers for property and casualty receivership estates. UDS is a defined series of electronic data file formats that facilitate data exchange between receivers and guaranty associations related to the insurer's unearned premium, claims, and loss adjustment expense. The UDS Operations Manual provides an explanation of the current reporting format. A copy of the Uniform Data Standards Operations Manual P&C ("Claims Manual") can be downloaded from the National Conference of Insurance Guaranty Funds website (ncigf.org) for free.

Refer to Chapter 2—Information Systems and Chapter 6—Guaranty Funds for further information on UDS.

VIII. REINSURANCE

Please refer to Chapter 7 - Reinsurance when reviewing this section.

Understanding reinsurance is critical to the receiver's ability to marshal this asset. With respect to property/casualty insurers, reinsurance receivables usually represent the largest asset of the estate. With respect to life insurers, reinsurance may be critical to the rehabilitation or liquidation proceeding, and generally all ceded reinsurance agreements should be continued. See §612 of IRMA and Section 8(N) of the Life and Health Insurance Guaranty Association Model Act. This asset may require immediate attention upon commencement of the receivership.

A. LOCATION OF REINSURANCE DOCUMENTS

Before the receiver can begin to marshal reinsurance receivables, it is necessary to understand the reinsurance relationships of the insurer. To accomplish this, the receiver must first locate and categorize the various documents reflecting the reinsurance arrangements of the insurer. The receiver should take control of original reinsurance contract documents. These records should be secured, copied, or scanned and then inventoried. The receiver may create working copies for use during the receivership. The integrity of the original records should be maintained in the event they are needed in the future.

B. LETTERS OF CREDIT AND TRUST AGREEMENTS

Letters of credit (LOC) and trust agreements must be located and placed in a secure area. These documents should be reviewed as soon as possible to determine whether any immediate action is necessary to ensure the continuation of the LOC or trust agreement. Under certain forms of letters of credit, the LOC may expire by its own terms, although it is more common that they renew automatically. In some instances, the original LOC must be presented to the issuing financial institution to draw against the letter of credit.

C. ROLE OF INTERMEDIARIES

It may be in the best interests of the receivership to continue working with intermediaries. The intermediary has at its disposal detailed information that the receiver may not have. The intermediary should be notified of the insolvency proceedings immediately and instructed as soon as possible on duties and responsibilities it should continue to perform for the receiver.

The duties of the intermediary need to be clarified. The receiver may decide to instruct the intermediary to take one or more of the following actions:

- Advise all reinsurers or cedents of the status of the insolvent insurer;
- Turn over all funds in their possession due the insurer;
- Turn over original LOCs;

- Continue to render accounts to receivers and reinsurers;
- Assist in the collection of funds from reinsurers;
- Transmit claims and other notices to the receiver and the reinsurers;
- Establish procedures for the handling of reinsurance inquiries; and
- Cease netting of accounts among insurers.

Under certain circumstances, the receiver may find it preferable to discontinue the use of the intermediary. In this event, the receiver should deal directly with the reinsurers, with appropriate notice to the intermediary.

D. IDENTIFICATION OF FUNDS HELD

The receiver should prepare a list of insurers that are holding funds of the insolvent insurer, as well as a list of insurers for which the insolvent insurer is holding funds.

E. PAYMENTS TO REINSURERS

One of the key issues facing the receiver in the short term is whether to continue to pay reinsurers on a current basis and/or cure prior defaults. This may be necessary to continue the reinsurance in effect, particularly if there have been pre-receivership defaults. This is a legally intensive problem, and the receiver needs to engage legal counsel on these matters as soon as possible. The decision will depend on an array of factors, including the terms of the reinsurance agreements, applicable state law, and the payment status of the contract.

IX. HUMAN RESOURCES

A. OPEN LINES OF COMMUNICATION

The commencement of a receivership can be difficult for an insurer's employees. Many employees are not aware of the circumstances that have led to the receivership. Productivity and employee morale often decline. Meetings with employees at the commencement to explain the receivership process as well as the receiver's current objectives can be very important. Establishing an open dialogue and clear lines of communication will minimize the spread of misinformation and can mitigate untimely staff departures.

B. PERSONNEL, PAYROLL AND BENEFITS

It is important that a receiver assume oversight of an insurer's direct employees, payroll, and employee benefits with minimal disruption to existing processes. A receiver may also need to assume oversight of pension or 401(k) plans, over time, establish new benefit programs for direct employees, and consider whether to continue, replace, and wind-down existing employee benefit programs. A summary of the critical human resource tasks is contained in the checklists included in the exhibits at the end of this chapter.

Employees may be employed by an affiliate or holding company, rather than as direct employees of the insurer. In such cases, a receiver will need to review existing cost-sharing arrangements or contracts for reimbursement with the affiliate. In such instances, a receiver typically would not have direct responsibility for the employee benefit programs pertaining such employees.

C. STAFFING PLAN

One of the receiver's responsibilities will be to develop a staffing plan for the receivership that identifies both short- and long-term personnel requirements. A receiver may wish to develop an organizational chart, comprehensive job descriptions, and personnel files for receivership staff. As responsibilities and job functions may change during the receivership process, including transitions from conservation, rehabilitation, and liquidation, a receiver may be required to periodically assess and update the receivership staffing plan.

D. LEGACY STAFF RETENTION

Legacy staff can be well positioned to provide a receiver with institutional and operational knowledge that will benefit the future operations of a receivership estate. A receiver may accordingly wish to look to legacy staff to augment the short- and long-term receivership staffing plan. Staff resignations and reductions in force are typical during a receivership as certain operations begin to wind-down and the insurer is no longer perceived to be a going concern. A receiver's staffing plan may also include the retention of certain legacy employees until their requisite knowledge and expertise are no longer necessary for the operation of the receivership estate. In such instances, retention incentives may be required to achieve the receiver's staffing objectives. Retention incentives may include one or more of the following:

- Maintenance or adjustment of existing benefits, including severance;
- Performance and salary review process;
- Retention bonuses;
- Educational or tuition reimbursement; and
- Providing outplacement services.

E. OTHER PERSONNEL ISSUES

The receiver should identify any personnel related litigation and other disputes to include equal employment opportunity complaints, workers' compensation claims and wage and hour complaints, etc. These matters should be managed by the receiver's personnel consultants and/or legal counsel.

X. CLOSURE OF THE ESTATE

Please refer to Chapter 10 – Closing Estates when reviewing this section.

The best time to start planning for closure is at the start of the receivership. Since the receivership process may take several years, the receiver may wish to prepare a closure task list or checklist. A partial list can usually be developed through a review of the receivership statute of the domiciliary state. The following are some of the general tasks that should be accomplished before a liquidation estate can be closed:

- All assets have been marshaled;
- Litigation has been resolved;
- Ancillary proceedings have been closed or resolved to a point that will not impede closure of the domiciliary receivership;
- Guaranty association claims against the estate are finalized to the extent that a final distribution can be made to the associations;
- All claims have been allowed or disallowed by the supervising court;
- Appropriate distributions have been made to creditors;
- Where appropriate, the dissolution of the corporate entity has been resolved; and
- Final tax returns have been prepared and filed with the federal government and financial settlements prepared as required.

A. GUARANTY ASSOCIATIONS

The claims of guaranty associations may not be completely certain at the time non-guaranty-association-covered claims (including contested claims) are adjudicated by the liquidator. The covered

claims that the guaranty associations handle are subject to a number of variables. Prior to making a final distribution, the liquidator may, where appropriate, consider policy reserve calculations as a basis for valuing guaranty association policy level claims (e.g., through the use of present value method). If early access payments were excessive, overages will have to be returned prior to processing the final distribution.

For a discussion of guaranty associations, see Chapter 6—Guaranty Associations.

B. ANCILLARY RECEIVERSHIPS

Closure of an ancillary receivership is generally less complicated than closing a domiciliary proceeding. Ancillary receiverships should be closed before the domiciliary receivership begins closure proceedings. Some state statutes provide that special deposits are established for the benefit of the policyholders in that state, who will either be paid in full or will share *pro rata* in the special deposit. If excess special deposit assets exist, the excess should be returned to the domiciliary receiver for distribution to the creditors.

Distributions to ancillary special deposit claimants are subject to the rule that all claims at that priority level share at the same percentage to the extent possible. If distributions in the ancillary proceeding will be made beyond the policyholder claimant level, the domiciliary liquidator should arrange for the excess unpaid portion of the ancillary special deposit funds to be returned to the domiciliary estate.

C. TAX RETURNS

When the receivership is required to file tax returns, scheduling the filing of the final return may be difficult. The filing of the final return will follow the application and order for closure. Counsel and tax advisors should be consulted to determine the best method for handling the filing of a final return for a particular receivership. The timing of the dissolution of the entity should be carefully considered because valuable tax attributes may be lost.

See Chapter 3, Section VIII for further discussion.

D. FINAL ACCOUNTING MATTERS

1) Adjusting and Closing Entries

Timing adjusting and closing entries with regard to the final report can be difficult. Generally, the liquidator will want to have the accounting books closed prior to the issuance of the final report and the filing of an application for closure with the supervising court. But there usually will be some accounting activity that must take place after either the final report or closure order.

During the early phases of the receivership, efforts are centered on determining what the assets and liabilities of the insurer were on the liquidation date. After the liquidator has written off any uncollectible assets, marshaled all the available assets, and distributed all the monies that can be paid, there may remain assets to be written off and unpaid claims as unsatisfied liabilities. Provision should be made for dealing with outstanding checks, escheat funds and post-closure recoveries that do not justify reopening the estate.

2) Reserving Final Expenses

Expenses may be incurred after the closure order has been issued; therefore, funds may need to be reserved for administrative expenses. These expenses may include final lease payments; employee withholding and taxes; storage charges; transportation charges; final tax preparation; bank charges; legal, accounting and data processing consulting expenses; postage; court costs; and salaries. In preparation for closure, it is necessary to have all administrative expenses current.

E. ABANDONED ASSETS AND CAUSES OF ACTION

There may be both assets and causes of action that may not be cost-beneficial for the liquidator to pursue. Since the duties of the liquidator include marshaling the assets and liquidating them for the benefit of the creditors of the insolvent insurer, it is advisable for the liquidator to obtain court approval of any decisions regarding abandonment. The liquidator may also wish to consider negotiating with guaranty

associations for the transfer of assets and causes of action to the guaranty associations as distributions in kind, potentially reducing their claims against the state.

F. FINAL REPORTS AND APPLICATIONS OR MOTIONS

A final report on the liquidation must be made to the supervising court. This final report may be filed before, after or with the application or motion for closure of the estate. (*See Chapter 9—Legal Considerations.*) Prior to closure, there may be a need to have the supervising court approve, to the extent it has not already done so, the following actions:

- Expenditures;
- Reserves set for final and post-closure expenses;
- Amounts to be paid in final distribution to creditors;
- Arrangements for destruction or storage of records;
- Valuation of any distributions of assets-in-kind to any claimants; or
- Any other significant transactions or procedures.

G. FINAL CLAIMS MATTERS

1) Final Distribution

The final distribution percentage is calculated by dividing the assets available for distribution by the amounts allowed for claims filed and approved by the supervising court. The receiver must reserve sufficiently for administrative expenses that may be incurred after the distribution has been made.

There may have been interim distributions from the estate that will need to be considered when calculating the distribution percentage applicable to the final distribution. Also, early access payments made to guaranty associations should, by order of the supervising court, be treated as distributions and taken into account when the final distribution is made. If there is a need to have guaranty associations return any portion of the early access payments, it must be identified when the receiver starts calculating the final distribution percentages.

2) Former Insureds with Unsettled Litigation

Ongoing litigation of non-guaranty-association-covered claims may impede closure of an estate. Some states provide that the insured's claims can only be paid based on the lower of: (1) the recommended and allowed amount assigned to the claim; or (2) the amount established in the underlying claim against the insured. This may require that the receiver waits for all claims against former insureds be settled or barred before making final distributions and moving the estate to closure.

3) Reducing Reserves or Recorded Allowances on Claims

After a distribution has been made, the record of allowed claims may need to be adjusted for tax purposes or to enable additional distributions to be made.

4) Unclaimed Dividends and Escheated Funds

The receiver may not be able to locate all claimants. Also, there are claimants who will refuse to accept their liquidation distribution because they are involved in litigation and believe that accepting payment would prejudice their case. State statutes may require special treatment of funds related to unclaimed distributions. Further, after a certain time period, funds held for unclaimed distributions will escheat to the treasury of the domiciliary state. (*See Chapter 9—Legal Considerations, Section III.*)

H. CLOSING THE OFFICE

After all the records have been either destroyed or sent to the appropriate archives, any separate office maintained for the liquidation will need to be closed. One of the items related to closing the office may be cancellation of any remaining lease term and insurance coverage on staff, equipment, and the office space itself. In many cases during a liquidation, the office will have been closed early in the receivership process to reduce expenses.

I. POST CLOSURE MATTERS

There may be inquiries for records and information made by former agents, insureds, and other interested parties after the closure of the estate. Usually, these will be referred to the domiciliary insurance department, and basic insurer information may be posted on the domiciliary insurance department's website. If the request is for pre-insolvency financial data, the request will probably be handled by the department. Arrangements should be made to brief someone on the permanent receivership staff or in another division within the department of insurance so that post-closure questions can be answered.

J. POTENTIAL REOPENING OF ESTATE

Some statutes provide for the reopening of an estate upon the occurrence of certain events. For example, assets not previously discovered or written off may become available, making an additional distribution possible. However, a careful analysis should be made to determine whether an additional distribution would be cost-effective.

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*Chapter 2 – Information Systems***I. INTRODUCTION****A. Information Systems – Requirements and Considerations**

The management of an insurance company in receivership is, to a great extent, the management of information. To successfully perform receivership functions and fulfill all obligations and responsibilities, the receiver must effectively utilize system resources.

The nature of the receivership, conservation, rehabilitation or liquidation will affect systems requirements. The type of business written by the insurer, whether Life, Annuity, Accident & Health, Property, Casualty, Liability, Surety, Title, Workers' Compensation or other lines, will also affect systems requirements for the receiver. Systems needs, and the timing of those needs, will be different in a conservation or rehabilitation process than in a liquidation process.

Because of the importance of securing the data of any company subject to a receivership, immediate attention must be given to obtaining a backup of the data, and consideration given to obtaining a complete backup of the systems.

In all conservation and rehabilitation efforts, the immediate focus is ongoing insurance company operations and the changes necessary to help ensure the viability of the company. A priority focus will be on analysis and management of information to support decision-makers. Realizing potential opportunities such as mergers, divestitures and loss portfolio transfers will require considerable information on all aspects of the business. Throughout the conservation or rehabilitation process, it is necessary to continually consider potential future requirements, such as release of the company to existing management, transferal to new owners (of the insurance business or the entire company) or transition to liquidation. In doing this, the receiver will need to look ahead to what systems requirements may be needed for other contingencies and make arrangements so they are in place when needed.

Liquidation processes will require a focus on timely conclusion of normal operations and an accurate final statement of assets and liabilities. Systems support will be required for estate liquidation processes, including interfaces with guaranty associations, management of claims against the estate, recovery of all receivables, pursuit of causes of action to benefit the estate, and disposition of physical assets. Compliance with all legally required processes and documentation to support compliance are crucial.

B. Overview

The chapter has been divided into the following parts:

- Taking Control
- System Management and Control
- Information System Deliverables
- Implementation

These sections are in the order that anticipated issues may arise during the receivership process. Insurers will vary in size and degree of system sophistication. Each insurer will present varied problems and issues dependent on the situation. In general, companies going into receivership have often neglected internal controls which may have resulted in many control issues related to the company, its systems, and completeness and accuracy of its data. The guidelines, considerations and checklists provided herein are very broad in nature. Management judgment will best determine the appropriate degree of applicability or whether alternate processes are required.

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Generally, though, the receiver will first have to gain full control over the systems. Then the receiver can develop a more in-depth knowledge of processes to determine the best manner to meet the needs of the receivership.

This chapter provides suggestions and guidelines as to management of systems, issues resolution and problem avoidance in support of receiverships. While this chapter is intended to be as comprehensive as possible, it is not all-inclusive. Other methodologies may be employed to achieve the same goals in a satisfactory manner, and issues not addressed here may arise. In every receivership, no matter the size or characteristics, the receiver must exercise judgment beyond that which can be given by texts and checklists. Still, the materials provided here should assist in the exercise of that judgment.

This chapter focuses on issues primarily related to automated information systems. When considering the scope of information systems, however, it is important to apply a holistic perspective that considers systems as being made up of processes and procedures—both automated and manual, including human judgment—in performing tasks.

Other chapters of this handbook, specifically the accounting, claims and reinsurance chapters, address many issues related to information and manual processes. Information systems are an integral part of the operations of an insurance company and any receivership. However, not every system need must be met with a fully automated solution. Costs and benefits must be carefully analyzed.

There are detailed information systems checklists in Chapter 1 that should be consulted in advance if possible and then throughout the receivership process.

II. TAKING CONTROL

This section covers the activities necessary for a receiver to take control of an insurer's information systems in an effective manner. Generally, the checklists provided address a worst-case scenario: an information systems department that lacked control, where many key people have departed, and where documentation is incomplete, inaccurate or non-existent. The checklists should be completed for documentation purposes, noting those areas of the checklist that do not require action.

A. Assurance of Data Maintenance and Availability

The insurer's data will be in records and files stored within the computing infrastructure. It is important for the receiver to determine location, purpose, structure and content of data files related to all business applications. Given the complex and detailed nature of this information within the context of a contemporary liquidation as well as the security concerns that have increased significantly, it is desirable that the receiver have relevant background information prior to the signing of a liquidation order if possible. Ideally, this information would be shared with the affected guaranty funds in advance of liquidation. These steps will greatly enhance efficiency once liquidation is underway and result in even more dependable and timely protection of policyholders. A good starting point to gather pre-takeover information is the systems summary grid and any IT related workpapers from the company's most recent financial examination. Reviewing this information in advance of takeover will give the receiver a head-start for what to expect. It is essential that the receiver's information systems personnel work with the other departments within the insurer to assure that all the available information has been captured and can be retrieved and reviewed at a later date. All system storage devices, including database servers, Web servers, file servers, application servers and related storage media should be reviewed as sources of company information. End-user computing (EUC), such as spreadsheets, databases, etc., that are maintained by business departments should also be considered. EUC applications can easily fall through the cracks if there is no central repository of the EUC applications and there is turnover of personnel who maintain the EUC.

Regardless of system ownership issues, it should be the practice to immediately back up all available data on all systems. Where possible, employee workstations, including laptops, should be backed up as well.

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At a minimum, key employee workstations and laptops as determined by receivership management should be backed up.

For each major application, the receiver should obtain the following information:

- Name of application program;
- Vendor contact information, if applicable;
- Vendor contracts
- Sources of data (automated or manual);
- References to and storage of source data;
- Complete tables of all codes used (database schema and data dictionary, when available);
- Type and frequency of processing cycles;
- Narrative descriptions, in non-technical language, of capabilities and use;
- Administration procedures, including responsibilities of staff;
- Administrative user names and passwords for the application (also, if administration is restricted to a particular workstation or terminal);
- Systems error messages and appropriate actions;
- Distribution of output reports and samples if possible;
- Usage and control of reports;
- Links to other system modules; and
- Backup procedures including storage and retention schedules

B. Security and Data Privacy

One of the highest priorities of the takeover phase of systems operation should be the review or initiation of system and data security procedures. The existing data may be the most reliable or only record of the assets and liabilities of an estate, and the need for securing this information is vital. In general, when the receiver takes control of the insurer's IT systems, access should be restricted until the receiver is confident that data cannot be altered by unauthorized parties. The receiver should identify the levels of access given to employees and any third parties for all applications and limit access as necessary. Remote access should be restricted to authorized users and only to users with encrypted laptops from trusted networks, such as corporate offices, virtual private networks (VPNs), etc.

In conducting a security review, the receiver is cautioned that relevant and important data records may reside on mainframe computers, servers, PCs, tablets, cellular phones on the systems of contractors or any combination of all of these. Historical information systems records in the form of backup tapes, which may be stored off-site, may be of equal or greater importance and should not be overlooked. The insurer may also maintain a website (see section G—Internet/Intranet/Website), which should also be included in the security review.

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One of the primary purposes of the security program is to obtain and safeguard all required data records, which entails the identification and securing of this data. Such a program should include the creation and implementation of a plan to limit access to the systems and data to those with a proven need. The program should enable the receiver to identify changes made to the system and the individual responsible for these changes. The ability to track changes to systems may be limited by the existing company software applications. The information systems checklist in Chapter 1—Takeover will provide the receiver with an overview of the most important aspects of a proper system security program.

In addition to securing the data of the company for conservation, rehabilitation or liquidation information, it is essential to ensure the secure handling of non-public personal information. Insurance companies and other financial institutions are subject to a variety of state and federal statutes and regulations regarding the protection and non-disclosure of non-public personal financial and health information. Some specific requirements are imposed by federal statutes such as the Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act, among others. Additional requirements may be found in state statutes, data security breach laws and in state insurance regulations, including those based upon the NAIC Privacy of Financial Information Regulation 2000. Ongoing compliance with applicable data privacy and security laws and regulations is essential to help further the primary goal of all insurance receiverships—the protection of insurance consumers.

Accordingly, the receiver should take steps to ensure the security and confidentiality of customer records and information; protect against any anticipated threats or hazards to the security and integrity of such records; and protect against unauthorized access to or use of such records, any of which could result in substantial harm or inconvenience to insureds or claimants.

The company may have included cyber security self-assessment or audits/ review as an integral part of its enterprise risk management program. If so, the receiver can obtain recent IT audits/ reviews such as: e-commerce areas, self-assessment and IT related reviews of significant third-party vendors. These reports could be in the form of audits/reviews (e.g. internal audit, external audit, SOC type I and II reports, or other contractor affiliate audit reviews). In the absence of a company policy that meets these criteria, it is essential that the receiver implement a data security policy and procedures suitable to the particular receivership. The procedures should be appropriate for the size, complexity and structure of the company and its data. There is guidance contained in the NAIC Receivership Data Privacy and Security Procedures for Property and Casualty Insurers in Liquidation, should address potential security threats in three areas: administrative, technical and physical.

See https://content.naic.org/cmte_e_receivership.htm for this document and other helpful receivership tools, such as the NAIC receivership Data Privacy and Security Procedures policy. Since staffing is often not available to write a new data security policy specific to each receivership, the NAIC's security policy and procedures document referenced above may serve as a guideline which could be edited for purposes of individual receiverships.

Administrative Safeguards

- Designate an individual who is responsible for oversight and compliance with security procedures.
- Publish a written policy statement setting forth the company's (receiver's) intention to protect the confidentiality of sensitive customer data from anticipated threats or hazards. The receivers' policy should include two important components, namely incident handling and communications protocols should an incident occur. Incident handling – General and specific procedures and other requirements to ensure effective handling of incidents, including prioritization, and reported vulnerabilities. Determine if there are procedures related to handling cyber-security incidents. 2) Communications – Requirements detailing the implementation and operation of emergency and routine communications channels amongst key members of management.

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- Prepare and distribute written procedures to appropriate personnel and service providers outlining specific steps that must be followed in storage, transmission, retrieval or disposal of sensitive customer information.
- Require all employees and other users to sign an agreement to follow the data privacy and security standards.
- Evaluate potential security threats from existing staff, e.g., disgruntled employees.
- Evaluate service providers regarding the handling of sensitive customer information.
- Train and instruct employees as to their individual responsibilities regarding data privacy and security.
- Train staff to recognize potential security threats, including intentional or inadvertent downloading of malware.
- Check references and an appropriate background screening prior to retaining new staff.
- Periodically test and monitor the effectiveness of the security procedures.
- Evaluate and adjust the security procedures in light of changing circumstances.
- Use appropriate oversight or audit procedures to detect improper disclosure or theft of customer information.
- Implement procedures for notifying appropriate authorities and affected individuals if non-public personal information was subject to unauthorized access.
- Impose disciplinary measures for breaches of privacy and security rules.
- For laptops that are used outside of the office require secure network connection
- Establish a remote work policy for remote workers which includes policies for where work is to be performed with a secured network connection only and safeguards that must be in place associated with their computer and other data (paper files, etc.) used outside of the office.
- Add multi-factor authentication where possible, including email, application servers and company networks.
- Consider disabling USB ports on all company laptops and computers. if appropriate.

Technical Safeguards

- Use password-activated screensavers.
- Use strong passwords unique and independent of any personal passwords.
- Change passwords periodically.
- Prohibit posting of passwords anywhere except for a secure password manager.
- Sensitive information must be encrypted both in transit and at rest.

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- Limit or do not allow storage of sensitive information on portable devices such as laptop computers or removable drives or other storage media; if sensitive information is stored on mobile devices, it must be encrypted.
- Limit access to customer information to employees who have a business reason for seeing it.
- Store electronic customer information on a secure server that is accessible only with a password.
- Avoid storage of sensitive information on a machine with an Internet connection.
- Transmit data electronically only through secure, encrypted connections.
- Implement procedures for the prevention, detection and response to attacks, intrusions or other system failures.
- Regularly check with software or systems vendors to update security patches.
- Maintain up-to-date firewalls.
- Back up all customer information regularly.
- Ensure that former employees do not have access to any information systems.
- Ensure that remote access to all information systems is limited to authorized users.

Physical Safeguards

- Lock rooms and cabinets where sensitive data or data storage equipment is kept.
- Ensure the area where data storage equipment is kept is well ventilated, is capable of maintaining an appropriate temperature for the equipment is free from water hazards and is not visible through a window to the outside the office.
- Allow access to information storage areas only to those individuals with a need for access.
- Require employees to secure sensitive information in their work areas whenever they are not present.
- Dispose of sensitive information in a secure manner.
 - Hire or designate a records retention manager to supervise the disposal of records containing non-public personal information.
 - Shred sensitive information recorded on paper.
 - Destroy or effectively erase all data when disposing of computers, diskettes, magnetic tapes, hard drives, copy machines, fax machines, flash drives, or other storage media containing sensitive information.
- Ensure that storage areas are protected against physical hazards such as fire, flood or physical intrusion.
- Maintain a current inventory of all computer equipment.

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- Collect keys, computer equipment and other storage devices from employees and disable employee access to company systems prior to termination.
- Develop a computer disposal policy/procedure which includes a strategy for the maintenance and tracking of hard drives.

C. Systems Processes for Conservation, Rehabilitation and Liquidation

Systems emphasis for a conservation or rehabilitation effort typically focuses on timely and accurate processing, resolution of issues and providing information for management. The additional considerations regarding liquidations outlined below may apply in some conservations or rehabilitations.

In a liquidation action, beyond timely processing and termination of operations, there are additional considerations related to accurate identification and valuation of all assets and liabilities of the insurer:

- Liquidation notices and proof of claim processes;
- Policy cancellation and/or non-renewal notices;
- Unearned or return premium calculation;
- Agents' balances calculation and collection;
- Unearned commission calculation and collection;
- Policyholder contract assessment calculations, where applicable;
- Reinsurance recoverable tracking and collection;
- Transmission of claims data between guaranty associations and receivers See Section IV. M. in this chapter for unique standards such as UDS and others that apply to the different types of insurers.
- Salvage and subrogation accounting and collections;
- Inventory and liquidation of physical assets; and
- Transmission of policyholder records and data to assuming insurer for life and health insurer receiverships.

Some systems will have built-in capabilities for creation of the above items, others may not and an extract from the system may need to be taken and manipulated to achieve desired results. Also, when using Company data to create reports, it is important to discuss the completeness and accuracy of the data with company staff since often companies in receivership may have issues where systems are not working properly or other reasons why it is known that the data on the system may not be complete and accurate.

D. Staff

Assuming control of the insurer's information systems is critical to a successful receivership. Gaining control of the information systems usually will be most cost-effectively accomplished through use of the existing staff. Since it is important to gain control of these areas at the onset of the takeover process, it is best to assess the staff at the inception of the receivership to determine how they can assist in the receivership process. In some cases, a plan may need to be devised to provide information systems personnel with incentives to continue their employment as the receiver requires. Even so, it is often

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difficult to retain IT personnel, so it is important to perform as much knowledge transfer as possible at the onset of a receivership.

After assessing the experience, potential contribution, commitment and cost of the staff in the context of the goals of the receivership, the receiver may choose to reduce staff. The allegiance of the systems staff, as with other functional areas, may be questionable, and the possibility of sabotage exists. Sabotage of information systems is hard to detect and may be extremely expensive to repair. Because of the potential exposure to loss of critical data, the systems staffing decisions should be made quickly and decisively. Where possible, restrict full access to any systems, equipment or work areas until staffing decisions have been made and implemented.

E. Hardware

In taking control of systems operations, frequently the first concern of the receiver is to inventory and secure the hardware. The hardware may be owned, leased or shared, and arrangements should be made for continued use to the extent the receiver finds necessary to maintain continuity, especially at the onset of the receivership. The receiver will also want to identify collateral equipment located at branch operations, the homes of employees, related entities, storage facilities, other insurers and agencies. All equipment should be inventoried, including all types of portable computers, tablets, cellular phones, and communication equipment.

Contingency plans may need to be developed in case the receiver must cease use of the systems in order to liquidate components.

Maintenance of the hardware should be done on schedule, and the environment should be maintained to prevent loss of data or system outage.

The configuration of the hardware should be specifically identified and cataloged. The computing hardware environment may be made up of a combination of mainframes, mid-size computers, client servers and PC-networked equipment.

For mainframe or mid-size computers, the most important components of their configuration will be:

- CPUs (central processing units);
- Data storage devices;
- Printer(s);
- Tape drives;
- Terminals;
- Data communications equipment; and
- Any other peripheral devices.

Similarly, all PC-network configurations should be identified and may include:

- Network servers, firewalls, intrusion detection devices, routers, switches, etc.;
- Mail servers;
- Web servers;

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- Imaging servers;
- PCs and laptops;
 - Make and model
 - Internal storage devices
 - RAM
 - Clock speed
- External storage devices;
- Printer(s);
- Keyboards and other input devices, e.g., scanners, microphones and pointing devices such as a mouse, track ball, touch pad or other sensor;
- Monitor(s);
- Any LAN-connected devices (high-performance cables, terminals, file servers, printers, modems, etc.);
- Data communication equipment such as cell phones, tablets, and any other internet connected devices; and
- UPS (Uninterruptible Power Sources) and generators.

F. Systems Software and Application Software

Systems software includes broad and varied types of software such as operating systems, utility systems, database management, virus protection, e-mail systems, and any other software that is not classified as business application software. These systems are typically commercially available systems that are closely related to hardware components.

Application software directly supports business functions and may be licensed, commercially available software or may be custom-developed including legacy applications developed in-house.

Taking control of the software requires a different approach than that applied to most of the other assets of the insurer. This is especially true for custom-developed software. Control of the software initially means knowledge of the software in place and its intended purpose to the insurer. For licensed software, it is necessary to have an accurate inventory of the software, to have proof of licenses and status of maintenance contracts to ensure authorized legal use, and to obtain updates from the software vendor. In the case of custom-developed software, it is necessary to identify the developer(s), whether contract or in-house, and any relationship with the insurer. It may be necessary to retain an intellectual property attorney to determine the company's rights to the software. The program source code must be physically located; whether on the company's servers or elsewhere, and rights to the source code must be determined. Succession planning information should be obtained for software developed by a sole proprietor contractor.

It will be necessary for the receiver to identify the applications that address the following functional requirements:

- Marketing and sales management;

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- Agency interface;
- Customer service;
- Claims management;
- Policy issuance and endorsement processing;
- Premium billing and accounting;
- Reinsurance;
- Policy receivables and payables;
- Cash receipts and disbursements;
- General financial management and reporting;
- Investment management;
- Data warehouse
- Word processing and publishing;
- Company Web site; and
- External interfaces and data sources.

G. Internet/Intranet/Website

Increasingly, insurers are utilizing the Web as a tool for their business and have Web-based technologies implemented. The receiver should review the company's Internet content and application processes. The receiver should also ascertain what Web services are being provided by the insurer and to the insurer by external vendors. Internet service providers should be documented and service contracts obtained and reviewed. The receiver should assume the role of Web-master or make arrangements with a third-party vendor. This may require that external Internet service providers be notified of the change and new passwords issued. Firewalls, Web servers and proxy servers, routers, and other Web- and network-related items should be reviewed for legal, data, ownership, confidentiality and security issues. Integration with the receiver's own Web usage and applications should be reviewed and considered.

If premiums are being collected over the internet the receiver should ascertain the Company is PCI compliant. PCI compliant organizations will have an annual PCI assessment. If the Company is not PCI compliant it is recommended that areas of non-compliance be mitigated or the ability to take electronic payments removed. The receiver should also understand the process for collecting electronic payments and what if any action needs to be taken by company or receiver personnel to collect and record such payments.

H. Newer Technologies

As emerging technologies become more common in the field of insurance, the receiver should be aware of newer technologies that may have been implemented by the insurer.

Imaging systems and distributed processing of underwriting, claims, collections and other operations all have special requirements that the receiver will need to address. An analysis will be needed to determine system ownership, hardware and network components used to support these implemented technologies,

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and vendor involvement in the support and maintenance of these systems. These should all be reviewed by the receiver to determine risk, cost benefit of continuation, conversion and receivership issues.

I. New Business Strategies

The receiver should ascertain system ownership and system usage issues such as leased systems, outsourced contractors or vendors performing work or services for the insurer, system availability, and security. The receiver should verify that there will be sufficient access to data and functions necessary to perform the receivership processing. The receiver should identify all the involved parties, what services, hardware and software have previously been provided, what is currently being provided and at what cost.

J. Remote Work

In 2020, the COVID-19 pandemic not only created new challenges for the administration of receiverships where activities were carried out remotely from the insurer's corporate offices, but also brought about changes in how insurance companies operate. Specifically, more insurers have allowed staff to move to remote work or hybrid (partially remote) work environments, as well as to rely more on paperless electronic records and less on (or even eliminate) hardcopy documents. This has led to the need for use of platforms that allow for secure remote access by authorized staff and enhanced data security.

A few IT considerations for the receiver, if the insurer has staff who work remotely, or if the receiver's access to on-site IT systems is limited due to a disaster, include but not limited to:

- Review the insurer's Disaster Recovery and Business Continuity Plan for remote access and maintenance of systems
- Identify and understand the critical automated systems that need to continue operating to support business functions, the persons responsible for critical systems, location and back-up systems (i.e., colocation data center).
- Review the insurer's Work-From-Home Policy to gain an understanding of the roles and responsibilities of staff working remotely
- Understand which employees have remote access to systems and/or may have company owned equipment at home (i.e. laptops, monitor, printers and office furniture)
- Understand what business systems, programs, technology, (e.g., virtual private network (VPN), phone/communication systems) that have been established for employees to work remotely and the internal controls over those systems
- Understand the insurer's cybersecurity controls and data security protocols that are in place to facilitate secure remote access to the requisite systems and data by off-site staff

III. SYSTEM MANAGEMENT AND CONTROL

The preceding section of this chapter dealt with the first task facing the receiver when taking over a distressed insurer—establishing control. This section will guide the receiver through a more detailed continuation of that process by identifying the areas of management and control.

A. Systems Operations

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The hardware, software and personnel who keep systems running make up the systems operations. In many mainframe computer operations, the users of the application software may never have seen the actual data center and its various related equipment. Systems operations are typically supported by an internal or external help desk support and network administration.

B. Input/Output Controls

Many application systems both receive and send data to and from other application systems, which can be internal, external or both. This data may be in the form of removable tapes or disks that are visible, or may be in the form of files/databases that reside on non-removable disks and are created by one application system, then later input or electronically transmitted to another application system or cloud storage. The input, output and transmission of all data should be subject to controls, which may range in form from a simple notation indicating the application name/date/time to a more complex procedure (manual or automated) that balances or validates record counts and control totals. Controls may also be part of the application program and be unseen until an error or notification prompt occurs.

The receiver should verify that these internal and external controls are in place and fully documented. After the urgent control matters have been addressed, areas where these controls might be improved will be noted through the operation of the receivership.

C. Maintenance/Updates

Some licensed software is automatically maintained and upgraded by its vendor. In many instances, the end user or owner identifies the availability of, and acquires, updates. The receiver should be aware of the availability of updates to software used by the insurer. For some mainframe and mini-computer configurations, current maintenance costs may exceed the cost of converting to a PC-based system. The inventory made of the software and its licensing is important to ensure proper maintenance and may impact business decisions regarding continued utilization of the existing system.

D. Networks

Network systems in which an on-premises file server, cloud server or central processing unit forms the hub of a network of interrelated PCs are now common. The age and adequacy of the networks should be ascertained and the availability of maintenance and updates determined. Networks may include not only the insurer, but other affiliates or holding company of the insurance company; thus, the ability to separate the network into independent components may be problematic. See also Section III.G. below regarding segregating commingled records and data.

E. System Location

The physical location and management of the computer system is also an important issue. Many computer systems are completely internal to the insurer. That is, all of the hardware and software components of the system are within the insurer's premises and control. The benefit of this is that the information systems operation is entirely dedicated to, and focused upon, the objectives of the insurer. However, this also requires that all aspects of the systems operation be managed and controlled by the receiver. To maintain and control an entirely in-house operation, it is vital that the receiver have sufficient systems staff in place. In instances where the receiver has determined that the responsibility and expense of an in-house information systems operation are not desirable, he or she may look to alternative arrangements, such as out-sourced operations.

1. Outsourced Operations / Hosted Systems

A service provider may have performed some or all of the data processing functions. The arrangements for this service may vary from hosted systems to a service provider maintaining the company's internal systems. The receiver's staff should perform an evaluation of the facilities and

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competency of the service provider. The receiver should verify that existing contracts will provide sufficient flexibility and accessibility to meet the receiver's needs; new contracts may need to be executed.

2. Shared System

The insurer may share data processing systems with affiliates or other companies, or have its data is hosted and handled by a third party. The receiver should ascertain to what extent the system will be available and whether confidentiality will be compromised. The legal issues arising with shared systems should be carefully considered. In the event that the receiver determines that a shared system is not adequate for the receivership's needs, a plan will need to be developed to migrate the insurance company data to another system or dedicated cloud under the control of the receiver or a host company that is independently contracted with the receiver. The receiver may wish to retain an independent consultant to assist with the migration. See also Section III.G. below regarding segregating commingled records and data. See Chapter 9, Section VII for discussion of legal issues relating to information systems and data processing.

3. Affiliate Functions

Some information systems functions may be performed internally, while others are performed by affiliates. Again, the receiver should verify that there will be sufficient access to data and functions necessary to the receivership proceeding. The receiver should also review the cost of any services provided by affiliates. See also Section III.G. below regarding segregating commingled records and data.

F. System Ownership

Systems may be owned outright by the insurer, leased from a third party, leased from an affiliate or provided by a vendor on a fee-for-service basis. Further, various combinations of these possessory interests can exist. However, regardless of the ownership of the systems, the records and data of the insurer held by an affiliate are and remain the property of the insurer and are subject to control of the insurer.

In most straightforward ownership situations, the insurer owns the hardware and software, and the insurer's employees maintain the systems. Possibly the most difficult situations to unravel are where: 1) a related party owns the hardware and leased it to the insurer; 2) another party developed the software and leased it to the insurer; and 3) the staff who operated the systems are on another entity's payroll.

The insurer may own, lease or have borrowed its software from a third party. The ownership of the software should be determined, as ownership affects the receiver's rights to use the software. A contractor may be able to provide services using certain software, but the receiver may not directly use the same software. That is, software licenses may not be assignable to the receiver. Where this is the case, the receiver may have to purchase its own license or use an information systems contractor.

The receiver should identify the service providers, the services performed, hardware and software provided, and all of the applicable costs. The receiver should also arrange for temporary continuation of the information systems services that are critical to the continued operation of the insurer (in a conservation or rehabilitation) or to protect the estate. Whatever the system ownership situation, it should be a practice to immediately back up all available data on all systems, including all active PCs.

G. Conversion

It may be desirable or necessary to relocate the insurer's systems operations or physical servers to a new facility; therefore, the ability to relocate the existing servers or systems should be ascertained. If determined necessary but are unable to relocate, recreation, cloning or converting data to a new system

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into the receiver's environment may be a possibility. The receiver should determine the cost of and ability to create a clone prior to implementing a plan to relocate an office. Sufficient planning and testing by the receiver should be undertaken prior to any decision to move, migrate, clone and/or convert company data.

H. Common Systems Applications

The insurer or estate can put information systems to many uses. The most common are listed below. In each instance, the receiver should ascertain the adequacy of the system and the need to update or enhance it for the tasks that will be unique to the receivership.

1. General Ledger and Accounting Books

The accounting and reporting functions of the insurer or receivership are frequently handled through the information systems. The books of the insurer may not be books at all but rather entries recorded in the information systems. Chapter 3—Accounting and Financial Analysis specifically notes the types of records that may be kept electronically. The subledgers, cash receipts and disbursements records, registers, journals, claims, reinsurance, and Tax records may all be computerized. The related software system may be designed so that all of these records are integrated. Common source documentation for related records may be stored once and linked to each of the related records, cutting down on unnecessary duplication. That is, data is only entered once, and each subsystem can access that data without manual intervention. The receiver should be aware of how the system is integrated and where manual intervention can occur and be cognizant of linked data if attempting to bifurcate or move only a subset of the existing data.

2. Claims

The claims records will likely be kept in an information system to accommodate reporting, statistics and control of the claims process. (See Chapter 5—Claims.) In a conservation or rehabilitation, control in this area is critical and systems support is vital.

In a liquidation, the claims information system is usually a key component to the notice process and may be critical to the adjudication of claims. Where the insurer has an automated claims system, data will most likely need to be extracted and imported into the receiver's claims administration system to facilitate the proof of claims process, communication with the guaranty associations and reinsurance recoveries. Where the receiver elects to use the company's existing system to process estate claims, it will need to be modified to accommodate several new data elements, including, but not limited to, proof of claim numbers, priority classifications, types of claims (third party, guaranty fund, etc.) and Uniform Data Standard (UDS) conversion when transmitting claims data to property and casualty guaranty associations. (See Chapter 2, Section IV. M. -- Liquidation Considerations.)

3. Accounts Current

Some insurers will have systematic tracking of their agents' accounts. In a conservation or rehabilitation, prompt and efficient accounting to agents can improve cash flow. The receiver may need to evaluate blocks of business for retention or disposal. The information from the accounts current can be used to help make this determination.

Detailed electronic records of agents' balances for premium, commissions, collections, endorsements, cancellations and remittances can be extremely useful in a liquidation to determine the fixed rights and liabilities of the managing and producing agents. Collecting monies due the estate from agents is dependent on the availability of sound data supporting the amounts due.

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4. Premium Financing

The receiver should examine this area for the same reasons as Accounts Current. The receiver should look for affiliate companies that use or share the insurer's information systems for premium financing. For reconciliation and UDS purposes.

5. Marketing

Marketing functions may be important in a conservation or rehabilitation, but in liquidation, there generally is no ongoing marketing function. This is not to say that the marketing database and records should be discarded. These records can be useful in determining what caused the insurer's financial distress. Further, the files and reports related to the marketing function usually are closely related to the agents' files and reports and the account current systems.

6. Investments

Information regarding the insurers' investments most likely will be found on a PC or internal drive in the accounting or executive offices. The receiver's staff should check to determine if backups or subsidiary systems exist and whether subscriptions to specific services need to be continued.

7. Reinsurance

Usually, reinsurance receivables will be the largest asset of the receivership, and collection is highly dependent on reliable premium and loss information. Use of information systems in recording and tracking this information is fairly common. Depending on the level of integration of the systems, this may be part of, or at least closely connected with, the claims system or accounting system of the insurer.

Increasingly, a third-party hosted web application or system is utilized to track reinsurance receivables. Continued use of the application or system by maintaining or modifying existing contractual relationships with third-party vendors may be utilized. Alternatively, an attempt to clone or recreate the system within the receiver's environment may be viable options.

8. Email

Virtually every insurer uses an industry standard email system. Emails are important company records that must be preserved. In addition to performing a backup of the email server at the start of the receivership, it is also good practice to extract individual email boxes of key employees at that time as well. Consideration should be given to periodically backing-up these files throughout the receivership to insure preservation of communications. Email backup restoration often requires the use of outsource computer forensic experts. Extracting email boxes in readable format at the outset of a receivership will save costs down the road should email records be required for litigation purposes.

If the insurer is part of an affiliate insurance group or pool which includes employee e-mail correspondence pertaining to other insurance companies that are not entering into receivership, the receiver may need to execute a confidentiality agreement with the surviving entity(s) in order to obtain the troubled insurance company's electronic correspondence.

9. Large Deductibles

Large deductible recoverables can be a large asset of the receivership, and, like reinsurance, collection is highly dependent on reliable policy and loss information. Use of information systems in recording and tracking this information is fairly common. As with reinsurance, this system may be a part of, or at least closely connected with, the accounting or claims systems, or information may be tracked in a separate application or system.¹⁰ Other

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There may be other information systems, including PC-based calendar and tickler systems, time tracking and personnel systems, salvage and subrogation systems, imaging systems and litigation support systems on either PCs or larger computers. Further, through Web sites and online services, computers now serve as important common communication devices. The company's Web site can be used to provide and gather useful information about the company in receivership.

The receiver may need to acquire utility programs to perform such functions as restoring deleted data or backing up data in a compressed format. The administration of some receiverships can be litigation-intensive. Case management or other information systems in support of legal activities should be considered for those receiverships.

Another use of information systems that is important to note is project management. Application programs for project management are widely available and understandable to the average user. This software can be put to excellent use in identifying what needs to be done to administer the receivership in the most cost-effective manner.

Finally, the use of electronic data for all documents is becoming more common. Documents may have been scanned and the originals destroyed or kept in a manner that makes them difficult to use. In the event of liquidation, the receiver may be compelled to export these electronic documents to the receiver's systems or external hard drive for safekeeping, as they serve as the only official company records.

11. End User Computer (EUC) Applications

End user computing (EUCs) "applications" (spreadsheets, databases, etc.) are often used as part of reserving, reinsurance, investments, modeling, forecasting, and other areas. Critical "applications" may get overlooked because they often do not fall under the IT department's management and/or control structure. Rather they are managed and updated by the business unit. Companies with good internal controls will have a centralized repository of EUC or User Developed Applications, but often troubled companies do not have this information. If an "application" is critical in producing the information needed by the receiver or guaranty association, the receiver should identify the "application," ensure that change management is in place and guard against loss of institutional knowledge loss if the business unit employees are terminated (i.e., that the receiver has staff able to run the program.) The receiver will need to inquire with personnel in the Company's various business units to identify these "applications" and should create a list of the various applications. If these applications are password protected, the receiver should also obtain the password. Before using these "applications" to make receivership decisions, the receiver should review the application to determine its accuracy, for example, checking formulas in an Excel spreadsheet.

IV. INFORMATION SYSTEMS DELIVERABLES

The purpose of this section is to assist the receiver in determining what deliverables and services will be needed from the information systems. There will be generic requirements that are applicable to all receiverships. However, to a larger extent, the receiver's information systems requirements will reflect the characteristics of the subject insurer. The receiver will need to look at the full scope of historical operations, as well as the new requirements that are specific to the receivership proceeding, to determine the data processing tools that are essential to carry out the receiver's obligations, keeping in mind what the receiver has inherited from the insurer in terms of disposal and acquisition costs.

It may be necessary to perform a detailed study of a receiver's data processing requirements and compare this to the level of systems functionality and security provided by existing systems. If this level of functionality or security is deemed to be unacceptable, the receiver will need to modify the existing systems or replace them.

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This section provides a checklist of the functions associated with insurance, reinsurance and receivership that should be considered when evaluating system requirements, including software, hardware and security considerations. Software considerations will include any accounting, claims, imaging or policy applications, the management of email and/or instant messaging platforms, along with any other tools that provide data capture, processing and reporting capabilities. Hardware requirements will include computing power of application servers and data storage devices, including both on premises and cloud hosted, as well as peripheral equipment and related items, such as network capabilities. Security considerations will include data protection, endpoint protection, user access controls, network security and physical security.

By definition, any list of standard requirements may fail to address requirements unique to an individual estate. This checklist will serve as the basic outline of a systems requirements study that should be supplemented by the receiver and information systems staff.

A. Considerations Regarding the Insurer’s Historical Business Practices

It is important for the receiver to quickly develop an understanding of the business practices of the subject insurer. This understanding will affect decisions regarding the receiver’s ongoing information systems requirements and will provide the parameters for future information systems needs of the receivership.

B. Volume and Geography of Business

A preliminary task is to determine how many policies were written per year and for how many years, and in most cases, the geographic breakdown of the policies. The number of transactions (accounting, claims, reinsurance, etc.) associated with each policy should be considered along with the corresponding costs. This information is commonly requested by the receiver’s staff immediately after the commencement of a receivership. The following items should be considered in determining the volume of the insurer’s business:

- Policies;
- Claims;
- Claim transactions;
- Claimants;
- Premium volume;
- Reinsurance agreements;
- Reinsurance participants;
- Brokers/intermediaries/agents;
- Face value of the policies (Life);
- Cash surrender value (Life);
- Policy limits (P&C); and
- Geographic distribution:
 - by state, whether one or many;
 - territory, county or zip code breakdowns within a state;

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- by guaranty fund; and
- worldwide (with foreign exchange requirements).

C. Types of Business Written

Initially, it will be necessary to identify general characteristics of the insurer's business practices and the insurance/reinsurance. If the insurer wrote only direct or primary insurance, the ability to process assumed reinsurance may not be of immediate concern to the receiver. However, if the insurer ceded reinsurance, the ability to track and control ceded placements may need to be considered in the systems requirements. Also, if brokers or intermediaries processed reinsurance (assumed, ceded and/or retroceded), the receiver may need to determine if these arrangements are to be continued, or if this function needs to be brought under the direct control of the receivership. If it is not brought under direct control of the receiver, the receiver should carefully monitor this function and work closely with the intermediary.

This analysis of insurer's business practices and the insurance/reinsurance written will provide a general idea of systems sizing and related requirements and should include an analysis of:

- Lines of business – The lines of business underwritten and the characteristics of this business may have a substantial impact on information systems requirements. If it is a business in which claims will develop quickly, the requirement may be quite different from long-tail business in which claims will take a long time to develop. If the business includes large-deductible or loss-sensitive features such as retrospectively rated premiums, there will be additional system demands. This also will impact the amount of historical information that must be maintained in the systems.

D. Corporate Structure

The type of corporate structure of the insurer (single stand-alone company or one of several affiliates) and how many offices it has are factors to be considered when evaluating the information systems.

E. Sources of Production

The manner in which a company acquired its business (e.g., was it a direct writer, did it use MGAs, brokers or both) will have an impact on the location and source of critical data.

F. Claims Handling

The way a company handled claims will affect information systems requirements as well. Claims can be handled exclusively in or in a combination of the following:

- In-house;
- External adjusters;
- TPAs;
- Agent/MGA; and
- Other subsidiaries, related operations.

G. Affiliated Companies

Different companies with a common parent often use a single, centralized system, which can result in data security and privacy concerns. Certain data of the insurer and the affiliate may be comingled within the same systems. The receiver or the affiliate, should segregate the data of the company in receivership from the affiliates' data.

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On Aug. 17, 2021, the NAIC adopted revisions to the *Insurance Holding Company System Model Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) addressing data and records of the insurer that are held by an affiliate¹. Specifically, the Model Act #440 revisions clarify the following:

- All records and data of the insurer held by an affiliate are and remain the property of the insurer, are subject to control of the insurer, are identifiable, and are segregated or readily capable of segregation², at no additional cost to the insurer, from all other persons' records and data. The affiliate may charge a fair and reasonable cost associated with transferring the records and data to the insurer; however, the insurer should not pay a cost to segregate commingled records and data. Therefore, if records and data belonging to the insurer is held by an affiliate (e.g., on the affiliate's systems), upon request, the affiliate shall provide that the receiver can:
 - obtain a complete set of all records of any type that pertain to the insurer's business
 - obtain access to the operating systems on which the data is maintained
 - obtain the software that runs those systems either through assumption of licensing agreements or otherwise
 - restrict the use of the data by the affiliate if it is not operating the insurer's business
- The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.
- The Model #440 and #450 revisions also describes that records and data that are otherwise the property of the insurer, in whatever form maintained, include, but are not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate.
- Model Regulation #450, Section 19 revisions update and expand on provisions that should be included in agreements for cost sharing services and management services between the insurer and an affiliate.
 - Revisions specific to records and data clarify, similarly to that of the revisions to Model Act #440, that records are data of the insurer are the property of the insurer, are subject to the control of the insurer, are identifiable, and are segregated from all other person's records and data or are readily capable of segregation at no additional cost to the insurer.

¹ Although in 2021 the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) related to receivership matters including records and data, these revisions may not yet be adopted in every state; therefore, receivers should refer to the applicable state's law.

² . Model 440/450 addresses the insurance groups' responsibility to ensure that data is segregated or readily capable of segregation. Receiver should ensure that the process for segregating data does not interfere with ongoing operations.

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- If the insurer is placed into receivership, a complete set of records and data of the insurer will immediately be made available to the receiver or the commissioner, shall be made available in a usable format and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request, and the cost to transfer data to the receiver or the commissioner shall be fair and reasonable.

H. Foreign Exchange Considerations

If a significant amount of the subject insurer's business is international, it may be necessary to include foreign currency exchange considerations in a systems requirements study.

I. Existing Systems

The receiver's staff (or an independent consultant) needs to determine if the existing systems adequately process the business or if those systems must be supplemented with additional processing. If it is the latter, the receiver should then determine whether the level of supplemental processing required is acceptable, in terms of accuracy and the cost of processing. This will establish whether the existing system(s) are adequate to provide the receiver with the amount and types of information required.

The receiver may require various types of information in the administration of an estate. Especially with systems that do not permit online inquiry, it is imperative that reports which are adequate for the receiver's purposes be produced. At a minimum, the existing systems should have the capability of generating a wide variety of reports. The receiver's staff should carefully examine the available reports to determine whether they are adequate or if custom reports need to be developed, assuming the data stored in the systems can support custom reports. Reports are normally required for the following types of information:

- Policies and contracts;
- Accounting;
- Claims;
- Accounts receivable/payable;
- Cash;
- Reinsurance;
- Guaranty fund claims counts and reserves by state; and
- Earned and unearned premium.
- Large Deductible Collections and Collateral

The following types of documentation should exist for all of the company's systems:

1. Systems Documentation

Systems documentation shows how the system operates from a technical perspective. Documentation should include file structures, record layouts, data model and related data dictionary and systems administration information pertinent to running the system and producing reports.

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2. Process Documentation

Process documentation consists of narratives and diagrams of the processes involved in the major functions of the systems—imaging, policy administration, claims administration, reinsurance reporting, accounting and billing, etc. Documentation should include the interaction of various systems and feeds to and from outside entities.

3. User Documentation

User documentation shows users how to operate the system to perform their jobs. Documentation should include sections that are specific to particular functions, e.g., claims, accounting, etc. Note that in many off-the-shelf systems, the only user documentation that exists is the online help.

J. Data Validation

The systems should perform basic data verification functions, such as ensuring that the date of loss falls within the coverage period. The system should also provide some form of validation to ensure that data entered conforms to predetermined values and formats (e.g., all dates or dollar values are numeric, etc.). This helps ensure the accuracy of the data and allows the receiver to predetermine acceptable data standards.

K. System Requirements

The performance characteristics of the information systems as they relate to the processing requirements of the receivership need to be analyzed. If the system does not have sufficient resources to process the volume of data required, it may be necessary to enhance or replace the related computer hardware with higher capacity hardware. Conversely, if the computer system exceeds requirements, the receiver may wish to consider the cost benefit of system sharing or, provided company data is appropriately segregated, downsizing.

1. Application Servers

Company systems run on local or cloud-based application servers, which must be analyzed to ensure sufficient computing performance. Further, because servers are prime targets for malware, technical staff should analyze company servers to make certain patching is current, malware protection is implemented, the local firewall only permits the minimum necessary services and that all servers are being backed up out-of-band³. On premises servers should be physically secured with least privilege⁴ access applied.

2. Networks

Company switches, routers and firewalls will need to be analyzed to ensure sufficient performance when systems and users access web-related services, such as a cloud-based hosted email service. Network tools are an essential layer of defense for the security of company systems. Technical staff should review network protocols to verify that entries onto the company network is properly authenticated (two-factor authentication strongly preferred) and that data is being backed up out-of-band.

³ Communication between parties utilizing a means or method that differs from the current method of communication (e.g., one party uses U.S. Postal Service mail to communicate with another party where current communication is occurring online). Sources: NIST SP 800-32 under Out-of-Band.

⁴ The principle that a security architecture should be designed so that each entity is granted the minimum system resources and authorizations that the entity needs to perform its function. Source: NIST SP 800-12 Rev. 1 under Least Privilege.

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3. Data Storage Requirements and Sizing

Modern storage devices can be managed on premises or in public/private cloud-hosted environments. Technical staff needs to consider the volume of historical, current and anticipated future records that will need to be stored on the computer system. Note that imaged records like PDFs and JPEGs are significantly larger than other document types, which can increase storage requirements as a company reduces its reliance on paper processes. Technical staff must ensure company data repositories are secure, encrypted, and that access is administered on a least privilege basis. Backups of company data should follow similar protocols and should be tested by technical staff to ensure viability in the event of a data loss.

L. Additional Considerations

Other systems considerations to address in assessing systems requirements include:

1. PCs, Laptops and Terminals

To operate the system, an adequate number of PCs, laptops or terminals need to be available. The determination of that number will be affected by the type of system as well as the number and functions of staff members required to process the volume of business. Technical staff should determine whether endpoints are encrypted, properly patched, limited by the company firewall and malware protection is applied.

2. Environmental Considerations (Climate Control)

Computers, whether mainframe, mini, or PC-based servers, generally require a stable temperature and humidity-controlled environment in which to operate. Failure to provide adequate air conditioning and/or heating can cause catastrophic systems failure. Incorrect humidity can cause excessive static, which is especially dangerous due to static discharge. It is therefore necessary to balance the computers' thermal output with a temperature control system capable of maintaining the operating temperatures and humidity specified by the computer manufacturer(s). A water alarm is also a good investment, especially if raised floors are used. Physical access to the computer room should also be restricted and carefully monitored.

3. Environmental Considerations (Power Consumption)

Data processing and networking equipment is sensitive to the quality of the electrical power supplied to it. Surges, spikes and brownouts of any kind can damage equipment, cause systems to crash or, in some cases, corrupt data. Most data centers and their attendant equipment are equipped with power conditioning of some type. (PCs usually have surge suppressors for this reason.) Power conditioning can take various forms, but data centers usually have as a minimum an Uninterruptible Power Source (UPS) that filters the power before distributing it to the equipment. A UPS may also have a backup battery that will power the equipment for a short interval while waiting for power to stabilize or allow a graceful shutdown. Emergency lighting should be provided with enough battery time to allow a safe shutdown and evacuation of the area, if necessary. Emergency shutdown procedures should be available to personnel. Finally, a UPS may be coupled with an auxiliary generator which will supply electricity during a power outage.

In addition to special power and heating, ventilation and air conditioning, many dedicated data centers have fire suppression systems. These systems may be stand alone or tied into a building fire detection panel. The receiver should become familiar with how the fire suppression system operates and how it should be tested. Failure to keep these systems in good working order and to follow procedures could be deadly. It is important that testing and training be carried out regularly and that procedures be posted and read by data center personnel. Additionally, the fire suppression system must, at a minimum, comply with local fire and safety codes.

*Chapter 2 – Information Systems***M. Liquidation Considerations**

In liquidation, there are several special considerations as a result of the fixing of rights and liabilities and the involvement of guaranty associations. In nearly all liquidations, guaranty associations are the initial direct handlers and payers of most policyholder claims or other policyholder contractual obligations. In certain instances, guaranty associations are required to provide some level of continuing policyholder coverage. The receiver should consider the ability of the information systems to supply information required by guaranty associations. Most of the data should already be in the company records, but the information systems will need to accommodate the unique needs of the insolvent insurer and the guaranty associations.

1. Property and Casualty Guaranty Funds

For property and casualty insolvencies, this information must be in compliance with the Uniform Data Standards (UDS) in order to allow the guaranty associations to meet their statutory obligations. Therefore, UDS expertise is needed to determine whether the systems meet all of the applicable UDS record requirements. The receiver may elect to have an analysis of the system data elements performed by a representative of one or more of the guaranty associations or outside consultants.

2. Compliance with UDS

The UDS is a precisely defined series of data file formats and codes used by receivers and property/casualty guaranty associations to exchange loss and unearned/return premium data electronically. These formats were developed by a group of personnel representing both receivers and guaranty associations and submitted to the NAIC. The NAIC originally endorsed the use of UDS effective March 31, 1995. The formats were revised and updated during 2003/2004 with an implementation date of January 1, 2005. Since this time, several additional updates have occurred. UDS and the UDS Manuals are managed by the UDS Technical Support Group (UDS-TSG).

The National Conference of Insurance Guaranty Funds (NCIGF) developed a secure process for transferring UDS data from the property and casualty insurance guaranty associations to insurance receivers. The concept proposed by the California Liquidation Office in 2005 and the process advanced by the NCIGF in 2007 is known as Secure Uniform Data Standards (SUDS) utilizes Secure File Transfer Protocol (SFTP). SUDS provides cost savings by creating greater uniformity and efficiency in how UDS data is transferred from guaranty associations to insurance receivers. SUDS also provides privacy protection through the use of a secure server. In 2012, the NCIGF developed a web-based application that allows receivers to quickly and easily create UDS records for distribution to the guaranty associations through SUDS. The application is known as the UDS Data Mapper⁵. The NCIGF, through its subsidiary, Guaranty Support, Inc. (GSI), maintains both SUDS and the Data Mapper and makes them available to insurance receivers or the guaranty associations at no charge.

The NCIGF maintains and provides updated copies of the UDS Manuals. For further details about UDS as it applies to claim records or the implementation of UDS, please refer to the UDS Operations Manual⁶. Information and formats relating to UDS financial reports from the guaranty associations

⁵ The UDS Data Mapper is available at <https://udsdatamapper.com>

⁶ <https://www.ncigf.org/resources/uds/uds-claims-manual/>

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are contained in the UDS Financial Manual⁷. The site also includes a helpdesk request form, which emails questions to members of the UDS-TSG⁸.

B. Insolvency Data Transfers

Guaranty associations become statutorily obligated to pay covered claims when the court enters an order of liquidation with a finding of insolvency. The goal of every insolvency is to transmit relevant company claims and policy data to the guaranty associations on the date of liquidation. The guaranty associations and their coordinating body, the NCIGF, have established experts and tools to assist receivers with the transmission of insolvent company data.

(i)Evaluation

Company data will be spread across multiple information systems (claims, policy, accounting, imaging, etc.) oftentimes managed by third party administrators. Each information system is a unique source of data requiring independent attention to extract, process and convert to UDS. On average, each source takes roughly two weeks to process. Getting access to company data managed by third parties can be complicated when it is commingled with noncompany data. Working with information system administrators to segregate company data pre-insolvency can save precious time when an insolvency is imminent. In the event policy and claims data cannot be transmitted to the guaranty associations on the day of liquidation, providing remote access to those systems can help them address hardship claims and other urgent matters.

(ii)Extraction

Beyond the generation of reports, most information systems are not designed to export significant portions of data. This is especially true of imaging applications, which are used in “paperless” offices. Extracting the relevant data from these systems requires specific technical training and oftentimes server access. Data extraction by competent IT professionals can take days or even weeks to complete though various factors can increase the extraction time. If the system is administered by a third party, several factors can add additional delay, such as the administrator not having been paid, company data being commingled with third party data, or the administrator has insufficient staff to extract company data in a timely manner. Obtaining regular backups of all company data from the administrator can help ameliorate some of these concerns. Technical staff should examine the backup data to determine if it is sufficient to create usable UDS records upon liquidation. Further, if company data is segregated pre-insolvency, technical staff or third-party vendors can extract the relevant data without inadvertently accessing or disclosing non-company data.

(iii)Processing

Once extracts of company claims and policy data are obtained, technical staff will need to process the files before they can be loaded into the UDS Data Mapper. Data must be formatted into comma-separated values (CSV). Date and currency values must be normalized to a single format per file. The CSV files must use latin1 encoding and have characters outside the scope of this encoding removed or replaced. The receiver will then create a map that coordinates fields from the source data with their corresponding field in the UDS standard. The UDS Data Mapper will report errors encountered while ingesting data to guide other necessary cleaning steps.

(iv)UDS Production

⁷ <https://www.ncigf.org/resources/uds/uds-financial-menu/>

⁸ <https://www.ncigf.org/resources/uds/>

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After the data is ingested by the UDS Data Mapper it may then be reviewed and edited within the application, then sent to the relevant guaranty associations. This process creates the UDS files and notifies the guaranty associations that they may pick up their files, which are provided via SUDS. For the receiver's own purposes, CSV files of the produced UDS records are also provided via SUDS.

CPriority of UDS Records

All UDS records serve a valuable purpose and are important. However, the timing of some of the UDS records is more critical than others because guaranty associations need them to perform their statutory responsibilities of covered claims. Below is a general guide regarding the level of criticality of the various UDS records.

Highest Priority

A Record (Claim File) - confirms the existence of policy with insolvent insurer; necessary to confirm coverage.

F Record (File Notes) - adjuster's claims notes; needed to quickly grasp essential nature of claim and current issues.

G Record (Transactions) - necessary to understand what has already been paid to timely continue any future payments owed and avoid duplication.

I Record (Images) - contains the contents of the insurer's claim file including report of incident, claim history, investigation notes, treatment history, photos, medical records, and other essential information.

Very High Priority

C Records (Guaranty Fund Loss Claims) - guaranty association monthly reporting; typically commences within 30 days of the association's receipt of critical claim information.

High Priority

B Records (Unearned Premium) - the importance of unearned premium reimbursement may vary depending upon the nature of the insolvency; in a liquidation with substandard auto insurer, timely refund of unearned premiums is often critical because many insureds cannot afford to purchase replacement coverage. In such instances, the production of the B Record should be assigned a higher priority.

Medium Priority

D Records (Guaranty Fund Expenses) - important for the reimbursement of the guaranty association's administrative expense claims but secondary to the records that are essential to the timely payment of covered claims.

Low Priority

E Records (Closed Claims) - important to enable guaranty associations to re-open claims; can be managed on a case-by-case basis until higher priority records are delivered.

M Records (Medicare Secondary Payer Reporting) - allows parties to verify that pre-liquidation MSP reporting was made by company; assists guaranty associations in identifying open or re-opened files where guaranty associations will become responsible for future MSP reporting.

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1. Life and Health Insurance Guaranty Associations

The life and health insurance guaranty associations do not utilize the UDS reporting system because the data needs of the life and health GAs are much different than those of the property and casualty funds, both in terms of timing and the types of data needed. This is due both to the types of contracts covered and the particular nature of the statutory obligations of the life and health GAs. Because the life and health GAs continue coverage, they need the data and the lead time necessary for putting in place the agreements and infrastructure required to either *transfer* or *continue administration* of the insolvent company's business. In either event, NOLHGA and its member GAs need data files at the earliest possible opportunity, and well in advance of liquidation, in order to evaluate options and develop a plan for meeting GA statutory obligations while minimizing disruption to policyholders. Policyholders are best served if the GAs can be ready to implement a plan for assumption transfer or for seamless administration of the business immediately upon entry of a liquidation order.

If preliminary data suggests that an assumption transfer may be feasible, a NOLHGA task force will develop a Request for Proposals ("RFP"), which will be sent to prospective carriers, subject to their execution of a Confidentiality Agreement. The RFP will include a description of the business to be assumed, along with summary policy, claims, and financial information. Policy-level detail is not typically required at this stage.

If assumption transfer is not feasible, the GAs must prepare for runoff administration. This typically requires contracting with a TPA and, in the case of health business, retention of the company's health care provider networks, pharmacy benefits providers, and all related service providers. Policy-level data is essential for policy and claims administration for all lines (life, health, annuity, disability, LTC).

Getting this information can be particularly challenging if the insolvent company has been using one or more outside TPAs. Data may reside on different platforms and systems and can take longer to gather. Other challenges arise when a company has been using one or more legacy systems with outdated software or hardware, making data extraction and transfer more difficult. In those cases, some consideration may need to be given to keeping the legacy systems in place, if short term data conversion is impractical. It may be necessary to contract for access to the existing administration platform, at least on an interim basis, which in many cases will involve the receiver as successor to the insolvent company's operations but may also include affiliates of the insolvent company or the company's outside TPAs.

A. Specific Data Needs

Specific data needs will depend on the facts and circumstances of each case, as well as the types of business involved. Initial, critical data needs typically include all relevant summary policy and reserve information. Typically, if the policy master /eligibility records can be provided, that file may contain sufficient information for preliminary coverage determinations and to consider the potential feasibility of an assumption transfer.

Other data needed for runoff administration, depending on the lines of business involved, typically includes the following:

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- o In-force files/counts (by state and by line of business)
- o Policy values (face amounts, cash surrender values, policy loans, interest crediting rates, rate crediting history, etc.)
- o Policy forms
- o Claim files/claims history (including plan of care and related information for LTC lines)
- o Premium files (and status indicators such as Reduced paid up, or Waiver status for LTC)
- o Rate files/history
- o Reserves, by line
- o Provider/vendor agreements

B. Timing Considerations

Initial data files (Policy Master records) are needed at the earliest possible opportunity, but preferably at least 6 months in advance of liquidation, so that the GAs can evaluate the business and any coverage issues, assess the feasibility of one or more assumption deals, initiate an RFP process for assumption of the business, and negotiate and prepare to implement related agreements.

The lead time needed for policy level data will vary depending on the size and complexity of the business, as well as the lines of business involved. Typically, 4-6 months minimum lead time is needed in order to evaluate the business, negotiate TPA agreements, and get claims reporting and funding arrangements made for runoff administration. In the case of health lines, additional time is needed to evaluate, retain or replicate healthcare provider networks and related services. If an RFP process is needed to find a replacement TPA, additional lead time may be required for that as well.

C. Secure Data Transfer

To ensure secure data transfer, receivers or insurance department personnel typically establish a secure website portal or FTP site to provide NOLHGA and its member associations secure access to the data needed. Otherwise, NOLHGA (or a designated TPA or consultant) will establish a secure file portal where designated users can securely upload records.

V. IMPLEMENTATION

This section describes various courses of action to meet the receiver's needs once it has taken control of the insurer's information systems. The course of action selected will vary according to many factors, including the size and needs of the insurer and whether the insurer has its own information systems staff.

The receiver will be faced with several options as to how to meet the needs of the receivership. These may include: extraction or bifurcation of comingled system data; retaining the present system; enhancing the present system; replacing the system with either a new system or the receiver's system; or relying on a third-party vendor. The receiver must be prepared to justify a cost-benefit basis expending limited estate assets in pursuing any option other than retaining the present system. The following should be of assistance to the receiver in the formulation of a plan to select and implement the most effective option.

*Receiver's Handbook for Insurance Company Insolvencies***A. Retention**

The current system's ability to meet the receiver's needs should be carefully evaluated prior to making a decision to retain it. If the system hardware is to be sold, a plan should be developed and executed to move the necessary data to a system that can be accessed by the receiver. The plan to sell existing system hardware should also include safeguards to ensure that any data on the system is erased before the sale. No sale of system hardware should take place without first determining ownership and consulting with the receiver's legal counsel. The retention policy and decisions should be consistent with the Liquidation Order.

1. Verify Capabilities

Through examination of available reports and interviews with systems staff, management and operational staff or other sources, the current capabilities of the system should be identified, listed and documented. The system's capabilities, thus identified, should be compared to the previously identified needs of the receiver. Identified needs will be considered from the Information Systems checklist. This will identify information needs that cannot be met by the existing systems and steps that should be taken to satisfy those needs. If system capabilities exceed the receiver's needs, consideration should be given to whether the configuration and size of the system should be altered to increase efficiency and control costs.

2. Verify Condition of Hardware and Adequacy/Integrity of Software

The condition of the hardware should be carefully examined to determine both its reliability and its capacity to handle anticipated growth. Suspect components should be repaired or replaced. In like manner, the existing software should be carefully reviewed to confirm adequacy, appropriate licensing and integrity. Software that is inadequate, outdated, corrupted or no longer supported by the vendor should undergo review to determine the best strategy for replacement.

3. Assure Adequate Security and Disaster Recovery

Given the likelihood of litigation and other legal proceedings that will depend upon data gathered and processed by the system, as well as the threat of a cyber-attack, immediate steps should be taken to ensure its continued security. Access should be limited to those with an absolute need and in whom the receiver has utmost confidence. Consideration should be given to purchasing cyber insurance for the liquidation estate, if the company does not already have an applicable policy. A review should also be made of the current system as it pertains to the documentation and quality of data, and as to a disaster recovery plan. Many data processing centers do not have a disaster recovery plan other than having the system back up information in an off-site location. A true disaster recovery plan provides for installation of system backup information in an off-site location so that, in the event of a disaster, the system can be running within a specified time frame. That time frame may vary from a few hours to a few days.

4. Devise Assessment Methodology

Methodology should be devised for assessing the adequacy of the staff, the system, the software, security procedures and disaster recovery procedures. Weaknesses identified through this assessment should be remedied. If necessary, a third-party contractor may be brought in to make this assessment.

B. Enhancement

If the receiver has control over the system, and it is determined that the existing system can be retained but should be enhanced in order to meet the receiver's needs, a plan should be devised for the implementation of those enhancements. After careful consideration, a list should be made of the hardware, software and applications that require enhancement. These may consist merely of the addition

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of hardware components or may require restructuring of the operating system or supplementation of available software. In like manner, available staff may be inadequate for the anticipated needs.

Once the required enhancements are identified, availability should also be ascertained, and the availability of qualified personnel should be similarly confirmed. Once the needed enhancements have been identified and their availability confirmed, a schedule should be prepared for implementation in a manner that will not interfere with other aspects of the receivership proceeding and which will be consistent with the anticipated needs of the receiver. This may require the operation of shadow systems on a parallel track with the implementation of the enhancements. Testing methodology should be implemented to confirm that the enhancements were successful and sufficient

C. System Replacement

If the receiver determines that the existing system, even if enhanced, is inadequate and decides to replace it, a plan should be devised for system implementation. The first step is to select the replacement system, considering the future needs of the receiver, including how long the estate may have to remain open, and the available assets of the estate. A plan for migration from the existing system to the replacement system should be implemented. In many circumstances, the replacement or enhancement is handled by a third-party vendor.

To make use of a third-party vendor as a replacement for in-house systems, it is essential to prepare a comprehensive list of the receiver's anticipated needs. Because the receiver will have relatively little control of the actual operation of the system and therefore little flexibility in adjusting the ability of the system to meet its needs, it is essential that the initial list of needs provided to the third-party vendor be as comprehensive as possible.

Once the needs have been identified, a list of potential vendors should be compiled for evaluation. Each eligible vendor should be carefully evaluated with full consideration being given to at least the following factors:

- Cyber security expertise and data safety requirements;
- Short-term and long-term availability;
- Expertise and demonstrated ability;
- Price and method of charging;
- Support and maintenance resources;
- Available warranties;
- Capability to respond to emergencies;
- Ability to preserve confidentiality and comply with security procedures;
- Existence of potential conflicts of interest;
- Ability to respond to changing needs; and
- Familiarity with the type of business involved.

1. Contract with Vendor

Once the appropriate vendor has been selected, a contract that will meet the anticipated needs of the receiver should be negotiated in accordance with the receiver's contracting policy. It should be clear

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that liability under the contract will be limited to estate assets and will not involve personal liability on the part of the receiver or the state. Once an agreement in principle has been reached with the vendor, protocols should be established for the operational relationship. A plan should be devised for assessing whether a third-party vendor satisfies the requirements of the contract.

2. Document and Back Up Old System

As a result of the decision to use a third-party vendor, the existing system will become unnecessary. Before it is shut down and disposed of, however, it should be fully backed up, including both the software and data, and documented for future reference.

3. Shut Down and Disposal of Old System

Once the old system has been completely backed up and documented, it should be taken out of operation and prepared for disposition. Disposal of any system, data or information related to the liquidation must meet the requirements set I the Liquidation Order and be pre-approved by the court before any action is taken. Before the system is shut down, any data must be erased. Once the existing system is shut down, it should be disposed of at maximum gain to the estate. Proprietary software developed solely by the insurer may also be marketable.

D. General Concerns

Be careful not to dispose of the system too soon. If the information is to be migrated either to the receiver's computer system or to a third-party vendor's system, steps should be taken to ensure that the integrity of the data from the insurer's old system is preserved and accessible. Controls should be in place to ensure that the same number of records leaving one system is received by the other system. This should be confirmed by the comparison of record counts and the cross-checking of financial data.

If any enhancements have been planned, then consideration should be given to whether the enhancements should be done by in-house staff or an outside consultant. Once again, it is usually best to get competitive bids as required by the receiver's purchasing policy.

E. Implementation of UDS

A plan to secure the information required for UDS should be developed as early as possible in the receivership proceedings when there is an indication that liquidation is a possibility. Data availability from company to company varies significantly. In some cases, all data for UDS is located on the system; in other situations, manual coding is necessary to capture the required data. The goal is to make the information available to the guaranty associations as soon after entry of the liquidation order as possible.

The guaranty associations must be notified as soon as possible when liquidation preparations have begun. The notice should include a copy of the company's Schedule T from its annual statement and the receiver's plans to supply UDS data. Data transfer preparations should begin immediately after the notice, to be put in place immediately following receipt of the Liquidation Order. This step is important, as it places the guaranty associations in a better position to respond to the inquiries that typically occur soon after the company is placed in liquidation.

It is likely that the initial UDS plan will be modified as the receiver completes its review of the company's systems. (See Section IV. M. above, which expounds on UDS production and record priority.)



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December 20, 2021

Kevin Baldwin, Chair
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RE: Receivers' Handbook

Chairman Baldwin:

The American Council of Life Insurers (ACLI) would like to thank you for this opportunity to comment on the Subgroup's proposed revisions to the Receivers' Handbook. We are very supportive of its efforts to update and revise the Handbook to reflect recent model updates, changing expectations around technology, and our mutual commitments to the continuation of essential services.

As we reviewed the revisions to Chapter 2 (Information Systems), we noticed several process and technology provisions that could have an unfortunate side effect of limiting regulator and insurer flexibility and utilization of future technologies, most of which are detailed below. We would strongly recommend additional vetting by information and technology specialists as the Subgroup updates the Handbook in order to ensure that it is future-proofed and requires minimal updates to address changing technologies.

As to specific edits, we would recommend the following for Chapter 2:

Page 129 of the Handbook contains the following added sentence:

- *"In doing this, the receiver will need to look ahead to what systems requirements may be needed in the future and make arrangements so they are in place when needed."*

While we support being forward looking, this language could be limiting. We believe it would be better focused on the receiver preparing for contingencies, as the future is hard to predict.

Page 133 contains the following additional language:

- *"Check references and criminal backgrounds prior to retaining new staff."*

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 95 percent of industry assets in the United States.

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We would suggest that “*and appropriate background screening*”, or something similar, be used instead of “*and criminal backgrounds*” as local laws may prevent a blanket “criminal” screening and/or allow for 1033 waivers for insurance producers and agents. We want to ensure that the Handbook aligns with these local requirements and does not needlessly disqualify people from employment opportunities.

- “For laptops that are used outside of the office require encryption and the use of a VPN to connect.”

The specific denomination of a VPN may be too narrow a defined requirement insofar as a general call for 'secure connection' - including options that may yet be invented. It may be more appropriate to refer to a “secured network connection” instead.

- “Disable USB ports on all company laptops and computers”.

This could disrupt legitimate hardware uses and should be reconsidered.

Page 137 contains the following existing sentence:

- “*These systems will be commercially available systems that are closely related to hardware components.*”

Large insurers may have legacy applications developed in-house that are not necessarily 'commercially available'. We would request additional flexibility within this language.

Pages 147-148 (Section IV.G.):

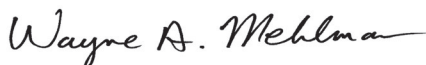
- With regard to the segregation of data requirements in Models #440 and #450, the ability to segregate affiliates' data may be very challenging. The architecture of a “Data Lake” or other multi-business data store (e.g., a comprehensive customer profile database for servicing or marketing) should note the provenance of data inflows, but true segregation of data within that data store in the event of a receivership could have practical impacts on the operation of such a system and may be problematic and interfere with ongoing operations. NAIC should consider adding a footnote(s) or clarification(s) that reminds regulators and insurers to ensure that the pulling of segregated data from related affiliate businesses from a comingled data pool does not harm other operations.

Page 149 (Section IV.K.1):

- This subsection should not be limited to computer servers – the “cloud” should be covered as well.

Thanks again for this opportunity to provide comments. If you have any questions, feel free to contact me at waynemehlman@acli.com or 202-624-2135.

Sincerely,



Wayne Mehlman
Senior Counsel, Insurance Regulation

Chapter 3 – Accounting and Financial Analysis

CHAPTER 3 – ACCOUNTING AND FINANCIAL ANALYSIS

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*Chapter 3 – Accounting and Financial Analysis***I. INTRODUCTION: OBJECTIVES OF THE ACCOUNTING FUNCTION**

The purpose of this chapter is to identify and explain the various objectives of the accounting function for an insurer in receivership and provide guidelines for the preparation of reports summarizing the financial position of the receivership.

It is important to highlight the context or perspective from which this chapter was prepared. Any accountant serving a receiver is, by necessity, an integral part of a team of regulatory, legal, actuarial, and other professionals working together to achieve common goals. The nature of these goals is described at length in Chapter 1—Takeover & Administration. In most receivership situations, the duties of the receiver's accountants, investigators and attorneys will overlap when information about a common topic such as a reinsurance treaty is needed by staff members. While these other individuals have a legitimate interest in accounting and financial information, this chapter has been prepared from the perspective of the accountant serving the receiver.

This chapter will deal with the following issues:

- The objectives of the receiver and how they may vary from the traditional accounting objectives of a going concern.
- The need to gain an understanding and control of the impaired or insolvent company's bank accounts and assets.
- The importance of evaluating the impaired or insolvent company's accounting staffing and consulting needs early on in the receivership, as well as the need for assistance from CPA or actuarial firms to do projections, forensic accounting and tax reporting.
- The need to inventory and safeguard documents, ledgers, contracts and other financial items that will shed light on the financial position of the insolvent insurer and provide support to the receiver in collecting assets, settlement of balances, litigation and other matters.
- The need to focus on the corporate structure of the enterprise, the importance of analyzing related-party transactions and intercompany accounts, and consideration of restructuring certain transactions.
- The need to identify and scrutinize tax issues, including necessary informational filings with the IRS (such as 1099s), various areas of tax exposure, premium and payroll tax consequences and other taxes.
- Considerations related to the nature of the insolvent insurer's investments and safeguarding and valuing the investment portfolio.
- Considerations relating to direct and assumed reinsurance premium receivables, including the need to identify and control treaties, to determine if in-force treaties should be maintained or cancelled, and to quantify setoffs and other issues. Consideration should also be given to ceded reinsurance receivables and the identity of the various lines of business and policies ceded to other insurers. Insurers often have excess of loss or stop-loss reinsurance where recoveries of amounts due the HMO should be investigated.
- The need to prepare financial statements and related information in a format that will support the receiver directly in managing the affairs of the estate and in responding to the needs of various third parties, such as state insurance departments, the courts, guaranty funds, policyholders and other creditors, attorneys, and other parties.
- The need to review and understand the various cost centers and associated expenses and contracted services.

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The overall objective of the accounting function in receivership can be expressed as follows:

To assist the receiver in securing control of the insurer's assets and to provide timely, relevant, and accurate financial information as to the assets, liabilities, surplus (deficit) and cash flow of the insolvent insurer to support the duties of the receiver, and to assist in making economic decisions.

The sections that follow will discuss the points above in more detail as they relate to the overall objective of the accounting function in a receivership.

II. OBJECTIVES DIFFERENT THAN GOING CONCERN

In many respects, the overall accounting function objective discussed above is equally fitting for the accounting function of a going concern. However, the important phrase that distinguishes this objective for receivership is “to support the duties of the receiver.”

For solvent insurers, the accounting function is generally designed to support management and to fulfill the insurer's responsibility to report information to shareholders, creditors, taxing authorities such as the IRS, regulatory authorities such as state insurance departments, and others. The purpose of this information is to allow these parties to monitor the insurer's financial operations and protect their interests, e.g., investment, loan or tax obligations. The accounting system may be designed to support reporting on the basis of both U.S. generally accepted accounting principles (GAAP) and statutory accounting principles (SAP) prescribed or permitted by the insurer's state of domicile.

For an insurer in receivership, the situation is different. The regulator has already determined that the insurer is in an impaired or insolvent financial position. A receiver has been appointed. For an insurer in rehabilitation, the objective may be to identify the causes of the impairment, eliminate them and work to return the insurer to a solvent position. Alternatively, it may be determined that a successful rehabilitation is not achievable, in which case an order of liquidation will be sought. For the insurer in liquidation, the objective is to identify and marshal the assets of the insurer, identify, and evaluate liabilities and determine the appropriate class of each creditor in accordance with the domiciliary state's priority of distribution statute, and to liquidate the insurer in a manner that minimizes the cost to policyholders, state guaranty funds and other creditors.

Thus, the new and important user of the financial information is the receiver. In rehabilitation, *pro forma* reporting is often used to help the receiver assess the feasibility of potential transactions that have been proposed to mitigate the surplus deficit. Additionally, liquidation-basis accounting becomes an important form of reporting to help the receiver assess the realizable value of the assets of the insurer and the extent such assets will be available and sufficient to cover approved claims of policyholders and other creditors.

It is important to understand the difference between the responsibilities of the receiver and those of former management. In a going concern, management has the responsibility to develop internal controls and procedures covering a variety of items such as payroll, transfers to affiliates, reinsurance balances, etc. However, the receiver will review and perhaps revise these internal control procedures. The receiver will approve disbursements, revise wage and salary schedules (especially for excessive amounts payable to officers), streamline the organizational structure if needed and place a moratorium on payments to reinsurers, related parties such as the insurer's affiliates and others, pending a complete analysis of the insurer's financial position.

In some instances, the duties of the receiver and that of management will differ in subtle ways. For example, consider an insurer that has been placed in rehabilitation: The insurer is a wholly owned subsidiary of a publicly held insurance holding corporation. The receiver, by statute and court order, has responsibility and authority only for the affairs of the insolvent insurer/company subsidiary. Thus, the accountant working with the receiver may assist in or direct the preparation of financial information relating to the insurer/subsidiary that may ultimately be provided to and used by management of the holding company/parent to prepare its filings with the Securities and Exchange Commission (SEC), or consolidated tax returns for the IRS. However, it is generally not the responsibility of the receiver or his or her accountant to prepare or file such documents that relate to the holding company.

Chapter 3 – Accounting and Financial Analysis

It is not uncommon for the receiver to maintain certain of the insurer's key management personnel on staff because of their knowledge of the insurer and their familiarity with its business, reinsurance treaties, data processing systems and various other matters. The receiver should ensure that such staff be sensitive to the new responsibilities created by the order of rehabilitation or liquidation. It is unlikely that these individuals have ever been through a receivership before and may unknowingly perform their duties as if it were business as usual, not realizing that the receiver now must be informed of, and approve, procedures and disbursements. Additionally, the receiver should identify those individuals that may conceivably have an interest in concealing or altering information because of their concern about their role in the events that may have precipitated or contributed to the insolvency.

The principal responsibility of the accountant is to the receiver. However, the accountant should be aware of responsibilities that the receiver must provide certain financial information to other parties, including (in no particular order of importance):

- Domiciliary state insurance department.
- Other insurance departments in states where the insurer is licensed.
- The receivership court, other state courts or federal courts.
- Creditors, including banks, premium finance companies, providers of health care (if HMO) and reinsurers.
- Shareholders.
- Federal, state, and local taxing authorities.
- State guaranty funds, The National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) or National Conference of Insurance Guaranty Funds (NCIGF)
- Policyholders.
- Prospective investors.
- Other regulatory agencies, such as the SEC.
- Legislatures (state and federal).
- State and federal agencies responsible for Medicaid/Medicare (if HMO).
- Reinsurers
- Agents

Financial information for a receivership is similar to that of an ongoing enterprise with some important differences. These include the following:

- The need to identify and provide for various classes of creditors pursuant to the domiciliary state's receivership priority statute. The receiver's accounting system should be capable of capturing information provided by creditors on proofs of claim in order to review and adjust those claims and to aggregate them by creditor class.
- Reinsurance recoverables must be viewed from a different perspective particularly ceded unearned premium for property and liability companies. In a going concern, a ceding insurer would not expect to receive ceded unearned premium. However, when reinsurance is not renewed, the ceded unearned

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premium recoverable can be quite substantial if the termination clause of the contract is written on a cut-off basis. In a runoff situation, the insurer would have reinsurance until the ceded premium ran off.

- Setoffs are another reinsurance issue that should be identified and reviewed to determine if they are acceptable under the applicable state receivership statutes. Setoffs (often referred to as “net accounting” in going-concern accounting) frequently occur in reinsurance transactions and may involve setoff of amounts within a contract. These may include premiums due to the reinsurer from the ceding insurer set off against recoverables for paid losses owed by the reinsurer to the insurer, setoff of balances under two or more contracts with the same two entities, or setoff of amounts owed to or from different ceding insurers and/or reinsurers that have been set off by a reinsurance intermediary or broker, usually on a monthly or quarterly net reporting basis to the insurer. If necessary, setoff transactions will need to be recast or set aside. (Note: Identification of setoffs is an accounting function. The receiver’s counsel should address the legality of identified transactions. See Chapter 9—Legal Considerations for discussion of setoffs).
- The need to separate any commingled assets and liabilities of the insurer from entities affiliated with the insurer, such as the parent corporation, other subsidiaries or affiliates and employee benefit plans.
- The need to identify transactions that are significant to the receiver because of the potential for recovery from third parties, as well as the possible institution of criminal proceedings. Generally, these may include transactions with affiliates or officers and directors, for example, and preferential payments made within statutorily prescribed periods. (See Chapter 9—Legal Considerations.)
- The need for a clear cutoff date in the accounting records to establish a beginning balance sheet that represents the point at which the receiver has become accountable for the financial affairs of the insurer.
- Payments for pre-receivership transactions may be suspended pending review by the receiver. It is also important to immediately change company procedures and implement controls to assure that the insurer’s assets are not disbursed unless approved by the receiver or his representative. The receiver may wish to consider placing a stop order on outstanding checks, both claims-related and administrative.
- The need to recognize differences between liquidation accounting and statutory accounting practices followed by the insurer as a going concern. For example, certain assets of the insurer, such as furniture, equipment, and overdue agent balances, may not be admitted for statutory accounting. An HMO’s membership may also have potential value that is not admitted for statutory accounting purposes. Nonetheless, in a receivership, they should be considered for possible collection or sale, even if they are not considered in evaluating the solvency of the insurer.
- The need for preliminary assessment of the causes of the impairment or insolvency, with an analysis of whether any parties have potential civil or criminal liability for their role in causing the insolvency. (See Chapter 4—Investigation and Asset Recovery.)
- The need to challenge, with an appropriate degree of professional skepticism, the adequacy of the insurer’s personnel who may be retained by the receiver, and assess skills, loyalties, and potential conflicts of interest that they may have because of their roles in, or knowledge of, events that precipitated or contributed to the receivership.

*Chapter 3 – Accounting and Financial Analysis***III CASH AND LIQUID INVESTMENTS****A. Cash**

The receiver must determine the existence, location and amount of all cash, cash equivalents and short-term investments through direct confirmation with financial institutions, investment managers and other parties thought to be holding cash, cash equivalent or short-term investments. The insolvent company's financial management should be able to provide a listing of financial institutions and contacts.

The receiver should immediately determine who has access to the cash and investments and should consider changing or restricting this access. In this era of electronic banking, Internet banking access should be closely scrutinized. Administrative controls of Internet banking should be evaluated by the receiver as soon as possible and modified as necessary. If the company holds cryptocurrencies, access to the cryptocurrency wallet and any associated hardware should be restricted. Large amounts of cash can be removed from an estate via wire transfer. Procedures should be established with the financial institutions to curtail or limit access regarding wire transfers. Wire transfer capabilities must be limited to receivership staff immediately upon receipt of a receivership order. Operations of the insurer may be affected temporarily, but that situation pales in comparison to allowing large amounts of money to be wired out of an estate.

All financial institutions should be notified immediately of the receivership order. A receivership order should be faxed or e-mailed to the contact person at each financial institution, and a proof of service should be signed by an appropriate financial institution representative as corroboration that the financial institution received the order. Some receivers, especially in liquidation, advocate immediately closing all existing bank accounts to ensure complete control of cash. The receiver should also consider whether to continue relationships with the banks used by the insurer or to establish new accounts with only the receiver or his designated representatives having signatory authority to disburse funds. The receiver must decide whether to allow certain checks to clear, as a disruption in payments to claimants may cause hardship, lead to complaints and would be viewed negatively by regulators. Another consideration associated with account closure is the magnitude of penalties and interest that would accompany any substantial delay in payments.

A letter should be sent, giving the bank or other financial institution instructions with regard to allowing or not allowing checks to clear the account. As soon as possible, signatories on bank accounts should be changed to the receiver's designated personnel.

All check stock should be inventoried, and bank accounts reviewed to determine which accounts are related to the insurer's business and which accounts, if any, are still needed. If bank accounts are closed, the related check stock should be voided and destroyed. If the accounts are required, an appropriate protocol needs to be established between the banking institution and the receiver. The normal practice would be to freeze all accounts, or at a minimum, the signatories should be changed to individuals on the receiver's staff.

The receiver may consider moving out-of-state assets into the domiciliary state to improve control and lessen the chance they may be subject to attachment by creditors. This step should be completed as soon as possible after the liquidation order is filed with the court. If an ancillary receivership is established, the receiver should work in conjunction with the ancillary receiver when moving assets out of the ancillary state.

Special care should be applied to the identification of accounts not held in the insurer's name but to its benefit. Bank statements, investment statements, cash ledgers and cash flow statements should be reviewed. This process should also include any funds held as collateral, letters of credit or other restricted cash.

Credit or debit cards in the company name should be gathered and secured in the same manner as cash. Determine if there are recurring charges on the card and if those recurring charges need to be continued or can be canceled. If the cards are no longer needed, consider canceling the cards. Credit or debit cards are often kept in the accounting or human resources department but could exist in other areas of the Company.

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A Company may also have recurring charges set up as ACH transactions. Review all accounts for recurring charges so they can be canceled as appropriate.

Some Companies will have gift cards or pre-paid debit cards (for example Visa or American Express branded pre-paid cards) that have been purchased for agent/broker incentives, employee incentives, or wellness incentives. These cards may not be accounted for in the Company's general ledger and could potentially be kept by many different departments of the Company. They should be gathered and treated in the same manner as cash.

B. Liquid Investments

Determine the existence, location, amount, and type of liquid securities (bonds, stocks, mortgage loans, etc.) through direct confirmation with financial institutions, investment managers and other parties thought to be holding securities. Investment statements from financial institutions, portfolio statements from investment managers and other similar reports should be secured and used to establish a balance as of the receivership date.

As with cash, company personnel should provide a list of brokerage houses, financial institutions that have custody of investments, and related contact names. All institutions having custody of the insurer's investments should be sent a copy of the receivership order. The brokerage house or financial institution should be given instructions by cover letter that only receivership staff is authorized to buy or sell investments. The receiver should be aware of who has access to the investments and who had the authority to direct the investment managers/brokers. Once again, the investment managers/brokers should only take direction from the receiver.

The receiver should determine whether any of the liquid investments are hedged, who the counterparties are and get a description of the entity's hedging program.

Sometimes it is easier for the receiver to transfer securities to a financial institution with which they are familiar. Doing so facilitates transactions, as sales can be efficiently executed to maximize the value to the estate, after obtaining the appropriate advice about the most advantageous time to liquidate a security.

IV. INITIAL REVIEW OF FINANCIAL STATEMENTS AND PROJECTIONS

It is imperative that the receiver's accountants perform an initial review of the financial statements that had been produced by the company as soon as possible. Obviously, these financial statements should be viewed with a heavy dose of professional skepticism. However, the receiver's accountants can usually garner a lot of information from company accounting personnel. The receiver's accountants must use professional judgment in determining the accuracy of the information provided by the company or whether further investigation/confirmation is required. In either case, it is critical that the receiver's accounting staff perform an evaluation of the company's surplus and cash position in the first few months (or sometimes weeks) of a receivership. The receiver's accountants must provide this information to the receiver so that objective decisions regarding the company's rehabilitation or liquidation may be made.

The receiver's accountants should obtain the last published statutory quarterly or annual statement that the company filed. If the company is an unauthorized entity, or it did not file financial statements, internal financial statements will have to suffice (preferably financial statements that were audited or reviewed by an outside CPA firm). The receiver's accounting staff can use these statements as a starting point for surplus and cash projections. Another source for financial statements is those prepared by insurance department examiners. If the entity is publicly traded get copies of the latest 10-K and 10-Q. at <https://www.sec.gov/edgar.shtml>.

Admittedly, the analysis of a company's cash or surplus position in the early stages of a receivership is not an exact science. In addition to calculating anticipated receiver administrative expenses, the following measures should be incorporated to make projections and analysis more meaningful:

Chapter 3 – Accounting and Financial Analysis

- Confirm that bank reconciliations are brought up to date.
- Review anticipated premium income. Look at recent premium written reports and review the timing of any anticipated policy cancellations or non-renewals.
- Review any capitation arrangements, contracts with hospitals and doctors, and the Centers for Medicare and Medicaid Services (CMS) for all approved plans.
- Review recent claims and loss adjustment expense payment history to use as an estimate for the future claims liability of insurers in receivership
- Claims payments should begin to decrease after policies are cancelled (if applicable).
- Review all active reinsurance treaties, especially for the current treaty year. Ceded reinsurance is especially important for property and liability companies.
- Review recent large expense payments such as rent, commissions, legal expenses, etc.
- Review potential voidable preferences.
- Review monthly investment income and sources generating the income.

V. INVENTORY AND DESCRIPTION OF ACCOUNTING RECORDS**A. Inventory of Accounting Records**

As soon after the takeover of an insurer as is practicable, the receiver should identify and secure the books, records, systems, and documents that are necessary to maintain and review the accounting functions of the insurer. Familiarity with the pre-existing accounting processes and related accounting records and their location will help the receiver prepare for the many other tasks that will follow. The receiver may find that accounting processes should be consolidated, streamlined, or simplified, particularly for insurers in liquidation. A thorough knowledge of the pre-existing accounting systems is an integral step in identifying those systems that can be eliminated or simplified. Furthermore, such knowledge will greatly assist in the investigation and asset recovery processes, which are discussed in the next chapter.

This section summarizes and describes the pre-existing accounting records that are typically maintained at various locations of the insurer and/or at affiliated and non-affiliated entities. This chapter should be read in conjunction with Chapter 1—Takeover and Administration, Chapter 2—Information Systems and Chapter 4—Investigation and Asset Recovery, which may identify additional records and functions that may be useful to the receiver.

Types of documentation vary, but one thing is certain: The records of an insurer that has been placed into receivership will be, or at least may seem to be, incomplete, confusing and, in many cases, inaccurate. To the extent systems and account balances are undocumented, some documentation may have to be recreated. Work papers of state insurance examiners, outside auditors and actuaries may be useful in reconstructing records. In addition, existing personnel may be retained by the receiver to assist in this process because of their knowledge of the insurer's operations and systems.

B. Records at the Administrative Office of the Insurer

The administrative or “home” office of the company will, most likely, be the location from which the domiciliary receiver will direct the receivership. The bulk of the insurer's financial and accounting records usually are located and maintained at the home office. However, the domiciliary receiver should be aware

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that the company records may also be located at third-party administrator, managing general agent and branch offices.

The following is an overview and brief description of accounting records that the receiver should attempt to locate and secure. If documentation of this nature does not exist or cannot be located, special effort may be required to understand how the financial data was compiled.

1. Organizational Chart of the Accounting Department, Flow Chart of Accounting Process, Procedure Manuals and Chart of Accounts

An organizational chart may give the receiver an overview of the organization, including the accounting department. It may identify the various functions (e.g., cash accounting, underwriting accounting, reinsurance accounting, etc.) of the accounting department and the individuals responsible for those functions. It can also indicate the reporting hierarchy and help assess the adequacy of segregation of duties consistent with sound internal control practices.

A flow chart of the accounting process might describe what action is taken for the significant functions or accounting processes. The flow chart may summarize the route of the original accounting documentation. Most importantly, the flow chart may well identify the key records relied upon to record financial information; when, how and by whom it is entered into the accounting records; and how and by whom the resulting balance is verified by reconciliation or other procedures. The flow chart may also identify the responsibilities of each significant function in the accounting department. The flowchart may identify controls. The public CPA firm will normally have a process flowchart for the accounting function of the insurer and the controls within that process if not available directly from the insurer. If a flow chart is not available, the receiver may wish to request that one be created to assist in assessing the adequacy of internal controls over the significant accounting processes.

Procedure manuals may exist that describe the duties and functions to be performed by the accounting department. If the accounting system is computerized, the procedure manual of the computer system may describe the process and controls for specific job functions. Procedure manuals may be detailed by job function or by department function. If available, these manuals will assist the receiver in understanding the accounting process. Care should be taken by the receiver, however, because procedure manuals possibly will be incomplete or out-of-date, and may be unintentionally misleading as to the actual processes currently in place. A walk-through documentation from CPAs/ exams/ internal audit of the key systems and/or inquiry of the insurer's personnel will help to confirm the accuracy of such documentation. The degree of the walk-through depends on judgment and internal controls of the insurer.

The chart of accounts should detail the description and purpose of all general ledger accounts. The chart (a manual) of accounts may be a useful tool, especially to an external auditor. Again, care should be taken because account titles and descriptions may not reflect their true nature or use in practice by management. Typically, accounts are numbered in sequential order using the following convention:

- Assets
- Liabilities
- Surplus Accounts
- Income Accounts
- Expense Accounts

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2. Accounting records including the general ledgers and supporting schedules.

The receiver should find a complete set of records at the home office. The general ledger provides a listing of the dollar amounts in each of the accounts in the chart of accounts. The amounts in the general ledger may be posted on a monthly or quarterly basis. Automated and interfaced systems may post to the general ledger on a daily basis.

Depending on the size of the company and the type of reporting system, the general ledger listing may include:

- A transactional listing that reflects, by account, the items posted to that account by period entered. The period entered and supporting schedule may allow the receiver to locate the “support” or underlying documentation for the entry. This information will be valuable in the audit procedures; and
- A journal entry listing that specifies, by period, the accounts and amounts affected by the entry. When a transaction from one particular account has been identified for investigation, this listing will allow the receiver to determine the other accounts affected and the amount.

The accounting records will provide details of balances that are summarized and posted in the general ledger. Some of specific detailed schedules that may be found at the insurer are:

- Investments
- Agents and/or insured balances
- Funds held
- Premiums written
- Reinsurance recoverables
- Fixed assets (e.g., furniture and equipment)
- Claims paid
- Claims outstanding (case reserves)
- Contingent commissions
- Amounts retained for accounts of others

Accounting records detail the daily accounting activity of the company. The daily cash activity of the insurer is maintained in the accounting records. . .

3. Accounting Files

Generally, accounting files are maintained by an insurer based on the various accounting functions. Accounting files usually contain original accounting source documentation (check remittance advices, invoices, and purchase orders) or images files of the documentation. The records are all important. The more crucial accounting records are:

- Certificate of deposit files and investment
- Cash

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- Agents' and producers'
- Contingent commission
- Claim
- Reinsurance
- Federal, state, and local tax
- Accounts payable

The insurer may have several years of accounting files on the premises and keep the older accounting files/backups at a warehouse location. A records retention policy for the insurer may be available from the chief accounting officer. It is important to suspend any document destruction.

The investment accounting should support the investment transactions of the insurer. Included in the files should be broker slips, bank advices and custodian statements. If the investment accounting is held by a custodian or asset management firm, the receiver should notify them of the receiver and request records. Monthly reconciliations of the custodian statements/files to the related general ledger account balances may also be found here. For more information on investment files, see section on Investments (Section IX) in this chapter.

Cash contains records often from bank lock boxes of cash receipt and disbursement that support the cash entries made on a daily basis. Deposit records, check or checks images, wire transfer information, and records of disbursements may also be found in these files. In addition, banking records, such as authorized signatory lists, wire transfer instructions, sweep account information (bank orders to transfer daily receipts from depository accounts to investment accountings), and agreements with banks regarding custodial and other matters may also be found here.

Agents' and producers' records should contain copies/images of the statements and billings to those entities for premiums written. Statements may be gross or net of commissions. Advance commissions statements and copies of agreements with the agents or producers that detail the rate of commission, and the authority of the agent may also be found in these files.

Contingent commission records should contain the computations for any contingent commission or profit-sharing commission paid to agents and producers and the associated agent/producer agreements.

The accounting records for reinsurance ceded by the insolvent insurer prior to receivership should contain the details for any of the insurer's reinsurance transactions. The supporting schedules should contain summaries of reinsurance premiums and loss calculations for each treaty or reinsurer. The records should include: account statements, the reinsurance treaty and endorsements thereto, including the interest and liability (the percentage participation) endorsement that each reinsurer has signed or a digest or summary thereof.

The documentation that an insurer maintains with respect to reinsurance assumed by the insolvent insurer prior to receivership depends on whether it was acquired directly from the cedent or through a reinsurance intermediary.

The direct method of acquiring assumed reinsurance may generate more documentation on the insolvent's end because the direct method generally requires an internal function to solicit or accept business from cedents. On the other hand, the broker market method may not require maintenance of an in-house reinsurance underwriting function because this role is assumed by the intermediaries. Therefore, only bordereaux or other summary information may be found at the reinsurer's offices.

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Nonetheless, the receiver may want to determine that the documentary information maintained by the ceding company or intermediary supports the bordereau.

Tax records (federal, state, local and payroll) should contain the tax returns that have been filed with each jurisdiction. The records may contain reference to the original source information. The Tax Issues section of this chapter (Section VIII) has more information on taxes. Copies of filed returns may also be found in the general corporate records, with independent accountants or legal counsel, or can be obtained from the IRS.

Accounts payable records should contain vendor invoices, identification, invoice date, date approved, and date paid.

4. Contracts and Agreements

The accounting, underwriting or corporate legal department may be the custodian of agreements or copies of contracts into which the insurer has entered for insurance and general business operations. The agreements frequently may be referred to by the accounting department to assure that related transactions are authorized, recorded correctly, reported between the parties and reconciled.

The contracts and agreements may include: real estate leases, furniture and equipment leases and maintenance agreements, information technology (IT) equipment leases, software licensing agreements, bank custodial agreements, hedging agreements, real estate management agreements, mortgage loan servicing agreements trust funds, investment service, payroll service, management service, and allocation of federal income tax and expenses with affiliates. Other contracts related more to the insurance business may include agency contracts (general or managing), claims administration services, producer contracts, reinsurance contracts, interest and liability endorsements and letter of credit agreements. For health maintenance organizations, it is important that the receiver have a complete inventory of all provider agreements as well as a listing of all commercial groups with renewal dates and coverages.

Chapter 1—Takeover and Administration has more information on contracts, and Chapter 7—Reinsurance has more information on reinsurance treaties and letters of credit.

5. Financial Reports, Filings and Other Records

The accounting department is the originating department and custodian of financial reports, both for internal use and external compliance. The department may also be the originating department for many analytical reports that are used by management, although such reports may also originate from other departments, such as claims or underwriting. Filings for compliance with governing jurisdictions may also be the responsibility of the accounting department.

A list of reports that are produced periodically and a schedule of required filings may be available from the controller. Otherwise, the receiver should discuss what reports and filings are produced and available with the chief financial officer.

The financial reports that the insurer should have readily available include: NAIC annual statements, NAIC quarterly statements (if required), and all supplemental exhibits that are part of these documents. The last page of the annual statement under “Supplemental Exhibits and Schedules Interrogatories,” if properly completed, reports the exhibits that should be filed. In addition to the reports, the accounting department maintains records and the supporting schedules which identify sources of data and reconcile the reports to the source.

Other external financial reports that may be found in the accounting department include: insurance department financial examination reports, actuarial reports and opinions, and certified public accountants’ audit reports. Along with these reports, the receiver should request related correspondence

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files (CPA management letters and management responses to the reports). If the insurer's stock is publicly traded on a stock exchange, the insurer is required to file an annual report and various interim documents with the Securities and Exchange Commission (SEC) i.e., 10K and 10Q for US markets which are available at: <https://www.sec.gov/edgar.shtml>. These are complex filings that may require involvement of outside counsel and/or external auditors.

The accounting department may also be involved in periodic rate filings made with insurance departments. Folders may be available that support the rate change requested. Responsibility for rate filings and approvals may rest with the legal or underwriting department.

Some insolvent or financially troubled insurers have internal audit departments. The receiver should request a listing of all internal audit reports issued and any internal control procedure documents.

C. Accounting Records at Other Locations**1. Branch Offices**

Branch offices of an insurer may operate independently of the home or main administrative office. However, the branch offices usually use the same computer system, or daily upload data to the main office. Branch authority, method of operation and procedure manuals should be in place both at the home office and with the branch manager.

The branch may have limited authority to carry out only certain insurance functions (i.e., either underwriting, claims adjusting or both). In such instances, the accounting records at the branch will be limited. The branch office may have claims folders and underwriting folders with original documents.

2. Claims Offices

The claims offices facilitate the adjustment and settlement of claims. As such, each claims office should maintain open claim files for losses in its respective region. Receiver should collect any check books that the claims office has on-site. Closed claim files may have been returned to the administrative office.

3. Off-Site Storage

Many insurance departments, and/or insurers themselves, require that copies or duplicates of essential records be maintained at an off-site location for the purpose of reconstruction in the event the records are lost or destroyed at the primary location. If this procedure is followed by the insurer, duplicates of records that cannot be located at the primary location might be found at the off-site storage. The off-site storage may also be the location of periodically stored computer backups for the same purpose. Old files (e.g., accounting, claims, underwriting, etc.) and other records may also be in storage. The off-site storage may be a branch office of the insurer or a contracted warehouse. An inventory list of records at the off-site storage location may be available from the controller or chief financial officer. Review the inventory and compare with any retention policies.

D. Records at Offices of Other Parties**1. Managing General Agent (MGA)**

The types of records to be found at the offices of the MGA will depend on the authority of the MGA. If the MGA has the full powers of the insurer, including accounting, underwriting, rate filings and reinsurance, all related accounting records, as previously described, may be at the office of the MGA. If the MGA has limited authority, then only records that pertain to the specific function will be in the office of the MGA. The insurer may have duplicate copies of some of the records at its main administrative office, although these frequently include only summarized reports or bordereaux.

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2. Third-Party Administrators (TPA)

TPAs should maintain sufficient records to perform their assigned function. Authority from the insurer may be necessary before any action is taken by the TPA. Alternatively, certain limited discretionary authority may be granted in the agreement with the TPA. Copies of written authority granted should be available from the insurer and/or the TPA.

3. Reinsurance Intermediaries

The intermediary should have in its office copies of reinsurance treaties, interest and liability agreements, endorsements, lists of reinsurer participations, files on letters of credit, and historical records on premiums paid to and losses collected from the reinsurers. Reinsurance intermediaries should also have details to support the balances due, including details of amounts set off.

4. Agents and Brokers

Both agents and brokers will have files for policies that have been issued to insureds. Agents and brokers periodically (monthly) submit to the insurer a list of policies that have been issued. The agents and brokers may be responsible for the collection of premiums. In such instances, the insurer will bill them for the premiums due. Otherwise, the insurer bills the insured directly.

Producers are compensated by a commission on the premiums written. If the insurer uses the direct billing method, the agent or broker may have been paid an advance commission until the premium is collected from the insured. Otherwise, the insurer may bill the agent or broker on a basis net of the commission due. The insurer may also require the producers to pay the full amount of the premium. In turn, the insurer will pay the commission. Producers will have records of all business placed with the insurer.

5. Department of Insurance

Insurers are required to file numerous documents with the insurance department of the state of domicile and/or other states where the insurer is authorized to transact business. The receiver may consult legal counsel, state statutes or the department's staff for specific state requirements. In addition to the annual, and possibly quarterly, statements and financial and market conduct examination reports, the following documents may be on file with the insurance department: contracts (reinsurance, agents, management, investments, etc.), dividends payment approvals, holding company and related party transaction approvals, rate filings, minutes of meetings, and biographical affidavits of officers and directors.

The insurance department examiners, as part of the documentation for support of their findings, may have photocopied certain documents, flow-charts, procedure manuals, or other materials that may be of interest to the receiver. The copies would be found in the examination workpapers that are kept by the insurance department.

6. Certified Public Accounting (CPA) and Actuarial Firms

The CPA firm that performed the last financial audit may be a valuable source for copies of many of the insurer's documents. As part of their workpapers, the auditors may have copied pertinent documentation from the various accounting files. The auditors may also have documented and flow-charted the various significant functions of the accounting department and their related controls. Similarly, independent actuarial firms may have copies of insurer documents and/or working papers that document the calculation or evaluation of the carried reserves or pricing of business.

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7. Banks

Banks may be able to furnish images of canceled checks, check number sequence issued, bank statements, loan files, collateral files, safe deposit box records and correspondence (signatories and requirements).

8. Internal Revenue Service (IRS)

The IRS may be a source for the insurer's income tax returns and filed payroll tax forms.

9. Securities and Exchange Commission (SEC)

If the insurer is regulated by the SEC (publicly traded company or public debt offering), then copies of any documents (10K, 10Q, etc.) filed with that agency may be obtained at [SEC.gov | Filings & Forms](https://www.sec.gov/filings)

E. Internal Controls

In an increasingly complex business, receivers manage insolvent insurers' investments, accounting systems and other operations, all of which require close scrutiny and professional care in the safekeeping of the company's resources. If the company under receivership had an internal audit/control department the receiver should request and review any internal control procedure documents and reports available.

There is currently no requirement that receivers of insolvent insurers prepare a report acknowledging responsibility for establishing and maintaining an adequate internal control structure. Even so, efforts should be made to ensure and promote effective controls. Further, the receiver should determine if, and to what extent, internal controls and other requirements of Sarbanes-Oxley-type documentation were created and maintained. All such documentation should be reviewed and matched to the processes and procedures observed and analyzed for identification of obvious control weaknesses.¹

The receiver should consider establishing internal control policies and procedures and then periodically audit to determine compliance with established directives. Documentation of the receiver's accounting staff's evaluation or internal audit will be useful in identifying controls that should be maintained or strengthened, in providing a baseline for ongoing evaluations, and in demonstrating to other interested parties the rationale used in making the assessment.

This section addresses internal controls by identifying the broad functions typically found in a failed insurer.

The evaluation of controls over particular applications depends on the sources of information that flow into the applications and the nature of the processes to which the data are subject. These processes can be viewed as:

Accounting Estimation Processes: Processes that reflect the numerous judgments, decisions and choices made in preparing financial statements. Examples of this include the actuarial reserve estimates, or tax projections.

Routine Data Processes: Accounting applications/systems that process routine financial data (the detailed information about transactions) recorded in the records (e.g., the processing of receipts and disbursement transactions, other transaction processing and payroll).

¹ The Sarbanes-Oxley Act of 2002 was in many respects a response to high-profile corporate scandals, but the Act contains corporate governance and accounting regulation concepts that had been proposed even before these scandals became public. Although, in most respects, the Act is directly applicable only to publicly held companies, many Sarbanes-Oxley concepts may eventually be brought to bear on mutual or privately held insurance companies through state regulation, changes in delivery of accounting and auditing services, adaptation of bank lending covenants, insurance and/or reinsurance requirements and court decisions in state law fiduciary duty litigation.

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Non-Routine Data Processes: Other less-frequently applied processes used in conjunction with the preparation of financial statements (e.g., financial statement consolidation procedures, gathering of financial information for special reports, actuarial estimates of reserves, etc.).

In evaluating controls over an application/system, it is important to note that routine data processes generally are subject to a more formalized system of controls because of the objectivity of data and volume of information processed. Conversely, because accounting estimation processes and non-routine data processes typically are more subjective (involving estimates), or because they are performed less often, these processes typically do not have controls at the same level of formality. Consequently, the risk of errors occurring may be greater, and therefore additional scrutiny of the controls may be required.

It is suggested that the approach for evaluating internal controls consider five broad control objectives that affect the reliability of information in the accounts, records and financial statements of the insolvent insurer:

Segregation of Duties: Are procedures in place to ensure that employees with the responsibility for recording or reporting transactions do not have custody of the assets on which they are reporting?

Authorization: Are controls in place to ensure that transactions are executed in accordance with the receiver's general or specific authorization?

Access to Assets: Are controls in place to ensure that access to assets (including data) is permitted only in accordance with the receiver's authorization?

Asset Accountability: Are controls in place to ensure that amounts recorded for assets are compared with the existing assets at reasonable intervals, and that appropriate action is taken regarding any differences?

Recording: Are controls in place to ensure that all transactions are recorded and that all recorded transactions are real, properly valued, recorded on a timely basis, properly classified, and correctly summarized and posted?

VI. AUDIT/INVESTIGATION OF FINANCIAL STATEMENTS

The first step in performing an audit/investigation of an insurer's financial statements is to secure the insurer's cash and investment assets (as discussed above), and then obtain the most recently published financial statement. This may be the most recent annual, quarterly, or monthly financial statement submitted to the domiciliary state insurance department. As discussed later in this chapter, control should be obtained over all automated and manual records of the company, including financial, underwriting and claims records.

Computer systems should be secured at date of takeover, which includes creating a backup to preserve data at the time of takeover, limiting physical access, changing locks and passwords, and obtaining and taking inventory of all computer disks and related backups. (See Chapter 2—Information Systems).

All manual records of the insurer, including those at off-site locations, should be inventoried. A central location for all records should be established, and all records transported to this location. An electronic inventory system should be created to track the location of records/files.

A review of internal controls should identify the nature and extent of significant problems within the insurer and the segregation of duties. This review should ideally be performed by independent auditors at the beginning of the receivership and on a periodic basis thereafter.

An examination of all accounts as of takeover date and a balance sheet as of the date of receivership may be required for reporting purposes or to support litigation. The balance sheet can be prepared using GAAP-basis, statutory-basis or cash-basis accounting. The accounting department, insurance department personnel or independent accountants

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may perform this function. The balance sheet should be prepared using the accounts and the general ledger, as well as current bank statements, investment statements, cash reports and other supporting documents.

The receiver's accountants should obtain workpapers from the last completed audit and/or from the preliminary audit done by an independent accounting firm. These workpapers and any documents or correspondence related to the audit should be reviewed, focusing on restricted assets, related-party transactions, commitments and contingencies, disclosure items, and any other support documentation or unusual items noted. The accountant may be asked to comment on the adequacy of the financial statements opined upon by the insurer's former accountants.

The accountants should also obtain the most recent audited annual statements, SEC reports, 10Ks, 10Qs, filed statutory blanks and internal audit files and reports, again focusing on restricted asset documentation, related-party transactions, unusual items noted and internal control studies.

The principal types of assets and liabilities that an insurer could have and the recommended procedures for establishing the balance sheet at the date of receivership and for securing assets on a prospective basis are discussed below.

A. Cash

As addressed in Section III, the existence, location and amount of all cash, cash equivalent, short-term investments and cryptocurrencies should be verified through direct confirmation with financial institutions, investment managers and other parties thought to be holding cash or investments. Special care should be applied to the identification of accounts not held in the insurer's name but to its benefit. Bank statements, investment statements, cash ledgers and cash flow statements should be reviewed. This process should also include any funds held as collateral, letters of credit or other restricted cash. The initial procedures established with the financial institutions regarding wire transfers, and the identity of all who have access to the cash and investments, should be reevaluated and further consideration given to changing, restricting, or curtailing this access.

B. Investments

As with cash, the existence, location, amount, and type of liquid securities (bonds, stocks, mortgage loans, etc.) should be confirmed directly with financial institutions, any joint venture managing partners, investment and real estate managers and other third parties thought to be holding securities. Investment statements from financial institutions, portfolio statements from investment managers and other similar reports should be secured and used to establish a balance at the receivership date. Purchases, sales and transfers of any kind, especially recent transactions, should be reviewed, with special attention to related gains/losses. A focus on related-party or affiliate transactions is important, as it could be helpful to the receiver and attorneys. The receiver should be aware of who has access to the investments and the authority to direct the investment managers/brokers. The receiver should consider changing and restricting this authority.

A review of the investment policies should be made and guidelines and procedures established regarding the future investing of securities. State law(s) should be researched to determine if there are any applicable restrictions. Receivers should take into account they act in a fiduciary capacity and any investment decisions and guidelines should reflect that. If an investment management firm is controlling allocations according to the investment policy, the receiver should inform them of any difference in the allocations. Allocation of this function between in-house personnel and independent investment services should take into consideration the current dollar amount of investments, projection of future investments, capability of the company personnel and the complexity of transactions. The receiver should investigate company ownership of derivative and options instruments (see Schedule DB of the annual statement) and obtain a description of the company's hedging strategy.

The market value of investments as of the date of receivership should be ascertained to determine the realizable value of the assets.

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Examples of the various types of investments that may be recorded on the insurer's books include:

- Stock
- Bonds
- Mortgage or asset-backed securities
- Short-term investments (e.g., money markets, overnight deposits) (see cash above)
- Government securities
- High-yield, high-risk bonds
- Mortgage loans
- Joint ventures
- Partnerships
- Investments in subsidiary, controlled or affiliated entities
- Real estate
- Company owned automobiles
- Other Assets including healthcare related receivables (for health-related receiverships)

The receiver should also be aware of the risks associated with the various investments recorded on the books of the insurer and should consider liquidating high-risk investments in favor of more conservative investments. Certain risks can be defined as:

- Credit risk
 - The risk that default may occur on an obligation.
- Market risk
 - The risk that values are affected adversely by changes in interest rates or similar type price changes.
- Liquidity risk
 - The risk that the ability to sell investments readily has diminished, resulting in an inability to generate cash to pay off obligations
- Off-balance-sheet risk
 - The risk that a potential loss may occur in excess of the amount recorded on the financial statements. This loss may be related to guarantees or commitments entered into by the insurer with respect to a particular investment.

The insurer may have entered into hedge transactions or other sophisticated investment contracts; the receiver should have an understanding of these arrangements before undertaking any transactions relating to them.

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Determine the existence, location, and the amount of related mortgage/debt and/or income from properties. Obtain any real estate related management contracts. Consider obtaining current valuation of the properties through an appraiser or based on current market conditions. Transactions should be identified and quantified with related parties or affiliates on recent transactions within the voidable preference period. Management of existing properties should be reviewed by the receiver. The bank/lender holding related mortgage/debt should be notified of the receivership. If any of the real estate is held in a joint venture/partnership obtain and review the joint venture/partnership agreements.

D. Reinsurance Recoverables

A present-day evaluation of the collectibility of reinsurance recoverables should be performed by the receiver based on current balances, aging of recoverables and valuation of allowance for doubtful accounts by reinsurer. The processing of claims by the guaranty funds and the reporting of paid losses should be monitored by the receiver for adherence to protocols regarding completeness and timeliness and the effect of delays on its ability to collect reinsurance recoverables. (See Chapter 2—Information Systems and Chapter 6—Guaranty Funds.) Further, consideration should be given to whether ceded reinsurance premiums should be paid and the legal effect of refusal to pay. In the context of a life and health receivership, the Receiver should be mindful of the guaranty associations' right to elect to continue reinsurance in accordance with IRMA section 612 and section 8(N) of the NAIC Life and Health Insurance Guaranty Association Model Act, as adopted in the states.

A receiver should, as part of his evaluation of all reinsurance contracts, determine if there is a contingent commission component and if so, find out whether the estate qualified and received any present or future contingent commission.

Most reinsurance contracts reward contingent commission by way of the ceding commission, *i.e.*, if the loss ratios are within the contract terms that trigger the contingent commission, it typically would be reflected in an increase in the percentage on the ceding commission.

E. Prepaids

Identify prepaid assets, which could include insurance coverage, taxes, pension benefits, etc. If a prepaid asset relates to property insurance coverage, cross reference the insured property to the real estate section, making sure that the property has been identified and recorded under the real estate section. Focus on any prepaids for services from related parties and affiliates.

F. Agents' Balances

Review agents' balances, focusing on additional information that should be recorded on the books of the insurer versus the agents' books. Examine agreements and commissions, and check for unlawful setoffs, evidence of broker funding and other netting activities. Investigate any advance commissions, or bonus or delayed payment arrangements with agents. Consideration should be given to lags in the reporting of premium (and thus exposures), particularly when MGAs, TPAs or multiple agents/brokers are involved. Particular attention should be paid to determine if there are any unearned commissions due to the cancellation of policies caused by the liquidation. Often the agency agreement makes the agent responsible for collection of premium. Under those agreements, if the agent is carrying an account receivable for uncollected premium and the amount of the uncollected premium has not already been paid to the insurance company, the receiver can demand that the agent make payment for the premium even though it has not been collected by the agent. Agent agreements also vary as to the terms for collection of audit premium. Some make the agent responsible for collection of audit premium, while some leave audit premium collection to the insurer. If the audit or audit collection responsibility lies with the agent, the receiver will want to enforce that, at least to the extent that the agent actually collects audit premium. Whether premiums

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are to be remitted to the receiver in gross or net of commissions is an issue of state law that should be resolved by the receiver in consultation with counsel.

G. Loans or Advances to Affiliates or Agents

Determine whether any receivables have been written off without an effort to collect.

H. Personal Property

Obtain a complete inventory of all personal property, such as furniture, fixtures and equipment, including any depreciation schedule. Care should be taken to verify that the insurer is the owner of these assets as opposed to an affiliate or another entity. For example, some assets may be leased as a form of financing. If the company is a staff model HMO, the receiver should also obtain an inventory of medical equipment and a pharmacy or medical supplies inventory.

I. Other Assets

Review other assets, determining existence, location and amount. Verify expiration dates and adequacy of trust accounts and letters of credit posted as collateral by reinsurers, policyholders and others. Ascertain whether any assets have been sold or transferred for less-than-adequate consideration. Review sales contracts and independent appraisals, and focus on any transactions with related parties and affiliates.

For healthcare related receiverships healthcare receivables can include items like provider risk sharing receivables, coordination of benefits, provider overpayments and/or subrogation recoverables among other items.

J. Accounts Payable and Accrued Expenses; Debt

Identify and quantify liabilities outstanding for all general and secured creditors and employee-related expenses. Employee-related expenses include payroll and bonus, severance, vacation and personal time. Obtain pension and deferred compensation program documentation where applicable. These items can be determined by using the payroll register, personnel policies and procedures, and personnel records. Confirm that all personnel receiving monies are currently employed by the insurer, and review all related-party transactions.

Notify any bank/lender of the receivership and confirm outstanding balances as of the date of receivership. Review debt agreements, loan files and collateral files to determine that liabilities are properly recorded on the financial statements as to type of debt and classification, i.e., short-term versus long-term.

K. CLAIM Reserves and Incurred but Not Reported (IBNR) CLAIMS

Obtain an understanding of the insurer's policy on booking reserves, and determine whether the policy has been consistently followed. Make any necessary adjustments to the financial statements. Continue to monitor claims for ongoing evaluations and reporting of case reserves.

The receiver must consider the use of in-house actuaries or independent actuaries to determine the adequacy of reserves. Consider commissioning a new actuarial study, as of the liquidation date, to establish ultimate losses in a property and casualty receivership or to evaluate blocks of business in life, accident and health carriers. The additional cost of the study may be justified by the receiver's enhanced ability to finally commute reinsurance or to adjust account balances that involve retrospectively rated policies. (See Chapter 5—Claims.)

Determining the adequacy of claims reserves and IBNR is especially critical for HMOs. It is also important to identify the inventory and associated liability for claims that are in-house but have not been processed through the HMO's claims system. The receiver may consider hiring a third-party administrator or other

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outside claims processing service to process the claims and determine the ultimate liability. The receiver may also consider hiring an actuary to establish the medical loss ratio for each of the HMO's product lines in order to determine whether a line of business is profitable.

L. Income and Expense

Examine any unusual income and expense items, including sales to or purchases from related parties or affiliates, significant gains/losses, and unusually high expenses in relation to the size of the insurer and type of business.

M. Equity

Review surplus accounts and investigate any unusual changes in surplus, statutory to GAAP adjustments, recent capital contributions, recent capital issues and other activity that appears unusual.

VII. RELATED PARTY TRANSACTIONS

Insurers often enter into many different types of transactions with various related-party entities. Each of these transactions should be scrutinized carefully because of the potential that they were not the result of arms-length bargaining. Further, even fairly negotiated transactions may not have been carried out according to the terms of the agreement. Finally, the transaction may not be exactly as it appears. For example, a sale of an asset at a huge loss may in fact amount to a fraudulent transfer. Related parties may include a parent company, affiliates or subsidiaries, shareholders, directors, officers, and employees. Transactions with affiliates are required to be disclosed in Schedule Y, Part 2 of the annual statement. Related parties may also include entities or individuals that are not as easily identified, as they may be owned by individuals associated with the insurer (such as directors, shareholders, officers or employees), or they may be entities that have entered into significant transactions with the insurer. These transactions may be significant as to the number of transactions or as to the amount of money involved. Alternatively, the transactions may be immaterial from the standpoint of assets changing hands, but significant because of the nature of the transaction (guarantees, debt forgiveness, etc.).

It is important to identify related parties and transactions between the insurer and any related party as quickly as possible for many reasons, including to preserve the assets. Often, related-party transactions are not appropriately reflected on the insurer's books, and sometimes the transactions may not be reflected at all, therefore misstating the insurer's assets or liabilities. The transactions may be accounted for (if at all) on the incorrect entity's books, and funds or entries may be commingled by management, thinking that all the companies are part of a consolidated group or owned by the same parent. However, the legal corporate entities are very important, especially when one or more of them become insolvent. Insurers are subject to the jurisdiction of the insurance commissioner; other entities are governed by bankruptcy law and are generally not subject to the jurisdiction of the commissioner; however, may be subject to the jurisdiction of the receivership court in certain circumstances. On Aug. 17, 2021, the NAIC adopted a new provision, Section 5A(6), of the *Insurance Holding Company System Model Act* (#440) which provides that the affiliated entity whose sole business purpose is to provide services to the insurance company is subject to the jurisdiction of the receivership court This applies to affiliates performing services for the insurers that are integral part of the insurers operations or are essential to the insurers ability to fulfil its obligations².

Further, with regard to commingled data and records, the 2021 revisions to Model #440 and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) specify that records and data of the insurer held by an affiliate are identifiable and are segregated or readily capable of segregation at no additional cost to the insurer. The Models' reference to "at no additional cost to the insurer" is not intended to prohibit recovery

² The full text of Section 5A(6) of the *Insurance Holding Company System Model Act* (#440) is available at https://content.naic.org/sites/default/files/MO440_0.pdf. The 2021 NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) may not yet be adopted in every state; therefore, receivers should refer to the applicable state's law.

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of the fair and reasonable cost associated with transferring records and data to the insurer. Since records and data of the insurer are the property of the insurer, the insurer should not pay a cost to segregate commingled records and data from other data of the affiliate

Related-party transactions may give rise to culpability on the part of the interested entities or individuals. Preferential transfers, fraudulent transfers and other bases for liability are discussed further in this chapter and in Chapter 9—Legal Considerations.

Organization charts showing a parent, affiliates or subsidiaries may be obtained from a schedule within the annual statement (Schedule Y, Part 1), board minutes or SEC filings. Additionally, relationships with insurance groups and entities that share common ownership can be found on Schedule Y, Part 3. It is more difficult to identify individuals who might have been involved with related-party transactions, and often that list of individuals is much longer. However, the receiver should start with the list of officers and directors of the insolvent insurer; its parent, subsidiaries or affiliates, again listed in the annual statement or SEC documents; and board minutes. Stockholders' names should be listed in shareholder records maintained, possibly, by legal counsel or trustees. Lists of employees may be obtained from payroll registers. When these transactions are reviewed, it may be determined that a significant number or dollar volume of transactions have occurred with one individual or entity. This may indicate that the involved entity or individual is also a related party.

Once an initial list of related parties is established, the types of transactions that may have occurred between these entities can be determined. The types of transactions that may be identified relate to various types of business transactions. An understanding of the related entities and how they are affiliated will help the receiver to identify and formulate the types of transactions that may have occurred between them. Many insurer company groups have established affiliates to act as investment vehicles or managers, brokers, reinsurers, MGAs, TPAs, premium finance companies, computer service companies, or to accept select types of risks. A parent holding company may have been established. It is important to ascertain the related parties and their affiliation because the insolvent insurer may have claims against affiliates.

The receiver should review the notes to financial statements in the annual statement, the independent auditor's report and the state insurance examiner's report. These reports typically identify and summarize some of the significant related-party transactions. Also, board minutes will frequently contain discussions or resolutions pertaining to specific significant transactions involving related parties.

Brokerage, agency or management agreements may exist between the insurer and its affiliates. There may also be reinsurance (both assumed and ceded) or pooling arrangements among affiliates. Expense-sharing arrangements may exist. An affiliate may provide data processing services (the receiver needs to determine immediately if he or she can continue to obtain these services and how to secure the data). Leasing arrangements for offices, data processing equipment and furniture and fixtures may also exist. With respect to all agreements with affiliates, the receiver should be alert to possible differences between the apparent transaction and its real substance.

Holding companies may also provide management expertise for which there is a management agreement and/or expense allocation agreements. Tax-sharing agreements may also exist between all the affiliates and parent.

Insurers may have management agreements with unaffiliated parties, or control may be maintained through interlocking directors of the management company and the insurer. For example, an HMO may be controlled by a provider group such as hospitals. Therefore, these agreements or contracts need to be reviewed to determine if they are arms-length transactions.

It is important to identify these transactions as quickly as possible, not only for the identification of assets and liabilities that may be recovered by the insurer, but to determine if alternative data processing, management, facilities, etc., should be obtained, as these services may no longer be available from the affiliate. Alternatively, such services may be available on more favorable terms from non-affiliated providers.

The types of transactions that may have occurred between the insurer and its directors, officers, employees and stockholders may be the same as some of the above, but may also include items such as travel and expense advances,

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unsecured loans or loans secured by personal or real property. Companies owned by any of these individuals may also be responsible for providing services discussed above, including leases, data processing, brokerage, reinsurance, etc.

To determine the existence of these types of transactions, their validity and the appropriate accounting for the transactions (both in the books and records of the insurer and in cash flow), the tasks described below should be performed.

A. Identify Related Parties

The receiver should obtain or develop organizational charts to identify any and all affiliates and related parties. These affiliates should be identified as 1) parent companies, 2) subsidiaries, or 3) affiliates (which would be organizations owned or controlled by the same parent company, but not owned by the insolvent insurer). Schedule Y, Part 1 of the annual statements provides an organization chart of the insurance holding company system, Schedule Y, Part 2 includes transactions with affiliates, and Schedule Y, Part 3 includes further information on insurance groups and entities that share common control.

After preliminary identification of these related entities, the receiver should determine the status of these related entities:

- If the related parties are financially troubled, are the parties under the jurisdiction of the insurance regulator of their state of domicile, or are the parties under the jurisdiction of corporate bankruptcy laws?
- Does the insolvent insurer need to file a proof of claim against the related entity to preserve its claim? (The receiver should consult with counsel about the risks of submitting to a foreign court's jurisdiction on issues other than those set forth in the proof of claim.)
- Are the entities affiliated, in which case the insolvent insurer may have access to the assets of the related entities?
- Is cash commingled among the companies?
- Are the entities operating as alter egos?

The receiver should also obtain lists of individuals, as well as their related entities who might also be related parties, beginning with the directors and officers of the insurer listed in its annual statement and the officers and directors of the insurer's subsidiaries and affiliates. The receiver should also obtain a list of all shareholders and employees of the insolvent entity. Each of these individuals may be categorized in a manner similar to that described above for companies that are related entities. Each can be evaluated for the types of transactions that may have occurred between them and the insurer. It should be kept in mind that these individuals may have been involved with other entities that appear not to be related but, in fact, may have had sufficient transactions with the insolvent entity that they, too, become related entities.

B. Find Supporting Legal Documents for Transactions

The receiver should obtain all key documents and agreements entered into between the insurer and its various related entities. As discussed above, these agreements may have been collected through the inventory of documents in the takeover period. If these documents have not been located, a search may be made to locate any agreement or documents that indicate arrangements between the insolvent insurer and the various related entities.

As the receiver completes the procedures described below and in Chapter 4—Investigation and Asset Recovery, identified transactions may indicate the advisability of searching for additional documents.

*Chapter 3 – Accounting and Financial Analysis***C. Identify Amounts Associated with the Related Party Transactions**

Next, the receiver should review the various accounting records of the insurer, including the chart of accounts, general ledger, journal entry listing and transaction listings. It must be noted that when dealing with related-party transactions, the receiver should attempt to obtain the corresponding records of related entities to cross reference transactions and amounts as described in the procedures below.

The chart of accounts may be obtained and reviewed for any accounts that appear to be intercompany receivables, intercompany payables or loans to affiliates, related parties, directors, officers, shareholders, employees, etc. This may be an easier task for some companies than others. Often separate accounts will be established for all related-party transactions. On the other hand, the transactions may be difficult to identify if they were charged to accounts with innocuous titles such as “other assets” or “miscellaneous expense,” or if they were netted with other transactions. Some transactions, particularly insurance-related transactions, may be buried in the normal transactions of the insurer. However, if the receiver reviews the chart of accounts to identify preliminarily the accounts that may be with related entities and individuals, subsequent procedures will help identify buried transactions.

After particular accounts have been identified as possibly containing related-party transactions, the general ledger should be reviewed to ascertain the dollar amount in the identified accounts. The receiver may want to prioritize the items reviewed by the dollar magnitude of the balances. However, caution should be taken at this point, as the dollar magnitude alone may not be indicative of the significance of the transaction. Understanding the types of transactions recorded in the particular account is helpful, especially if there is a high volume of transactions that have been netted. A small balance in an account with a significant volume of transactions may have other implications. No cash may have changed hands in the case of guarantees or debt forgiveness.

The next step is to obtain the transaction register by month to see the actual transactions that have been posted to the account. This will be the beginning of the investigation, or audit phase of the review. As mentioned above, depending on the size and type of systems the insurer used, it is possible that the general ledger listing also will provide the listing of transactions posted to the various accounts, meaning that a separate transaction listing is not necessary or available.

It may be beneficial to obtain a listing of disbursements sorted by payee. This can help identify related-party transactions that, as mentioned above, may not appear significant standing alone and that may be buried in other transactions of the insurer.

The above steps are easily accomplished if the insurer had an efficient, effective accounting system. Unfortunately, this is often not the case with many insurers that become insolvent. Frequently the accounting system may not have been operational as originally designed due to budgetary concerns, cutbacks of manpower and other problems during the period immediately preceding the insolvency, or there may have been intentional distortion of the system to hide improper transactions. In any case, it may be necessary to reconstruct information.

D. Cross-Reference to Affiliates’ Books

If the receiver has access to the related entities’ books, they should be obtained from those entities. A receiver who does not have ready access should attempt to obtain access promptly. The reciprocal accounts for those entities may then be reviewed and cross-referenced to see that the amounts recorded on the related entities’ books are in fact the reciprocal of the amounts on the insolvent insurer’s books. Differences should be investigated. In addition to the cross-referencing, the receiver may also perform all the analytical procedures discussed above for the related entities’ identified accounts. Through this process, the receiver may find other transactions that need to be evaluated and analyzed. In the absence of a court order, the receiver will usually be unsuccessful in his/her attempt to obtain the books and records of related entities.

*Receiver's Handbook for Insurance Company Insolvencies***E. Analyze All Transactions**

Once related-party transactions have been identified, detailed analyses of most of the transactions can be completed to determine whether they were business transactions entered into at arm's length and for valid business reasons with appropriate support. The arm's-length aspect of some transactions may be difficult to determine (or refute); however, all such transactions should be reviewed with an appropriate degree of skepticism. The analysis of the identified transactions may be completed by the accounting department or by the audit/investigation team.

The receiver may attempt to segregate transactions into types for analysis. Otherwise, the task may seem too large to accomplish. The transaction types may be determined by the accounts that have been identified as including related-party transactions and the relationships of the related parties. For example, if the related-party accounts include advances to or from, or accounts receivable or payable, then one of the transaction types might be cash advances or loans to related parties. The following are some of the transaction types that may be identified for analysis:

- Advances/loans to related parties
- Reinsurance receivable/payable
- Premiums due to/from
- Commissions due to/from
- Operating expenses receivable/payable (leases, management, computer services, etc.)
- Payment of dividends
- Purchase or sale of assets from or to related parties

The receiver should then systematically review the transaction types in each of the identified accounts. This would include noting the description of the transaction in the transaction listing.

It may be necessary for the receiver to search for the underlying documentation for all entries. The journal entry listing and other documents obtained in the document search may be helpful in this effort. Also, the various schedules in the annual statement should be reviewed. In any event, the receiver will have to seek any underlying information that may indicate the substance of the recorded transaction. The receiver may also have access to current or former employees who can shed light on the nature and intent of these transactions, locate documentation, and otherwise interpret such documents. Once the transaction entry has been obtained and the underlying documentation has been obtained and reviewed, the receiver can determine whether the information was recorded appropriately on the insurer's books. At that time, the receiver should add the correct dollar amount of this item to the schedule of items for ultimate determination of action. This schedule should be prepared on a gross basis, without netting of balances, to enable the receiver to see the full impact of the transactions.

The receiver should systematically analyze all significant transactions in all identified accounts, as demonstrated above, until all transactions have been reviewed and scheduled for ultimate disposition.

As each of these transactions is being reviewed and scheduled, it is always necessary to cross-reference to other related parties' books and records, if available.

F. Evaluate All Identified and Analyzed Transactions

After all transactions have been reviewed, analyzed and scheduled, the receiver will have to evaluate the propriety of the transactions and any action necessary. Some of the transactions might not stand depending

Chapter 3 – Accounting and Financial Analysis

on the type of transaction and when it occurred relative to the date the insurer was declared insolvent. If the related-party transactions result in receivables to the insolvent entity, it may be necessary for the receiver to file a proof of claim in another proceeding if the other party is in some form of receivership. If the related-party transaction resulted in payables from the insurer, the receiver may have creditors that need to be notified of the insolvency.

G. Potential Reconstruction of Records

If the insurer does not have the types of records listed above, it may be necessary to use available records to reconstruct the needed information. In such cases, the receiver should begin with the insurer's annual statement. From this, the receiver may find supporting documents for the numbers entered and filed in this statement. If the underlying information does not agree with the annual statement, the discrepancies should be identified and the reason for the discrepancies determined. The receiver may be able to obtain information from the insurance department or outside auditors, which can be of great benefit when reconstructing records.

If a total reconstruction is required, the receiver should start with all the bank statements for the past year (at a minimum). The receiver should review the receipts and disbursements from the most recent year to determine if there are additional types of transactions that were not previously disclosed in the last filed annual statement. This detailed analysis should include a schedule which categorizes disbursements by type and which segregates those related to the payment of claims or reinsurance and other underwriting expenses from those that were pure operating expenses. Disbursements that may have been to related entities should also be segregated and identified. The same type of schedule should also be prepared for all cash receipts.

If available, any financial information regarding affiliates, subsidiaries or the parent company would be useful in this reconstruction.

H. Data and Records of the Insurer Held by an Affiliate

The *Insurance Holding Company System Model Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) contain provisions that address data and records of the insurer that are held by an affiliate. While the Models have contained provisions since 2010, on Aug. 17, 2021, the NAIC adopted revisions to further clarify owner of data and records³.

Specifically, the Model Act #440 specifies the following:

- The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and
- All records and data of the insurer held by an affiliate are and remain the property of the insurer, are subject to control of the insurer, are identifiable, and are segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. The affiliate may charge a fair and reasonable cost associated with transferring the records and data to the insurer; however, the insurer should not pay a cost to segregate commingled records and data.

³ Although in 2021 the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) related to receivership matters including records and data, these revisions may not yet be adopted in every state; therefore, receivers should refer to the applicable state's law.

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Therefore, if records and data belonging to the insurer is held by an affiliate (e.g., on the affiliate's systems), upon request, the affiliate shall provide that the receiver can:

- obtain a complete set of all records of any type that pertain to the insurer's business
- obtain access to the operating systems on which the data is maintained
- obtain the software that runs those systems either through assumption of licensing agreements or otherwise
- restrict the use of the data by the affiliate if it is not operating the insurer's business
- The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.
- The Model #440 and #450 revisions also describes that records and data that are otherwise the property of the insurer, in whatever form maintained, include, but are not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate.
- Model Regulation #450, Section 19 lists provisions that should be included in agreements for cost sharing services and management services between the insurer and an affiliate, which includes certain provisions specific to the insurer being placed in supervision, seizure, conservatorship, or receivership.
 - All of the rights of the insurer under the agreement extend to the receiver or commissioner to the extent permitted by state law.
 - Records and data of the insurer are the property of the insurer, are subject to the control of the insurer, are identifiable, and are segregated from all other person's records and data or are readily capable of segregation at no additional cost to the insurer.
 - If the insurer is placed into receivership, a complete set of records and data of the insurer will immediately be made available to the receiver or the commissioner, shall be made available in a usable format and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request, and the cost to transfer data to the receiver or the commissioner shall be fair and reasonable.
 - Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, seizure, conservatorship or receivership.
 - Specify that the affiliate will provide the essential services for a minimum period of time [specified in the agreement] after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship or receivership.
 - Specify that the affiliate will continue to maintain any systems, programs or other infrastructure, notwithstanding supervision, seizure, conservatorship or receivership.
 - Specify that if the insurer is placed into supervision, seizure, conservatorship or receivership, and portions of the insurer's policies or contracts are eligible for coverage by

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one or more guaranty associations, the affiliate's commitments under certain provisions of Section 19 of Model 450 will extend to such guaranty association(s)⁴.

VIII. TAX ISSUES

In virtually every receivership federal tax issues must be considered. The insurer cannot be discharged or liquidated without the filing of federal income tax returns. In addition, consideration should be given to the payment of federal corporate income and other taxes. The receiver can be held personally liable for the payment of certain unpaid taxes if specific procedures are not followed.

Because of the complexity of federal income taxation issues, the potential personal liability of the Receiver and the additional complexities associated with receiverships, and the significant impact on the estate from items such as forgiveness of debt, consolidation rules and other matters, the receiver should hire individuals with expertise in these areas. Such experts could include independent CPAs or counsel with experience in such matters. Furthermore, because of the continuously evolving nature of federal income taxation issues, many of the issues addressed in this chapter may have changed. This is a reason that the receiver should hire individuals that will be as up-to-date as possible in these areas, and why receivers should seek updated guidance on tax matters (both federal income and state premium tax issues) in reference to the issues addressed in this Handbook.

The receiver should ascertain the insurer's tax status as part of the takeover procedure, in addition to securing copies of tax returns and company tax payment records. Foremost, the receiver should learn whether all tax returns due have been filed and any amounts owing have been paid. In addition, the receiver should learn whether the insurer was part of a consolidated group filing or party to any tax sharing or similar contractual agreements. The receiver should also obtain and carefully review and understand the provisions of any tax sharing agreements between the insurer and any related parties. In almost all receiverships, the receiver takes over the insurer, but not necessarily its holding company or other affiliated group with which the insurer may be consolidated for tax purposes. In addition, the insurer may own non-regulated subsidiaries that are taxed differently from the insurer.

Prior years' returns and any correspondence with the IRS also should be reviewed. Discussion may be held with any outside CPAs or counsel who may have been involved in filing the returns or in handling any disputes with the IRS. The receiver should be alert to any contingencies that may exist for payment of taxes, penalties and interest resulting from failure to file on time, failure to pay tax due on the return, inappropriate treatment of income or deductions on the return, etc. Contingency reserves recorded on the balance sheet of the insurer or its parent should be reviewed and analyzed for purposes of determining tax positions taken by the company which are not "more likely than not." The receiver should consider these contingencies when allocating distributable assets of the estate in light of the priority generally alleged by the federal government and accorded by the applicable priority statute (see Chapter 9—Legal Considerations).

The receiver may request an "Account Transcript" from the IRS for the receivership entity. The transcript, available by type of tax (Form 1120, Form 941, etc.) and year, may be obtained by filing form 4506-T, Request for Transcript of Tax Return. An account transcript typically contains information on tax payments (amounts and dates) and filing of returns (dates).

Income taxation of insurers is somewhat different from conventional corporations, with additional provisions that are applicable to life insurers contained in Part I of Subchapter L of the Internal Revenue Code ("IRC") and specific provisions applicable to other insurance companies contained in Part II of Subchapter L of the IRC.

Even though an insurer may have substantial statutory losses, it is possible that based on its taxable income, federal income taxes may be due. See discussion in this chapter of deferred income that may be taxed when a company loses its status as a life insurance company for federal tax purposes. There also exists the possibility that the insurer

⁴ The full text of Section 19 of the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) is available on the NAIC website at: https://content.naic.org/sites/default/files/MO450_0.pdf

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is entitled to recover prior years' taxes because of the existence of capital losses, operating losses or tax credits. Operating losses, can be carried back two years and forward 20 years by property and casualty insurers. Prior to 2018, life insurers were allowed to carry back ordinary losses for 3 years and carry forward losses for 15 years. No carryback is allowed for operating losses of insurers other than property and casualty insurers for taxable years after December 31, 2017, but these insurers are allowed indefinite carryforwards which are limited to 80% of taxable income in each year to which the operating loss is carried. All insurers are allowed to carry back capital losses 3 years and forward up to 5 years to offset capital gains and tax credit carrybacks vary depending upon the type of credit, so you should always check with a tax advisor. The insurer may also have made estimated tax payments that can be recovered. An insurer may also be entitled to a tax recovery because of its inclusion in a consolidated tax filing where its losses were used to set off taxable income from affiliated entities. Tax recovery due to tax sharing agreements will not be recoverable from the IRS but must be recovered from affiliated entities. Therefore, income tax recoverable may not be collectible and, as such, should not be booked. In addition, under Section 848 of the Internal Revenue Code, an insurer must capitalize its estimated acquisition expenses, which are then amortizable (deductible) over the ensuing 10-year period for amounts capitalized prior to through Dec. 31, 2017 and over a 15-year period for amounts capitalized after December 31, 2017 (five years for smaller companies).

The receiver should be aware that IRC Section 6511(a) places a deadline by which claims for credit or refund of taxes must be made. In many instances, this deadline will be three years from the due date of the return for which the claim for refund is being made. However, if the claim for refund results from the carryback of losses to preceding tax years, the deadline will be three years from the due date of the return which generated the loss. Due to the critical nature of properly determining these deadlines, the receiver should consider consulting independent CPAs or counsel with experience with these matters.

In addition to federal corporate income taxes, the receiver also has to be concerned about foreign taxes, state corporate income taxes, federal and state payroll taxes, premium taxes, real estate taxes, federal excise taxes, state franchise and excise taxes, sales taxes, and personal property taxes, along with myriad reporting and filing requirements. The receiver will also need to file final tax returns upon the closing of the receivership estate.

A. Notice

Within 10 days from the date a receiver is appointed, Form 56 (Notice Concerning Fiduciary Relationship) must be filed with the IRS. A certified copy of the court appointment should be attached. This form should be filed for all forms of receivership. The receiver should specify that he is to receive notice concerning income, excise, sales and property, and payroll tax matters. The list of tax forms should include Form 1120L (for life companies) or Form 1120PC (for property and casualty companies), Form 941 (quarterly payroll tax returns), Form 940 (Federal Unemployment Compensation Tax), and Form 720 (Federal Quarterly Excise Tax Return). If the insurer owns subsidiaries, the receiver should also file a Form 56 notice for each subsidiary.

In addition to the federal filing, many states have similar notice requirements. Even without a specific requirement, sending similar notice to the taxing authorities of those states and foreign countries where the insurer did business or had employees should be considered.

Form 56 is not to be used to update the last known address of the receivership entity. The receiver should file form 8822, Change of Address, with the IRS.

B. Income Taxes

Under Section 1.6012-3(b)(4) of the Federal Income Tax Regulations, a receiver or trustee who, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all, or substantially all, the property or business of a corporation, must file a return in the same manner and form as the corporation.

The due date for filing federal corporate income tax returns for insurance companies is the 15th day of the fourth month (generally April 15) of the year following the year end of the company. [For years beginning

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prior to 2016, the due date was the 15th day of the third month (generally March 15) of the year following the year end of the company.] A six-month extension to October 15 can be obtained for the filing of the return, if the extension form is sent to the IRS prior to the April 15 deadline. This extension, however, is only for the filing of the return and not for the payment of tax liabilities. The April 15 deadline is applicable to calendar-year companies only. There may be certain non-insurance companies under the receiver’s authority that have fiscal year-ends.

Once an affiliated group of corporations files a consolidated return, it must continue to do so as long as the group remains in existence. Therefore, consolidated returns must continue to be filed with the insurer’s subsidiaries. In addition, the IRS has ruled under PLR 9246031 that an insurer in liquidation under state law generally is required to be included in its common parent’s consolidated federal income tax return. The receiver may request approval from the IRS to file separate returns. This permission may be granted on a case-by-case basis for good cause shown. Pursuant to the consolidated return regulations (1.1502-75), the parent of the affiliated group must request deconsolidation for good cause. A deconsolidation may weaken the IRS’s position; as such, the granting of a deconsolidation is not guaranteed.

Following is a list of various insurance or insurance-related entities and the Federal Income Tax Form that should be filed:

Type of Insurer (Based on Business Written)	Federal Income Tax Form
Property/Casualty	1120-PC
Life	1120-L
HMO	1120-PC
Staff Model HMO	1120
501(c)(15)(A) - tax exempt	990
Title	1120-PC
Blue Cross/Blue Shield	1120-PC
Health	1120-PC
Health w/ noncancellable and/or Guaranteed renewable contracts	1120-L

For a company to be considered an “insurance company,” at least half of its business during the taxable year must be the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

For a company to be considered a “life insurance company,” it must be engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable and/or guaranteed renewable contracts of health and accident insurance. Also, its life insurance reserves plus unearned premiums—and unpaid premiums on unpaid losses and on noncancellable life, accident, or health policies not included in life reserves—must make up 50 percent or more of its total reserves.

In certain special situations, managed care organizations may qualify for tax exempt status; if so, they would file Form 990.

1. Life Insurance Companies

Life insurers (whether stock, mutual or mutual benefit) that meet certain reserve requirements file Form 1120-L. If a life insurer does not meet the reserve requirements, then it must file Form 1120-PC. If a stock life insurer loses its life insurance tax status because its life insurance reserves fall below the minimum requirement, then taxes that were deferred in earlier years may now become due. In Revenue Procedure 2018-31, Section 26.03 provides for an automatic accounting method change when there’s

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a change in qualification as a life insurance company as defined in Internal Revenue Code (“IRC”) Section 816(a).

For taxable years ending before January 1, 2018, life insurers with less than \$500 million in assets are entitled to a small life insurer deduction of 60 percent of their “life insurance company taxable income.” This deduction is available for income up to \$3 million and then is gradually phased out on income from \$3 million to \$15 million. For taxable years after December 31, 2017, the small life insurer company deduction is repealed, and the alternative minimum tax for corporations is repealed as well.

2. Non-Life Insurance Companies

Non-life insurers (stock and mutual) file Form 1120-PC. Non-life companies generally are taxed on their statutory income with certain modifications, including the discounting of loss reserves and the non-deductibility of 20% of the increase of the unearned premium reserves. The non-deductible 20% of the unearned premium reserve (UPR) gives the taxpayer a tax benefit when the UPR is reduced but the effect of the reversal of the 80% deductible portion has a greater impact and may create taxable income. As previously stated, the receiver should consult their tax consultant regarding the ramifications of these issues.

Non-life insurers whose written premiums for the year do not exceed \$2.2 million (an amount which is inflation-adjusted for each taxable year beginning after 2015) may elect to be taxed only on investment income under Code Section 831(b). The premium limits are based upon the premiums of a “controlled group” of corporations as defined by Code Section 1563(a), with the exception that more than 50% is the definition of control. The fact that an insurer is in receivership does not remove it from a “controlled group.” The company also must meet certain diversification requirements with regard to premiums and owners as prescribed in IRC Section (831(b)(2)(B)). Taxation on investment income may not be advantageous to companies that are currently generating or utilizing net operating losses, as the company may lose the benefit of those losses. IRC Section 831(b)(3) prescribes limitations on the use of net operating losses for insurance companies taxed only on investment income.

Prior to January 1, 2005, small non-life insurers with less than \$350,000 of premium income could qualify to be exempt from income tax under Code Section 501(c)(15). Many receivers took advantage of this provision to exempt liquidation estates from federal income taxation. In 2004, IRC Section 501(c)(15) was amended to provide tax exempt status only to those non-life insurers with gross receipts less than \$600,000, and then only if more than 50% of the gross receipts were from premiums. Since most companies in liquidation have virtually zero premium income after the first couple of years of the liquidation, and since most have annual income exceeding the \$600,000 cap, this amendment to Code Section 501(c)(15) generally eliminated its applicability to insurance receiverships.

The impact upon insurance companies in receivership was considered as Code Section 501(c)(15) was being amended in 2004, and the applicability of the exemption to insurance companies in receivership was specifically extended through calendar year 2007. However, as of January 1, 2008, any insurers in liquidation that may have previously been qualified for exemption under the pre-2005 provisions of Code Section 501(c)(15) became ineligible for such exemption and are subject to federal income tax from that time forward unless they met the new requirements.

3. Special Relief

Under Revenue Procedure 84-59, the receiver may apply to the District Director of Internal Revenue for relief from the filing requirements under limited circumstances. In order to request this relief, the insurer has to have ceased operations and no longer have assets or income.

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4. Prompt Audit

The receiver may request that a prompt determination be made under Revenue Procedure 2006-24 whether the income tax return is being selected for examination by the IRS or is accepted as filed. The receiver will be discharged from any liability upon payment of the tax shown on the return if the IRS does not notify the receiver within 60 days after the request that the return has been selected for examination, or if the IRS does not complete the examination and notify the receiver of any tax due within 180 days after the request. This procedure enables the receiver to proceed with the receivership, or enhances the possible sale of the insurer, by resolving contingencies relating to taxes due for prior periods. The prompt audit provisions specifically apply to bankruptcy proceedings, not state liquidations. Certain IRS offices have approved applying the provisions to state liquidations; however, the approval is not automatic. When this is the case, a request for prompt assessment should be made under I.R.C. §6501(d). This will reduce the statute of limitations for assessment to 18 months. The request contemplates a corporate dissolution in 18 months and requires the submission of Form 4810 to the IRS.

5. Carrybacks

An insurer often becomes financially troubled because it incurred operating and/or other losses. Such losses may be deductible for income tax purposes. A review may be made of the deductibility of such losses to determine if the losses were deducted in the correct fiscal year and may be carried back to recover previously paid income taxes. If the losses were not deducted in the correct years, prior years' income tax returns may have to be amended. Under the Tax Cuts and Jobs Act of 2017 (TCJA) net operating losses of non-life insurance companies can still be carried back two years and carried forward 20 years (Internal Revenue Code Section 172(b)(1)(C)). However, there is no carryback for life insurance company net operating losses arising in 2018 and later years and an unlimited carry forward period (Internal Revenue Code Section 172(b)(1)(A)). Operational losses of life insurers arising in 2017 and earlier are carried back three years and forward fifteen years. A non-life insurance company can use the full amount of its net operating losses to offset taxable income (Internal Revenue Code Section 172(f)). A life insurance company is limited to an 80% net operating loss deduction against taxable income (Internal Revenue Code Section 172(a)(2)).

An example of a restructuring technique used in the liquidation of Reliance Insurance Company to address significant net operating loss carryovers is available in Exhibit 3-4.

6. Carryovers

To the extent that there is a discharge of indebtedness, any net operating loss carryover may be reduced by the amount of the discharge. If guaranty funds or other creditors are entitled to future funds, there may not have been a complete discharge.

Net operating losses are allowed an indefinite carryover period in taxable years beginning after December 31, 2017. The net operating loss deduction is limited to 80 percent of taxable income (without regard to the deduction) for losses arising in taxable years beginning after December 31, 2017. Therefore, even when there are net operating loss carryovers available, discharge of indebtedness could still result in income tax liabilities due because of the carryover taxable income limitations.

7. Deferred taxes

The deferred taxes for both deferred tax assets and liabilities should be reassessed. For example, the deferred tax assets which rely on further taxes payable to be realized may no longer be realizable.

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If the insurer is in rehabilitation, the receiver may be required to continue paying state and municipal premium taxes. Insurers are usually required to pay premium taxes that are calculated as a percent of direct premiums written. Many state and local tax authorities require insurers to pay estimated premium taxes. In many cases, a financially troubled insurer may experience a decrease in premium volume, or policies in force may be canceled. This may result in a reduction in premiums written and the related premium taxes. A review may be made to determine whether the insurer is entitled to premium tax refunds. It may then be necessary to refile the most recent returns to reflect the reduction in premium income. In addition, the receiver may attempt recovery of any prepaid or estimated premium taxes. If premium taxes are owed in a liquidation many states may relegate premium tax claims to a lower or general creditor status.

D. Payroll Taxes

Insurers are required to withhold federal income tax and social security tax (as well as state and local income taxes) from the wages and salaries of their employees. All of these taxes are considered “trust fund taxes” and must be remitted periodically to the various taxing authorities. The receiver should promptly ascertain that all payroll tax payments have been remitted by the insurer. If the receiver finds that taxes have not been paid, the Special Procedures Office of the IRS should be notified. In this way, the taxes or 100% penalty can be assessed against the former officers or persons with the responsibility for paying the taxes. The receiver may be asked to complete Form 4180 or Form 4181, which are questionnaires relating to the payment of “trust fund taxes.”

If the receiver fails to follow these procedures and funds that could have been used to pay “trust fund liabilities” are used for other purposes, the receiver may be held personally liable. The receiver should make certain that any plan filed with the court for the distribution of assets provides for the payment of these outstanding federal tax liabilities.

Many states have similar laws relating to withheld payroll taxes, and the receiver should be aware of the responsibilities imposed by these laws. The receiver should continue to file W-2s, as well as Forms 940 and 941, for employees of the insolvent insurer.

E. Other Taxes and Assessments**1. Real Estate and Corporate Personal Property Taxes**

The receiver should ascertain whether all real estate tax payments have been made, including those that the insurer has been collecting on mortgages it holds or services. The tax collector should be notified of the receivership proceeding and instructed to send any notices to the receiver.

2. Guaranty Fund Assessments

State guaranty funds assess insurers to cover their administrative and claim costs. If the insurer is operating under supervision or rehabilitation, it remains liable for guaranty fund assessments, though a guaranty fund may defer or abate an assessment, in whole or in part, under certain circumstances. In liquidation, guaranty fund assessments are paid in accordance with the domiciliary state’s liquidation priority statute.

3. Excise Taxes

Some insurers are required to remit excise taxes to the IRS because of foreign reinsurance premiums. These taxes are also considered “trust fund taxes,” and the same care should be afforded these taxes as is given to withheld payroll taxes.

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4. Commissions and Other Payments

At year-end, insurers are required to file Forms W-2 and/or 1099 for all commissions and other payments to an individual or partnership in excess of \$600 during the year. In addition, the receiver is required to prepare Forms 1099 and send the forms to policyholders of life companies while business is still being serviced by the insolvent insurer. In addition, if the insurer has received interest from mortgages, the receiver is required to prepare and provide Form 1098 to the payer. If more than 250 1099 forms are to be issued, the filing is required to be done electronically. However, relief from this electronic filing may be secured upon request to the IRS. The receiver should be able to demonstrate that an electronic filing would place an undue hardship on the insolvent insurer. The IRS can assess penalties for both the failure to issue the forms to agents and the failure to file the forms with the IRS. If the receiver has not already sought relief and the estate is assessed, the IRS may waive the assessment upon request. Additionally, most states and some localities have filing requirements.

5. Franchise Taxes

Several states have franchise taxes. The tax basis can be the net worth of the insurer, the assets of the insurer, the number of shares of authorized stock or the amount of paid-in capital. The failure to file and pay these taxes may result in the cancellation of the insurer's corporate certificate of authority.

6. Other State Taxes and Licenses

Insurers are subject to numerous state taxes and assessments, including: workers' compensation; second injury funds; firemen's and policemen's pension funds; medical disaster funds; major medical insurance funds; arson, fire and fraud prevention funds; fire marshal tax; insurance department administrative assessments; "Fair Plan" assessments; and motor vehicle insurance funds. In addition, many localities have licenses and taxes unique to insurers. Comprehensive summaries are published by several insurers groups, including the Property Casualty Insurers Association of America (PCI), the American Insurance Association (AIA) and the American Council of Life Insurers (ACLI). The receiver should also ascertain if the insurer has any responsibility for filing informational returns and/or paying other state or local taxes such as sales and use taxes, water and sewer taxes, business and occupational privilege licenses, and taxes for employment training funds. Before paying these taxes, consideration should be given to the importance or lack of importance of maintaining state corporate certificates of authority and/or licenses.

All taxes should be reviewed to determine how any liability should be included in the priority scheme. The receiver should consider whether the certificate of authority or licenses have value before they are allowed to expire or be cancelled.

IX. INVESTMENTS

Investments may represent the largest group of assets on the balance sheet of an insurer. The purpose of the investments is to provide the company with resources and a steady flow of investment income to meet obligations as the obligations become due. A priority of the receiver is to take over full responsibility for all investments. This section will attempt to guide the receiver and identify any hidden elements in the following steps: seizure and control, inventory/identification, balancing, valuation and other considerations.

The investment management function may be delegated to a bank or other professional manager. Depending on the receiver's evaluation of the company's investment manager, that person or entity may be retained with or without additional restrictions on their discretionary authority. Further, the receiver should consider that prior company investment objectives of high yield equity related gains, and acceptance of reasonable risk may no longer be appropriate. Concerns of safety and liquidity may be foremost.

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To seize investments, the receiver should identify the various custodian institutions, investment brokers or managers, and the pertinent account numbers for the insurer. Most of the essential information may be obtained by review of the annual statement and the workpapers of the last full statutory examination or CPA audit. The examination workpapers will most likely include year-end statements and confirmations from the various institutions that are holding the investments. A review of the last filed annual statement will disclose the brokers that are most frequently used for the purchase and sale of investments.

The receiver may also corroborate all the pertinent information with the chief investment officer of the insurer.

If the investment managing function has been contracted to an outside institution, the receiver should promptly notify the institution of the receivership action. The external manager may be allowed to continue with his duties at the direction of the receiver, but transfers to other non-managed accounts should be restricted. The manager's discretionary authority should be reviewed to determine if additional restrictions should be placed on the manager to maintain investment balances in safe, liquid and/or insured securities. The receiver should consider the difference between investment goals related to a rehabilitation vs. Liquidation

The receiver should notify all banks, custodians, depositories, brokers and managers of the takeover as soon as possible and by the most expeditious method practicable under the circumstances. Time may be of the essence in preventing insiders from absconding with company funds. The notification should be specific as to account numbers, but not limited to those account numbers (include any other accounts that bear the name of the insurer). The notification should be accompanied by a copy of the court order of receivership. The institutions should be instructed as to their continuing duties and what is expected of them.

As part of the notification, the receiver should instruct the institutions to add the receiver's name as a signatory, deleting all others.

A matter that may need priority attention is the immediate suspension of wire transfers. Today, many insurers are electronically connected to financial institutions. Funds can be transferred by use of a personal computer or by telephone instructions (wire transfers) in a matter of minutes. Until the receiver has had an opportunity to review the process and change access codes and requirements, wire transfers should be suspended.

To avoid the exchange of good quality investments for lower quality investments, the receiver should review the authority for purchases, sales and reinvestment of securities. The receiver might choose to impose a temporary restriction that only maturing securities may be liquidated to issuing institutions. This will provide the receiver an opportunity to review the quality of the investment portfolio. The receiver may desire the opinion of an outside service company in the evaluation of the portfolio. If the investment function is internally managed, the receiver may want to consider the economies and expertise of an outside investment management company. The receiver may also consider moving out-of-state assets into the domiciliary state to improve control and lessen the chance the assets may be attached by creditors.

B. Identification and Inventory of Investments

An inventory will help establish control of the investments. A good initial control list may be the investment schedules of the last annual statement, including Schedule A—Real Estate; Schedule B—Mortgage Loans; Schedule BA—Other Long-Term Invested Assets; Schedule C—Collateral Loans; Schedule D—Long-Term Bonds and Securities (which includes bonds, common & preferred stock, SCA's, etc.); Schedule DA—Short-term Investments; Schedule DB—Financial Options and Futures; Schedule E—Cash and Cash Equivalents. Also, the General and Special Deposit Schedules found in the annual statement will identify investments on deposit with various regulatory jurisdictions.

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The receiver should confirm investment holdings with the appropriate institutions. The insurer should have detailed listings of investments held, transaction statements, bank notices and advices, and broker slips and statements. These documents will assist the receiver in the identification and inventory of investments.

The insurer's financial statements may not disclose all investments in which the insurer has an interest. Subsidiaries of the insurer accounted for on the equity method will have separate listings of investments owned. The equity method (as opposed to the consolidation method) permits the parent company to report the net value of (or the equity in) the subsidiary as an investment. Therefore, the assets and liabilities of the subsidiary are not evident in the books of the parent company. In the case of a pension plan, the assets are owned by the pension plan and will not be listed on the insurer's statutory annual statement. Even though pension funds may come under the receiver's control, these funds should be maintained in a separate account. The receiver should also be aware of significant restrictions that may exist on the investment and use of the funds. Generally, pension funds are subject to the federal Employee Retirement Income Security Act (ERISA), which imposes severe penalties for mishandling funds and governs the dissolution of the pension plan.

Many states require that purchases and sales of investments be approved by the insurer's board of directors. The board minutes may reflect all purchases and sales. A review of the minutes may assist in the identification of investments.

Insurers from time to time may purchase debt obligations directly from the issuing company, without the assistance or the evaluation of a broker. Private placements indicate that the underwriting of the investment was solely the responsibility of the insurer. The insurer should have an underwriting file containing documentation of matters taken into consideration and copies of correspondence regarding the decision to purchase the instrument. The document of indebtedness may be located on the premises of the insurer, rather than with a financial depository or custodian. If securities that are not publicly traded are to be listed in the annual statement as admitted assets, all insurers must submit to the Securities Valuation Office of the NAIC documentation to support the market value of the securities. The Securities Valuation Office will evaluate the documentation and assign a market value and a quality grade to the securities. The receiver should check with that agency to determine if management sought such valuations, possibly indicating the existence of additional assets not otherwise apparent from the accounting records.

An insurer should identify those securities with a high risk as to the potential of a loss of principal. While derivative instruments are reported in Schedule DB, the receiver should also be aware of other securities, such as structured securities, included in Schedule D that maintain significant risk. See the section on Audit/Investigation of Financial Statements in this chapter for a listing of risks inherent to certain investments. The receiver should determine whether such securities are consistent with the current investment strategy of the insolvent insurer and conclude whether the insolvent insurer should hold or sell the security and the timing of such action. Very often, derivative instruments are used by insurers as a hedge to reduce exposure to other risks incurred by the insurer. With respect to hedge transactions, the receiver should consider whether the hedge transaction effectively reduces the insolvent insurer's exposure to losses arising from other aspects of the insurer's operations or investment portfolio. A common hedge used by insurers is an interest rate swap. The NAIC *Accounting Practices and Procedures Manual* describes an interest rate swap as "a contractual arrangement between two parties to exchange interest rate payments (usually fixed for variable) based on a specific amount of underlying assets or liabilities (known as the notional amount) for a specified period." Insurers have used swaps for various reasons including matching returns on assets to contractual obligations. The *Accounting Practices and Procedures Manual* provides additional examples, for both life and property/casualty companies, of complex investment arrangements entered into by insurers. The receiver should consider engaging an investment/derivative expert to review the insurer's hedging program and make recommendations.

State insurance laws differentiate between real estate owned and occupied, and real estate owned for investment purposes. Some state laws require that real estate owned for investment purposes be income producing. If no income is generated within a set period of time, the property must be timely and properly

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disposed of (sold). Non-income-producing real estate should be investigated for possible alternative, non-investment objectives or accommodations. The receiver should review the pertinent statutes and consult with legal counsel regarding possible improprieties.

The insurer may own property in varied capacities. The insurer should have in its possession documentation for each property owned, including the deed (registered with county clerk), appraisal, survey, title policy, lease agreement (if rented), mortgage agreement (if any), schedule of future payments, hazard insurance policy, evidence of real estate tax payments, correspondence, related real estate management agreements and other pertinent information.

The insurer may own a share of an investment property, or may be part sponsor of a capital venture through a limited partnership, and should have adequate documentation to support the investment. The documentation should include the partnership agreement, contracts with project managers, projections of cost and time to complete, projections of future income, expert evaluations and opinions, plans of operation and financing, description of any guarantees or financing commitments, and current status reports from project managers.

The insurer should have an individual file for each mortgage loan that contains the signed mortgage note, trust deed, recorded lien, appraisal report, amortization schedule, documentation of hazard insurance and evidence of real estate tax payments. The insurer may have mortgage servicing agreements and the receiver should obtain those servicing agreement documents.

Collateral loans are investments that are covered by other assets of the borrower. For each collateral loan the insurer should have an instrument securitizing the insurer, a description of the borrower (possibly financial statements of the borrower), description and value of property pledged as collateral, and the repayment schedule.

C. Balancing and Reconciliation

The control list of investments that the receiver has developed can be reconciled to certified listings of brokers, custodians and other depositories. The insurer should have in its investment files the supporting broker slips and bank advices for all investment transactions. A detailed statement of account activity can be obtained from brokers and custodians. The control list should also be reconciled to the general ledger and investment subledger. All discrepancies should be noted and resolved.

Investment transactions should be audited for possible unauthorized transfers. Reference is made to the Investigation and Asset Recovery Chapter of this handbook.

D. Location of Investments

Usually, the bulk of an insurer's investments will be on deposit for safekeeping with a custodian (a financial institution) to facilitate the transfer of securities for purchases and sales. The safekeeping also minimizes and transfers the risk of theft or misplacement to the custodian. Securities in the custodian's possession may include bonds and publicly traded stocks, option and future contracts, and, on occasion, stocks of subsidiaries.

Many states require securities to be deposited with the insurance department or the state treasurer's office as a prerequisite for the insurer to write business in that state. Alien insurers may be required to place various assets in a trust for the protection of U.S. policyholders. Deposits may be held by non-U.S. jurisdictions. The receiver should notify all jurisdictions and, where possible, obtain the return of all deposits to avoid costly jurisdictional battles with creditors.

Investment brokers may also be holding securities that the insurer has purchased and not yet settled or that have been pledged as collateral for options.

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Other investments, such as real estate, mortgage loans, collateral loans, private placements, common shares of subsidiaries, etc., may be held in an in-house safe or vault for safekeeping. The receiver should make a complete detailed list of documents in the in-house safe. If any items are marketable, the receiver should take appropriate steps for the safekeeping of the items. Since the receiver may not be able to ascertain who has access to keys or codes for such safes, consideration should be given to changing locks or setting up a new safe deposit box under sole control of the receiver.

The insurer may have rented a safe deposit box at a financial institution. An inventory of the box will be necessary and appropriate safeguards taken against access by others. The receiver should obtain the access log for the safe deposit boxes. If the boxes have been accessed just prior to the receivership order, the receiver should investigate the reasons for entry.

E. Valuation of Investments

The determination of value for securities that are publicly and actively traded should not be a problem because prices are published on a daily basis through various data feeds. The receiver should consider the published market value rather than the NAIC value in the evaluation of the liquidation value of assets. Often, a receiver is compelled to sell investments prior to maturity to generate cash flow. The NAIC value which generally shows stocks and preferred stock at fair value while bonds are usually at amortized cost will not necessarily reflect the amount the receiver will receive from the sale of investments.

The market value should approximate the amount of cash that may be generated from the sale of investments. The market valuation reflects an adjustment for current market rates as compared to the fixed interest rate on the investment, and for the credit-worthiness of the debtor.

Private placements will be the most difficult to value, and the opinion of outside experts may be necessary. The receiver may wish to employ an investment specialist to determine the values and liquidity of below-investment-grade private placements or non-publicly traded stocks. The financial statements of the borrower may be sought. A review of the financial statements may tell whether the company is in sound financial condition and whether it is able to repay the obligation. Prepayment at a discount may be an alternative for both parties.

Several values may be placed on real estate that is occupied by the insurer. The value may be the cost paid less depreciation, construction cost less depreciation, appraisal value or market value. The receiver may consider the latest appraisal of the property and determine the possible market value. Economies may warrant the sale of the property and rental of other quarters.

Real estate that is held for investment ordinarily should be income producing. A large negative cash flow may warrant disposal of the property. An appraisal may be necessary to assess the marketability, which will disclose the sale price of similar properties in the area. If comparable sales are not available to estimate market value, the receiver may consider using a discounted cash flow approach to valuing the real estate. The receiver may wish to obtain outside professional support in determining proper values, and methods of valuing, investments in real estate, mortgage loans and real estate joint ventures or limited partnerships.

The book value of mortgage and collateral loans is usually the unpaid principal balance. The receiver may also assess the value of the property that has been pledged as collateral. Many states' insurance laws require that mortgage loans be first-lien mortgages. A second-lien mortgage is of greater risk and subordinate to the first-lien mortgage. Insurance laws require the amount of the mortgage, at inception, not to exceed a specified percentage of the appraised value of the property. The receiver should research compliance with the statutes. Possible accommodations given to affiliated parties should be investigated.

F. Other Considerations

The insurer may be the owner of various tangible and intangible assets that may not be apparent on its statutory balance sheet. The receiver should try to identify and value all possible assets of the insurer,

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including insurance licenses, the value of the shell of the company, assets that have been previously written off, and any assets that are listed in Schedule X of the annual statement.

1. Pension and Deferred Compensation Plans

The insurer's employee benefits may include participation in either a defined-benefit or defined-contribution pension plan. The plan may require or allow that a percentage of the assets of the plan be invested in shares of the insurer. It is not uncommon for the trustees of the plan to be officers of the insurer. Also, the plan administrator may be the insurer itself or an outside financial institution. The regulatory action will create several uncertainties in relation to the plan. The receiver should be familiar with the provisions of the plan and whether a complete liquidation and distribution is required. The provisions of the pension plan agreement and the Employee Retirement Income Security Act of 1974 (ERISA) may clarify some of these issues. It is recommended that the receiver retain the services of a consultant CPA firm to audit and provide independent opinion regarding compliance with IRS and ERISA requisites.

If the insurer is insolvent and the plan is heavily invested in shares of the insurer, then the plan may be insolvent also. The administrator, therefore, may need to liquidate the plan. If the pension plan is solvent, the administrator must continue with its duties. If the insurer is the plan administrator, the receiver may become the plan administrator by succession. If the plan administrator is a third party, the receiver may wish to evaluate the propriety of changing administrators.

The insurer may have hidden equity in other employee benefit plans. A saving plan that requires the insurer to partially match amounts contributed by the employees may be such a plan. The plan agreement will detail the operation of the plan and when the insurer's contributions vest to the employees. The plan should have provisions for possible employee termination on a voluntary or involuntary basis. Depending upon the terms of the plan, the receiver may recover contributions that have not vested to the employees, or amend terms, for example, to eliminate employer matching of contributions.

Pension considerations may be further complicated if an employee benefit plan is established to cover the employees of a parent holding company and its many subsidiaries, of which the receiver has authority only for one or more insurer subsidiaries. The desire of the receiver to terminate the plan and attach excess assets (or reduce additional exposure to underfunding) may be mitigated by excise tax issues on termination, ERISA and other considerations.

It should be noted that under some state liquidation priority statutes, amounts and priorities due employees may be limited. Compensation and benefits due officers and directors may also be excluded in their entirety.

2. International Considerations

As insurers become part of a global economy, the receiver may be confronted with the issues of investments and other assets held in other countries. The receiver should try to gain control of the investments or assets and bring their value back to the estate. An ancillary receiver may be appointed by a foreign country, which may make that difficult, since the ancillary receiver may need the assets to settle claims in the ancillary jurisdiction. The ancillary receivers will need to cooperate with the domiciliary receiver. The value of the foreign assets will fluctuate with the exchange rate of the foreign currency, and the receiver should try to match in foreign denomination the assets and liabilities (claims) by the foreign country. This should indicate whether any excess assets are held in the foreign country. The receiver should ascertain if the company's Schedule DB contains derivative instruments covering foreign currency exchange risks. Since foreign countries may have currency restrictions for repatriation of assets, the receiver should consult with legal counsel.

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Special deposits and general deposits with insurance regulators in other jurisdictions in the United States and outside the United States may also present problems to the receiver. Many United States courts have ruled that the state of domicile has the duty to liquidate the insurer and, therefore, all deposits should be returned to the domiciliary receiver. In the case of a non-U.S. jurisdiction, the foreign receiver may claim the right to the deposits for purpose of distribution in his jurisdiction. In this situation, the receiver should consult legal counsel. The receiver should consider whether he can divest himself of the responsibility for foreign claims.

3. Structured Settlements

In the insolvency of an annuity insurer, special consideration should be given to any single premium immediate annuities that were issued to form the basis of funding periodic or lump sum payments in personal injury settlements, commonly known as “structured settlement annuities.”

These annuities are normally issued to qualified assignment (QA) companies in order to comport with numerous IRS Tax Codes (primarily 104 (a)(2)) and various Revenue Ruling in order to preserve the tax benefit to the beneficiary or payee. However, some older annuities (prior to 1986), although not issued to a QA company, may nonetheless enjoy the same tax benefits. Generally, periodic payments are excludable from the recipient’s gross income only if the payee is not the legal or constructive owner of the annuity and does not have the current economic benefit of the sum required to purchase the periodic payments.

When these blocks of business are resolved in the insolvency context (typically through assumption reinsurance), extreme care must be taken to ensure that the resolution does not compromise the tax benefits to the payees. It is strongly recommended that competent and experienced tax counsel be retained to guide the receiver through this potentially complicated process.

X. RECEIVABLES

A. Uncollected Premiums

The amount of uncollected premiums may vary from company to company, but may be a significant asset.

1. Methods of Billing

The billing and recording of insurance premiums differs, depending upon the insurer (e.g., direct billing of policyholders vs. billing of agents) and type of insurance (e.g., primary vs. reinsurance). Following are four of the more common types of billing methods:

a. Direct Billing

Some insurers bill the policyholder directly for the full amount of the premium. A separate liability is established for any commissions allowed to brokers or producers.

b. Agency Billing

Insurers that utilize agency billing send monthly statements to their agents, listing premiums written during the month, including any adjustments and endorsements of previously issued policies. Commissions allowed to the agent are deducted on the statement to arrive at the net amount due to the insurer.

c. Account Current Billing

This method is used when the agent submits a statement to the insurer. The account current sets forth premiums written by the producer during the month, less the commissions. This method

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requires the insurer to maintain a Premium Difference Register to account for differences between the premiums reported by the agent and insurer's records. Differences are usually resolved by communicating with the agent (use of the agency billing method will transfer the premium difference reconciliation to the agent).

d. Item Basis

The item basis of billing is generally used when each item is remitted when collected by the producer, as is the case when business is submitted by many independent brokers. The amount of the bill is usually net of the broker's commission.

2. Different Types of Premiums

a. Property and Casualty Insurance Premiums

Most property and liability policies provide for the payment of a single premium for the entire term of the policy (usually one year). Different types of property and liability premiums include:

- **Installment Premiums** - Some insurers issue policies that are payable on an installment basis. Even though the premiums may be payable on an installment basis, the insurer must record the full annual premium when the policy is issued, except for those policies that are recorded or billed monthly because of changing exposures. Premiums that are due currently are billed using any of the foregoing methods. The billing of future installments is deferred until the due date of the installments.
- **Retrospectively Rated Premiums** - Retrospectively rated policies are used when the ultimate premium is based on the individual policyholder's claim experience. The ultimate claim experience may not be known until several years after the policy has expired. Usually a deposit (estimated) premium is billed using any one of the above methods when the policy is issued. However, the ultimate premium will be developed by applying the retrospective factor set forth in the policy to the policyholder's claim experience. The ultimate premium will not be less than the minimum nor more than the maximum premium set forth in the policy.
- **Audit Premiums** - Some premiums are based on the amount of the policyholder's payroll or sales (reporting values). For these policies, the insurer will bill an estimated or deposit premium at the inception of the policy and, upon determining the reporting values, the final premium will be billed. Sometimes insurers send auditors to determine and/or verify the reported values. These premium adjustments are called audit premiums. The billing of the deposit and audit premiums may be done by using any combination of the aforementioned methods.
- An insurer should maintain an inventory of policies with adjustable premium features such as retrospectively rated premiums and audit premiums. Typically, retrospectively rated premiums are popular features of workers' compensation policies and reinsurance treaties. The receiver should be aware of adjustable features included in contracts of the insolvent insurer and ensure that all contracts with such provisions are summarized. In the preparation of financial statements, appropriate accruals should be recognized for these contractual features based on the related claim experience and premiums paid under the agreement as of the date of the financial statements. The receiver should further ensure that appropriate action is taken to collect monies owed the insolvent insurer under these contractual provisions and that proper recognition of liabilities arising from these contractual provisions is provided in the financial statements. If the accrual is significant, a receiver may consider performing a systematic review of the related accounting support,

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focusing the review on policies with premiums that are substantial to the overall population.

b. Life and Accident & Health Premiums

Unlike property and liability insurance policies, life and accident and health insurance policies can be guaranteed renewable contracts and are generally accounted for as long-term contracts. Premium payment plans for life, annuities, and accident and health insurance vary. Some policies may be payable monthly, as is frequently the case with group insurance. Others may be payable quarterly, semi-annually and/or annually. Some may be fully paid up when issued. For HMOs and health insurers it is important that for employer groups and government plans like Medicaid that premiums are reconciled monthly to enrollment tapes to ensure that additions and deletion of members are updated promptly.

c. Assumed Reinsurance Premiums

Assumed reinsurance premium billing, recording and collection methods and procedures primarily depend on the reinsurance treaties, which specify the relationship between the parties.

- Facultative Premiums - Facultative reinsurance may be billed and recorded using any combination of the methods described above for direct insurance. It is usually billed and recorded on a direct basis or account current basis.
- Treaty Premiums - Premiums due on assumed treaty business are usually reported to the reinsurer either directly by the cedent or by the reinsurance intermediary.

3. Policy Control

An insurer normally prenumbers its policies when printed. A control procedure should be in place routinely to identify and follow up on skipped and missing policy numbers. The receiver should ascertain the insurer's policy control procedures and ensure that missing and skipped policy numbers are properly accounted for, since a skipped or missing policy number may represent an unbilled, in-force policy. In the case of multiple offices and multiple agents with policy-issuing authority, there may be several sets of policy numbers.

4. Setoff Against Uncollected Premiums

State insolvency statutes may restrict setoffs that previously were allowed against uncollected premiums due the insurer when it was solvent. In many cases, no setoffs may be allowed, even if:

- a. Agents were previously permitted to (i) deduct commissions from premium remittances and (ii) return premium owed to one policyholder from an amount owed to the insurer on another unrelated policy; or
- b. Cedents were permitted to (i) set off ceding commissions and loss payments from premium remittances and (ii) settle balances for a variety of assumed and ceded contracts on a net basis.

The propriety of recognizing setoffs should always be reviewed with the receiver's legal counsel.

5. Commission Recoverable on Cancellation of Policies in Force

Agents and brokers are usually prepaid their full commission when the premiums are collected, even though the premiums are earned over the life of the policy. They frequently deduct their commissions from their remittances to the insurer.

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Upon cancellation of the policies in force by the receiver, the policyholders are entitled to a return of the premiums applicable to the unexpired term of the policy (unearned premium). Such return may be fully or partially paid by a state guaranty fund. The policyholder may file a proof of claim with the receiver for any amounts not paid by the guaranty funds. In any event, the receiver should look to the agents and brokers for the return of prepaid commissions applicable to the refundable unearned premiums.

6. Summary

A variety of methods and procedures are used by insurers to bill, record and collect premiums. A combination of methods may be used. Since uncollected premiums are usually a significant asset, it is important that the receiver become familiar with the insurer's premium billing and recording procedures in order to most effectively marshal these assets. If necessary, new systems and procedures may be required to collect these assets subsequent to liquidation.

Finally, the applicability of federal and state debt collection statutes should be considered by counsel. Receiverships may be entitled to governmental exemption from certain statutes.

B. Bills Receivable Taken for Premium

Insurers sometimes accept a promissory note from the policyholder for a portion of the premium due. The promissory note includes a payment schedule and is subject to interest on the unpaid balance. Some companies record the principal amount of the note, plus the total interest to scheduled maturity, as a receivable and set up a contra account for the unearned portion of the interest. Others record only the principal amount of the note as an asset and separately accrue the interest as it is earned. Statutory accounting treats bills receivable differently than agents' balances and notes receivable. (See SSAP 6.) The realizable value of these receivables should be ascertained.

C. Life Insurance Policy Loans

Policy loans usually are a significant asset to a life insurer that writes permanent plan life insurance. Unlike term insurance, permanent plan life policies build cash surrender values that may be borrowed by the policyholder either as a:

- Conventional loan where the policyholder makes an application to borrow all or part of the policy's available cash surrender value; or
- Automatic premium loan (APL) where the policy provides, or the insured has elected in the application for insurance, that the policy shall not terminate (lapse) because of the non-payment of premiums as long as there is adequate cash value to cover the unpaid premiums and any other amounts owed under the policy.

If the policyholder dies before the policy loan is repaid or the policy is surrendered, the proceeds payable by the insurer should be reduced by any outstanding policy loan.

D. Salvage and Subrogation (Property/Casualty and Health)

1. Salvage

Salvage is an amount received by an insurer from the sale of damaged property or recovered stolen property for which the insured was indemnified by the insurer. In the claim settlement process, the insurer will obtain title to the property and sell it for its remaining value. This asset needs to be addressed quickly because property often is stored, and storage fees are being incurred. Salvage on surety bonds (e.g., construction performance bonds) may be of considerable amount. Due to the

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intricacies of the surety line of business, consideration should be given to the hiring of external experts to manage the salvage of uncompleted projects.

2. Subrogation

Subrogation is the legal right of an insurer to recover from a third party who was wholly or partially responsible for a loss paid by the insurer under the terms of the policy. In the case of a property accident, where there is a dispute between the parties, an insurer will often pay its policyholder's claim and assume the policyholder's right to pursue the negligent third party.

3. Accounting Practices

Until 1992, under statutory accounting practices, an insurer was not allowed to recognize salvage and subrogation recoverables until they were collected. In 1992, the NAIC *Accounting Practices and Procedures Manual* began allowing accrual of salvage and subrogation recoverables. However, certain states may still disallow the asset. GAAP requires that an insurer recognize an asset or reduce its liability for unpaid claims for the amount of salvage recoverable on paid and unpaid claims. Therefore, an insurer should have records, systems and procedures to identify and follow up salvage and subrogation recoverables on both paid and unpaid claims.

4. Summary

A receiver should ascertain how an insurer identifies and follows up on its salvage and subrogation recoverables. This becomes more difficult when claim files are turned over to a guaranty fund. Salvage and subrogation practices may vary among the guaranty funds. Salvage and subrogation collected by a receiver or guaranty funds may have to be held in trust for certain beneficiaries (e.g., where the policyholder's claim is subject to a deductible or the loss is a reinsured loss and the reinsurer previously reimbursed the insurer for the full amount of the claim). The right to the salvage and subrogation proceeds should be discussed with legal counsel.

5. Salvage and Subrogation (Property/Casualty- Deductible Recoveries - Only)

a. Deductible Recoveries

Large deductible recoveries are amounts received by an insurer from an insured covered under a policy having an endorsement providing that the insured is responsible to indemnify the insurer for losses and certain LAE incurred which are for amounts below the high deductible. The high deductible definition varies, but it often for deductibles up to \$100,000. While these policies share some characteristics with retrospectively rated policies, the accounting treatment of recoveries under the two types of policies is different. If the policy form requires the reporting entity to fund all claims including those under the deductible limit, the reporting entity is subject to credit risk, not underwriting risk.

b. Accounting Practices

Under statutory accounting practices reserves for claims arising under high deductible plans are established net of the deductible, however, no reserve credit shall be permitted for any claim where any amount due from the insured has been determined to be uncollectible. Reimbursement of the deductible is accrued and recorded as a reduction of paid losses simultaneously with the recording of the paid loss by the reporting entity, therefore these amounts are not easily identified on the balance sheet. It is important that the receiver examine the records, systems and procedures to identify and follow up large deductible recoveries on both paid and unpaid claims. It is also important to understand the insurer's process for obtaining collateral to mitigate credit risk on high deductible policies. The receiver should

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examine the scope of the large deductible business written, and the collection and collateral procedures employed by the company. The High Deductible Disclosures, Note 31 in the Annual Statement Disclosure and the related guidance in *SSAP No. 65—Property and Casualty Contracts* should aid the regulator in this review.

E. Reinsurance

For additional information on reinsurance, see Chapter 7—Reinsurance.

1. Reinsurance Recoverables

For property/casualty insurers, reinsurance recoverables on unpaid losses are not reported in the cedent's financial statement as receivables, but are accounted for as a reduction of its gross liabilities for unpaid losses and loss adjustment expenses. Reinsurance recoverables on loss payments and loss adjustment expenses are, however, recorded as an asset in an insurer's financial statement. However, GAAP reporting now requires reporting reinsurance recoverables on paid as well as unpaid losses as an asset (FASB No. 113). All insurers—both property/casualty and life—use a variety of internal accounting procedures to bill and record paid loss reinsurance recoverables. Unfortunately, financially troubled insurers do not always have adequate internal controls and procedures in place to properly quantify and identify their recoverables by individual reinsurer. Consequently, a substantial amount of record reconstruction may be necessary by the receiver's staff, not only to identify all present recoverables, but also to install appropriate systems and procedures to bill and monitor future paid recoverables.

2. Funds Held By or Deposited with Reinsured Companies

The reinsurance treaty between the reinsurer and its cedent may require the cedent to withhold a portion of the premiums owed to the reinsurer, and/or the reinsurer to deposit funds with the cedent. The purpose of such an arrangement is to collateralize the reinsurer's obligations for unpaid losses owed to the cedent. Care should be taken by the receiver to ensure that proper credit is taken against invoices submitted by the cedent for any such deposits.

F. Healthcare Related Receivables

Insurers and HMOs may have receivables for provider claims overpayments, pharmacy rebates, provider risk sharing recoveries, capitation arrangements and loans/advances to providers.

XI. ACCOUNTING AND FINANCIAL REPORTS TO THE RECEIVERSHIP COURT AND THE NAIC

Accounting and financial reports will be required by the receivership court at the date of the receivership and subsequently to monitor the progress and status of the receivership. To prepare these reports, the receiver will need to continue processing and recording transactions and producing related reports. The results of the accounting transactions described in the preceding sections of this chapter should be incorporated into the company's financial information and subsequently produced financial reports. Exhibit 3-1 is a representative summary of the format required to be input into the NAIC's GRID (Global Receivership Information Database) system.

Additional information is often critical to the daily management of the receivership. Perhaps the most needed additional reports are: 1) daily cash reports (Exhibit 3-2), and 2) a budget to monitor costs (Exhibit 3-3).

A. Timing of Preparation

Within 180 days after the entry of an order of receivership by the receivership court, and at least quarterly or annually thereafter, the receiver shall comply with all requirements for receivership financial reporting

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as specified by existing state receivership laws. The financial reports should include, a statement of the assets and liabilities of the insurer, the changes in those assets and liabilities, and all funds received or disbursed by the receiver during that reporting period (see Exhibit 3-1). These reports are also to be filed with the receivership court. Receivers in those states without IRMA may be required to file some or all of these reports with the receivership court. The receiver may qualify any financial report or provide notes to the financial statement for further explanation. The receivership court may order the receiver to provide such additional information as it deems appropriate. The reports should include claims and expenses submitted from each affected guaranty association.

For good cause shown, the receivership court may grant relief for an extension or modification of time to file the financial reports by the receiver.

In the early stages of a receivership, especially one involving an insurer with limited liquid assets, daily cash reports are critical to determine whether the insurer should be in conservation, rehabilitation or liquidation. A budget is very useful to manage the costs of the receivership, and should be produced in the first year after the initial receivership court order.

B. Necessary Sources and Records

The following is a listing of information that may be used to prepare the financial reports:

1. Trial Balance and Detail Subledgers

The trial balance normally is produced on a monthly basis and details all assets and liabilities on a cumulative basis, plus income and expenses for the period. The line items on the trial balance can tie directly to the general ledger or can consist of a grouping of several general ledger accounts. The detail subledgers exist for accounts payable and contain more detailed information about an account, such as individual account information, vendor name and due date of payment. The totals of these subledgers either tie directly to the general ledger account balances or they are reconciled and differences are identified. If the corporate structure consists of more than one company, then a consolidated trial balance should be produced that consolidates all individual companies.

2. General Ledger

The general ledger details the account information, showing the activity in an individual account during the period. Totals tie to the trial balance on an individual basis, and sometimes accounts and subaccounts are detailed and grouped into one line item that ties to the trial balance. The general ledger typically gives more detailed information on the transactions that were recorded during the period. An individual general ledger usually exists for each company/legal entity.

3. Bank Reconciliations

Bank reconciliations are useful in reporting on and projecting available cash for the operations of the receivership.

4. Investment Ledger

The investment ledger contains investment activity, investment income, types of securities, and realized and unrealized gains and losses. Totals should tie to the general ledger.

5. Accounts Receivable and Reinsurance Recoverable Aging

The accounts receivable and/or paid recoverable aging contain detail of accounts receivable and paid recoverable balances by account and ages the receivable based on number of days it has been

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outstanding. Reinsurance recoverable ledgers will also be kept here. Reinsurance recoverables will be included in the aging. The aging will be used in establishing allowances for uncollectible items.

6. Reserves

With respect to property/casualty insolvencies only, loss and loss adjustment expense reserves (case, IBNR and LAE reserves) tend to be the most significant amounts on the balance sheet, as well as the most subjective. If an outside actuary is used to evaluate the existing reserves and to project the ultimate losses, the resulting actuarial studies may be utilized when preparing the financial statements, and any adjustments should be reflected in the statements. With respect to life insurance insolvencies, there are substantial non-loss reserves for expected future benefit payments on various policies or contracts.

7. Paid Loss Information

Losses paid by the guaranty funds on behalf of the insurer should be recorded as liabilities in the insurer's records.

8. Cash Disbursements and Cash Receipts

A check register of all amounts paid during a given month including payee and amount. Cash receipts are actual cash items received monthly and deposited into the estate's bank accounts.

9. Budget Versus Actual Report

A receivership budget for expenses and income by department should be established within 12 months of the date of receivership. On an ongoing basis, a report should be generated detailing budgeted versus actual expenditures for the reporting period. All significant variances should be investigated by the receiver.

C. Responsibility

The responsibility of preparing the financial and accounting reports can be assigned to the insurer's accounting and finance departments, the receiver's personnel or independent CPAs. The use of independent CPAs should be considered if the receiver questions whether the remaining insurer's personnel are capable of completing the report, or the receiver does not have sufficient staff.

A specific individual should be designated as the party responsible for the distribution of the reports to the receiver, attorneys, personnel, applicable state agencies and other predetermined parties.

The filing of the completed reports with the courts should be assigned to the attorneys handling the receivership.

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*Chapter 4 – Investigation and Asset Recovery***CHAPTER 4 – INVESTIGATION AND ASSET RECOVERY**

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*Receiver's Handbook for Insurance Company Insolvencies***I. INTRODUCTION**

Insurance receivers generally have two principal duties: 1) marshalling assets; and 2) paying or otherwise disposing of claims. Typically, the marshalling of assets involves selling real and personal property, collecting reinsurance recoverables and/or commuting treaties, collecting earned premium, filing preference and fraudulent conveyance actions, and bringing lawsuits against former owners and management.

In any receivership, the receiver is responsible for maximizing and safekeeping the assets of the insolvent insurer. One of the receiver's early priorities is to examine the insurer's records to identify the insurer's assets, marshal them as necessary or appropriate, and then determine whether litigation should be pursued against any persons or entities liable for causing or contributing to the insurer's financial difficulty.

It is important for the receiver to keep in mind that the receiver's investigation and asset recovery activities may be subject to approval by the receivership court, with notice to guaranty associations and other interested parties. Furthermore, the receiver should take special care to review any applicable state or federal laws.

As a general rule, most state statutes require receivers to seek court approval before they may sell, assign, transfer or abandon assets having an individual or aggregate value above a threshold dollar amount. Therefore, a receiver seeking to sell an asset or settle a claim of the type described below may need court approval before closing the transaction.

II. DISPOSITION OF ASSETS ALREADY IN THE ESTATE**A. Title to Assets – Legal vs. Equitable Title**

The first issue to address before a receiver may dispose of an insurer's assets is whether the receiver is vested with title to those assets. The NAIC Insurer Receivership Model Act (#555), also known as IRMA, gives possession of all assets of the insurer to all receivers. Title to an asset may be legal or equitable or both. Legal title is ownership of the asset; equitable title is the right to the benefits or possession of the asset. Normally, both titles are held together, but in some cases, they can be divided. In a trust situation, the trustee is the legal owner of the asset, but the beneficiaries receive the benefits of the trust and so are the equitable owners of the asset. A receiver can only transfer the interest the insurer held. If an insurer had both legal and equitable title, the liquidator has the full power to dispose of the asset. If the title was bifurcated, the holders of the legal and equitable titles must join in the transfer in order to pass full ownership of the asset to the purchaser. Counsel should be consulted to assure that all equitable interests are identified prior to attempting to sell any assets.

B. Payment Terms

The principal reason for entering into a sale transaction is to generate income for the insolvent insurer, with a view to maximizing the distribution of assets to its policyholders and creditors. If creditor distributions will not occur until a later date, the receiver can entertain installment terms; possibly attracting purchasers or an increased purchase price not attainable in an immediate lump-sum sale.

C. Tax Consequences of a Disposition

All disposition of assets will result in tax implications, that will need to be reported on the company's tax returns. Appropriate professional advice should be sought.

D. Other Terms
Most assets are sold on an "as is" basis with limited representations and warranties to prevent the receiver from being exposed to liability for matters for which it has limited knowledge. If the buyer is unwilling to purchase the asset "as is," the receiver may consider giving limited representations and warranties, but only subject to the receiver's "knowledge" and restricted to facts concerning the asset to be sold that the receiver has learned during the conduct of the receivership proceedings.

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An asset sale agreement may also contain provisions designed to maintain confidentiality of its terms. Confidentiality is particularly desirable if the receiver subsequently may enter into similar transactions with other third parties on more or less favorable terms. Venue over all disputes should remain in the receivership court. Finally, the breadth of release given by and to the receiver should be carefully considered in light of the transaction being documented and the receivership proceedings as a whole.

E. Supervising Court Approval

Court approval may be required prior to disposition of an asset. F. Identification and Collection of Statutory/General and Special Deposits

The receiver should make every effort to identify and collect all estate assets held by other states or entities as statutory/general or special deposits. The receiver should have specific policies and procedures regarding the identification and collection of these assets. These should address:

- Location and current status/value of the deposit.
- Determination of creditors within state holding deposit
- Discussion with the state insurance department holding the deposit their intentions regarding:
 - Possible full ancillary receivership
 - Holding the deposit due to open claims within their state
 - Release the deposit to the receiver
 - Release or assign the deposit to the guaranty funds
- Review and execution of release agreement
-

G. Disposal of Assets

Once the receiver has identified and inventoried all assets, the focus should turn to the process of sale and disposal of assets. Assets should be sold at the most opportune time to recover their maximum value by approved sales and disposal methods that are transparent and avoid any appearance of a conflict of interest.

III. INVESTIGATION AND PURSUIT OF CLAIMS AGAINST THIRD PARTIES**A. Objectives of Investigation and Asset Recovery**

The goal and the scope of the investigative examination should be tailored to fit the specific situation. In all cases, the examination is crucial to analyzing the insurer's financial difficulty. The examination also may reveal corrective actions that the receiver should implement for successful rehabilitation. In all cases, the thrust of the investigative examination is to disclose what went wrong, determine what corrective action is necessary, reconstruct critical data/programs to support asset collection, and identify those legally responsible for the demise of the insurer. In appropriate cases, Life and Health guaranty associations may be able to provide support and assistance in connection with asset recovery efforts. In Life and Health joint and common interest agreements are commonly used by regulators, receivers, and guaranty associations to preserve protections for privileged communications and work product. Quite

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often property and casualty guaranty funds enter into confidentiality agreements with receivers to exchange information and work towards preparing a company for liquidation if that is the ultimate outcome.

The receiver may retain the services of accountants or examiners who have expertise in determining whether the insurer's financial condition gives rise to any causes of action, as well as marshalling assets and quantifying liabilities. The job of such an examiner goes beyond the role of an auditor. Here, in addition to probing for the cause of the financial difficulty, the examiner must identify for the receiver all transactions or business dealings that may produce assets for the insurer's policyholders and creditors, either by avoidance or rescission of certain transactions or by other legal action. Some state insurance departments may have experts in-house whose services are available to the receiver; otherwise, the receiver should consider retaining appropriate outside consultants.

B. General Conduct of an Investigation or Post-Receivership Examination

The receiver and the examiners should make themselves aware of the state statutes governing insurer receiverships. These statutes frequently detail the elements of causes of action that the receiver and examiners should investigate. For example, certain transactions are deemed preferential and may be voidable. Other transactions may be classified as fraudulent and may be set aside as such. The receiver and the examiners should seek advice of legal counsel on such statutes and, in particular, the applicable statutes of limitation. (See Chapter 9—Legal Considerations). (Counsel also may be helpful by providing guidelines for examiners to follow in conducting the investigation.) It is crucial that the receiver take the requisite legal action in timely fashion to avoid the bar of such statutes.

The investigative examination of an insurer can start with records maintained by the insurance department. These records may include transcripts and exhibits from administrative proceedings against the insurer, holding company registration statements, market conduct reports rate filings, recent Form A filings, work papers related to the last statutory examination including the report thereon, annual and quarterly financial statements, and correspondence files. The receiver should also procure a complete set of the audit work papers of the insurer's certified public accounting firm, including the firm's permanent and correspondence files, as well as a complete set of the work papers from the insurer's consulting actuaries. The receiver should also thoroughly review the minutes of meetings of the board(s) of directors and any board or executive committees of the insurer and its subsidiaries. If possible, the minutes of any related holding company should be reviewed.

These records may provide the receiver with specific areas of concentration for the investigative examination. The examination will be broad in scope with a special emphasis on large or unusual transactions. The insurer's files on any suspect transactions must be reviewed completely; the receiver may need to engage a forensic accountant to assist the receiver's counsel in this review.

Once the examination reveals potential causes of action to pursue, a cost-benefit analysis should be conducted. If the potential benefit does not warrant the anticipated cost of the legal action, administrative remedies may be available. In order to conduct such an analysis, the receiver needs a full understanding of the potential claims, including the legal requirements that must be met in order to prevail on them.

C. Reference to Special issues Regarding Claims involving: FHLB, Life/Health, and Large Deductible

In chapter 5 there is a section that discusses special issues regarding particular claims, namely: (a) claims of the Federal Home Loan Bank (FHLB), (b) life and health claims, and (c) claims under large deductible programs. As large deductible programs involve both policy claims and the collection of amounts due under those policies, both subjects are covered in that subchapter.

*Chapter 4 – Investigation and Asset Recovery***IV. VOIDABLE PREFERENCES**

The receiver of an insolvent insurer faced with the need to gather the assets of the insurer’s estate should bear in mind that many state liquidation statutes authorize the receiver to retrieve property transferred by the insolvent insurer to another party if the transaction constituted a “voidable preference” as defined by statute. In general, these statutes permit the receiver to recover assets that the insurer transferred to a creditor to satisfy prior debts and resulted in the creditor receiving a greater percentage of its claims against the insurer than other creditors in the same class. The statutes in various states differ significantly in substance, scope and form. Some states may not have voidable preference provisions in their insurance receivership statutes. However, provisions regarding voidable preferences may exist in a state's general laws, and there may be applicable case law on the subject. The receiver should consult the statutes and case law in the insurer's state of domicile to ascertain which voidable preference laws may be applicable and to learn the requirements of those statutes.

The concept and general elements of voidable preferences are discussed in detail in Chapter 9—Legal Considerations of this Handbook. In general, a voidable preference may be found if:

- There was a transfer of the insurer’s property;
- The transfer was made during a statutorily specified time period;
- The transfer was made to satisfy an “antecedent debt”; and
- The transfer results in a “preference.”

It may be necessary for the receiver to establish that there was intent to create a preference or that the creditor had reason to believe the insurer was insolvent in order for the transfer to be voidable. It may also be possible for the receiver to recover a voidable preference from persons other than the party to whom the insurer’s property was transferred, such as “insiders” of the insurer who were involved in the preferential transaction and, in some cases, subsequent holders of the property. In some instances, however, the receiver’s right to pursue such remedies may conflict with the rights of other creditors to pursue the same.

Preferences are dealt with in Section 604 of IRMA. This provision delineates the conditions under which a receiver can avoid a preference and attempt to recover the assets that were given to the antecedent creditor. The preference period under IRMA is two years. Not all preferences can be avoided by the receiver. Subsection 604B provides that preferences can be avoided if:

- The insurer was insolvent at the time of the transfer;
- The transfer was made within 120 days before the filing of the petition commencing delinquency proceedings;
- The creditor receiving it or being benefited thereby had, at the time when the transfer was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or
- The creditor receiving it was:
 - An officer or director of the insurer;
 - An employee, attorney or other person who was, in fact, in a position to effect a level of control or influence over the actions of the insurer comparable to that of an officer or director, whether or not the person held that position; or
 - An affiliate.

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Subsection 604C states which preferences may not be avoided even if they would otherwise be avoidable under Subsection 604B. Basically, preferences may not be avoided if they were made in exchange for an item of value to the insurer, if they were made in the ordinary course of business in accordance with ordinary business terms, or if they were in the form of an appeal bond.

V. FRAUDULENT TRANSFERS

Receivers typically have the authority to recover assets conveyed by the insurer in transactions that constitute fraudulent transfers. The receiver's authority to recover fraudulent transfers may stem from any of the following sources: a specific state statute; the Uniform Fraudulent Conveyance Act to the extent adopted in the particular state; and/or the common law of fraud. Fraudulent transfers are covered by Section 605 of IRMA. The receiver should consult counsel to ascertain which theories are available to recover fraudulently transferred assets.

Like voidable preference statutes, rules against fraudulent transfers authorize the receiver to rescind certain transactions and bring previously transferred assets back into the insolvent insurer's estate. Fraudulent transfer laws vary from state to state, but most permit the receiver to avoid transfers for inadequate consideration or transfers aimed at obstructing or defrauding other creditors.

Receivers may be able to recover fraudulent transfers from the person who received the transfer, "insiders" at the insurer who were involved in the transfer and, in some cases, subsequent holders of the property transferred. Certain additional requirements may be applicable, and special rules may apply to certain reinsurance transactions, such as commutations. The receiver should consult Chapter 9—Legal Considerations for further details.

VI. OTHER SIGNIFICANT TRANSACTIONS

In addition to considering fraudulent transfer laws and voidable preference statutes, a receiver reviewing the reasons for an insurer's financial problems and attempting to marshal its assets should determine whether there have been any suspect transactions. Suspect transactions are unusual transactions that would not normally occur in the ordinary course of business. Some of these transactions may at first glance appear to be ordinary, but upon closer examination are found to have not been entered into for the benefit of the insurer. These are transactions that may have deceptively portrayed the insurer's financial condition, delayed discovery of its insolvency, or resulted in actual losses for the insurer. Included in the category of suspect transactions are transactions that did not comply with applicable legal requirements, were not commercially sound or lacked financial viability.

A receiver may advance various theories to recover funds for the estate regarding losses or damages caused by suspect transactions. For example, causes of action for recovery may be based upon common law fraud, violations of the federal Racketeer Influenced Corrupt Organizations Act (RICO), fraudulent transfers or breach of fiduciary duty. These and other causes of action are addressed fully in other sections of this Handbook and are not repeated here.

This section focuses on identifying potentially suspect transactions that are not discussed elsewhere in this Handbook. The transactions identified do not frame an exhaustive list of all suspect transactions, nor are the identified transactions necessarily fraudulent. In fact, if properly negotiated and administered, the transactions may be perfectly legitimate. However, the receiver should review the following types of transactions for due diligence. Suspect transactions may be difficult to detect and may consist of combinations or variations of one or more of the transactions described.

A. Reinsurance

Reinsurance balances often represent significant assets and liabilities of insolvent companies, whether from assumed or ceded business. It is commonly the case in a property and casualty insurer insolvency that these balances will represent the largest asset to be marshaled. Because reinsurance transactions are

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complex and involve large sums that may have a material effect on the balance sheet, these transactions present numerous opportunities for fraud, misappropriation or mismanagement by or upon the insolvent company. The receiver’s investigation should, therefore, include a review of the company’s reinsurance structure, and especially any extraordinary transactions in the years immediately preceding the company’s demise.

1. General Considerations

Delegation of the collection of reinsurance recoverables, without proper accounting and management controls, to managing general agents (MGAs) and other third parties has been a common source of large accruing balances. Therefore, the more common asset recovery activity in this area is in record construction and documentation of the accrual of balances due (see Chapter 7—Reinsurance). Aside from the instances covered below, the larger amount of the receiver’s reinsurance recovery work usually should focus on the concepts that: 1) reinsurers respond and pay based on a proper accounting and documentation of the balances due; and 2) because of the frequent mismanagement of these transactions by insurers that have become insolvent, reinsurers are skeptical of information from an insolvent insurer. The receiver must dispel this skepticism.

It is often necessary to conduct a full review or reconstruct reinsurance transactions accruing pre-receivership as well as documenting post-receivership reinsurance balances. Post-receivership balances include reinsurance balances resulting from claims covered by the guaranty funds and adjudication of non-fund covered claims. See Chapter 2—Information Systems (especially the UDS section), Chapter 5—Claims and Chapter 6—Guaranty Funds for more on the relationship between post-insolvency accruing liability and reinsurance recoverable balances.

In the context of life and health company insolvencies, state laws generally provide the Life and Health Insurance Guaranty Associations the right to elect to continue reinsurance and to succeed to the rights and obligations of the insolvent ceding insurer with respect to contracts and policies covered, in whole or in part, by the guaranty association. The election must be made within 180 days of the liquidation date and is subject to certain statutory requirements. This right to continue reinsurance is reflected in the section 8(N) of the NAIC’s Life and Health Insurance Guaranty Association Model Act, which has been adopted in most states.

Footnote suggestion – The NAIC’s Insurer Receivership Model Act, Section 612, similarly reflects the rights of life and health guaranty associations to elect continue reinsurance and to succeed to the rights and obligations of the insolvent insurer under reinsurance agreements, subject to the requirements of state receivership and guaranty association laws.

2. Secured Reinsurance Balances

Reinsurance balances frequently will be secured to ensure collectability and preserve the insurer’s statutory accounting credit. The receiver should identify and closely review these security arrangements early in the receivership. The security often includes letters of credit and trust accounts. Notices to financial institutions or others involved in security arrangements are critical to preserve the security by ensuring compliance with terms of the security arrangements and the exercise of any related rights or obligations.

It may be necessary to establish procedures to monitor the security during the receivership. Some letters of credit will require renewal, while others will have an “evergreen clause” providing for automatic renewal. Also, some security arrangements may require that the amounts held be increased by the reinsurer. Pre-receivership transactions regarding these security arrangements should be reviewed to ensure compliance with the related reinsurance agreements, security agreements and statutes.

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3. Commutations

A commutation is a mutual release of all obligations between the parties for consideration. Commutations terminate the rights and liabilities between parties, including premiums due, paid losses, outstanding losses and incurred but not reported (IBNR) losses, loss adjustment expenses (LAE) where applicable, and present or projected profit. There are many valid reasons for commutations. They may provide immediate cash for the receivership estate, avoid future uncertainties, resolve disputes between insurers and reinsurers, and provide some protection or limitation of exposure from the insolvency of the reinsurer.

Commutations, however, may also give rise to abuses. A commutation may unfairly benefit the reinsurer by relieving the reinsurer of considerable exposure for less than fair consideration. Further, in a rehabilitation proceeding, if the cash payment received from a commutation is less than the loss reserves that must then be recognized by the insurer, the surplus of the insurer will be reduced.

Statutory accounting principles allow an insurer's reserves to be reduced by authorized reinsurance. If an insurer's net reserves have been carried at nominal value due to a substantial credit for reinsurance recoverable, the elimination of the reinsurance setoff credit as a result of a commutation could have had an adverse impact on the insurer. For example, a related reduction in surplus could have an adverse impact on the insurer's solvency ratios and could exacerbate capacity problems. Under such circumstances, a receiver should carefully review the commutation to determine whether the benefit to the insurer outweighed the disadvantages.

In measuring the surplus impact of a commutation, and comparing the assets and liabilities assumed, it should be kept in mind that the assets received are usually easily quantifiable, whereas the reserves are not. Thus, what may appear to be a break-even transaction on the surface may, in fact, result in a large loss to one party because of the way the reserves were determined. It usually is helpful to know if a qualified actuary has reviewed the assumed block of reserves, supplementing case reserve estimates with projections of IBNR development, related loss adjustment expenses and use of industry data where necessary. Also, because of the inability of insurers to discount their reserves for statutory purposes, a commutation may appear on the surface to produce a loss to the insurer; however, the long-term economics of the transaction may be sound when consideration is given to the future investment income to be earned from the commutation process. The receiver should also assess the potential adverse consequences of any commutation. In sum, commutations should be reviewed to determine if they were negotiated at arm's length and were fair and reasonable to the insurer; the receiver may need to engage an independent actuary to assist in this review.

IRMA Section 605 addresses the avoidance of reinsurance transactions incurred on or within two (2) years before the date of the initial filing of a petition commencing delinquency proceedings under certain conditions. IRMA 612 relates to the continuation of life, disability income and long-term care reinsurance in liquidation and the right of the GA to elect within 180 days of the liquidation to continue that reinsurance subject to IRMA 612 requirements. Some states' voidable preference and fraudulent transfer statutes include specific sections dealing with commutations that occur within a short period before the filing of a petition for the appointment of a receiver. The receiver should be aware of these special rules, which may allow the rescission of a commutation for the benefit of the insurer and its creditors.

4. Stop-Loss Treaties

A stop-loss treaty, or aggregate excess reinsurance contract, indemnifies an insurer if in any year the losses on retained accounts exceed a specified amount. The determination of whether the specified amount has been exceeded is usually made after the application of all other reinsurance, and the benefits or recoveries under surplus, quota share and catastrophic excess of loss treaties. The premium for a stop-loss treaty can be based on a fixed dollar amount, or it may be a ratio of annual retained

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premium (calculated by reducing gross premium income by premiums for other reinsurance, such as surplus treaties, quota share treaties and catastrophic excess of loss contracts). The purpose of a stop-loss treaty is to protect against an aggregation of losses during a particular period of time.

Stop-loss treaties are also subject to abuse and, consequently, should be carefully evaluated. The amount of loss protected against may be unreasonable in light of the loss experience of the insurer. As a result, there may have been an improper motive in paying a premium for a stop-loss treaty for which the insurer was not likely to receive any real benefit. The premium may have been excessive when compared to similar coverage generally available.

5. Unauthorized Reinsurance

Unauthorized reinsurance is reinsurance placed with non-admitted or unauthorized reinsurers that are not authorized to transact insurance business in the cedent's domiciliary state. Under statutory accounting principles, an insurer's liability for loss reserves is carried net of reinsurance. Generally, unauthorized reinsurance may not be used to reduce loss reserves, unless the reinsurer's liability is secured by trust funds, funds held by the cedent or letters of credit. Care should be taken to ensure that these potential estate assets are identified and secured.

Unauthorized reinsurance may be appropriate when placed with a financially sound reinsurer. The placement of reinsurance with unauthorized reinsurers, however, is subject to abuse. For example, it may be a means of diverting funds to an affiliate. The placement of reinsurance with financially weak non-admitted reinsurers may indicate an improper motive for obtaining such reinsurance.

6. Portfolio Transfers/Loss Assumption Reinsurance

Generally, a portfolio is one of the following: 1) an entire book of business; 2) a book of business in force at a certain time; or 3) outstanding losses unpaid at a certain time. Typically, in a portfolio transfer, the reinsurer assumes the reinsureds' obligations to pay losses on the assumed portfolio in return for the payment of a premium and the transfer of related loss reserves and security, as applicable.

Portfolio transfers should be reviewed to ensure that the transfer was entered into for legitimate business reasons and inured to the insolvent insurer's benefit. The receiver should consider whether the business transferred was an integral part of the insolvent insurer's business. Did it represent a highly profitable segment of the business, or was it marginal or even a contributor to operating losses? What were the long-term prospects for the portfolio transferred? How did it fit with the balance of the business retained by the insurer? Did the transfer effect a novation of the underlying insurance policies or reinsurance contracts? Did the transferor's policyholders or reinsureds' consent to the novation? Answers to these questions should indicate whether a particular portfolio transfer might be a suspect transaction.

Transfers of a profitable portfolio could temporarily prolong the insurer's life while undermining the long-term financial viability. Transfers between affiliated parties should be carefully reviewed. Since certain bulk transfers require insurance regulatory approval, it should be determined if there was compliance with applicable requirements.

7. Surplus Relief Treaties

Comparing premium income to surplus is a common test of whether an insurer is taking on too much risk. Typically, the desired ratio is 3:1. In other words, annual premium income greater than three times surplus may be a warning signal that the insurer is assuming too much risk. Regardless of the test applied, if an insurer reaches the maximum amount of premium income supportable by its surplus, it either must cease writing new business or shed some of its premium income or liability to maintain its financial health.

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One method of reducing premium income is to enter into a reinsurance treaty whereby the insurer cedes premium in exchange for a *pro rata* reduction in its liabilities. This practice allows the insurer to continue to write business. A surplus relief treaty is generally considered to be proper if the liabilities ceded are not set off by commission paid to the reinsurer and if the reinsurer does not protect itself against an adverse loss experience by having the insurer ultimately pay the liabilities. In other words, if the insurer has ceded the premium for the business and has transferred the underlying liabilities, the treaty likely will not be a suspect transaction. (See Chapter 9—Legal Considerations).

If scrutiny of the surplus relief treaty reveals that the insurer superficially ceded premium and the business, but in reality provided a stop-loss to the reinsurer or otherwise protected the reinsurer from liabilities, then the transaction may have been improper. It may be difficult to trace such a transaction, because it can be accomplished in separate documents. This type of arrangement would give a false picture of the insurer's solvency, as it would mask its true premium-to-surplus ratio by understating premium and, at the same time, not relieve the cedent of the risk of loss associated with the underlying business.

8. Finite Reinsurance

Another way that an insurer occasionally attempts to improve its balance sheet is by entering into financial reinsurance transactions. There are many forms of these, but the potential concern behind these types of transactions is to examine whether they were performed simply to shift liabilities off the books of the insurer onto the books of the reinsurer without any real transfer of risk for those liabilities. Any reinsurance contracts that do not appear to have effectuated a real transfer of risk of loss to a reinsurer should be examined closely by the receiver. These contracts may not only be voidable, but there may be additional recourse against the reinsurer for participating in the financial reinsurance transactions. (See Chapter 7—Reinsurance and Chapter 9—Legal Considerations.)

9. Affiliated Reinsurance

In some cases, the insurer cedes its risks to an affiliated reinsurer. The reinsurer then dividends funds to common ownership. There are also affiliated pooling transactions that may be used to inappropriately transfer funds among the pool participants.

B. Large Deductible Policies

1. NAIC has adopted a Guideline to Administration of Large Deductible Policies in Receivership and the guideline or similar policy has been adopted in several states. Large deductible recoveries can represent a significant source of recoveries for insolvent companies, especially those property and casualty companies that wrote workers' compensation insurance. These recoverables may be a significant amount and the receiver should examine the scope of the large deductible business written, and the collection and collateral procedures employed by the company. General Considerations
 - a. The receiver's recovery of large deductible recoverables is dependent on the claims handling and reporting of both claims covered and those not covered by guaranty funds.
 - b. The key to effective collection and collateral administration is ensuring that the historical records for paid losses under the deductible policies and the program design are maintained and available. Another key is retaining the personnel that have knowledge and history of the insurer's deductible business operations.
 - c. Collateral for Large Deductible Balances.
 - The importance of collateral cannot be overstated. But adequate collateral must be established prior to liquidation and maintained throughout the receivership.
 - Large Deductible balances frequently will be secured to ensure collectability and preserve the insurer's statutory accounting credit. The receiver should identify

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and closely review these security arrangements early in the receivership. Particular attention should be paid to security arrangements where the insured's collateral is held by third parties, especially affiliates of the insurer.

- Notices to financial institutions or others involved in security arrangements are critical to preserve the security by ensuring compliance with terms of the security arrangements and the exercise of any related rights or obligations

2. Communication

Deductible collection, in addition to requiring collateral, is dependent on communication of all parties (i.e., between receiver and insured, receiver and guaranty associations, guaranty association and insured). It must be quickly established with insured as to procedure for ongoing claim processing, continuation of their responsibility to reimburse the deductible payments and responsibility to maintain appropriate collateral. Guaranty associations must also recognize that they will be required at times to communicate with insureds regarding claims handling. All parties should be mindful of security concerns related to communication of sensitive claims data. The SUDS server hosted by NCIGF is a useful tool for communication between receivers and guaranty associations. The collection process should proceed with minimal delay as the passage of time will impact success of collection efforts. In these efforts it is imperative that the guaranty associations and the receiver work together and offer consistent messages to the insured regarding any collection issues. It should also be noted that the release of collateral from a receiver to a guaranty association may not fully satisfy the policyholder's obligation for costs related to the claim under a state's guaranty association law.

3. Deductible Collection Procedure

- a. A working process must also be established quickly between the receiver and the guaranty associations to provide claim handling, payment information and all other required claim financials to allow the receiver to bill and collect loss payments.
- b. The information would include the receiver providing the guaranty associations all pertinent information to establish the policies that are deductibles along with effective dates, deductible limits, treatment of ALAE and deductible aggregates where available.
- c. Copies of deductible policies should be made available if required.
- d. Guaranty Association's will provide, through the establishment of UDS data feed, all financial information regarding deductible claims that they are handling.
- e. Receiver will collate data from guaranty associations and review historical billing information to invoice the insureds on a monthly or quarterly basis.
- f. Receiver will calculate and track the payment history pre-liquidation and post Liquidation within the deductible and within a deductible aggregate for the policy if applicable. This ensures that the insured is only billed for amounts that remain within their deductible.
- g. To assist in the collection process receiver and guaranty association should work to provide sufficient information and explanation to allow the insured to recognize its obligation. In the event where the insured refuses to pay, the receiver will either begin litigation or draw on collateral or both. This should be coordinated with the guaranty associations.

4. Professional Employer Organizations ("PEOs")

- a. Policies issued to PEOs often have large deductible endorsements.
- b. Because of the prevalence of abuse in the underwriting of PEOs, post-liquidation collection of deductible payments may be challenging.
- c. Clients may have been added without notice (or payment) to the insurer; Client class of business may have been misrepresented or expanded to include riskier classes of business – all of which may lead to inadequate or exhausted collateral.

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- d. Client companies of PEO may not have received notice of cancelation, leading to coverage disputes. If collateral is inadequate and the PEO does not have assets to pay the deductible reimbursement in full, the policy terms might make the client companies liable for the shortfall, either for their own exposure or on a joint-and-several basis. However, this might not be a meaningful source of recovery, because it could be impractical, inappropriate, or impossible to collect significant amounts from the clients.
5. Commutations
 - a. Generally, commutations are negotiated terminations of the rights and liabilities between insurers and large deductible insureds. A commutation is a settlement of all obligations, both current and future, between the parties for a lump sum payment.
 - b. There are many valid reasons for commutations of large deductibles. They may provide immediate cash for the receivership estate, avoid future uncertainties, resolve disputes between insurer and insured, and provide some protection or limitation of exposure from the insolvency of the insured. Commutations of long tail business (i.e., workers' compensation) may be essential for the early termination of the receivership.
 - c. Commutations, however, may be a detriment to the receivership if the commutation is consummated for less than fair consideration. A receiver should carefully review the commutation to determine whether the benefit to the insurer outweighs the disadvantages.

C. Inappropriate Investments

Inappropriate investments may have the effect of overstating the insurer's assets on its annual statements and, at the same time, result in an actual loss if the investments are poor. In some instances, earnings from investments are less than they should have been. Investments may be inappropriate for four general reasons: 1) the investments are prohibited and not allowed as admitted assets by insurance laws or regulations; 2) while allowed as admitted assets, the investments are too speculative at the time of investment, given their materiality to the insurer's financial condition; 3) the investments did not meet the insurer's need for liquidity or 4) the assets do not match the corresponding policy liabilities.

While some states' insurance codes prohibit the acquisition of certain assets, many view such acquisitions as non-admitted assets. However, regulators retain the right to order disposal of assets acquired in violation of law. A receiver should determine whether such acquisitions have occurred and whether the assets still are held by the insurer. If so, the receiver must identify the losses that have occurred on previously acquired assets and losses likely to occur on assets currently held by the insurer. Additionally, a separate inquiry should be made to determine whether the insurer was damaged. If such investments were booked as admitted assets, the result may be an inaccurate financial statement.

It is difficult to evaluate the culpability for making investments in admitted assets that are highly speculative or illiquid. While code provisions require all investments to be sound, an analysis of what are sound investments involves the application of the business judgment rule. This rule protects management, who made informed decisions in good faith without self-dealing, from being judged in hindsight. Insurance codes have prohibitions and limitations on the types and amounts of investments both on an individual and aggregate basis. Insurance codes generally enumerate the types of assets permitted, but that is beyond the scope of this discussion. In general, an insurer first must invest its minimum paid-in capital and surplus in certain defined investments, which generally are thought to be safer than other types of investments. Generally, these types of investments are government obligations. Once the insurer has invested its minimum paid-in capital and surplus in these allowed investments, there are other limitations on investment of an insurer's assets (excess funds investments). The codes are quite detailed with numerous descriptions and limitations, including limitations on the amounts that may be invested in real estate (if any), affiliates (although generally admissible, such assets usually are illiquid if not publicly traded; if they make up a significant portion of surplus, then an investigation should be made into their acquisition and value) and common stock, as well as the relative percentages of certain investments. Other

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inappropriate investments may include those that, although admitted, are either high-risk, or are not matched properly to the insurer's cash flow needs.

Investments that violate the applicable insurance code or regulations will not qualify as admitted assets on the annual statement. If such investments have been identified, the receiver should determine:

- When the investment occurred.
- Who authorized the investment?
- For what purposes the investment was made.
- The details of the transaction, including cost.
- Whether corporate formalities were followed.
- The broker and other persons involved.
- Whether the investment is with a related party.

It also is important to review how the questionable investments were reflected on the insurer's annual statement. The booking of non-admissible assets as admitted assets may identify a problem affecting the true financial condition of the insurer and may necessitate further investigation of corporate officers and directors. If the investments have already been disposed of, it is important to determine whether this resulted in a gain or loss. If disposed of at a reasonable gain, then a judgment must be made as to whether it is worth proceeding further with the analysis. If losses were incurred or will be incurred, there may be substantial questions of legal responsibility.

A review of recent transactions should reveal realized losses, and an evaluation of investments still held should reveal where unrealized losses exist. In the event that realized or unrealized losses are identified, a case-by-case evaluation should be made as to whether there is any culpability surrounding the acquisition or disposition of these types of investments. Once again, all the details surrounding the acquisitions should be thoroughly reviewed, particularly focusing on any close or suspicious relationships between the insurer's management, officers or directors and the management, officers or directors of the acquired investment or with any brokers or agents involved in the sales transaction.

To identify investments that violate insurance laws and, consequently, are not admitted assets, a receiver should begin with a review of examination reports and work papers. Examiners tend to be thorough with respect to identifying assets or investments that are not admitted assets. If no examination report has been prepared, accountants or auditors should review the most current annual statements and supporting schedules to identify and list all investments that are not admitted assets. The following exhibits and schedules should be reviewed:

- Exhibit of Net Investment Income
- Exhibit of Capital Gains (Losses)
- Exhibit of Non-Admitted Assets
- Schedule A – Real Estate
- Schedule B – Mortgage Loans
- Schedule BA – Long-Term Invested Assets

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- Schedule D – Bonds and Stocks (including valuations of subsidiary, controlled and affiliated companies).
- Schedule DA – Short-Term Investments
- Schedule DB – Derivatives
- Schedule E – Cash, Cash Equivalents and Special Deposits

General Interrogatories (which could contain information concerning crypto-currency and other assets) Other sources include internal and external audits, SEC periodic reports (such as annual and quarterly reports on Forms 10-K and 10-Q) and investment committee minutes.

D. Dividends and Intercompany Transactions

State insurance codes have strict limitations on how much money can be paid out as dividends from insurance companies. Some insurance codes provide for the recovery of dividends paid within a certain time period prior to the insurer's insolvency. Accordingly, all dividends should be reviewed to determine compliance with these statutory limitations. The receiver also should determine whether the financial statements were manipulated to make otherwise impermissible dividends possible. Regulators who had responsibility for reviewing the dividends may be contacted to determine what representations were made by company personnel when the dividends were approved.

As part of this process, intercompany transactions should be reviewed to look for disguised dividends. Many companies will have been part of a holding company structure. Oftentimes, a company will have entered into cost-sharing agreements, tax-sharing agreements, investment management agreements marketing agreements and other such transactions with affiliates. These transactions should be reviewed closely. When a company is precluded from paying dividends, it may try to disguise what in fact are dividends under transactions pursuant to these agreements.

Illegal dividends may be recovered in fraud actions or breach-of-fiduciary-duty actions. The failure of the company's outside accountants or auditors to detect illegal dividends also may form the basis of an action in negligence against the accountants and/or auditors.

E. Management by Others

Another area of suspect transactions is the management of insurers by other entities, including managing general agents (MGAs) or third-party administrators (TPAs) acting pursuant to management contracts, as well as corporate or individual attorneys-in-fact. A close examination of the overall relationship, including all contracts, should be made since there is a potential for abuse of these relationships. In some instances, the management contract may be arranged so that, in essence, the insurer fronts for the MGA or the attorney-in-fact, who retain all the profits, and the insurer retains all the liabilities. It may raise a difficult question as to whether there was proper compensation for services or if the MGA or attorney-in-fact misappropriated corporate opportunities. Another abusive practice is causing the insurer to pay the MGA, TPA or attorney-in-fact for services that it did not provide but were provided by the insurer's employees at the insurer's expense. This, in effect, results in double payment. Detection requires a thorough review of the contracts and an analysis of which entity pays for which function, which may be especially difficult when the operations are all in one facility.

VII. RECEIVERSHIP INVOLVING QUALIFIED FINANCIAL CONTRACTS

Insurer Receivership Model Act (#555, commonly known as IRMA) Section 711 – Qualified Financial Contracts (or Similar Provision) addresses stays termination or transfers of netting agreements or qualified financial contracts (QFCs).

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When financial markets are uncertain, it causes heightened scrutiny in the capital markets and among financial institutions about identifying, managing and limiting risk, as well as the need for adequate capitalization and for understanding the interdependency of the different financial sectors. One source of risk to financial market participants that rises due to the lack of certainty in the financial markets is the treatment of qualified financial contracts (QFC) and netting agreements in the event of the insolvency of state regulated insurers.

A. Definition of Qualified Financial Contract

IRMA defines a QFC as “any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement and any similar agreement that the commissioner determines by regulation, resolution or order, to be a qualified financial contract for purposes of this Act.”

- Commodity contract is defined by reference to the Commodity Exchange Act (7 U.S.C. § 1) (Commodity Act) and is a contract for the purchase or sale of a commodity for future delivery on or subject to the rules of a board of trade or contract market subject to the Commodity Act; an agreement that is subject to regulation under Section 19 of the Commodity Act commonly known as a margin account, margin contract, leverage account or leverage contract; an agreement or transaction subject to regulation under Section 4(b) of the Commodity Act that is commonly known as a commodity option; any combination of these agreements or transactions and any option to enter into these agreements or transactions.
- Forward Contract, Repurchase Agreement, Securities Contract and Swap Agreement shall have the meanings set forth in the Federal Deposit Insurance Act, 12 U.S.C. § 1281(e)(8)(D), as amended from time to time.

It should be noted that an insurance contract is not a derivative or a qualified financial contract because an insurance contract includes the indemnification against loss. Therefore, reinsurance agreements would not be considered a swap agreement.

*Receiver's Handbook for Insurance Company Insolvencies***B. Insolvency Treatment of QFCs under the IRMA Section 711 Provision¹**

IRMA Section 711 provides a safe harbor for QFC counterparties of a domestic insurer. The provision largely tracks similar provisions in the Federal Bankruptcy Code and the Federal Deposit Insurance Act (FDIA), as well as laws of other foreign jurisdictions. These safe harbor provisions for QFCs were adopted to avoid disruptions resulting from judicial intervention that can cause unintended chain reactions and significant systemic impact. Section 711 applies in both Rehabilitation and Liquidation proceedings.

Section 711 states that a right to terminate or liquidate or accelerate a closeout under a netting agreement or a QFC with an insurer either due to the insolvency, financial condition or default of the insurer or the commencement of a formal delinquency proceeding is not prevented by any other provision of IRMA. Section 711 allows a counterparty to net different contracts and realize on collateral without a stay.

Section 711 addresses transfer of a netting agreement or QFC of an insurer to another party. In a transfer, the receiver has to transfer all of the netting agreement or QFC and all of the property and credit enhancements securing claims under the agreement or QFC. This prevents “cherry picking” and requires the transfer of everything, i.e., all of both the “in-the-money” and “out-of-the-money” positions.

¹ ¹ Except where the state has adopted *Guideline for Stay on Termination of Netting Agreements and Qualified Financial Contracts* (#1556).

Guideline #1556 Drafting Note: State receivership and insolvency laws may permit a contractual right to cause the termination, liquidation, acceleration or close-out obligations with respect to any netting agreement or qualified financial contract (QFC) with an insurer because of the insolvency, financial condition or default of the insurer, or the commencement of a formal delinquency proceeding. These laws are based upon similar provisions contained in the federal bankruptcy code and the Federal Deposit Insurance Act (FDIA). The FDIA also provides for a twenty-four-hour stay to allow for the transfer of QFCs by the receiver to another entity rather than permitting the immediate termination and netting of the QFC. 12 U.S.C. § 1821(e)(9)-(12). States that permit the termination and netting of QFCs may want to consider adopting a similar stay provision following the appointment of a receiver for certain insurers – generally larger entities that may be significant in size but outside of being subject to a potential Dodd-Frank receivership.

States that consider the enactment of a stay should take into account the relevant federal rules. In 2017 the Board of Governors of the Federal Reserve System (the Federal Reserve), the Federal Deposit Insurance Corporation (the FDIC) and the Office of the Comptroller of the Currency (the OCC) each adopted final rules and accompanying interpretive guidance (Final Rules) setting forth limitations to be placed on parties to certain financial contracts exercising insolvency-related default rights against their counterparties that have been designated as a global systemically important banking organization (GSIB). The Final Rules include the definition of master netting agreement that allows netting even though termination of the transaction in the event of an insolvency may be subject to a “stay” under several defined resolution regimes including Title II of Dodd Frank, the FDIA, as well as comparable foreign resolution regimes. Notwithstanding NAIC’s request for inclusion, stays under the state insurance receivership regime (State Receivership Stays) were not included as an exemption within the definition. Therefore, unless the Final Rules are amended to recognize State Receivership Stays, if a state implements a stay as contemplated by the Guideline, insurers would find themselves disadvantaged, potentially resulting in additional costs and/or collateral requirements given the regulatory treatment for contracts that do not meet requirements for QFCs. Therefore, if a state is considering implementation of this Guideline, consideration should be given to whether the rules of the Federal Reserve, FDIC and OCC have been amended to recognize State Receivership Stays. For example, a state could adopt a stay that would be effective if and when the Final Rules recognize State Receivership Stays.

References: *Restrictions on Qualified Financial Contracts of Systemically Important U.S. Banking Organizations and the U.S. Operations of Systemically Important Foreign Banking Organizations*; Revisions to the Definition of Qualifying Master Netting Agreement and Related Definitions, 82 FR 42882 (13 November 2017), available at <https://www.federalregister.gov/d/2017-19053>; *Restrictions on Qualified Financial Contracts of Certain FDIC Supervised Institutions*; Revisions to the Definition of Qualifying Master Netting Agreement and Related Definitions, 82 FR 50228 (30 October 2017), available at <https://www.federalregister.gov/d/2017-21951>; *Restrictions on Qualified Financial Contracts of Certain FDIC-Supervised Institutions*; Revisions to the Definition of Qualifying Master Netting Agreement and Related Definition, 82 FR 61443 (28 December 2017), available at <https://www.federalregister.gov/d/2017-27971>; *Mandatory Contractual Stay Requirements for Qualified Financial Contracts*, 82 FR 56630 (29 November 2017), available at <https://www.federalregister.gov/d/2017-25529>.

*Chapter 4 – Investigation and Asset Recovery***C. Considerations of QFCs held by an Insurer Receivership:**

- Although the Investments of Insurers Model Act (either Defined Limits or Defined Standards) (#280) does not include limits on the amount of collateral an insurer is allowed to post, some states have restrictions on derivatives use, including quantitative limits, and limits on the pledging of collateral, based on type and credit quality. The receiver may also need to determine if a derivative use plan, if required, is in effect and if it dictates any collateral requirements.
- If the ability to net exists and there is no stay requirement, it is important that the regulator understand the QFC portfolio before the insurer's failure, either through a recent or ongoing financial examination or through an assessment made during regulatory supervision that precedes a receivership order, while recognizing that the market value of the derivatives positions can vary substantially over relatively short periods of time. The receiver also needs to have a good understanding of the relationship of the QFC contracts to the rest of the insurer's balance sheet. Because most derivatives transactions are used for hedging purposes, if those contracts are terminated as a result of netting, the assets and liabilities will no longer be hedged. It is important to quantify the effect of the loss of the contracts if possible. The receiver may wish to engage outside resources to assist in evaluating QFC portfolio.
- The receiver should be aware that there may be areas of contention and disagreement by parties in the netting, termination and closeout of QFC agreements—for example, disagreement over the valuation or in the resolution of transactions where the parties wait too long to terminate the contract.
- Some counterparties may have been accepting less liquid assets such as private placements based on the relative financial strength of the insurance company; typically, collateral for a QFC will be cash and U.S. Treasury bonds. The moving of over the counter (OTC) derivatives to centralized clearinghouses will gradually eliminate less liquid assets as well as assets with more volatile market values being used as collateral. It is also worth noting that it is possible to have non-admitted assets eligible as collateral. Where assets exceed concentration limits, the excess can be collateral without being an admitted asset.
- The impact of central clearinghouses (CCH) will be to standardize documentation and collateral requirements. The standard rules for collateral will be more restrictive and be applicable to all parties. These rules will generally allow for only high-quality assets that are more liquid and are expected to have less market value volatility. In addition, all parties will be subject to the same rules for both Initial Margin and Variation Margin. In the past, it was not uncommon for counterparties to not require Initial Margin from their higher quality clients. This will not be the case going forward.

D. Recommended Procedures for State Insurance Regulators/Receivers:

To the extent possible, in a pre-receivership situation:

- To the extent a company has a small number of large QFC contracts that are important to the overall investment portfolio and operations of the insurer, in pre-receivership and in rehabilitation, the state regulator or receiver should reach out to the counterparty to determine if the counterparty is agreeable to continuing the contract and performing on the contract when the insurer enters receivership.
- Consider practical strategies for successfully managing the netting agreements and QFCs, not only at the inception of the receivership but ongoing during the receivership process.

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- Evaluate if the insurer is engaged in netting agreements and QFCs through a market facing affiliate or non-affiliate, whereby the insurer's contract is with that market facing entity and the market facing entity has the contracts with the counterparties.
- Consider the applicability of any federal master netting agreement rules and regulations to the insurer's netting agreements and QFCs. (see the references to applicable federal rules in the preceding footnote in this Chapter ²).
- Evaluate the need to consider the use of a bridge financial institution to transfer and manage the netting agreements and QFCs in a pre-receivership proceeding (i.e. administrative supervision). See Chapter 11–State Implementation of Dodd-Frank Receivership of this Handbook for guidance on the use of bridge financial institutions for a Dodd-Frank receivership.
- Carefully review the most recent financial statement filings and interim company records to identify the netting agreements and QFCs active at the time of receivership; understand the terms of the agreements and the valuation of the QFCs; and identify the securities held as collateral and counterparties to the contract. See Appendix for a Summary of Statutory Annual Statement Reporting of QFCs or the most current Statutory Annual Financial Statement and Instructions.
- Consider how ongoing hedging of obligations and assets can be accomplished during and following a receivership.

Once a rehabilitation or liquidation order has been entered:

- Provide notice of the receivership to counterparties, as appropriate under state law.
- Consider implementing a 24-hour stay on termination of netting agreements and QFCs, if allowed under state law. (See *Guideline for Stay on Termination of Netting Agreements and Qualified Financial Contracts* [#1556] and accompanying drafting note in the preceding footnote in this Chapter³).
- It is important for the receiver to keep track of which transactions have been terminated validly and which have not so that appropriate action can be taken when the validity of the termination is contested.
- Once the set off has occurred, if the receiver disagrees with the counterparties' valuation of either the collateral or the QFC transaction, the receiver would take the next steps to try to negotiate the correct amount and if unsuccessful pursue legal action.
- Consider engaging an investment expert to assist in the auditing, investigating and management of the netting agreements and QFCs within the investment portfolio. Refer to Chapter 3.VI of this Handbook for more guidance on auditing and investigating the investments of the receivership estate

E. Exhibit – Qualified Financial Contract Annual Statement Reporting (As of 2021)

The subsequent information provides a general description of how and where qualified financial contracts (QFCs) are reported within the *Accounting Practices and Procedures Manual* and the statutory financial statements.

² See footnote 1 of this Chapter.

³ See footnote 1 of this Chapter.

*Chapter 4 – Investigation and Asset Recovery*Derivative Instruments—AP&P Disclosure

- Statement of Statutory Accounting Principles (SSAP) No. 27—*Off Balance Sheet and Credit Risk Disclosures*
- SSAP No. 86—*Derivatives*
- SSAP No. 108—*Derivatives Hedging Variable Annuity Guarantees*

Derivative Instruments—Annual Statement Disclosure

- Schedule DB – Part A, Section 1 – *Open Options, Caps, Floors, Collars, Swaps, and Forwards*
- Schedule DB – Part B, Section 1 – *Open Future Contracts*
 - Within Part A and Part B, section 1 identifies the contracts open as of the accounting date, and section 2 identifies contracts terminated during the year.
- Schedule DB – Part C – *Replication (Synthetic Asset) Transactions*
 - Section 1 contains the underlying detail of replicated assets open at the end of the year. Section 2 is reconciliation between years of replicated assets.
- Schedule DB – Part D, Section 1 – *Counterparty Exposure for Derivative Instruments Open*
- Schedule DB – Part D, Section 2 – *Collateral for Derivative Instruments Open*
- Schedule DB – Part E – *Derivative Hedging Variable Annuity Guarantees*
 - Specific to derivatives and hedging programs under SSAP No. 108)
- Schedule DL – Part 1 & 2 – *Securities Lending Collateral Assets*
- Notes to Financial Statement – *Investments*
- Notes to Financial Statement – *Derivative Instruments*
- Notes to Financial Statement – *Debt (FHLB Funding Agreements)*
- Notes to Financial Statement – *Information about Financial Instruments with Off-Balance Sheet Risk and Financial Instruments with Concentrations of Credit Risk*
- Notes to Financial Statement – *Fair Value Measurements*

On a quarterly basis, the insurer only reports derivative instruments that are open as of the current statement date. Schedule DB – Part A – Section 1 lists the insurer’s open options, caps, floors, collars, swaps and forwards. Open futures are reported in Schedule DB – Part B – Section 1, replications are reported in Schedule DB – Part C – Section 1, and counterparty exposure for derivatives instruments are reported in Schedule DB – Part D.

Repurchase Agreements—AP&P Disclosure

- SSAP No. 103R—*Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*

Repurchase Agreements—Annual Statement Disclosure

- Notes to Financial Statement— *Investments*
- Notes to Financial Statement – *Debt*
- Repurchase agreements are disclosed in various investment schedules within the Annual Financial Statement depending on the type of investment. (Schedule D, DA, E, Supplemental Investment Risk Interrogatories) The Investment Schedule General Instructions provides the following list of codes to use in the appropriate investment schedule code column regarding investments that are not under the exclusive control of the reporting entity, and also including assets loaned to others. For example, a bond subject to a repurchase agreement would be detailed in Schedule D Part 1 – *Long-Term Bonds Owned* and use a code of RA in Code Column.

Codes

LS – Loaned or leased to others
 RA – Subject to repurchase agreement
 RR – Subject to reverse repurchase agreement
 DR – Subject to dollar repurchase agreement
 DRR – Subject to dollar reverse repurchase agreement
 C – Pledged as collateral – excluding collateral pledged to FHLB
 CF – Pledged as collateral to FHLB (including assets backing funding agreements)
 DB – Pledged under an option agreement
 DBP – Pledged under an option agreement involving “asset transfers with put options”

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R – Letter stock or otherwise restricted as to sale – excluding FHLB capital stock (Note: Private placements are not to be included unless specific restrictions as to sale are included as part of the security agreement.)

RF – FHLB capital stock

SD – Pledged on deposit with state or other regulatory body

M – Not under the exclusive control of the reporting entity for multiple reasons

SS – Short sale of a security

O – Other

VIII. POTENTIAL RECOVERY FROM THIRD PARTIES

As noted above, a number of persons inside and outside of the insolvent insurer may have caused or contributed to the reasons for the insurer's insolvency. Such acts or omissions may be unintentional but the result is harm to the insurer, and thus its policyholders, claimants, and creditors. This section and the next identify by category the acts and omissions of such persons, the causes of action that may be brought and the foundation that the receiver must establish to prevail in such causes of action.

Not all actions listed here may have contributed directly in the insurer's problems and inclusion of an action in the following list does not necessarily indicate that a receiver will find a basis for seeking legal remedies from identified persons. Each situation must be evaluated on its own merits and circumstances. For example, the facts may clearly indicate that an agent wrongfully withheld funds due the insurer, but an investigation of the agent's financial condition might show that there would be little hope of collecting any judgment resulting from successful civil litigation. Therefore, the cost to the estate of pursuing this particular agent may outweigh the ultimate benefit, if any, to the estate.

A. Breach of Fiduciary Duties

Any person empowered to collect and hold funds on behalf of another has a fiduciary duty with respect to any funds collected. MGAs, TPAs, reinsurance intermediaries, brokers and others may have violated this obligation by:

- Failing to maintain a premium trust account where required by law;
- Skimming premiums;
- Withholding funds without authorization;
- Failing to collect and remit premiums;
- Paying affiliates more than market rate for services,
- Deducting excess commissions and/or fees;
- Taking improper set-offs; or
- Improperly using funds to make loss payments.

The investigative examination initiated by the Receiver may indicate the presence of these problems. The Receiver may need to conduct a more intensive investigation of transactions arising from the suspect MGA or TPA agreement, reinsurance treaty, etc., to determine whether a violation has occurred and the extent of injury to the insurer. Some examples of the information that may suggest a need for further investigation are:

- A significant decline in reported premium volume from one period to the next;
- Gaps in policy number sequence;

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- Sharp increases in agents' balances receivable; or
- Inordinate delays in collecting reinsurance balances receivable;
- Increase in consumer complaints.

B. Abuses Related to Risk Selection

An insurer may have delegated the authority to bind risks to an MGA or TPA, or may have given a reinsurance intermediary the power to cede or assume reinsurance on behalf of the insurer. Delegation of authority carries with it the duty to perform on the underlying agreement that binds the agent or intermediary to adhere to the insurer's articulated underwriting guidelines and limitations. To the extent any agent exceeded these limits, and caused the insurer to suffer financially, the receiver may be entitled to appropriate remedies.

Some of the ways in which underwriting authority may have been abused are:

- Accepting excluded classes of business;
- Violating territorial limits;
- Exceeding premium and/or product mix limits;
- Using binders improperly;
- Misrepresenting risks;
- Placing reinsurance with insolvent reinsurers;
- Improperly placing reinsurance with affiliated or unauthorized reinsurers;
- Failing to obtain adequate security for balances due the cedent; or
- Misrepresenting reinsurance coverage.

As noted above, the takeover investigation may indicate that these problems exist and that a more intensive examination of performance under specific agreements may be in order.

Some examples of information that may suggest a need for deeper investigation in this area are:

- Unusual line codes or state codes in statistical reports or state pages of reports;
- Variances from sales plans and volume projections;
- Schedule F or S problems, mismatches and unexplained differences; and
- Reinsurers' resistance to or questions regarding claims presented.

C. Loss Settlements

As with risk selection, the insurer may have delegated claims settlement authority to a third party, be it an MGA, TPA or loss adjuster. The third party has the duty to adhere to any guidelines and limitations stipulated in the delegation agreement, as well as to comply with fair claims settlement practices.

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Typically, these agreements will stipulate the third party's settlement authority, reporting practices, reserving practices and use of outside experts.

Potential abuses include exceeding the claims settlement authority and establishing inadequate loss reserves in order to maintain a relationship with the insurer. Other indicators of problems are:

- Fluctuations in reported incurred losses;
- Unusually high loss-adjustment expenses;
- Unexpectedly high losses;
- Late development of reported losses;
- Policyholder complaints;
- Low salvage recoveries and/or high ratio of salvage costs to amount recovered;
- Low subrogation recoveries and/or high ratio of subrogation cost to recovered amount; and
- Negative market conduct examination report comments.
- Claims payments exceeding clean claim guidelines in health insurance.

To the extent that an agent's actions caused the insurer's financial suffering, the receiver may wish to pursue litigation or other available remedies.

D. Abuses Relating to Premium Computations

This area is closely related to risk selection in that the parties to whom underwriting authority has been delegated may also have the authority to compute the premium for the risks, and compute, collect and remit premium adjustments.

The compensation of the party in question, especially an MGA, is generally a commission based on premiums written. Consequently, the agent may deliberately underprice the premium or fail to compute additional premiums in order to write the risk and generate a commission.

Similarly, the insurance broker, the policyholder and intermediary (if reinsurance is involved) might deliberately suppress information relating to compensation. The receiver should look for:

- Change in pattern of premiums audit activity.
- Unusual lag in reporting losses.
- Unexpectedly high incurred loss ratios.
- Uncollectible adjustment premiums.
- Captive cell arrangements

E. Professional Malpractice

Insurers frequently retain outside professionals, including attorneys, auditors, CPAs, investment advisors, actuaries and loss reserve specialists. The receiver should retain an expert from the same profession to

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review the activities of the insurer’s professionals and to determine if their actions met the minimum standards of the profession.

Types of actions that may result in litigation or other proceedings against such persons include:

- Incompetence or failure to meet professional standards;
- Failure to divulge conflicts of interests;
- Billing abuses; and
- Failure to timely discover or disclose insolvency or other deficiencies of the insurer that prolonged the insurer’s operations and increased its debts.

Many professional organizations promulgate a code of ethics and technical performance standards that the receiver may wish to obtain as a source of professional standards against which a breach may be measured. This is an area of considerable complexity, however, so the receiver should consider retaining the services of knowledgeable legal counsel.

It is particularly important for the receiver to review whether certain professionals that were responsible for reporting on the financial condition of the insurer, such as auditors and actuaries, performed their duties in accordance with their applicable standards. Even in cases where the actual cause of insolvency was due to misfeasance or malfeasance by the directors and officers, other professionals may be liable for not discovering and disclosing the problems. If an auditor breached and/or failed to meet its duties of care, such breach and/or failure may be the proximate cause of damages to the insurer and its policyholders, creditors and shareholders by reducing the value of the insurer and deepening the insurer’s insolvency. For instance, if an auditor gives a clean opinion on an annual statement, reporting an insurer to be solvent when it should have detected and reported the insurer’s insolvency if it had properly performed its duties, the insurer’s financial condition may continue to deteriorate, causing an even greater loss of surplus, or increase in insolvency.

Some jurisdictions have awarded damages against auditors for what is referred to as the “deepening of the insolvency.” This theory of damages was initially used in bankruptcy cases but has been applied to the insurance insolvency settings. Some courts have found “deepening of the insolvency” to be a separate cause of action, even though it would still primarily be based upon some kind of professional negligence action. However, this theory is not universally accepted. In most states, auditors are required, as a condition of providing annual audit services to insurers, to provide a letter of qualification to the commissioner of insurance, stating that they understand that the annual audited financial statements of the insurer and the auditor’s own report with respect thereto will be filed and that the insurance commissioner intends to rely on this information in the monitoring and regulation of the financial position of the insurer. Such reliance may form the basis of a claim. Examples of professional malpractice of an auditor may include the failure to detect and disclose:

- Risks and accounting errors associated with an insurer’s insurance program.
- Dissipation and misspending of funds by the insurer’s officers and directors or controlling companies.
- Inadequacy of an insurer’s reserves.
- Diversion of audit premiums or other assets.
- Existence of retroactive reinsurance or other reinsurance that could not be counted as an asset.
- Any significant deficiencies in the insurer’s internal controls.

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If such failures mask the true financial condition of the insurer so that the insurer continued to operate and slide further into insolvency, the auditor could be liable for the increase in insolvency from the date of that failure (i.e., the failure to report the insurer's deficiencies or insolvency), and the date when the insurer was actually placed into an insolvency proceeding.

Similarly, other professionals, such as actuaries, may be liable for the deepening of the insolvency if they breach their standards of performance and understate the insurer's reserves to the extent that, had they properly stated the reserves, the insurer would likely have been put into an insolvency proceeding sooner.

F. Income Tax

Insurance companies placed into liquidation often have net losses for federal income tax purposes. They are required to file federal income tax returns. (See Chapter 3—Accounting and Financial Analysis.) In addition, they may carry back the net operating losses and capital losses for a three-year period and recover prior years' federal income taxes. If the company is included in a consolidated return, the losses may be used to offset income from other companies in the consolidated group.

As part of the receiver's investigation, it should be as certain whether the company has entered into a tax-sharing agreement. A tax-sharing agreement provides for the allocation of tax among members of a consolidated group may enforce the insurer's rights to tax recoveries. The receiver should determine whether any tax obligations or refunds due the insurance company have been paid and should be aware that intercompany tax allocations are frequently not recorded.

See *Exhibit 4-1* for a chart of potential recoveries from third parties.

IX. POTENTIAL ACTIONS AGAINST MANAGEMENT (DIRECTORS AND OFFICERS), SHAREHOLDERS AND POLICYHOLDERS/OWNERS**A. Directors and Officers**

The receiver may seek to recover damages from an insurer's directors and officers under one or more of the following theories:

1. General Mismanagement

In most states, case law requires that corporate officers and directors exercise ordinary or reasonable care and diligence in discharging their duties. The standard varies by jurisdiction. In most states, officers and directors are protected by the "business judgment rule" for their good faith actions. (See Chapter 9—Legal Considerations.)

The receiver should focus on what the directors and officers did or did not do. Accordingly, the receiver should begin the investigation by identifying the directors and officers and examining their qualifications to serve in their respective capacities. Such persons are held to minimum requirements of background, experience and skill for each position. These prerequisites may be defined by statute or contained in the company's bylaws. The receiver should ascertain that the minimum requirements were met. The statutory remedy for an officer or director failing to meet qualifications is removal. However, willful failure of other officers and directors to enforce timely action may lead to their liability if it contributed to the insurer's insolvency.

The receiver should pay attention to the directors' and officers' actions during the time leading up to the commencement of the receivership. If, prior to initiation of receivership, the directors and officers knew or should have known that the company was hopelessly insolvent, their failure to take remedial actions may be considered mismanagement. That is, continuing operations of the company may result in a larger dollar amount of the insolvency than would have occurred had management taken remedial

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actions, such as ceasing to write new business, going into run-off, or voluntarily consenting to receivership. In some jurisdictions, this “deepening of the insolvency” is considered an element of damages in an action against the directors and officers.

An officer or director is accountable for the results of the operations of the insure. Whether accountability translates into liability in directors’ and officers’ litigation would appear to be dependent on answers to the following questions:

- Did the officer exercise reasonable and ordinary care in monitoring the behavior of subordinates?
- Did the officer act promptly to take appropriate corrective action?
- Did the officer attempt to conceal the failings or wrongdoing?
- Was the officer an active co-conspirator?
- Did the officer obtain adequate information before making a judgment?

The receiver should review all minutes of the board, and board committee meetings and related activity. Records of attendance at board meetings should be scrutinized. Particular attention should be given to officers’ compensation and directors’ fees, and to excessive travel or preferential use of company property. The receiver also should examine investment transactions for improper or self-dealing in ventures in which officers and/or directors had an interest. An absentee or empty-headed/pure-hearted director is not absolved and may incur additional liability because of continuous absences or non-feasance.

2. Racketeer Influenced Corrupt Organizations (RICO)

The availability of the federal Racketeer Influenced Corrupt Organizations (RICO) Act to receivers is discussed in depth in Chapter 9—Legal Considerations.

At least some causes of action under RICO require demonstration of fraud. In such cases, the concern expressed below regarding collectability of reinsurance and errors and omissions (E&O) liability coverage would apply to these RICO actions as well.

3. Fraud

Civil liability is not the only remedy available to a receiver. In appropriate cases, consideration should be given to referring the matter to local, state or federal law enforcement authorities for criminal enforcement. Alleged fraudulent or criminal activity may involve only one or two persons, and it is not necessary to prove a pattern of activity and should include a comprehensive evaluation on impact to the estate. Fraud is often used as a defense or basis to deny coverage by liability insurers covering Officers and Directors of the insurer and may be used as a defense by reinsurers. 4. Voidable Preferences and Fraudulent Transfers

As discussed earlier, statutes prohibiting voidable preferences and fraudulent transfers often allow the receiver to pursue insiders who knowingly participated in the prohibited transactions. A forensic analysis will help identify potential voidable preferences or fraudulent transfers.

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5. Activities that Give Rise to Potential Recoveries

Recoveries from the directors and/or officers may be founded on a variety of acts or failures to act that may be difficult to uncover. Major things to consider are outlined in the following paragraphs. Refer to Chapter 9—Legal Considerations for more detail.

a. Self-Dealing

All transactions between the insurer and vendors owned or controlled by officers and directors and/or their immediate family members should be examined for propriety. Leases of office space, data processing equipment, and furniture and equipment can be used to skim funds from insurers for the improper benefit of owners/officers. Similarly, there have been instances in which the insurer paid excessive management fees to organizations controlled by related parties. Other possible areas for abuse are claim service organizations, software vendors, auto repair shops, attorneys, consultants, and shared office space.

b. Executive Compensation

Travel and expense reimbursements to officers and directors should be examined for abuses, such as travel with no clear business connection, travel to resort areas accompanied by family members, etc. Special facilities, such as leased or company-owned luxury cars, boats or residences maintained for executives may also be suspect.

Some scandals have identified artworks, antiques, oriental rugs or other high end items purchased with company funds for the primary benefit of its officers.

c. Investment Transactions

Real estate owned by an officer or director may have been sold to the insurer at an inflated value or exchanged for other property of greater value. Mortgage loans may have been granted to family members based on overstated appraisals or in violation of company investment policies.

Other areas of potential abuse include secured loans in which the collateral may be improperly secured or below investment quality.

d. Underwriting Transactions

Poor underwriting results may have been the result of actionable misconduct, such as:

- Accepting risks in violation of the insurer's published underwriting guidelines.
- Failing to prevent or correct over-lining (writing prohibited classes of business).
- Failing to obtain motor vehicle records on automobile risks and safety, and engineering reports on commercial property risks or workers' compensation risks.
- Taking on additional risk when the premium is insufficient to cover the risk.
- Placing reinsurance with unacceptable reinsurers and/or failing to obtain adequate security (letters of credit or trust funds or funds withheld) to cover unauthorized reinsurance.
- Failing to keep new business writings within prescribed limits.
- Failing to monitor the activities of MGAs and TPAs.

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e. Claim Operations

Claim operations are vulnerable to liability for unlawful conversion of funds, which usually requires active participation by an employee or agent of the insurer. Persons in senior management positions may be culpable and subject to litigation to the extent that they were aware of activities, such as:

- Improper payments to claimants;
- Payments made to non-existent claimants;
- Payments to non-existent providers or service vendors;
- Inflated invoices for loss adjustment expenses linked to a kickback scheme;
- Deliberate and material under-reporting of incurred losses;

The degree of culpability will be determined by answers to at least the following questions:

- Did the officer exercise reasonable and ordinary care?
- Did the officer take prompt corrective action?
- Did the officer attempt to conceal the failings or misconduct?
- Was the officer an active co-conspirator?

f. Actuarial and Financial

An officer may have negligently or intentionally misstated actuarial data, either through improper valuation of policy reserves or case reserves for property and casualty losses, or by negligent or intentional failure to maintain sufficient data on which to base a reasonable estimate of loss reserves. The degree of culpability would appear to hinge first on intent and then on the qualifications of the officer. Alternatively, a group of officers and/or directors acting in concert may have intentionally tampered with reserve data or deliberately filed false financial statements.

g. Failure to Act in the Best Interests of the Company

A corporation's officers and directors have a common law duty of loyalty to that corporation that precludes, among other things, seeking private profit or advantage from their office. In most cases, the standards of conduct are clearly defined. The officer or director must not place his or her private gain above the best interests of the company and its survivability as a going concern. The receiver should carefully scrutinize insider stock trading, employment contracts, "golden parachutes," "poison pills," bylaws, etc., to verify that key personnel did not breach this duty.

6. D&O Indemnification

Consideration should be given to the existence and effect under applicable law of indemnification provisions in the company's bylaws and in state corporate laws.

7. E&O and D&O Insurance

Many companies purchase E&O and D&O insurance that may provide coverage for certain types of conduct described above. As part of the receiver's investigative examination, all such policies should be identified and examined. These policies will almost certainly be claims-made policies that should

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be reviewed to determine the deadline for notifying the carrier concerning possible claims. Additionally, the policies may provide for the purchase of “tail coverage,” which could extend the time in which to file a claim. In most cases, the receiver should purchase the tail coverage if his/her investigations have not been completed. The presence of insurance may be a factor in the cost/benefit analysis with respect to assessing causes of action against officers and directors. If insurance does exist, consideration should be given as to whether causes of action are covered by the insurance. Certain causes of action may be excluded by the policy, and it is important for counsel to review the policies before any suits are filed. One common exclusion that should be considered is the “regulatory exclusion” clause, which will likely be present in the policy under review. Another common exclusion is the “insured versus insured” clause which may be in the policy under review.

B. Shareholders and Policyholders/Owners

Some jurisdictions permit alter-ego actions against shareholders, usually in closely held corporations, under common law or by statute. It may not be necessary to establish that management was negligent or guilty of fraud to recover from the shareholders. Where permitted, such recoveries may be limited, as in Arizona, to the par value of the outstanding shares.

In certain situations, it may be possible to assess policyholders or shareholders. Reciprocal inter-insurance exchanges and some old-line mutual insurers may have issued assessable policies that required policyholders to pay amounts over and above their premiums. Impairment to surplus usually is sufficient to trigger assessment.

Recoveries from shareholders and policyholders are special situations not likely to be encountered in most receiverships, and the amounts to be recovered and the procedures for recovery are specific. Thus, the receiver's attention is directed to the statutes and other authorities.

C. Significant Developments in Insurer Receivership Model Act (#555, known as IRMA)

In litigation between the receiver and affiliates of the insolvent insurer, Section 113 of IRMA prohibits the affiliate from using any evidence that was not included in the records of the insurer at the time of the transaction. As an example, it is not unknown for inter-affiliate loans from the insurer to have side agreements excusing repayment under various circumstances. Under Section 113, if the side agreement is not fully documented at the time of the loan in the records of the insurer, the borrowing affiliate may not present that agreement as a defense to the receiver's collection efforts.

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Chapter 5 – Claims

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*Receiver's Handbook for Insurance Company Insolvencies***I. INTRODUCTION**

Claims processing is the most visible, tangible part of a receivership proceeding. Because policyholder protection is the basic goal of any insurance receivership, the adjustment and adjudication of claims is closely monitored by interested parties. Accordingly, the claims process should be carefully developed and administered.

A receiver should consider the different circumstances under which claims are adjudicated. There are several variables that may affect the way the claims process is handled, each of which, as well as state law, will have an impact on the type of claims procedure that must be established:

- Whether the insurer has any assets;
- Whether the insurer is a primary carrier, an excess carrier, a professional reinsurer or a primary carrier that assumed reinsurance obligations;
- Whether the insurer underwrote property/casualty (property and casualty); fidelity/surety; a health maintenance or preferred provider organization; or life, accident and health risks;
- Whether guaranty associations are involved;
- Whether the proceeding is judicial or administrative;
- Whether the proceeding is a conservation, rehabilitation or liquidation;
- Whether the claim arises under an insurance policy or other contract; and
- Whether the insolvency crosses state or international borders.
- Whether the insurer handles claims adjudication internally or outsources this function to third parties.

For a discussion of the legal aspects of claims processing and payment, see Chapter 9—Legal Considerations.

THE FOLLOWING DISCUSSION IS ORDERED CHRONOLOGICALLY AND, UNLESS INDICATED OTHERWISE, ASSUMES THAT THE INSURER IS INSOLVENT AND THAT THE RECEIVERSHIP PROCEEDING IS A LIQUIDATION. ONE OF THE FIRST TASKS FOR ANY RECEIVER IS TO ESTABLISH A CLAIMS PROCEDURE AND PUBLISH THE PROCEDURE TO POTENTIAL CLAIMANTS. ONCE ESTABLISHED AND PUBLISHED, THE CLAIMS PROCEDURE IS IMPLEMENTED. IT MAY BE PRUDENT TO FILE THE CLAIMS PROCEDURES WITH THE RECEIVERSHIP COURT AND SEEK THE COURT'S APPROVAL OF THE PROCEDURES PRIOR TO IMPLEMENTATION OF THE PROCEDURES. THE RECEIVERSHIP COURT ULTIMATELY APPROVES THE CLAIMS THAT THE RECEIVER HAS ADJUSTED AND RECOMMENDED FOR PAYMENT OR DENIAL. ESTABLISHING APPROPRIATE RESERVES IS AN INTEGRAL PART OF THE PROCESS. THE FINAL STEP IS PAYMENT.

This section addresses the timetable for the filing of claims, the different types of creditors and their claims, and provision of notice to claimants. The receivership court's order defines the required notice to potential creditors and establishes deadlines for the filing of claims.

A. The Fixing Date

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One of the first steps in any insurance insolvency proceeding is to establish the exact date upon which the rights, obligations and liabilities of the insurer and its creditors are determined or “fixed.” Most states use the date of entry of the liquidation order, or, in some cases, rehabilitation order, for this purpose. (See IRMA, Section 501 B.) However, as to some policyholder claims, the fixing date is often required to be the date when the statute or court order terminates the insurer’s policies. The effect of the “fixing date” is significant: It provides a reference date upon which the insurer’s liability and creditors’ rights are determined. The most common legal distinction made is that between contingent and absolute claims. In essence, a claim is contingent if a liability-imposing event has occurred, but it is uncertain that the claim will be made or coverage and liability established. An absolute or non-contingent claim is one of certain liability. Although there may be a question as to the ultimate amount of the liability or when it may be due, there is no doubt that some debt will be due. An example outside the liquidation context helps to illustrate these distinctions. Assume that A negligently drives his car into the rear of B’s automobile. As a result of the incident, B has a contingent claim against A. If B sues A and B is awarded a final judgement, B as an absolute claim against A; In short, a claim remains contingent until liability is certain.

Identification of the fixing date may be subject to statutes applicable to both life/health and property and casualty insolvencies in several states that require continuation of coverage for a specified period after liquidation, usually 30 days. Most state statutes require that a life insurer’s policies continue in full force and effect, at least until the receiver reinsures or transfers the policy liabilities to another insurer.

B. Claim Filing Deadlines

1. What is a claims filing deadline?

A claim filing deadline is the deadline for filing proofs of claim against the estate. (See IRMA Section 701 A.) The purpose of the claim filing deadline is to enable the receiver to: identify existing or potential claims against the estate; adjust and adjudicate claims; make distributions; and eventually close the estate. A claim received after the filing deadline should be classified as a late claim. Timely filed claims may be amended or supplemented subject to certain limitations provided notice of the loss or occurrence giving rise to the claim was provided on or before the claim filing deadline. Late-filed claims may be accepted but may not be paid until all timely filed claims of the same priority have been paid in full or it will be moved to a lower priority of distribution within the estate. Under IRMA late-filed claims are assigned to Class 9, provided that the claim was late due to certain specified criteria (IRMA Sections 701 and 801(I)). Other claims filing dates may apply.

In some circumstances, claimants need not file a claim to preserve their rights—e.g., policyholders of a life insurance company. Unearned premium claims may be treated similarly in property/casualty liquidations. It is recommended that the receiver discuss with the guaranty association which claimants are required to file a proof of claim. It is the receiver’s responsibility in such circumstances to develop a list of claimants who are deemed to have filed claims prior to the claim filing deadline. As always, it is imperative to check local statutes for the appropriate procedure and rule of law.

a. Effectiveness as Against Federal Claims

Whether claim filing deadlines cut off untimely claims of the federal government pursuant to federal super priority statute 31 U.S.C.A. § 3713 remains unsettled. For a more extensive discussion of this and other claims issues, see Chapter 9—Legal Considerations.

b. Applicability in Rehabilitations

Whether a claims deadline date will be established in a rehabilitation proceeding depends upon the specific circumstances and applicable law. In rehabilitations of a limited or set duration, a

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claim filing deadline may enable the rehabilitator to ascertain the amount of outstanding claims and implement a plan to return the insurer to solvency. A deadline may also allow the rehabilitator to conserve liquid assets to pay current obligations while a rehabilitation plan is being developed or the amount of outstanding claims is being assessed. In other rehabilitations, it may be appropriate to set no claim filing deadline until a final dissolution plan has been settled.

2. How is a Claim Filing Deadline Established?

A court order is required pursuant to the applicable statutory requirements to establish the claim filing deadline for a particular receivership. (See IRMA Section 701, also Chapter 6—Guaranty Associations for claim deadlines applicable to guaranty associations or ancillary receiverships.) The claim filing deadline established for claims against the receivership estate will also apply to the claims against a guaranty association.

Some state statutes specify the maximum period of the period of time for the claim filing deadline bar date. If there is flexibility within the statute, the length of this period often will depend upon the complexity and size of the receivership and the type of business written. The assumption of blocks of business by a solvent insurer may eliminate the need for many claims to be filed at all. There can be a general correlation between the length of the claim filing deadline and the amount of the estate's administrative expenses.

3. 6. Deemed Filed Claims

In circumstances where the insurer has better information about claims than the policyholders have, the receiver may be able to avoid the administrative expense of handling some or all proofs of claim by establishing a "deemed filed" procedure. Under such a procedure, the receiver may establish a list of policyholders and claimants based on the insurer's books and records, which shall provisionally state the amounts claimed. Each person whose name appears on such a list shall be deemed to have filed a proof of claim in a timely manner. Claimants are given notice and provided an opportunity to correct errors and prove their claims before final allowance. This procedure works well for unearned premium claims and claims for investment values in life insurer insolvencies. Most state statutes do not require holders of life or annuity contracts to file claims.

D. Developing the List of Creditors

The first step in this process is to develop a master mailing list of creditors from the insurer's books and records and other interested parties.¹ Most state statutes or receivership courts require notice by first class mail to the last known address of the known claimants as well as by publication. In some states, notice shall be given in a manner determined by the receivership court.

The following persons usually will be included in the insurer's mailing list:

- Guaranty Associations
- Policyholders
- Third-Party Claimants
- Secured Creditors

¹ See *Elmco Properties, Inc. v. Second National Federal Savings Ass'n*, 94 F.3d 914 (4th Cir. 1996) for a receivership involving a savings association.

Chapter 5 – Claims

- Government Agencies
- Wage Claimants
- General Creditors
 - Reinsurers and Reinsureds
 - Intermediaries
 - Managing General Agents and Third-Party Administrators
 - Claims Adjusters
 - Defense Attorneys
 - Vendors
- Equity (Stock or Share) Holders

E. Proof of Claim Forms

Once the list of claimants is developed, the receiver typically sends a proof of claim form to each person identified. The proof of claim form, which is the basic prerequisite to the allowance of a creditor's claim, serves a number of useful purposes. First and foremost, it identifies the claimant and the nature and extent of the claim. The receiver also may use the form to calculate the extent of the insolvency, to identify any obligations the claimant may owe the insurer (e.g., through the identification of any setoffs), to set reserves and to determine the estate's right to collect reinsurance. In some cases, health claims may not have to file a proof of claim an example is where the health insurer uses a TPA and is covered by the guaranty fund, there should be no need for the TPA to adjudicate the same claims twice.

Many proof of claim forms have been developed over the years. Claim forms to be used in any particular proceeding should be tailored to the circumstances presented. For example, the receiver should consider whether claims forms must be filed by all claimants. Most state statutes permit the receiver to dispense with the issuance of claim forms in a life receivership. The receivership simply draws a list of creditors from the insurers' books and records. In some states, filing with a guaranty association may constitute filing with the receiver for purposes of satisfying a claim filing deadline, but the receiver may need additional information from the claimant that the guaranty association did not elicit. Guaranty associations and receivers should coordinate their respective claim filing procedures to the extent possible. With receivership court approval, receivers may deem open claims as reflected on the books and records of the delinquent insurer as timely filed. In such circumstances, proofs of claim need not be filed by insureds or third-party claimants for such claims.

Before a proof of claim form is created, the receiver may wish to determine the number and types of claim forms that will be needed. The first task is to identify in broad categories the various classes and types of claimants. Then the receiver can determine what information is required for each type of claim. With this information, specific proof of claim forms can be developed for each category of claimant based on the type of business written. Some receivers use only one claim form but use control numbers (such as an alpha-numeric system) to designate the type of claim presented in the form. This saves the cost of developing separate forms. Receiverships involving surety business may necessitate the use of a separate

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proof of claim form for each type of surety bond. The objective is to facilitate the exchange of information between the claimant and the receiver in order to adjust and later adjudicate a claim.

The more specific the information that can be elicited in the initial proof of claim form, the less follow-up will be required. Receivers should be encouraged to request submissions from creditors which the company in receivership has reinsured in accordance with the format of reporting under the reinsurance contracts in question. This should just be complemented by a comprehensive overview and breakdown of the total claimed by such reinsured creditor. The receiver, however, may require the claimant to present supplementary information or evidence, may take testimony under oath, may require production of affidavits or depositions, or may otherwise obtain additional information or evidence (IRMA Section 702 C). The class determinations should be subject to a right of appeal by the claimant. The prompt determination of creditor class permits a faster wind down, and also facilitates more prompt calculations and distributions for creditor claims. It may be unnecessary to determine the amount of receivership claims for a creditor class if receivership assets are unavailable for that creditor class.

Most statutes require claimants to provide certain basic information. (See IRMA Section 702.) The following information typically is required:

- The nature and particulars (e.g., the who, what, when, where and amount) of the claim asserted;
- The consideration for the claim;
- The identity and amount of any security held on the claim;
- Any payments made or received on the claim;
- A copy of each written instrument upon which the claim is founded or a statement of the reasons a copy of the instrument(s) cannot be provided;
- The amount and a description of the source of any salvage or subrogation collected or which may be collected;
- An affirmation (notarized) that the insurer justly owes the sum sought and that there is no setoff, counterclaim or defense to the claim (IRMA Section 702 A); and,
- The name and address of the claimant and any attorney representing the claimant.

Additionally, IRMA requires that the claimant provide: 1) its Social Security number (SSN) or federal employer identification number; and 2) any right of priority of payment or other specific right asserted by the claimant (IRMA Section 702 A).

The receiver may decide to use the same claims and policyholder service forms that the insolvent company previously employed, because the information required is fairly uniform, and the use of different forms could be confusing to the service providers and policyholders. Additionally, many estates make proof of claim forms available for easy access via the receiver's office website.

The receiver decides what additional supporting documentation will be required to prove a claim and in what form it should be submitted. (See IRMA Section 702 C.) Different documentation will be needed for different types of claims. For example, death benefit claims require the furnishing of a death certificate. Accident and health claims may require a physician's certification and copies of medical bills. Return premium claims may be established simply by submitting a bordereau of all cancelled policies and return premium amounts attributable thereto, while computer summaries may be required to prove cumbersome or complicated claims. When policyholders claim return premium, the receiver may require additional documentation, such as copies of cancelled checks. Reinsurance claims may require yet another form of

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documentation. Life insurance claims usually require the policyholder to furnish the original policy. If the original cannot be provided, a copy thereof may suffice. If neither the original nor a copy of the policy can be furnished, a lost policy form should be executed and submitted to the receiver.

The level of detail required in the proof should conform to industry standards and statutory guidelines, as well as make it convenient for the receiver to communicate with the claimant and add the information to its database for claims management. Some estates may not process a claim that does not include all the requested information. One of the most critical needs of general creditors involves financial information on an insolvent ceding company. Providing regular financial statements of the company would be beneficial to interested parties, such as guaranty associations, reinsurers and other receivers or regulators. It should be noted, that whenever a reinsurer of the company in receivership has claims against the estate or where a reinsured creditor at the same time is a reinsurer of the estate, receivers should utilize the guidance provided in sub-section F. Coordination and Communication with Reinsurers.

The receiver must determine who may submit a proof of claim on behalf of an entity and what form of verification is required. Because corporations can act only through their designated agents, it is best to determine and inform corporate claimants who may sign on their behalf (e.g., officers, directors, managing general agents or attorneys). Generally, a director does not have authority to act for a corporation because directors must act as a body unless otherwise authorized by the company's by-laws. In most instances, the notarized signature of an individual who attests to his authority to do so will suffice. The signature of a trustee should be received when dealing with trust claims, and the trust document should be provided to the receiver to verify the identity of the trustee. If in doubt as to the capacity or authority of an individual who submits a claim on behalf of a corporation, partnership or trust, the receiver may require that the claimant provide a certificate of incumbency, signed by another authorized officer or representative, as to the signer's authority to bind the entity. In the case of a corporation, partnership, trust or individual, the receiver may also require a signature guarantee if in doubt as to the identity of the individual executing the claim. Careful drafting of the attestation will ensure that such authorization has been given to the signatory. Note that the availability of notarizations may depend upon the residence of the claimant. Although most foreign countries maintain their own systems for verification, notaries may be found at most American embassies. Consideration should be given to electronic signatures and proof of claims submission

When developing proof of claim forms, it is helpful to have in mind the volume, type and class of claims that creditors may submit. Claimants, including guaranty associations and reinsured creditors, may have hundreds of outstanding claims against the insured. Some claimants may be permitted to file a single omnibus proof of claim for all claims against the receivership estate. IRMA Section 702 D allows a single omnibus claim to be filed by guaranty associations, which may be periodically updated without regard to the claim filing deadline, and the guaranty association may be required to submit a reasonable amount of documentation in support of the claim. Also, for reinsured creditors, the receiver will want to decide whether these claims need to be submitted individually or on a bordereaux basis. There are certain advantages to bordereaux submissions, which are dictated by the sheer volume of claims, the requirements of the treaty and the receiver's need to efficiently process reinsurance recoveries. Ceding treaty retrocessionaires may only be able to file claims on bordereaux. There are other claims submission methods that might be used for reinsurance recoveries, depending upon the complexities of the situation. In the final analysis, the preferred submission approach ordinarily is the one which permits an orderly and efficient administration of claims on a computer system, and often closely follows the procedures formerly in effect when the company was in operation.

In some states, if applicable, claims must be submitted on the Liquidator's proof of claim form unless the Liquidator grants an exception. Therefore, one approach to the claims filing process for reinsurers would be to allow for claims to be submitted in any format acceptable to the receiver; if the receiver (or the court) agrees, a claim would not have to be submitted on a proof of claim form.

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To the extent omnibus proof of claims by reinsurers/intermediaries are allowed under your state's law, another consideration to expedite the filing of certain types of claims would be to allow reinsurers/intermediaries to file "place holder" claims, like those of guaranty associations, whereby the reinsurers/intermediaries timely file claims but are permitted to supplement their claims as additional information becomes available later in the receivership process. When appropriate, deem filing practices would be allowed for certain claims in receiverships. Generally, such orders are only sought in situations involving claims for which adequate claims documentation/proof exists within the records of the insolvent insurer.

III. NOTICE

Once a receivership order has been entered, whether it is for rehabilitation or liquidation, one of the first actions taken is to mail notices of the receivership to the company's agents, policyholders/members, reinsurers, and other parties related to the receivership. These notices should contain information regarding the claims processing filing process and references to the receiver's office website. The website should be kept updated with receivership information relevant to interested parties. The receivership website should not only provide information for consumers, but also provide an overview of the current status of the receivership including past and upcoming deadlines as well as provide access to court orders relevant to the receivership. To simplify the administration of the website, such information can be provided in the format of a simple table as some receivers' websites already do. Similar receivership notices are also provided to insurance departments of other states where the company is licensed.

Once a claims procedure has been established, the next step is communicating the procedure to all creditors. The receiver should check the domiciliary statute for any applicable time constraints in sending notice.

Ideally, in the case of surety bonds, insureds, their agents and obligees should be advised of the status of their policies and of the procedures to be followed to make a valid claim. Among other things, the notice typically will inform them of the insurer's insolvency, whether policies have been or will be cancelled, and the procedures for presenting claims. The notice also may be used to describe, in general terms, the anticipated course of the liquidation. Some states require the notice to describe the guaranty association's involvement, if applicable. If a guaranty association is or may be involved, the receiver may want to jointly draft the notice with the association. The receiver should be cognizant of the effect of the receivership on guaranteed renewable and non-cancellable business.

The form of notice should be adapted to the circumstances. The notice may consist of the actual proof of claim form, with appropriate instructions for its use. The notice should identify the rights fixing date and claim filing deadline and its significance. Highlighting the penalty for failing to file by the claim filing deadline may help to avoid problems later. Posting notices, proof of claim forms, and claim filing deadlines on the receiver or estate's website is a best practice.

In multistate receiverships, notices to life insurance policyholders and annuity or investment contract holders should be coordinated with affected guaranty associations through the National Organization of Life & Health Insurance Guaranty Associations (NOLHGA). The receiver also may consider coordinating with the National Conference of Insurance Guaranty Funds (NCIGF) in multistate receiverships on the issuance of notices sent to property and casualty policyholders. Guaranty associations may request that the receiver to include appropriate guaranty association information in the receiver's notice.

A. Contents: Plain Language

Most people will be receiving a receivership notice and proof of claim form for the first time. It is important that all forms be written as simply and clearly as possible. When appropriate, bilingual or multilingual notices can be issued.

*Chapter 5 – Claims***B. Service**

For the initial mailing of proofs of claim, receivers may send notices and proofs of claim as claimants are identified or initiate the mailing process once all potential claimants are identified. For ease of reference and tracking, proofs may be numbered either before issuance or upon receipt, and a procedure may be implemented for recording the mailing, undelivered return, receipt and processing of all proofs. Notice commonly is given by mail and occasionally by publication. The receiver should be aware that there are constitutional issues with respect to the deprivation of property rights. Specifically, identifiable creditors of the estate, who have a known or reasonably ascertainable address, may be entitled to mailed notice of the proceedings affecting their claim. *Elmco Properties Inc. v. Second National Federal Savings Association*, 94 F. 3d 914 (4th Cir. 1996). (See Chapter 9—Legal Considerations.) Mailing should be done in the manner and form prescribed by the domiciliary receivership statute (e.g., certified, first class, bulk), with appropriate documentation and records to demonstrate issuance, in case a challenge arises later. Publication may be required by law and is advisable for unknown claims. In most cases, the court order establishing a claim filing deadline will also require published notice of the receivership. Refer to applicable statutes or the court order to determine the timing, media, and frequency of published notice.

PROOFS OF CLAIM THEMSELVES MAY BE ISSUED BY MAIL OR THROUGH THE RECEIVER'S WEBSITE A COPY OF THE ENTIRE PROOF OF CLAIM DISTRIBUTION LIST SHOULD BE MAINTAINED, SUPPORTED BY VERIFICATION BY THE INDIVIDUAL(S) HANDLING THE DISTRIBUTION. IV. CLAIMS PROCESSING

The receiver should make decisions at the commencement of the liquidation about proof of claim filing requirements and the claim evaluation process. Making these decisions up front affords timely notice to claimants prior to the expiration of any claim filing deadlines and permits the development of claim forms and procedures consistent with such decisions. Each of these topics are discussed below:

A. Filing Methods

State law typically permit the presentation of claims by a variety of delivery methods, including U.S. mail, personal delivery or private delivery service. The receiver may also allow claimants to present their claims by facsimile or electronic (i.e., computer) transmission. The receiver should determine in advance whether to require original or electronic signatures, verification under oath, acceptable forms of supporting documentation. whether actual receipt, postmark, or receipt of delivery to a courier by the claim filing deadline are required.

State law may provide the receiver with discretion to exempt pre-existing claims from the proof of claim requirement. In exercising such discretion, a receiver would notify claimants with pending claims reported prior to the entry of the receivership order that their claims are deemed on file. Upon finalizing such decisions the receiver should develop clear and timely communication protocols that address the requirements for presenting claims against the estate.

In developing claim filing protocols, the receiver should be cognizant of information sharing requirements with other stakeholders such as state regulators, guaranty associations, and reinsurers.

1. Documenting Receipt of Proofs of Claim

As noted, the receiver should determine at the outset what constitutes “receipt” of a claim, i.e., whether proofs of claim are considered received on the date they are mailed or on the date they are actually received at the designated address. This determination will impact whether claims are timely-filed or late. Documenting the date of receipt of proofs of claim is a critical receivership function that should follow established business protocols.

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2. Guaranty Association Claims

The receiver should establish effective communication with the affected guaranty associations at the earliest possible date in the insolvency. (See IRMA Sections 303 and 405.) This is the essential first step to efficient referral of claims to the appropriate associations. After claims have been referred to the guaranty associations, claimant inquiries can be directed to the appropriate guaranty association or claim handler. The receiver may also need to monitor claims where more than one guaranty association is involved. If guaranty associations are unable to commence claim payments shortly after the liquidation date of the insolvent insurer, the receiver may want to establish a transitional pre-payment plan for hardship categories such as workers compensation claims, pharmacy benefits, or impounded automobiles. Such payments may be appropriate for subsequent treatment as early access distributions to or direct reimbursement by affected guaranty associations. See IRMA Section 802 D. [Note: IRMA Section 802(D) relates specifically to Workers' compensation payments in P&C cases]. In the case of a life and health multi-state insolvency, such payments may be used to provide funding to support assumption transfers of business or to provide initial funding for covered claims. In either event, the funding would be considered early access in accordance with IRMA Section 803. The referral of a claim to a guaranty association does not terminate the receiver's involvement with the claim. The receivership estate may have responsibility for claims that are excluded from guaranty association coverage or for portions of claims that exceed the applicable guaranty association coverage limit. A collaborative approach to the resolution of such claims between the receiver and guaranty association should be considered. Where guaranty associations administer covered claims, it is also critical for the receiver and guaranty association to coordinate information sharing so that the receiver is able to notify, cede and recover losses from reinsurers. Many state laws exempt guaranty associations from proof of claim requirements and claim filing deadlines. IRMA permits guaranty associations to file a single omnibus proof of claim for all claims of the association, See IRMA Section 702 D, which may be updated periodically without regard to the claim filing deadline.

B. Proof of Claim Evaluation

This section outlines the general steps a receiver usually takes when reviewing claims filed against an insurer. It also identifies policy or administrative questions the receiver should consider at the beginning of the claims evaluation process. IRMA provides that the liquidator may adopt, with the approval of the receivership court, procedures for the review, determination and appeal of claims that will be preliminary to review by the receivership court (IRMA Section 707 A).

Prompt and efficient resolution of claims should be management priorities for the receiver. IRMA provides that the liquidator shall review all duly filed claims and shall further investigate as the liquidator considers necessary, *except* a liquidator is not required to process claims for any class until it appears reasonably likely that assets will be available for a distribution to that class (IRMA Section 703 A). However, if there are insufficient assets to justify processing all claims for any class, the liquidator shall report the facts to the receivership court and make appropriate recommendations for handling the remainder of the claims (IRMA Section 703 K). The liquidator may allow, disallow or compromise claims that will be recommended to the receivership court unless the liquidator is required by law to accept the claims as settled (IRMA Section 703 A).

The receiver should manage the claim staff to achieve these goals. To the extent that the ultimate claim resolution is dependent upon the outcome of a guaranty association's claim administration, the receiver should consider coordinating with the applicable guaranty association on ultimate claim resolution when closure of the receivership estate is in view.

Completion of the claims evaluation process will enable the receiver to effectuate distributions to policyholders and creditors, generate reinsurance recoverables, and resolve subrogation and salvage, coordination of benefits and loss sensitive underwriting recoveries. The receiver in a health insurance insolvency should evaluate coordination of benefits owed from other parties as well as subrogation

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recoverables. Inquiries to be made include whether collateral is being held by the creditor in connection with the claim and whether there are other third parties who may be pursued, such as indemnitors. Proof of claim forms can be a source of such information.

Receivers and guaranty associations may need to coordinate on entitlement to collect and retain salvage and subrogation recoveries. The decision in *Cal. Ins. Guarantee Ass'n v. Superior Court*, 64 Cal. App. 4th 219, 220-21 (Ct. App. 1998), resolved whether the receiver or California Insurance Guarantee Association (CIGA) was entitled to the sums CIGA recovered through subrogation actions after it had paid covered claims. The Court held that to the extent CIGA pays covered claims it was entitled to retain the amounts it recovers through subrogation actions. Conversely, to the extent CIGA pays covered claims with “early access distributions” or other assets from the insolvent insurer’s estate, the estate is entitled to proceeds of any subrogation action. *Id.* at 229. In instances where pre-receivership payments were made by the insurer prior to guaranty association assumption of a claim, those payments typically constitute subrogation of the receivership estate under state law. In the case of surety claims, the receiver will need to review the underwriting file to determine subrogation or salvage potential and the identity of any third-party indemnitors. The estate should notify third-party indemnitors and solicit their involvement and support in settling the claims. Failure to properly and timely notify third-party indemnitors can result in the loss of indemnification through failure to give the indemnitor reasonable opportunity to minimize loss.

1. Review of Timely-Filed Claims

Timely filing of a proof of claim may determine whether a claimant receives priority payment and, if so, at what level of priority. The receiver accordingly must determine whether each claim is timely-filed.

Determinations of timeliness are made with reference to the claim filing deadline and the receipt or postmark rule. Claims received thereafter are categorized as “late” and subordinated in priority under state law. State law may provide a limited exception to the claim filing deadline for late claims. The receiver should review the applicable state law to determine whether a claim qualifies under the limited exception. See IRMA Section 801. For example, in some states, a late-filed claim may be deemed timely filed claim, if the claimant can show that he/she was entitled by virtue of an open claim on the books and records of the company to receive actual notice of the receivership and claim filing procedures but was not sent such notice. In one jurisdiction, a court held that the claims filing deadline should not be extended as a remedy for a receiver’s failure to give notice of the appointment of a receiver. (See *In re Liquidation of American Mutual Liability Insurance Company*, 802 N.E.2d 555, (Mass. 2004).)

Although the law on this point is fact-intensive, a receiver may not be able to rely on constructive or published notice, in circumstances where the existence of a claim was contained in the insurer’s books and records. (

Other examples of deeming late claims timely may include creditors who received transfers that were subsequently voided by the receiver or surrendered assets transferred to them, secured creditors whose security was valued below the amount of their claims (See IRMA Section 701 B), reinsurers whose reinsurance contract is terminated by the liquidation giving rise to a termination claim under IRMA Section 701 C.

- Post-Deadline Maturity of Timely Filed Claims

Certain timely-filed claims may not be absolute for a variety of reasons. The receiver may request the Court to set an absolute, or final, or contingent claim deadline, by which timely filed claims must be made absolute or fixed. Claims not made absolute, liquidated or mature by that deadline are date would be denied.

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2. Review as to Form

- Policyholder Protection Claims

Some jurisdictions permit policyholder protection claims by first party insureds for claims that are incurred but unreported or not known at the time of the claim filing deadline. Such claims may be allowed if they are amended or supplemented consistent with statutory or judicial rules and procedures. The receiver should consult applicable law to determine whether to allow such claims. Other states expressly prohibit policyholder protection claims. (See Chapter 9—Legal Considerations.) Statutes in some states either provide expressly, or courts have decided, that such claims may be allowed. Absent such guidance, some receivers require that the initial proof of claim be specific and may not be amended in any material respect after the claim deadline expires. Other receivers allow proof of claim amendments of all types until assets are distributed. Receivers should consult their local statutes and applicable court decisions on this issue.

- Contingent Claims

Most states provide for the filing of contingent claims by first party insureds, subject to an additional deadline for liquidating such claims. Contingent claims may be allowed if the claim is liquidated and the insured presents evidence of payment of the claim on or before the contingent claim filing deadline established by the Court. A contingent claim is a known loss or occurrence that is presented by an insured prior to the entry of a judgment or a determination of the insured's liability. Contingent claims do not include, and should be distinguished from, claims presented by third parties where liability or damages had not been established prior to the filing of the claim. See IRMA 705. IRMA and most state laws provide third-party claimants with a direct right to file claims with the liquidator prior to the expiration of the claim filing deadline. See (IRMA Section 706). In such instances, an insured may also file a contingent claim for the same occurrence raised by the third party.. IRMA Section 706 provides that the liquidator may make recommendations to the receivership court for the amount allowable on insured/third-party claims, basing this recommendation on the probable outcome of third-party claims against the insured. But distributions will be withheld and reserved pending the outcome of such a dispute or litigation between the insured and the third party. When the third-party claim is resolved, the reserved distribution will be paid to the insured or third-party claimant, as appropriate, and any excess amount reserved will be redistributed pro rata to other claimants in the receivership. IRMA Section 706 provides a procedure for resolving multiple claims filed by different parties against an insured that may exceed policy limits. In the case of multiple claims and irrespective of the IRMA provisions, it is imperative to apportion the varying claims without preference to the policy proceeds, and it is important to file for claim approvals with the receivership court before any claims are paid under the insurance policy. The receivership court claim approvals should be filed with due and proper notice to all parties that may be affected by such claim payments. It is recommended that defense costs be paid pro rata, even before all claims have been resolved and settled against a policy, provided that proper notice is sent to all affected and interested parties.

IRMA Section 706 provides that the third-party claimant waives certain rights against the insured by filing a claim against the liquidator for the insured's insurance policy benefits, but the waiver will be ineffective if the claimant withdraws the claim or the liquidator avoids insurance coverage.

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- Amendment and Supplement of Claim Information

Amendment and supplement of information supporting a previously asserted timely-filed claim can assist the receiver in the disposition of a claim that was contingent, unliquidated or immature at the time of its filing. Consistent with the applicable statutory requirements, the receiver may determine the types of amendment or supplement that will be allowed. Amendments may include, but are not limited to, correcting or updating the amount, correcting technical defects, and providing sufficient documentation supporting payments or damages. Some states may allow insureds to file contingent claims that include reasonable attorneys' fees for services rendered after the date of receivership in defense of approved claims, provided the insured has actually paid the fees and evidence of payment is presented prior to applicable deadlines established by the Court or before assets are distributed.

- Assumed Reinsurance Claims

As for the policies of a property and casualty insurer, the liability for claims that a property and casualty reinsurer has assumed generally are limited to those arising out of reinsured events that occurred on or before the liquidation date (unless the court or statute directs otherwise). A receiver should decide at the beginning of the receivership how to evaluate the claims of ceding companies under reinsurance contracts. This decision will dictate the form of notice to ceding companies and the form of the proof or documentation cedents must use to file claims against the insurer. The receiver may opt to let the insurer's assumed reinsurance business run off and have cedents file their current claims against the insurer, allowing the cedents to amend their claims from time to time.

Another option that receivers have proposed is to require all ceding companies to file a proof of claim against the insurer as of the date of the receivership order (or a reasonably close date) for all reported and unreported losses. Under this alternative, the receiver takes a snapshot at the fixing date. Paid losses are recognized as reported if covered under the reinsurance contract. Outstanding claim reserves and incurred but not reported (IBNR) claims reserves are actuarially calculated and discounted to present value. This method allows the receiver to evaluate cedents' claims at an earlier stage in the receivership. Because the receiver will want to employ consistent evaluation methods for all claims that include IBNR, the proof of claim form may require that the claimant report the basis for the IBNR calculation. It is important for the receiver to determine the existence and extent of retrocessional reinsurance that might be available to cover assumed claims. This reinsurance can represent a significant asset of the estate. (See section 3(b) below.)

- Claims under Occurrence Policies under IRMA

IRMA provides insureds the right to file a claim for the protection afforded under the insured's policy, irrespective of whether a claim is then known, or if the policy is an occurrence policy. Further, any obligee shall have the right to file a claim for the protection afforded under a surety bond or a surety undertaking issued by the insurer as to which the obligee is the beneficiary, irrespective of whether a claim is then known. When a specific claim is made by or against the insured or by the obligee, the insured or the obligee shall supplement the claim, and the receiver shall treat the claim as a contingent or unliquidated claim (IRMA Section 704).

Having concluded that a proof of claim was timely filed (or properly amended), the receiver should next review the claim to determine whether all required information has been provided and the form has been completed in accordance with the applicable instructions. IRMA provides that the liquidator need not review or adjudicate any claims that do not contain all applicable information and may deny or disallow any such claims (subject to notice) (IRMA Section 703 I).

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If additional information is required, the receiver should specify a deadline for its submission, advising that the claim will be denied if the information is not submitted by that date. Review of applicable statutes for guidance on this point is suggested.

3. Review of Claims Based on Contract Provisions

The next step in the review process often consists of a substantive review of the claim. Here the receiver determines whether the claim may be allowed on its merits. This section presumes that the receiver has claim files to review (i.e., that the files are not in the possession of a guaranty association). The initial issue is the review of coverage: Is the claimed loss covered under the terms and conditions of the insurer's policy or contract, or is it excluded from coverage? The issue is resolved by referring to the policy or contract, the insurer's claims manuals and underwriting files.

- Policyholder Claims

The starting point in the review of any policy claim filed against an insurer is the insurance policy or contract. The receiver treats the claim as if the insurer were reviewing it in the normal course of business prior to receivership. The receivership process and the procedures required by the receivership statutes and court are not a substitute for the sort of policy examination and initial claim review that the insurer followed before receivership.

The receiver first determines whether the policy was in force at the time of the loss. If not, the receiver will ascertain why the policy was not in force. Did the policy expire because of the insured's failure to pay premium? Did the term of the policy expire prior to the loss? If the insurer or insured cancelled the policy before receivership, the receiver must decide whether the applicable statutory or contractual procedures for cancellation were satisfied. The receiver also must determine whether the loss occurred before any cancellation of the policy by court order or by operation of law as a result of entry of the order of receivership. In the case of surety bonds, the receiver needs to determine that the bond was in force at the time of the occurrence upon which the claim is predicated. The receiver should be aware that some bond forms cover events that may have occurred prior to issuance of the bond as well as during the term of the bond. In addition, the receiver will need to determine whether the obligee (claimant) has adequately discharged its obligations under the contract to both principal and surety in such a fashion as not to have prejudiced the surety's position.

Next, the receiver reviews the terms of the policy to ascertain whether the claim is within the scope and limits of coverage of the policy and not otherwise excluded. IRMA provides that no claim shall be allowed in excess of the applicable policy limits or otherwise, beyond or contrary to the coverage provided (IRMA Section 703 A).

In the case of a policy with aggregate limits, the receiver should determine how many claims have been filed against the policy and whether the aggregate limit has been exhausted (IRMA Section 706 D). If guaranty associations are paying claims under the policies, they should be notified of the extent to which the aggregate limit has been eroded. The receiver also will want to determine if the policy's terms provide procedural defenses to the claim, such as late notice, lack of cooperation, coinsurance or coordination of benefit provisions (e.g., in a health insurance policy).

The insurance policies under which the claims arise must be read in conjunction with the insolvent insurer's reinsurance agreements. A reinsurer's obligation to pay may only be triggered if the claims under a policy exceed a specified retention point. In some instances, the retention point may only be met if claims under a policy can be characterized as a "single incident" under the terms of the reinsurance agreement. The receiver must determine when claims under a policy constitute a single incident for reinsurance recovery purposes. As the reinsurer may argue that the claims at issue involve multiple incidents, the receiver should carefully review case law from the applicable jurisdiction when making this determination.

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In the case of claims under policies of life insurance, the receiver should be sensitive to contestability issues. For example, some claims may be contestable because of misrepresentations contained in the policy application. Suicide claims may not be payable if the death occurred within the policy's contestable period, typically two years. In the case of accident and health claims, the receiver should be alert to pre-existing conditions that might render a policy claim void. Other areas to watch for are work-related claims that could be covered under a workers' compensation policy or claims resulting from automobile accidents that could be covered by the insured's auto policy.

IRMA provides that a judgment or order against an insured or insurer entered after the date of the initial filing of a successful petition for receivership, or within 120 days before the initial filing of the petition, and a judgment or order against an insured or the insurer entered at any time by default or by collusion need not be considered as evidence of liability of the amount of damages (IRMA Section 703 E).

- Assumed Reinsurance Claims

Most states accord cedent claims the same priority as claims of general creditors (Chapter 9—Legal Considerations). In cases where there are insufficient assets to satisfy all policyholders' claims, the receiver should determine whether a review of general creditor claims is necessary. If it appears that the insurer's assets will cover only a portion of policyholder priority claims, there may be no need to evaluate general creditor claims unless the insolvent company has retroceded a portion of its reinsurance business. In such case, the receiver will need to evaluate and fix the amount of all or at least certain ceding company claims in order to pursue available reinsurance recoverables.

Assuming reinsurance recoverables are available or that assets are available to distribute to general creditors, the receiver will review all such claims. Review of the individual reinsurance contract ensures that the reinsurance contract covers the claim being asserted. The receiver should verify that the contract was in force at the time of the receivership, because the cedent and the insurer may have entered into a commutation agreement terminating the reinsurance agreement or some other agreement that establishes the rights of the parties (such as a novation, loss portfolio transfer, assumption, assignment or settlement). If so, then the receiver should determine whether the commutation should be honored or whether there is some basis for setting it aside (such as the creation of a voidable preference). If the commutation is determined to be valid, no other claims should be allowed against the insurer under that reinsurance agreement.

As with a direct policy claim, the receiver should determine whether reinsurance claims are covered, proper notice of the claim was provided, and premium and other amounts due under the reinsurance contract have been paid. The receiver should also offset claims due from the cedent (e.g., for unpaid premium, salvage, etc.).

- Certain Other Types of Contracts

The receiver may need to review the terms of the employment contracts with directors, officers or other individuals. IRMA provides that claims under employment contracts should be limited to payment for services rendered prior to the receivership order unless explicitly approved in writing by the commissioner prior to receivership or by the receiver post-receivership (IRMA Section 703 F). The receiver also should carefully review the terms of all leases. IRMA provides that the claim of a lessor for termination of a lease shall be disallowed to the extent the claim exceeds the rent reserved by the lease (without acceleration) for the greater of one year, or 15% (not to exceed three years) of the remaining term of the lease following either the date of the filing of the petition or the date of repossession or surrender of the leased property (whichever comes first), plus any unpaid rent due (IRMA Section 703 L).

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The receiver also should carefully review the terms of all netting agreements or qualified financial contracts. IRMA provides suggestions for the receiver as to how to deal with these types of contracts. (See IRMA Section 711.)

4. Review of Guaranty Association Claims

When a receivership triggers guaranty association coverage, the receiver should coordinate the approval and disapproval of claims with the guaranty association(s). Consulting the applicable statutes may enable the receiver to determine whether guaranty association payments bind the receiver. Coordination affects, among other things, the amount recovered under the insurer's reinsurance treaties or reinsurance agreements.

The receiver should establish appropriate procedures at the beginning of the receivership in order to accommodate guaranty association claims. For example, receivers often allow guaranty associations to file an omnibus proof of claim form that can be amended from time to time. Typically, the receiver's forms for guaranty associations will include sections asking the guaranty association to segregate its claim by administrative expenses, allocated and unallocated loss adjustment expenses, unearned premium payments, and policy loss payments. The receiver should review the guaranty association's claim for validity of liability and reasonableness of amount claimed. The receiver should be cognizant of the operational differences between life/health guaranty associations and property/casualty guaranty associations. Property and casualty guaranty association claims are typically related to terminated policies whereas, life/health guaranty associations obligations can also include claims related to the continuation of benefits under the insolvent insurer's contracts.

Life/health guaranty associations may satisfy coverage obligations by transferring those obligations to a different insurer through an assumption reinsurance agreement negotiated by the NOLHGA, or through ongoing administration of policies and claims in run-off where assumption reinsurance is not available. Consequently, the nature of the claims and expenses incurred by life/health guaranty associations can differ from the claims and expenses of property and casualty guaranty associations. In addition, life/health guaranty associations have statutory and subrogation claims to assets of the insolvent insurer to assist the association in satisfying its obligations. Early access agreements frequently permit the receiver to audit the guaranty association's records concerning the association's handling of claims.

The level of scrutiny given to a guaranty association claim depends on the circumstances. When the guaranty association provides complete coverage for affected policyholders, the receiver in cooperation with guaranty associations may wish to so notify policyholders (or have the associations do so) and thereafter deal only with the omnibus proof of claim filed by the association. Most state guaranty association statutes provide that a guaranty association's adjustment of covered claims usually binds the receiver, up to the amount the guaranty association has allowed, subject to statutory limitations. Although IRMA Section 703 A obligates the liquidator to accept claims as settled by a guaranty association when required by law, it prohibits the allowance of any claim in excess of the policy limits or contrary to the coverage provided under the terms of the insurance policy.

In other situations, limitations on guaranty association coverage, including caps, crediting rate limits, co-payments, deductibles and net worth, may make it necessary for the receiver to undertake a separate review of claims. The receiver should keep accurate records for, and coordinate with, all affected guaranty associations concerning the tracking of per-occurrence and aggregate limits of coverage under policies where there are multiple claims and claimants. Coordination with guaranty associations is essential.

Claims covered by guaranty associations may be reinsured. It is important for the guaranty associations to report development on these claims so that reinsurance notice requirements can be met. Lack of reporting can hinder the collection of reinsurance recoverables. Since guaranty

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associations ultimately benefit from reinsurance collection, the receiver and the guaranty associations have a common interest in collaboration.

5. Review Claimant Standing

A claimant's standing to file a particular claim against a receivership estate should also be reviewed by the receiver. IRMA provides that, with respect to claims of co-debtors, if a creditor does not timely file a proof of the creditor's claim, then an entity that is liable to the creditor together with the insurer (or that has secured the creditor) may file a proof of the claim (IRMA Section 709).

C. Claims Valuation

All claims should be assigned a value for allowance. In general, the determination of a claim's value is subject to the contractual agreement under which it arose and any statutory limitations. However, the receiver may be inhibited by statute from valuing claims in the same manner as the insurer did before receivership. In a typical surety insolvency, for example, the receiver and the receiver's legal counsel may face myriad issues as to what must have occurred prior to the fixing date for the bond claimant to pursue a claim in the receivership (e.g., how the bond claim is to be valued when the receivership order has interrupted the normal surety repair/completion of a bond principal's default, etc.). IRMA permits the liquidator to apply to the receivership court for approval to disallow *de minimis* claims. A *de minimis* amount shall be any amount equal to or less than a maximum *de minimis* amount approved by the receivership court as being reasonable and necessary for administrative convenience (IRMA Section 703 H).

1. Secured Claims

Generally, the value of security held by secured creditors can be determined by converting the security into money according to the terms of the security agreement, by agreement with the receiver or by the supervising court. IRMA allows the value of security to alternatively be determined by agreement or litigation between the creditor and the liquidator (IRMA Section 710 A). The value of the security is then credited against the claim. Valuation of secured claims may affect the overall recovery and distribution of assets to the other creditors of the estate. IRMA provides that the claimant may file a proof of claim for any deficiency, which shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim must be treated as unsecured. The liquidator may recover from property securing an allowed secured claim, the reasonable, necessary costs and expenses of preserving, or disposing of, the property to the extent of any benefit to the holder of such claim (IRMA Section 710 C, D).

A receiver should proceed with caution when valuing secured claims. The value of the security may be overstated on the books and records of the insolvent insurer.

2. Claims Estimation

The long-tail nature of certain claims such as workers' compensation or mass tort in a property/casualty receivership can present special issues for receivers. Under some rehabilitation plans, claims may be permitted to develop in a normal fashion. In other rehabilitation proceedings and almost all liquidation proceedings, however, the receiver may be ready to distribute assets before all claims are fully developed. In addition to the typical issues of coverage, liability and damages, the receiver should have a plan for valuing long-tail claims that complies with applicable state law.

Before a claim may be allowed, the receiver needs timely and accurate evidence:

- That the policyholder has, in fact, sustained a loss within the coverage of a valid policy and in a specific or determinable amount. The receiver evaluates the merits of the

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underlying claim. Under many states' statutes, a judgment against the policyholder entered after (and, in some states, even before) the date of liquidation may not be binding evidence of either liability or the amount of the loss. Nor does an insured's settlement bind the receiver, unless the insured can demonstrate that it is both bona fide and fair to the insurer as well as the insured. Collusive or side agreements between the insured and one or more of the claimants, consent judgments and covenants not to execute should be reviewed to determine whether the judgment or settlement is reasonable.

- That a third party has asserted and proven a claim against the policyholder on a timely basis, in an amount that can be reasonably determined. Again, judgments should be evaluated by the receiver for reasonableness. Each claim must be evaluated on its merits.

Some claims will fail to meet the requirements for proof and liquidation set out above, even though, were it not for the receivership's requirements, the claims would eventually have matured into enforceable claims. Late-maturing and even "contingent" claims are nevertheless an important component of the company's liabilities, both because of the significance of the claims themselves and because, when allowed, late claims may generate reinsurance recoverables for the estate.

- The receiver's flexibility in dealing with late-maturing claims may be limited by statute. Nevertheless, a procedure to deal with late-maturing claims should be developed in any estate involving long-tail exposures or where reinsurance recoveries are a consideration. The methodology used by the receiver will depend upon the individual estate, applicable state law, and the nature of the claims and the records available. A number of alternative approaches are available to the receiver:
 - The receiver might deny all claims that have not matured within a specific period after entry of the liquidation order. This "cut-off" approach may be appropriate where the insolvent insurer wrote simple, short-tail business or where the estate has few assets and recoverables. However, if the insolvent insurer wrote more complex business with a longer tail, the cut-off approach may defeat policyholder expectations and limit the receiver's right to collect from reinsurers.
 - Extensions of a claim filing deadline may ameliorate, but not eliminate, the risk that a policyholder with a legitimate claim will be left without a remedy. It sometimes helps and may be statutorily required to establish a second claim filing deadline, prior to any distribution to stockholders, in order to afford late claims an opportunity for recovery. Where permitted by state law some receivers have obtained approval for plans under which a claim deadline is extended and policyholder claims are allowed for distribution as they mature. This "run-off" approach may delay the distribution of assets and/or closure of the estate.
 - IRMA provides that a claim that is not mature as of the coverage termination date may be allowed as if it were mature, except it shall be discounted to present value (IRMA Section 703 D).
 - The receiver should determine whether the law in the domiciliary state would allow a plan to estimate and pay claims pro rata. While some states' receivership statutes (e.g., Illinois, Missouri and Utah) expressly permit the estimation of policyholder claims, receivers in other jurisdictions, might seek receivership court approval for a claims estimation plan with proper notice to interested parties. Case law that allows for claims estimation when a state statute permits estimation for the payment of claims or recovery of reinsurance proceeds includes: *Angoff v. Holland-America Ins. Co.*, 937 S.W.2d 213 (1996), providing that "the Missouri insolvency statutes grant

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the receiver considerable discretion in evaluating the determining claims by estimation using actuarial evaluation or other accepted methods of valuing claims with reasonable certainty, including determinations for IBNR losses to the extent that those types of claims can be determined with reasonable certainty.” State law may provide that estimated contingent claims may be allowed, but at a lower priority level than non-estimated claims (e.g., Illinois). Case law in another state provides that the receiver should not pay receivership distributions based on actuarial estimates of claims. See *In re Liquidation of Integrity Ins. Co.*, 2006 WL 2795343 (N.J. Super. A.D.) (the court rejected the holding in the *Holland-America Insurance Company* case that permitted claims estimation because it was based on MO statute, whereas NJ had no such provision.)

Assuming that a claim estimation plan is in accord with state law, the receiver should be aware of the following:

- Some state statutes have been amended to address the handling of contingent and unliquidated claims by providing an opportunity for estimation of contingent claims without lowering the priority of distribution of the claim. These few state statutes specifically allow for the estimation of claims, but some (e.g., Illinois) provide a separate priority of distribution level for holders of such allowed claims.
- Another approach to estimation assumes that each policyholder is assigned a case reserve established in the policyholder’s name and a proportionate share of the total projected IBNR. Although largely untested in this country, this technique has worked well in other countries in the liquidation of reinsurers.
- Even if IBNR estimations are acceptable for purposes of distribution from the estate, estimation may not be a valid basis for recovering reinsurance (IRMA Section 611 D).
- . . . Claims in a Life/Health Insolvency

Few receivership statutes directly address the issue of valuing life and annuity claims, but there is a well-developed body of case law on the subject. In any event, it often will be necessary to assess the type of policyholder claims at issue to evaluate whether groups of policyholders are being fairly treated in any rehabilitation, liquidation or assumption reinsurance transaction.

- Mature Claims

Life insurance claims have the advantage that, in most cases, the condition precedent to claim liability is fairly clear: The policyholder is either alive on the relevant date, or not. If the events triggering the insurer’s obligation to pay on a life policy have occurred on or before the fixing date, then the receiver’s claims process is substantially similar to that of a going concern, centering around proof of death, premium and cash value accounting, and beneficiary designation. Immediate annuities present slightly different problems, but essentially the claim of the owner of such an annuity ought to be the present value of the future stream of payments.

- Immature Claims

Challenges can arise in connection with policies for which the principal liability-creating event has not yet occurred at liquidation. Few such claims would be considered contingent, since the policyholder usually has significant rights at the liquidation date, including surrender rights or rights to unearned premium. Court decisions, going back to the early 1800s and ending in the 1940s as the assumption/guaranty system developed, support the

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allowance of claims based on these immature policies in the amount of a fairly adjusted reserve, or alternatively in the amount of the difference between premiums expected to be paid in the future and claims expected to be recovered by the policyholder, all discounted to present value.

In evaluating policyholder claims against life insurers, the receiver should look at the company's own reserves, after suitable investigation, to quantify individual policy claims. These reserves will typically equal or exceed cash or surrender value on the policies. Cash or surrender value, being the sum that the policyholder could obtain at any given moment from a solvent insurer, is usually the largest component of such a reserve and establishes a minimum number for the receiver's valuation. Other policy features are usually captured in the company reserves as well, including special premium considerations, renewal commitments, advantageous mortality charges, and above-market crediting rates. Annuity contracts may have features that affect the actual value of the contract. There may be a cash value, an account value, a surrender value, or other valuations used by the company to represent the amount payable to a claimant at a given point. Also, tax consequences may be incurred by a contract holder if his or her tax-qualified retirement contract is paid out and not rolled over into a qualifying contract within the time allowed by the IRS.

On the other hand, statutory reserves usually do not reflect the likelihood that some policyholders, had the insurer continued in business, would have permitted their policies to lapse. One approach to lapse issues would be to consider that, since lapse is an election completely within the control of the policyholder, it would not be appropriate to reduce the claim in respect of an election which, at the date of liquidation, the policyholder had not made. Other analyses, however, are also possible.

In a life/health receivership, the receiver will frequently conclude that traditional proofs of claim are either unnecessary or irrelevant. The company's records often form a better base for a claim valuation than anything the policyholder could construct. The actuarial techniques that ought to be employed in the valuation are outside the competence of most policyholders. Finally, application of a single actuarial method to all claims will permit them to be evaluated on a consistent basis. Part or all of the policyholder claims arising from life insurance policies and annuity contracts will be covered by guaranty associations. State guaranty association statutes typically require a pro rata distribution of receivership assets to guaranty associations based upon the reserves that should have been established for the covered policies. In addition, guaranty associations may have other creditor rights. Accordingly, the receiver should coordinate with the affected guaranty associations as to valuation issues.

D. Notice of Claims Determinations

Once the receiver has completed the review of proofs of claim, the claimants should be advised of their claim determinations. In some states, the receiver will not send a determination letter if the claim has been resolved by a guaranty association. Some receivers merely file with the supervising court a report or recommendations as to the allowance or disallowance of each claim, and require claimants to file any objections with the court. Other receivers give claimants notice and an opportunity to object before reporting to the court. As discussed below, IRMA Section 703 B follows this procedure. If the latter procedure is used, notice of the full or partial allowance of a claim should inform the claimant of the amount that the receiver will recommend to the supervising court for adjudication and the class of the claim for priority of distribution purposes.

In the case of the partial or total disallowance of a claim, the notice should state the reason for the disallowance and inform the claimant of the amount of time (specified by statute or court order) that the claimant has to object to the determination. Many states provide that claimants be given 60 days from the date the notice was mailed to submit written objections to the receiver. IRMA provides 45 days (IRMA

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Section 703 C). IRMA allows the liquidator to accelerate the allowance of claims by obtaining waivers of objections (IRMA Section 703 C). IRMA also provides that preliminary notice of the amount of the claim determination may be given to any reinsurer that is or may be liable with respect to the claim at least 45 days before the notice is given to the claimant. If the reinsurer does not object to the claim determination, it is bound by the determination (IRMA Section 703 B). Advance notice to reinsurers may not be practical under some circumstances, such as where the case is settled at mediation on the eve of trial, or where the reinsurer has expressed disinterest in the claim determination because it intends to dispute liability. Notice to a reinsurer can help establish proper documentation when a reinsurer denies having been notified of the loss.

Once an objection is received, the receiver should consider whether the determination should be altered before proceeding to a court hearing on the objection. IRMA provides that whenever objections to the liquidator's proposed treatment of a claim are filed, and the liquidator does not alter the determination of the claim as a result of the objections, the liquidator shall ask the receivership court for a hearing (IRMA Section 707 B). However, there is case law supporting the proposition that the commissioner may not have a statutory obligation to provide claimants a formal hearing when determining a claim (*Garamendi v. Golden Eagle Insurance Company*, 128 Cal. App. 4th 452, 27 Cal. Rptr. 3d 239 (Cal. Ct. App. Dist. 1. Div. 1. 2005)). Because it may be cost-prohibitive to have hearings on every claim objection, the receiver may settle or otherwise resolve an objection without the need for a hearing. The procedures for hearings on claim objections are discussed further below.

Prior to the court's approval, the receiver may revise the determination. This enables the receiver to correct any errors that were made and to amend the determination in light of any subsequently provided information or negotiations. The receiver should remind the claimant to advise the receiver of any change of address or the information provided in the proof of claim. Naturally, if the receiver changes an initial denial of a claim to an allowance or partial allowance determination, the receiver should notify the claimant of the amended determination.

In addition to policy claimants, the receiver should give notice of claim determinations to other directly affected persons, such as reinsurers (the reinsurance contract contemplates the reinsurer receiving notice and an opportunity to participate prior to the court approving the claim). The receiver should pay particular attention to the requirements contained in the insolvency clauses of applicable reinsurance agreements. Similarly, if the insurer underwrote surety bonds (such as contract performance or payment bonds), then the receiver will want to provide notice of the determination to indemnitors of the bonds, any collateral depositors and the bond principal. Notice will enable the receiver to obtain any information those persons have with respect to the claim, and will put them on notice that the receiver may be looking to their collateral or indemnification agreements for reimbursement of the insurer's liability under the bond. If not established by statute, the receiver should set a deadline for the claimant to respond to the claim determination. If a timely response is not received, the claim determination should become final, subject to court adjudication.

E. Judicial Review of the Receiver's Claims Determinations

Depending upon the degree of oversight exercised by the supervising court, the receiver may be expected to account to the court for all claims processed. IRMA provides that the liquidator shall present reports of claims settled or determined by the liquidator to the receivership court for approval. The reports will be presented from time to time as determined by the liquidator and shall include information identifying the claim and the amount and priority of the claim (IRMA Section 708). After the receiver makes the claims determinations, those decisions may be presented to the supervising court in the form of a recommendation for allowance or disallowance, in whole or part. This next section outlines the procedural steps that may be taken in making, filing and presenting recommendations for final court approval.

1. Documenting the Recommendation

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The first step is to make sure that claims determinations have been properly documented. The receiver may want to have a separate file for each claim filed in the receivership, containing the proof of claim and other relevant information. Files may be organized numerically either on a date of loss or policy basis. A status sheet or checklist may be attached at the front of each file detailing the status of the claim, including the recommendation to allow or disallow the claim, the priority of the claim, status of reinsurance, and other notes. Information in the status sheet should be entered into an electronic claims system. After the recommendation has been documented, the receiver then presents the claim (depending upon its status) to the court for approval or for a contested hearing, if the claimant filed a timely objection to the receiver's determination.

2. Presenting Recommended Approvals to the Supervising Court

The receiver may obtain court approval of recommended claim allowances, or the receiver may obtain advance approval for the payment of claims within a specified claims priority. In the event of advance approval, the receiver may report back to the receivership court if there is uncertainty as to whether claims fall within the approved claims priority class.

If the receiver does not seek advance approval for payment of claims within a creditor class, claims may be presented to the court by listing the claims and amounts approved or, if required, by a full financial accounting. The court usually will enter an order confirming the allowed claims. When the court approves a claim and all possible appeals have been exhausted, the receiver's staff should be notified that the legal action has concluded so that the allowed claims may be placed in line for eventual distribution.

3. Review of Recommended Rejections

This section outlines a general procedure for the denial of claims in a receivership. IRMA provides that disputed claim procedures are not applicable to disputes with respect to coverage determinations by guaranty associations as part of their statutory obligations (IRMA Section 707 C). Some states follow the practice of conducting individual hearings on denied or disallowed claims. The receiver's goal is to complete the process as quickly and smoothly as possible. The receiver may use in-house counsel or retain outside counsel to handle hearings, depending upon the complexity of the receivership and the disputed claims. The receiver should consider the potential expense involved in contested claims proceedings in deciding whether to force a hearing or pursue settlement or arbitration.

The claims hearing process begins when the receiver files a notice with the supervising court and notifies the claimant and other directly affected persons. Various courts require different notices, and legal counsel should be consulted to assure that the receiver is following the correct procedure. Usually, the notice sets forth (i) the time and date of the hearing, (ii) the procedure to be followed at the hearing, (iii) the amount claimed, (iv) the relevant priority status of the disputed claim(s), (v) the reason for the denial or priority status assigned, and (vi) whether an objection was filed. In some instances, due to the volume of claims, a special master may be appointed to hear the disputed claims rather than the judge of the supervising court. If a special master is appointed, the parties should meet as soon as practicable to establish the exact procedure to be followed. The receiver's staff should work closely with the legal counsel conducting the proceeding.

Assuming all notice requirements have been satisfied and any special procedures have been implemented, claims hearings typically follow a routine procedure. If permitted, multiple hearings should be scheduled at the same time to conserve estate assets and resources. Depending upon the complexity of the hearing involved, the receiver's staff and other resources may be needed. The receiver's counsel generally will need testimony from members of the claims staff or the receiver, along with production of relevant records. Expert witnesses also may be required. Receivers should take care to discuss the need for expert witnesses with legal counsel due to the costs involved.

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At the close of a claims hearing, the court typically issues a report or decision. Assuming the receiver's recommendation is upheld, the receiver should note the deadline for appeal of the order. If there is an appeal, it is best to complete the appeal process as soon as possible. If the decision is not appealed (or an appeal is concluded), the final order of the court can be entered into the receiver's records, along with any change in claim status. The final disposition by the receivership court of a disputed claim is deemed a final judgment for purposes of appeal (IRMA Section 707 D).

4. Arbitration

Judicial review of the receiver's determinations is not always mandatory. Depending upon the nature of the legal right or claim involved and the applicable law, arbitration may be required. Although the arbitration provision contained in a policy or reinsurance agreement may be unenforceable against a receiver (review of applicable law on this point is essential), careful review of these contracts is necessary to determine whether arbitration may benefit the receiver or the estate, and if not, whether arbitration can be avoided. Legal counsel may assist the receiver make this determination. If arbitration is an attractive option or cannot be avoided under applicable law, then the receiver should become familiar with the specifics of the arbitration clause in each contract.

Arbitration is a contract-based proceeding, subject to statutory and case law in the particular jurisdiction whose law may govern the proceeding. Careful review of the agreement with legal counsel is essential. Numerous legal questions arise in the context of arbitration proceedings, and no receiver should enter into arbitration without the assistance of competent counsel. For example, the choice of arbiters can be critical. The receiver may wish to consult with other receivers to identify arbitrators for recommendation. If one party refuses to name an arbiter, however, the other may seek court intervention to facilitate the process.

IRMA Section 105 E recognizes the propriety of arbitration to resolve reinsurance disputes. (See Chapter 7 VII.)

F. Establishing Claim Reserves

Establishing appropriate claim reserves may be just as important to an insurer in receivership as to a solvent company.

1. Why Reserve?

The nature of the receivership will dictate if, how and when reserves should be established. A rehabilitator is particularly concerned with the company's reserves in assessing the company's prospects for a successful rehabilitation. It may appear that a liquidator should not be concerned with reserves because the insurer usually has been adjudged insolvent and the liquidator's charge is to adjudicate the claims and close the estate. However, the liquidator will be concerned about reserving from the standpoint of reinsurance claims. Reinsurers need data from which to establish IBNR loss reserves as well as reserves for existing claims. The receiver's failure to furnish this information on a timely basis may lead reinsurers to attempt to avoid their obligations. Accordingly, the receiver should determine the reporting requirements established in the insurer's reinsurance contracts and other reserve requirements imposed by the court or by law. Accurate reserve information is equally important for determining the prospects for attracting a potential purchaser or investor and for calculating the availability of assets for early access distributions to guaranty associations. It is frequently possible to bring significant assets into the estate of a property/casualty company by negotiating commutations with reinsurers, but such an effort is difficult without reliable, credible and current reserves. The receiver also should determine when reserve information must be presented to the court, if at all. And there also may be deadlines imposed as to when reserve information must be submitted. This often is the case where receiver reports must be submitted to the court, guaranty associations or regulators within a specified period. In other words, it is important for the receiver's

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staff to know the needs of the different users of reserve information. Further, it may not be useful to obtain an actuary's estimate of IBNR claims and applicable reserves more than once per calendar year, as there may not be enough new data or developments to change the earlier reserve estimate for IBNR. This also means that to the extent that the receivership's claims payment rate is affected by estimates of IBNR claims, the claims payout rate may not be adjusted more than once per calendar year.

Whether or not a receiver can use actuarial estimates of IBNR for the purpose of collecting reinsurance proceeds from reinsurers depends upon the applicable statutes and case law. (See *Angoff v. Holland-America Ins. Co.*, 937 S.W.2d 213 (1996); *Quackenbush v. Mission Ins. Co.*, 62 Cal. App. 4th 797 (1998)). In *Holland-America*, claims estimation for reinsurance recoveries was permitted on the basis of a state statute which authorized claims estimation for that purpose. In the *Integrity* and *Quackenbush* cases, claims estimation of future IBNR losses would not be permitted for collection of reinsurance proceeds because, in those cases, the applicable state statutes required that unliquidated or undetermined claims could not share in the assets of the insolvent insurer.

IBNR claims will arise in two contexts, namely: 1) IBNR losses from policyholder protection proof of claims in which the actual claim is unknown and has not been submitted to the receiver; or 2) further IBNR loss development from known claims, but the amount or extent of the future IBNR loss development is unknown. A final bar date by which all claims must be presented should be established so that the estate can determine the universe of claims and wind down its affairs over time, thereby saving the costs of keeping a receivership estate open indefinitely. Although the final claims deadline may resolve whether IBNR claims may be presented for policyholder or protection claims, the final claims deadline is likely to allow, as timely filed and proper claims, known claims for which there may be continued IBNR loss development.

How IBNR loss development on known claims may affect reinsurance recoveries, recoveries by insureds and third parties from guaranty associations or recoveries by guaranty associations from receivership estate assets are important issues. For example, at the closure of the receivership, there may be many known claims for which the future stream of benefit payments could be calculated by the receiver, guaranty association, and/or claimant, such as the value of future benefit payments for workers' compensation claims. If the receiver or guaranty association purchased an annuity in settlement of all future benefit payments due a claimant (including an IBNR component), would the *Integrity* and *Quackenbush* courts reject the settlement because it included IBNR loss development? Or would a claim settled in this way be considered liquidated and non-contingent? The settlement payment should satisfy the court's concerns about having a liquidated and determined claim, but this would be a case of first impression.

Without any accommodations being made for future loss development, guaranty associations may still have obligations to the aforementioned claimant after the receivership is closed but will not receive any distributions from the receiver for these losses. Similarly, claimants will receive no payments for their post-receivership loss development if such development is not allowed by the receivership court or guaranty associations.

Receivers should address IBNR claims before making final receivership distributions and closing the receivership estate, bearing in mind: 1) whether the applicable state statute permits IBNR claims; and 2) whether IBNR loss development can be made liquidated and certain under different alternatives (e.g., an annuity in settlement of all known and unknown losses as described above). Receivers should also evaluate the extent of reinsurance recoverables available for IBNR losses, and the reinsurers of the insolvent insurer should be given notice and an opportunity to participate in the settlement of claims involving IBNR.

In the case of a life insurer, an actuarial evaluation may be necessary both to value the business (within a positive or negative range) and to estimate total liabilities so that the guaranty association or

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the receiver can effectuate assumption of the in-force blocks of business by a solvent insurer. The evaluation should be done for each line of business. Life, annuity, and accident and health blocks should be considered separately. Proper liability reserving is necessary in any receivership to project ultimate distribution amounts to various creditor classes. Caution must be exercised in establishing loss reserves however, as reserve reductions that do not reflect actual liabilities can trigger negative tax consequences.

2. Reserve Adjustment

It may be appropriate to adjust outstanding case or claim reserves. In some cases, case or claim reserves will be adjusted continually as additional information becomes available. Reserve adjustments may be required if, for example, amendments to proofs of claim are permitted after the claim filing deadline, or the supervising court extends the claim filing deadline. Such adjustments typically affect the amount of a letter of credit that a reinsurer must post, early access distributions, tax liabilities, and the future payout rate for other claims. The receiver should also estimate the future administrative costs to pay all claims and to wind up the receivership, including the cost of concluding litigation to recover assets.

Notice of reserve adjustments should be disseminated as necessary. The receiver may be required to report the adjustments to reinsurers and the supervising court, among others. The timing of these reports will depend upon the court's requirements and applicable law. The receiver's staff should identify the needs of the different users of information and determine when information should be provided.

G. Assignment of Claims Issues Considerations and Guidelines

There has been an increase in the number of assignments of claim that are presented to receivers. The development of best practices for administering the assignment of claims was undertaken by the NAIC's Receivership Technology and Administration (E) Working GROUP, WHICH drew upon the experience of receivers, state regulators, and interested parties to develop best-practice guidance. [RTAWG GUIDANCE attached as reference. Note to publishing link to guidance on NAIC web-site in electronic version.]

V. PAYMENT OF APPROVED CLAIMS

Theoretically, distribution of the insurer's assets to claimants in a liquidation proceeding is different from normal business practice. While claims against an insurer in rehabilitation may be paid either in the normal course of business as they become due or pursuant to a rehabilitation plan, in a liquidation proceeding, the insurer's assets must be distributed to creditors in the order set forth in the priority of distribution statute. This section addresses some of the many issues the receiver must address once the claims evaluation and approval process has been completed and the asset distribution process begins. See generally IRMA Article VIII.

A. Priority of Distribution in Receiverships

All state receivership statutes and IRMA Section 801 provide a priority of distribution scheme. The liquidator must become familiar with the priority of distribution scheme of the domiciliary state's receivership statute at the outset of the receivership process. Typically, statutory priority schemes require that claims in a higher priority class must be paid in full or funds reserved to pay them in full before any payment may be made to lower priority claims. Also, the statutes typically require that all claims in a class must receive substantially the same *pro rata* distribution.

The receiver must keep in mind that the same claimant may hold several claims, not all of which have the same priority. There also may be different types of claims within a particular class of creditors; for

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example, landlord claims, vendor claims and assumed reinsurance claims are different types of general creditor claims. A receiver must avoid creating subclasses within a priority class. (See *In re Conservation of Alpine Insurance Company*, 741 N.E. 2d 663 (Ill. Ct. App. Dist. 1. Div.4. 2000).) The following discussion is based on the scheme of priorities established by IRMA Section 801. Secured creditors and special deposit claimants are outside the scheme of priorities established by Section 801. Secured creditors are covered by IRMA Section 710, and special deposit claimants are covered by IRMA Section 1002C.

1. Secured Creditors

Secured creditors include anyone holding a perfected security interest in or lien against the property of the insurer, e.g., mortgages, trust deeds, pledges and security interests perfected under applicable law (excluding special deposit beneficiaries). Once determined, the value of the security is applied against the creditor's claim, with the deficiency, if any, treated as an unsecured claim. The priority of the deficiency claim depends upon applicable state law. IRMA also provides guidance to the receiver for the disposition of specific types of secured claims, i.e., claims involving surety bonds or undertaking, and obligees or completion contractors. (See IRMA Section 710 B.)

2. Special Deposit Claimants

Some states require deposit or trust accounts for the benefit of policyholders as a condition to authorization of the insurer to transact business in that state. Although owners of special deposit claims often are loosely referred to as secured, they do not, strictly speaking, have a "security interest." Some special deposits are made for the benefit of all policyholders, while others specially protect residents, property or lines of business in the state where the deposit is established.

States differ in their treatment of special deposit beneficiaries' claims in the domiciliary receivership. Some apply the rules applicable to holders of partially secured claims (i.e., treating the deficiency as an ordinary policyholder claim). Another method gives effect to the special deposit arrangements, but applies the "hotchpot" principle to payment of any deficiency. Under this method, special deposit beneficiaries receive no additional payment on their claim until all other claimants in the same class have received assets sufficient to make their percentage distribution equal to that of the special deposit claimants. The treatment to be accorded special deposit claimants may be articulated in the receivership statute.

There has been litigation in various state jurisdictions regarding the handling of special deposits for insurance company liquidations. A Massachusetts case provides that an insurance commissioner, acting as ancillary receiver of a foreign insurance company, cannot take any action to remove special deposit funds until all special deposit claims have been satisfied. (See generally, *Commissioner of Ins. v. Equity Gen. Ins. Co.*, 191 N.E.2d 139 [Mass. Sup. Jud. Ct. 1963].)

In North Carolina, a "special deposit claim" has been defined as any claim secured by a deposit pursuant to statute for the security or benefit of a limited class or classes of persons (*State ex rel. Ingram v. Reserve Ins. Co.*, 281 S.E.2d 16, 20 [N.C. 1981]. N.C. GEN. STAT. § 58-30-10 [19]). Special deposits are expressly excluded from general assets. *Id.*

In most receiverships, it is difficult for receivers to collect special deposits posted in other state jurisdictions without a court order and provision having been made for the payment of all policyholders in such state jurisdictions. Thus, the receiver will need to develop a claims distribution plan that takes the special deposits into account and avoids unlawful preferences, being mindful that the state jurisdiction in which a deposit is posted may use the special deposit to satisfy unpaid policy claims in that state jurisdiction.

3. Class 1 – Receiver's Administrative Expenses

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The expenses of the receiver in marshaling and distributing the insurer's assets are paid out of the unencumbered assets before any other claims are paid. Most statutes treat administrative expenses as claims having a first priority. Some statutes accord the same priority to a guaranty association's administrative expenses. However, some guaranty association expenses may be classified as policyholder benefits, which is an area of disagreement between guaranty associations and receivers. As will be discussed below, IRMA Section 801 provides two alternatives as to classification of the priority of guaranty association claims. Reinsurers may argue that if the receiver is making reinsurance recoveries under reinsurance treaties, then all premiums due under the treaties should be treated as an administrative expense. Under general contract law, ratification of a contract may be found under a variety of circumstances, such as intentionally accepting benefits under the contract after discovery of facts that would warrant rescission, remaining silent or acquiescing in the contract for a period of time after having the opportunity to avoid it, or recognizing the validity of the contract by acting upon it, performing under it, or affirmatively acknowledging it (17A C.J.S., Contracts § 138). Reinsurers' claims should be evaluated on a case-by-case basis, but there may be benefits to the estate from treating the reinsurers' claims as administrative expenses. The reinsurance contract obligations may be binding on the receiver as administrative expense obligations if the receiver has legally "ratified" the reinsurance contract. The assets available to pay all other creditors are those remaining in the estate, net of the cost of recovering and administering them. The process of estimating administrative expenses is a difficult one, as it will depend on many factors, some of which are beyond the control of the receiver. The receiver should establish a contingency reserve for administrative expenses before recommending any payments on claims of lower priority.

4. Class 2 – Guaranty Association Expenses

Guaranty associations may have several types of expense claims, not all of which may have the same priority. IRMA provides two alternative priority schemes depending on how a state wishes to classify certain expenses of guaranty associations. The first alternative places expenses of the guaranty associations, including defense and cost containment expenses of a property/casualty guaranty association, in Class 2 (i.e., after administrative expenses of the receiver). The second alternative places the defense and cost containment expenses of property/casualty guaranty associations in Class 3 with other policyholder-level claims, while the remaining expenses of the guaranty associations are placed in Class 2. No significance or deference should be given alternatives under IRMA based on whether an alternative is labeled as alternative one or two. Receivers should note case law providing that however a guaranty association's claims are classified, the claims of an out-of-state guaranty association should be of equal priority with the claims of the guaranty association in the receivership state (in *re Liquidation of American Mutual Liability Insurance Company*, 747 N.E.2d 1215 [Mass. 2001]).

5. Class 3 and 4 – Claims for Policy Benefits

Many state statutes accord priority status to claims for policy benefits behind only the administrative expenses of receivers and guaranty associations. This status applies not only to the claims of policyholders, but to those claiming through them, including guaranty associations and liability claimants whose claims were covered under one of the insurer's policies. Claims under life insurance or annuity policies include claims for investment values as well as death benefit and annuity payments. Premium refunds and unearned premium claims, however, are treated as general creditor claims under the former Model Act, and some state statutes, although guaranty associations often cover such claims, at least in part. Some states and IRMA accord the same priority rank to policy loss and premium refund claims. A review of the applicable receivership statute generally will inform the receiver as to how to treat such claims. As sub-classifications within a priority level should be avoided, case law provides that the receiver cannot divide policyholders into those who were insured only by the insolvent insurer and those who had additional insurance through other carriers (In *re Conservation of Alpine Insurance Company*, 741 N.E. 2d 663 [Ill. Ct. App. Dist. 1. Div. 4. 2000]).

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a. Deductible and Limits

The policyholder's claim is for the amount that the insurer should have paid. The insurer's liability attaches after the deductible has been paid by the insured ("Non-Advancement Policies"). However, for some policies (e.g., some workers' compensation policies), the insurer is required to pay the claim and seek the deductible from the insured (thereafter, known as "Large Deductible Policies"). It is common for insureds to post collateral with the insurer for deductible payments that may be made by the insurer, for which the insurer then seeks reimbursement from the insureds. There are three available Model alternatives that provide for the disposition of large deductible policy recoveries between receivers and guaranty associations: IRMA Section 712, the *Guideline for Administration of Large Deductible Policies in Receivership* (Guideline #1980) and, National Conference of Insurance Guaranty Funds (NCIGF) Model Large Deductible Act (NCIGF Model). Individual state statutes based on the NCIGF Model or Guideline #1980 may differ from IRMA Section 712 in certain respects. See Section ---- for more information on large deductible programs.

b. Previous Guaranty Association Payments

A guaranty association that pays all or part of a policyholder's claim acquires the policyholder's rights in the receivership estate (with occasional additional privileges, such as an exemption from certain filing deadlines). The policyholder's claim (or the claim of the liability claimant under the policy) is reduced proportionately, but usually not expunged. In some states, a guaranty association may make payment directly to the liability claimant if the claimant waives any further claim against the insured. The receiver should remember, however, that guaranty associations only process "covered" claims, and that insureds with claims that the guaranty association does not cover will be instructed to handle their own claims and then seek reimbursement from the estate.

c. Cut-Through

As an enhancement to security, insurance policies or reinsurance agreements sometimes obligate a reinsurer to pay the policyholder directly in the event a covered loss cannot be paid due to the insolvency of the direct insurer, pursuant to a "cut-through" clause or endorsement. A number of controversies have resulted from these provisions, including the issue of the validity of such agreements. Insofar as the arrangement purports to affect the obligation of the reinsurer to the cedent, or of the cedent to the insured, the receivership estate may be affected. The receiver should seek the guidance of legal counsel concerning rules applicable in the local jurisdiction. Some jurisdictions have allowed insureds direct access to reinsurers even in the absence of a cut-through clause or endorsement. In such cases, courts will look to the relationship among the parties. (See *Koken v. Legion Insurance Co.*, 831 A.2d 1196 (2003), where the court allowed a cut-through where the insolvent insurer had fronted the reinsurance arrangement.)

d. Assignments

Policyholders sometimes assign to a third person their rights to recover from the insurer. Although the general rule is that the assignee stands in the shoes of the assignor, the receiver should determine the validity of any assignment with reference to applicable law.

e. Separate Accounts for Life and Annuity Policyholders

A special form of assets is separate account assets. Separate accounts are accounts established by life and annuity insurers in association with specific types of policies or other business, such as pension plans. Generally, separate accounts are created and administered in accordance with specific regulatory or statutory guidelines. Typically, such statutes provide that assets properly maintained in separate accounts will not be chargeable with liabilities arising out of any other

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business of the insurer. It has been held that the status of separate account assets is preserved in receivership.

6. Class 5 – Federal Government

In general, claims of the federal government may be paid after administrative and policyholder claims. However, the receiver is well-advised to obtain a release from the federal government prior to making any final distributions. This is because the federal government may not be bound by the receivership court's claim filing deadline or the estate's classification and payment of certain claims, and it could seek to hold the receiver personally liable if, for instance, it takes the position that it should have been paid in the place of other creditors.

For a discussion of the federal super priority statute and the 1993 U.S. Supreme Court decision in *U.S. v. Fabe*, see Chapter 9—Legal Considerations.

7. Class 6 – Employee Compensation

Most priority of distribution statutes assign a higher priority to certain claims for employee compensation earned pre-receivership. This priority generally applies to wages limited in amount and earned within a specified time, but may not apply to the wages of the insurer's officers and directors, including stockholders who are employed in such positions.

8. Class 7 – General Creditors

The populace of general creditors is often large and diverse. It frequently includes the persons described below.

a. Brokers, Agents and Intermediaries—Personal vs. Agency/Derivative Claims

These categories are considered together, since the primary problem arising in connection with broker balances and similar claims is a tendency of all concerned to lose track of the capacity in which the obligation is incurred and to attempt to lump together amounts that derive from quite different sources. A distinction should be made between the divergent and often conflicting interests of the intermediary (especially a broker) acting as the insurer's agent for the collection of premiums as the representative or subrogee of the insured, and acting on his own account, notably for commission. Identifying the capacity in which the broker served is essential for the receiver to determine the relative priority of the broker's claims, and the extent to which such claims may be combined (if at all) for purposes of setoff.

b. Cedents

In the relatively few cases where creditors of this class receive a distribution, the receiver may be able to set off interest deemed received by cedents on premature draw-downs of letters of credit against the distributions due them. Legal counsel should be consulted on the issue of setoff (see Chapter 9—Legal Considerations).

c. Certain Claims of Directors and Officers

IRMA provides that, except as expressly approved by a receiver, expenses arising from a duty to indemnify the directors, officers or employees of the insured should be excluded from the class of administrative expenses and, if allowed, are Class 6 claims (IRMA Section 801). (But see *Weingarten v. Gross*, 563 S.E.2d 771 (Va. 2002). Here, fees and costs incurred by directors in their defense of an action brought by a receiver were held to be entitled to payment as an administrative expense under applicable statutory law.)

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d. Reinsurers

Reinsurers may be creditors of insolvent ceding insurers for premiums or other contract-based financial obligations, such as salvage and subrogation recoveries. Receivers should be aware of the fact that such recoveries may be held in trust, and thus would be payable in full, not *pro rata*. Similarly, the cedent may hold as the reinsurer's trustee, funds withheld and the proceeds of drawn-down security until such time as the funds are applied to appropriate claims. Excess amounts then may have to be returned directly to the reinsurer instead of merged with the general assets of the estate, and the reinsurer's claim to such amounts may be considered the claim of a trust beneficiary, not a general creditor. Depending on the terms, express or implied, of the instrument creating the relationship, the reinsurer's claim for interest on these amounts may not be valid. Setoff is an issue when addressing reinsurers' claims and legal counsel should be sought. Before making payments of salvage, subrogation or other amounts due the reinsurers after the receivership commences, it is advisable to obtain written assurances from reinsurers that they will honor reinsured claims submitted by the receiver.

e. Other General Creditors

This category includes trade creditors, landlords and utilities (for pre-receivership debts), bondholders (excluding surplus noteholders), secured creditors with deficient security, and, in some jurisdictions, late-filing insurance creditors and claimants for unearned premium.

9. Class 8 – State and Local Government Claims and Some Legal Fees

State and local government claims that are not included in another class are placed in this class. Some examples of non-Class-8 governmental claims are policy benefit claims under policies issued to the government entity or current sewer or water bills on the insurer's office.

Class 8 also includes the legal expenses incurred by the management of the company in defending against the receivership proceeding. There are significant limitations on these claims.

10. Class 9 – Claims for Penalties, Punitive Damages or Forfeitures

If the policy issued by the insolvent insurer specifically covered punitive damages, penalties and forfeitures, these claims would be in the policy benefits class.

11. Class 10 – Unexcused Late-Filed Claims

Under IRMA, if the claimant can show that there was good cause for the delay, claims filed after the claim filing deadline (as discussed above in Section II B) are evaluated in the class they would have been in if timely filed. If there is no good cause, the claims are placed in Class 10. Most receivership statutes have standards for good cause (see IRMA Section 701 B and C). In some state receivership statutes, there may be some ambiguity on the treatment of late-filed claims.

12. Class 11 – Surplus Notes

IRMA provides that claims within this class will be subordinated to other claims in this class if there is a pre-receivership subordination agreement in existence.

13. Class 12 – Interest

Interest is not often allowed on claims in receivership after the date of entry of the receivership order, on the general theory that if interest were allowed, it would run equally in favor of all claimants and simply result in a proportionately greater deficiency. Special cases, however, do exist: Holders of secured interests may be allowed interest to the extent their security is sufficient, and creditors in

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general sometimes may collect interest on their debts before any distribution to shareholders, on the theory that the receivership is to be conducted as if there were no insolvency. Many state laws are silent on this point, but others provide that interest on a given class of claims should be paid or provided for before such payment is made to any lower class. A review of the state's receivership statute may indicate whether interest should be paid as part of any claim. IRMA allows interest on claims in classes 1 through 11 if the liquidator proposes and the court approves a plan to pay interest (IRMA Section 801 K). Even if the contract upon which the claim is based allows for interest, legal precedent provides that interest shall not be allowed if statutorily prohibited (*Swiss Re v. Gross*, 479 S.E.2d 857 [Va. 1987]). Also, legal precedent provides that if claimants are entitled to post-allowance interest on claims, such interest should not be paid at the same priority level of the underlying claim (in re *Liquidation of Pine Top Insurance Company*, 749 N.E.2d 1011 [Ill. Ct. App. Dist. 1. Div. 4. 2001]).

14. Class 13 – Equity Interests

After all higher priority classes are paid; any remaining funds are paid to the owners of the insolvent insurer. Like surplus notes, any pre-liquidation subordination agreements among the owners will be honored. Before making a distribution to the owners, the liquidator should be sure to reserve adequate funds to pay any post-discharge expenses, such as the cost of responding to future inquiries from claimants and the costs associated with disposal of estate records.

B. Setoffs

In general terms, the claim of a creditor or debtor in a receivership is defined as the net amount due after the application of any permissible setoff. Section 609 of IRMA addresses setoff. As the subject of setoffs in an insurer receivership is complex and often the subject of litigation, the receiver should consult legal counsel. For a detailed analysis of this subject, see Chapter 9—Legal Considerations.

C. Currency Conversion

Variations in foreign exchange rates can become a problem in the distribution of the insurer's assets if the insurer has creditors in foreign countries. The receiver may need to evaluate foreign currency in three situations:

- An insured incurs a loss in a foreign country under a policy denominated in dollars. In issuing such a policy, the insured may be deemed to have assumed a certain degree of foreign exchange risk for foreign currency exposures. However, the insured did not assume the risk of exchange variation during the period when the insurer's insolvency delays payment of the claim.
- An insured incurs a foreign currency loss under a policy denominated in the foreign currency. In this case, the insured may have assumed the risk of currency variation either between loss and payment or pending the insurer's receivership.
- At the time of receivership, the insurer holds funds or other assets in foreign currency. Some can readily be converted to dollars while others (such as reinsurance assets and outstanding premium receivables) cannot.

Foreign exchange risk characteristically is quite random and runs both ways. Prudent financial management does not attempt to predict the direction of future currency variation, but only plans to match anticipated foreign debt with foreign assets. Unfortunately, this matching produces difficult problems that the receiver must sort out.

Receivers are forced, sooner or later, to restate the value of all assets and claims in a common currency; otherwise they cannot calculate a distribution. The only question is when they should do so. The English

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Insolvency Rules still automatically use the date of liquidation, which is certainly the most straightforward technique. American law does not generally contain direction on this point. Applying a differential standard is likely to seriously complicate the claims process without appreciably improving the fairness of the result. Where the foreign exchange balances are significant, the prudent course may be to accept claims denominated in foreign currency, converting them to dollars at a date shortly before distribution, and planning the conversion of assets to occur at or near the same date.

The actual process of conversion of claims valuation may not be as complicated as it sounds. For example, the receiver might announce a suitable benchmark standard, such as the average of bid and asked prices for the relevant currency as published in *The Wall Street Journal* or offered by major banks. The U.S. Department of Treasury (Treasury) also maintains a listing of values for the purpose of assessing *ad valorem* (value added) customs duties.

Expert assistance may be needed in cases where the currency in question is not readily transferable or has little or no market. Experts also may be helpful in the management of foreign currency assets between takeover and distribution, and the matching of assets to anticipated liabilities.

It is helpful to address currency issues at the outset of the receivership, particularly in the case of international insolvencies. Some statutes do not contemplate such issues. The receiver should have the supervising court approve the receiver's practices and procedures on this point when the court enters the order allowing claim payments.

VI. INTERIM AND FINAL DISTRIBUTIONS

With the approval of the receivership court, a receiver may declare and pay one or more partial distributions on claims (as those claims are allowed), as well as a final distribution. All claims allowed within a priority class are paid at substantially the same percentage (See for example IRMA Section 802 A). IRMA, , specifically permits the liquidator to pay benefits under workers' compensation policies after entry of the liquidation order if certain conditions are met and only until the appropriate guaranty association assumes responsibility for payment or determines that the claim is not a covered claim (IRMA Section 802 D). (See also Chapter 6—Guaranty Associations.) Procedures for continuation of pharmacy benefits should also be addressed. In some cases it will be preferable to continue the company plan for a period of time. In other cases the guaranty funds have ongoing vendor relationships and can make a transition expeditiously. IRMA and most state laws also require the liquidator to make early access payments to guaranty associations from distributable assets of the liquidation estate (See for example IRMA Section 803). (See Chapter 6—Guaranty Associations.) State law should be reviewed in all cases to determine specific requirements and authority regarding partial distributions, priority of claims, workers compensation pre-pay procedures, pharmacy benefit continuation and early access.

In determining the percentage to be paid on claims, the receiver may consider the estimated value of the insurer's assets (including estimated reinsurance recoverables) and the estimated value of the insurer's liabilities (see for example IRMA Section 802 B). But see for example the aforementioned *Integrity*, *Quackenbush* and *Holland-America* legal cases for additional information on how IBNR claim estimates and corresponding reinsurance recoveries were addressed in other receiverships.

An insurer's assets often consist of readily available (i.e., liquid) assets and those that may not be readily collected or liquidated. The latter category may include litigation recoveries, subrogation and salvage recoveries, reinsurance recoverables for claims that the receiver recently approved, the proceeds of difficult collection actions or the sale of real estate. If liquid assets are substantial, and the collectibility of other assets is uncertain, the receiver may be able to pay an interim distribution from available assets, with later payments coming from other assets, if and when liquidated.

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Distribution of property in kind may be made at valuations set by agreement between the liquidator and the creditor and as approved by the receivership court (See for example IRMA Section 802 C – consult state law for specific requirements).

A receiver may find that estate closure can be expedited by entering into a settlement with the guaranty funds on long tail liabilities, such as workers' compensation, that may remain open after the estate is otherwise resolved. The settlement should be negotiated with the involved guaranty funds and include a distribution for claim payments as well as administrative expenses. NCIGF can assist with coordination with the appropriate guaranty funds.

A. Unclaimed Funds

Often, small sums of money remain at the end of the distribution process, usually unpaid distributions (i.e., misdelivered or unclaimed checks). The receiver should not treat these assets as “found money.” State law typically requires the receiver to retain unclaimed or unproved assets for a specified time, during which the assets should be deposited with an appropriate financial institution, and at the end of which the assets may escheat to the state. The receiver should consult the relevant receivership statute, escheat statutes and legal counsel, particularly in regard to circumstances in which a state may be entitled to interest on funds held for escheat. The retention of escheated funds may also present challenges for closing the receivership. The receiver should consider the use of a trust for escheated funds on approved claims if the receiver is ready to close the receivership estate, but the required time period has not passed for the payment of escheated funds to states. Under the trust approach, the escheated funds are paid to the trust, the receivership is closed, and then the trustee (the commissioner or former receiver) of the trust pays the escheated funds to states permitted under applicable state law.

IRMA provides that any funds that are unclaimed after the final distribution should be placed in a segregated unclaimed funds account to be held by the commissioner for two years, or in the alternative, that such funds should be handled in accordance with state unclaimed property laws (IRMA Section 804).

Receivers should also check the applicable state agency for escheated funds to see if there are unclaimed funds that are owed to the entity in receivership.

B. Surplus Assets

In rare cases, assets may remain after the principal amount of all non-equity claims have been paid “in full.” In some states, payment in full means principal plus interest on all timely filed claims. In a few states, where assets remain after such claims have been paid in full, a second claim filing deadline may be set and the foregoing process may begin anew, albeit on an abbreviated basis. The receiver should review the applicable law to determine how to proceed in such cases. It has been held that a receiver may request court approval for payment of statutory interest on allowed claims where receivership assets exceed the amount necessary to pay all claims in full (*Wenzel v. Holland-America Insurance Company*, 13 S.W.3d 643 [Mo. 2000]).

C. Equity Distributions

Finally, in the rarest of cases, shareholders, mutual insurer members and other owners of an insurer are paid. The receiver should take care to ensure that the administrative expenses of the estate are paid before the final distribution is made, and should retain an amount sufficient for common post-receivership expenses, e.g., record storage, etc.

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This section discusses special issues regarding particular claims, namely: (a) claims of the Federal Home Loan Bank (FHLB), (b) life and health claims, and (c) claims under large deductible programs. As large deductible programs involve both policy claims and the collection of amounts due under those policies, both subjects are covered in that subchapter

A. FEDERAL HOME LOAN BANK (FHLB) CLAIMS

1. Overview

Insurance companies are increasingly likely to be members of, and have a borrowing relationship with, one of the 12 Federal Home Loan Banks (each, an “FHLBank”). The FHLBanks are federally chartered cooperatives under the Federal Home Loan Bank Act (the “FHLBank Act”), regulated by the Federal Housing Finance Agency (the “FHFA”), and their business practices are subject to the terms and limitations of the FHLBank Act and FHFA regulations. Although each FHLBank is a separate legal entity with its own geographical territory and its own specific policies, the FHLBanks share a common mission and have similar business models.² An insurance company can only be a member of the FHLBank in the district where the insurer is domiciled or where it maintains its principal place of business as defined by FHFA Regulations

³ If a newly appointed receiver finds that the delinquent insurer has a relationship with an FHLBank, he or she should promptly determine from the insurer’s records:

- i) The amount owed to the FHLBank,
- ii) The interest charged on that debt,
- iii) The payment due dates,
- iv) The collateralization of this debt, and whether and how it is over-collateralized, and
- v) The amount of FHLBank stock held by the insurer.

Armed with this data, the receiver should establish goals for the program, including whether it is better to service the loan due to its low cost or to repay it, and whether reduction of overcollateralization or stock redemption would aid the receivership materially.

Once the goals are established an initial friendly dialogue should be undertaken with the bank. In general, the bank’s principal concern will be avoiding default. Overcollateralization will be important to the bank in service to this first goal. If the receiver can persuade the bank that some reduction in collateral will not unduly increase default risk for the bank, the bank may be more accommodating. While prepayment may create hedging issues for the bank, avoiding prepayment is generally a secondary goal and the bank may show greater flexibility in permitting it. Similarly, stock redemption may be permitted more freely if the bank is in sound financial condition. For the dialogue to be productive for the receiver, he or she should first become generally informed about the bank’s condition and management structure. It will be helpful for the receiver to remind the bank that (at least as of this writing) no FHLBank has ever lost a penny due to an insurer insolvency. The receiver should strive to induce the bank to treat resolution of

² For additional information regarding the mission and purpose of the FHLBanks, http://www.fhlbanks.com/overview_whyfhlb.htm

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the insurer's financial problems as a common public policy goal in which the bank should be interested at least for the preservation of harmonious relations between the FHLB system and insurance regulators.

The Federal Home Loan Bank (FHLB) Claims Supplement that follows elaborate on these topics.
[Note: To Publishing create hyper-link in electronic version.]

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B. LIFE/HEALTH CLAIMS

Overview

The processes for handling claims in life/health and property/casualty receiverships differ substantially due to the nature of the policies and the coverage provided by the guaranty associations. In a life/health receivership, coverage will continue for policies covered by the guaranty association to the extent provided by the state guaranty act, and a primary focus is dealing with these continuing obligations. Role of Guaranty Associations and NOLHGA

In a multistate life/health insolvency where guaranty associations across the country are triggered, the guaranty associations will—to the extent of their statutory limits—guarantee, assume or reinsure policy obligations, and in turn will be subrogated to the policyholder claims against the estate. In these situations, the National Organization of Life and Health Guaranty Associations (NOLHGA) will play a key role in the coordination of policy and financial analysis, preparation of bid packages, analysis of bids, negotiation of assumption agreements and policyholder notification. For a description of how the NOLHGA operates, see Chapter 6—Guaranty Associations.

Other possible issues relevant to life insurance company insolvencies include notice for and court approval of assumption agreements, opt outs (by policyholders and guaranty associations), closings for transfers of obligations, early access distributions, and guaranty association coverage limits.

Annuities

In the insolvency of an annuity insurer, special consideration should be given to any single premium immediate annuities that were issued to form the basis of funding of periodic or lump sum payments in personal injury settlements, commonly known as “structured settlement annuities.”

These annuities are normally issued to qualified assignment (QA) companies in order to comport with numerous IRS Tax Codes (*primarily* 104 (a) (2)) and various Revenue Rulings in order to preserve the tax benefit to the beneficiary or payee. However, some older annuities (prior to 1986), although not issued to a QA company, may none the less enjoy the same tax benefits. Generally, periodic payments are excludable from the recipient's gross income only if the payee is not the legal or constructive owner of the annuity and does not have the current economic benefit of the sum required to purchase the periodic payments.

When these blocks of business are resolved in the insolvency context (typically through assumption reinsurance), extreme care must be taken to ensure that the resolution does not compromise the tax benefits to the payees. It is strongly recommended that competent and experienced tax counsel be retained to guide the receiver through this potentially complicated process.

Structured settlement annuities are typically issued to fund the settlement of underlying tort actions, and the amounts of these annuities tend to be fairly large, reflective of the seriousness of the injuries sustained by the beneficiaries. The nature of these policies should be taken into consideration when determining the appropriate notice to these beneficiaries.

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Non-covered claims

State life & health guaranty acts provide for the continuations of certain policies covered by the guaranty association. The Liquidator should determine how any portion of the policy that is not covered by the guaranty association and any non-COVERED CLAIMS should be handled under the state's receivership act and case law.

C. BEST PRACTICES FOR SUCCESSFUL BILLING AND COLLECTION OF LARGE DEDUCTIBLE PROGRAMS IN LIQUIDATION

1. Overview of Large Deductible Workers' Compensation

A large deductible workers' compensation policy or program is a method of insuring workers' compensation risk with the employer assuming some of that risk in a deductible of \$100,000, \$250,000, or even higher per claim and an insurer taking on the remaining risk. Large deductible programs for workers' compensation can be complex arrangements and depend on the employer's fulfillment of its obligation to reimburse all claims within the deductible. If the employer is unable to fulfill that obligation, the financial consequences to the employer could be catastrophic, and the employer's inability to pay could have a cascading impact on the financial health of the insurer. In order to manage this risk successfully, insurers and state insurance regulators must have a clear understanding of the nature and size of the insurer's exposure. Additionally, they must ensure that there are adequate measures in place to limit and mitigate the risk of the employer's failure to pay and ensure injured workers will receive benefits in compliance with state law.

Professional employer organizations (PEOs) often operate workers' compensation programs that are backed by large deductible policies. A PEO is an outsourcing firm which provides services to small and medium sized businesses under a contractual co-employment agreement with its clientele. Where permitted by state law, these services generally include workers' compensation coverage obtained by the PEO in its own name. If the PEO assumes most of the risk of that program by purchasing a large deductible policy, it recovers the estimated cost through the fees it charges its clients. If those fees are inadequate to cover the actual costs of the claims, or the PEO fails for any other reason to reimburse its share of the claims, the insurer incurs an unexpected liability. The failure of the claim reimbursement mechanism has been a significant factor in a number of insurer insolvencies. For further information and guidance on high-deductible workers' compensation insurance and PEOs, refer to the NAIC's *2016 Workers' Compensation Large Deductible Study*.

2. Administration of Large Deductible Plans

The administration of large deductible plans is impacted by entry of an order of liquidation. In such cases, there are three versions of applicable model legislation for states to consider. The most recent is Guideline #1980. The three Model alternatives are as follows:

- (a) *Insurer Receivership Model Act* (Model #555—IRMA) Section 712 Administration of Loss Reimbursement Policies;
- (b) *Guideline for Administration of Large Deductible Policies in Receivership* (Guideline #1980); or,
- (c) National Conference of Insurance Guaranty Funds (NCIGF) Model Large Deductible Act (NCIGF Model).

Each of these three alternatives provide statutory guidance that articulates the respective rights and responsibilities of the various parties, greatly enhancing the ability to manage complex large deductible programs

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post-liquidation. Generally, all approaches provide for the collection of large deductible reimbursements from policyholders, clarify entitlement to reimbursement, and ensure that the claimants are paid. The most significant difference is the approach taken to address the ultimate ownership of and entitlement to the deductible recoveries paid by the employer or drawn from collateral as between the estate and the guaranty fund, and collateral as between the estate and the guaranty fund. IRMA § 712 generally treats these funds as general assets of the estate, while Guideline #1980 and the NCIGF Model apply them directly to the payment of claims. It should be noted that the NCIGF Model has evolved over time based on additional experiences from insolvencies and the NCIGF continues to modify its Model as warranted; as a result, states that have based their laws on the NCIGF Model have done so with varying language.

3. Communication and Reporting Between the Liquidator, Policyholders and Guaranty Associations, Including Administration of Self-Funded Policyholder Programs

I.i.Claim payment, reserve, and reimbursement reporting.

The administration of large deductible programs requires strong communication and reporting programs between the Liquidator, guaranty associations and policyholders. Under all three Model Alternatives, the Liquidator is required to administer large deductible programs, and related collateral securing large deductible obligations, consistent with the policyholder's policy provisions and large deductible agreement ("LDA") except where those provisions conflict with the statute. All three Model Alternatives make provision for two types of LDAs, those that permit direct payment by the policyholder, and those that require initial payment by the insurer or guaranty association with reimbursement by the policyholder. Both arrangements necessitate the reporting of claim payments and outstanding claim reserves to the Liquidator for billing, guaranty association reimbursement, and establishing collateral need requirements. The Liquidator's uniform data standard or UDS should be deployed as the reporting protocol for guaranty association claim payments and outstanding claim reserves. Policyholders that continue self-payment under their LDA will need to continue or establish a claim information reporting protocol with the Liquidator through the policyholder's third-party claim administrator or through a proprietary claim information aggregator. All three Model Alternatives require the Liquidator to form an independent opinion on outstanding claim reserves reported by policyholders and guaranty associations, including an allowance for adverse development and incurred but not reported liability to ensure that collateral remains adequate throughout the administration of the program.

I.iii. Agreements between Liquidator and guaranty associations.

An agreement between the Liquidator and the guaranty funds may be advisable, though it is less important in states that have enacted one of the three Model alternatives or other comprehensive statutory framework for the Liquidator's administration of large deductible programs. The Model alternatives can serve as an outline for the issues that should be addressed in such an agreement in states that have not enacted pertinent legislation. Among other things, an agreement should address: 1) whether large deductible recoveries are estate assets subject to the Liquidator's distribution regime or directly pass through to the guaranty association on account of its prior claim payments; 2) claim reporting protocols; 3) frequency of collateral review and reimbursement activity; and, 4) administration of collateral for under collateralized non-performing policyholder accounts.

I.iv. Converting policyholder accounts from an incurred to paid basis under the Model Act.

Generally, LDAs are on a paid basis with collateral for the reserves. However, liquidators may encounter contractual arrangements where an LDA is constructed such that policyholders pay periodic large up-front payments that were accounted as premium based on losses incurred, as opposed to paid basis. After a certain number of years, the LDA provides policyholders with an opportunity to elect paid basis rather than incurred basis; which converts the incurred payments to collateral. The liquidator may wish to negotiate a conversion at the outset of liquidation. Conversion of a policyholder's LDA at liquidation from an "incurred" to a "paid" basis is beneficial to policyholders in several ways. Most importantly, conversion at liquidation treats pre-liquidation incurred loss payments made by the policyholder to the insurer as collateral, and thus property of the policyholder pledged to the insurer and restricted to the satisfaction of that policyholder's claims, rather

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than as a general asset of the liquidation estate. Conversion also offers flexibility to a policyholder as to the type of security provided to an insurer in satisfaction of the collateral requirement. Conversion affords policyholders the ability to utilize a letter of credit to secure an insurer for the outstanding portion of their loss, rather than payment of cash, since the outstanding bill after conversion is reflected in the Liquidator's collateral need analysis, rather than an incurred loss billing.

The Liquidator should consider notifying large deductible policyholders of these important policyholder rights at the inception of a liquidation proceeding and offer policyholders the opportunity to elect to convert their large deductible programs from an incurred to paid basis memorializing any elections with an endorsement that otherwise follows and requires the policyholder to adhere to the provisions of applicable law.

iii. Large deductible billing by Liquidator.

The Liquidator should establish a large deductible billing and collection program that bills policyholders on a periodic basis, e.g., quarterly. The Liquidator's invoice to policyholders should communicate a claim payment summary that includes detail such as the insurer or guaranty association's check number, date of payment, payee, account year, and remaining large deductible limits. Large deductible programs that are paid directly by policyholders should also report their claim payments to the Liquidator on a similar periodic basis, so that the Liquidator can establish appropriate claim reserves, track the exhaustion of the policyholder's deductible limits, report to reinsurers and collect reinsurance. Consideration should be given to using one of many proprietary billing and collection software programs to automate the large deductible billing and collection process. Large deductible recoveries that are subject to guaranty association reimbursements should be aggregated and distributed on a quarterly or other periodic basis that balances the Liquidator's accounting requirements and the guaranty associations' reimbursement needs.

vi. Annual collateral review by Liquidator.

Guideline #1980 and the NCIGF Model, require the Liquidator to perform a periodic collateral review for each policyholder account. Consistent with the typical LDA, this review should be performed annually, to ensure that the Liquidator holds adequate collateral to support a policyholder's large deductible obligations and to release any excess collateral held back to the policyholder. This review should include a report to the policyholder on total incurred claims, claims paid, outstanding reserves including an appropriate allowance for adverse development and claims incurred but not reported, any additional safety factor and total collateral need. The Liquidator's collateral review should result in a report to the policyholder and an invoice for additional collateral need or a release and distribution of excess collateral. The Liquidator should consider whether any additional safety factor should be included for non-performing policyholder accounts. Guideline #1980 provides flexibility on the timing of the annual review, enabling the Liquidator to perform the annual review process throughout the calendar year so that all policyholder account reviews are not due at the same time.

2. Administration Fees

Section 712 (G) of IRMA provides:

The receiver is entitled to recover through billings to the insured or from large deductible policy collateral all reasonable expenses that the receiver or guaranty associations incur in fulfilling their responsibilities under this Section. All such deductions or charges shall be in addition to the insured's obligation to reimburse claims and related expenses and shall not diminish the rights of claimants.

Further, Section 712(F) provides, in part:

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The expenses incurred by a guaranty association in pursuing reimbursement shall not be permitted as a claim in the delinquency proceeding at any priority; however, a guaranty association may net the expenses incurred in collecting any reimbursement against that reimbursement.

Several states have adopted statutory provisions similar to the IRMA provisions regarding handling of large deductibles in an insolvency and provide for the Receiver to retain reasonable actual expenses incurred from the reimbursement to the guaranty association(s). Similarly, statutes may provide for the guaranty association to net expenses incurred in collecting a reimbursement.

Guideline #1980 subsection (F) provides:

- (a) The receiver is entitled to recover through billings to the insured or from collateral all reasonable expenses that the receiver incurred in fulfilling its collection obligations under this section. All such deductions or charges shall be in addition to the insured's obligation to reimburse claims and related expenses and shall not diminish the rights of claimants or guaranty associations.
- (b) To the extent the receiver cannot collect such expenses pursuant to paragraph (1), the receiver is entitled to deduct from the collateral or from the deductible reimbursements reasonable and actual expenses incurred in connection with the collection of the collateral and deductible reimbursements.
- (c) To the extent such amounts are not available from reimbursements or collateral, the receiver, or guaranty associations if provided under an agreement with the receiver under subsection D(5), shall have a claim against the estate as provided pursuant to [insert state priority of claim statute].

When there is no statutory guidance, receivers should include a provision for reimbursement of reasonable actual expenses in an agreement with the guaranty associations regarding the collection and allocation of large deductibles.

3.3. Policy and Collateral Definitions

It is important that state laws define large deductible workers' compensation policies and large deductible collateral. Defining the treatment of such policies and associated collateral is imperative for developing policies and processes for administering the collection of assets. The following definition is taken from Guideline #1980. The definitions in the other Model Acts are similar; however, the term used in IRMA is "loss reimbursement policy".

"Large deductible policy" means any combination of one or more workers compensation policies and endorsements, and contracts or security agreements entered into between an insured and the insurer in which the insured has agreed with the insurer to:

- (a) Pay directly the initial portion of any claim covered under the policy up to a specified dollar amount, which the insurer would otherwise be obligated to pay, or the expenses related to any claim; or
- (b) Reimburse the insurer for its payment of any claim or related expenses under the policy up to the specified dollar amount of the deductible.

The term "large deductible policy" also includes policies which contain an aggregate limit on the insured's liability for all deductible claims, a per claim deductible limit or both. The primary purpose and distinguishing characteristic of a large deductible policy is the shifting of a portion of the ultimate financial responsibility under the large deductible policy to pay claims from the insurer to the insured, even though the obligation to initially pay claims may remain with the insurer, and the insurer remains liable to claimants in the event the insured fails to fulfill its payment or reimbursement obligations.

The dollar amount of "large" will vary by state law. While many states might associate a minimum financial threshold, it is more important to consider the administration of the policy compared to a traditional policy. Deductible amounts can include claim-related payments by the insurer for medical and indemnity benefits,

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allocated loss adjustment expenses, such as medical case management expenses, legal defense fees, and independent medical exam expenses. It is critical that the policy specify the claim-related payments that are the responsibility of the policyholder and not be inside agreements or other agreements outside of the policy.

Collateral held by the insurer should be defined as amounts held as security for the insured's obligations under the large deductible policy. The policy should specify acceptable financial instruments that can be held for the large deductible policy. Typical collateral requirements include: cash, letters of credit, surety bonds, or other liquid financial means held for the benefit of the insurer.

Guideline #1980 defines "large deductible collateral" to mean "any cash, letters of credit, surety bond, or any other form of security posted by the insured, or by a captive insurer or reinsurer, to secure the insured's obligation under the large deductible policy to pay deductible claims or to reimburse the insurer for deductible claim payments. Collateral may also secure an insured's obligation to reimburse or pay to the insurer as may be required for other secured obligations."

4. Responsible Party for Collection of Large Deductible Reimbursements

It is critical to immediately establish the party responsible for billing and collecting large deductible payments or reimbursements. While some states might have specific statutory language that specifies the entity responsible, some statutes might be silent. In the case where the statutes do not specify responsibility, it is recommended that the receivers and guaranty associations enter into an agreement that allows for the most efficient administration of the large deductible collections.

Specific consideration should be given to large deductible policies that provide coverage in multiple states and have claimants subject to the jurisdiction of multiple guaranty funds. If feasible, the most efficient approach for such policies would likely be for the receiver to administer the deductible billing and collection process. Throughout the life of the estate, claimants continue to incur benefit payments and expenses and deductible collection efforts may last beyond the life of the estate. The party responsible for collections needs the ability to compromise and settle the future obligations.

The receiver should make provisions in its discharge motion and Court order, to the extent possible, regarding the transition of ongoing deductible collections to the guaranty association as well as the disposition of any collateral being held by the receiver.

5. Treatment of Collateral in Receivership

When collateral has been posted by or on behalf of a large deductible policyholder, what does the receivership estate actually own? The answer is generally found in the documents pledging the collateral to the insurer.

IRMA defines "property of the estate" to include "all right, title and interest in property ... includ[ing] choses in action, contract rights, and any other interest recognized under the laws of this state."⁴ In states without an explicit statutory definition, the common-law definition is substantially similar.

This means that the insurer's right to draw on the collateral automatically becomes an asset of the receivership estate, but the collateral itself is not an estate asset unless and until it is drawn. In the first instance, the conditions and procedures for drawing the collateral should be spelled out in the relevant contract documents (which could include third-party instruments such as letters of credit or surety bonds), but state law could provide additional rights,⁵ and will specify what the receiver may do when the documents are silent, incomplete, or missing.

⁴ IRMA § 104(V)(1).

⁵ For example, IRMA § 712(D) specifically provides that the relevant provisions of the policy are not controlling "where the loss reimbursement policy conflicts with this section."

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Possession and control over the collateral are distinct from ownership. The insurer could already be in possession of the collateral before the receivership, or the receiver might act to take possession by enforcing applicable contract rights or by negotiating an agreement. Nevertheless, this does not immediately give the receiver the right to use the collateral to pay claims. The defining characteristic of collateral is that it is intended to serve as a backstop in case the policyholder does not meet its obligations to pay all reimbursements promptly and in full. Commonly, the right to draw on collateral only attaches after the policyholder has defaulted or has consented to a draw, or, if the collateral is a letter of credit (LOC), after the issuer has given notice of nonrenewal (in which case the receiver must act promptly to call the LOC or obtain replacement collateral). There could also be the opportunity to negotiate an agreement under which the policyholder turns over the collateral and makes a lump-sum payment to commute any further reimbursement obligations, or the collateral might have been structured from the outset as a “working” loss fund from which the insurer was expected to pay claims in the ordinary course of business.

In any case, while it is essential for the receiver to preserve and exercise the right to access the collateral as needed, it is also essential to ensure that collateral is not dissipated to pay claims that the policyholder should be funding. Special consideration needs to be given in situations where the policyholder is at risk of being or becoming judgment-proof, or where rights to the collateral are shared with other creditors of the policyholder and prompt action is necessary to preserve the receiver’s priority.

When the guaranty association is paying the claims, it is generally entitled to receive the proceeds of any policyholder reimbursements, including draws on the collateral. Under laws substantially similar to IRMA, these payments are considered early access distributions (but without the necessity for court approval) which may be subject to subsequent clawback, while Guideline #1980 and the NCIGF Model treat them as the ultimate source of funding for the underlying claims, so that they belong unconditionally to the guaranty association.⁶ Either way, however, it is the receiver rather than the guaranty association that has the right and obligation to draw on the collateral,⁷ unless there is a formal written agreement assigning that right to the guaranty association.

Finally, there is always the hope that the policyholder’s reimbursement obligations will be oversecured or will become oversecured as claims are run off. In that case, any excess collateral will revert to the policyholder or the policyholder’s guarantor. State law might expressly provide a process for determining when excess collateral is being held by or on behalf of the receiver,⁸ or the ability to return collateral before the estate is closed might be part of the general powers of the receiver. However, because workers’ compensation is a long-tail exposure with significant risk of adverse reserve development, receivers must take great care not to make premature or excessive return distributions.

6. Issues Raised by Net Worth Exclusions and Deductible Exclusions

Unlike other lines of insurance, workers’ compensation insurance is generally exempt from the statutory caps on guaranty association coverage, so that the guaranty fund is usually obligated to pay workers’ compensation claims in full. However individual states may have adopted caps on guaranty association coverage.⁹ States have created this exception to honor their state’s promise that injured workers will be paid the full benefits to which they are entitled. The general purpose of these exclusions is to avoid any obligation for the guaranty association to pay losses that can and should be borne by the policyholder. Net worth exclusions make guaranty association protection unavailable to policyholders with net worth above a specified threshold, while deductible exclusions expressly prohibit guaranty association coverage for amounts within a policy deductible.

⁶ Compare IRMA § 712(C)(3) with Guideline #1980 § (C) and NCIGF Model § 712(C).

⁷ See Guideline #1980 § (E)(3) and NCIGF Model § 712(E)(3).

⁸ See, e.g., Guideline #1980 § (E)(4) and NCIGF Model § 712(E)(5).

⁹ See Property and Casualty Insurance Guaranty Association Model Act, (# 540), § 8(A)(1)(a)(i). Almost all states have some provision requiring payment in full of workers’ compensation claims, but some states might have caps or other limitations on coverage.

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Unless these exclusions are drafted and implemented carefully, there is a risk that they could result in delays in claims payments or even a complete loss of coverage. In some states, claimants might be protected by an uninsured employer fund, but that is not the purpose of those funds, so even if such a fund exists in your state, it should be a priority to ensure that however it is done, the estate, employer, or guaranty association will provide for payment in full of all benefits due under the state's workers' compensation laws. If this is not possible under current law, regulators should advocate for a change in the law. A variety of successful approaches are available; there is not a single one-size-fits-all solution that is best for every state.

iii. Net Worth Exclusions:

The *Property and Casualty Insurance Guaranty Association Model Act* (#540) contains an optional section, with a variety of alternative provisions states can select, excluding coverage for high-net-worth insureds, whether they are individuals or business entities.¹⁰ The base version sets the threshold at \$50 million, while one of the alternatives sets the threshold at \$25 million. Many states have enacted some version of this clause or some comparable net worth exclusion.

The impact on workers' compensation coverage depends on how the exclusion is structured. In states with provisions substantially similar to any of the three alternatives under the Model 540, coverage is excluded completely for first-party claims by high-net-worth insureds, but workers' compensation claims against high-net-worth policyholders are administered by the guaranty association on a "pay-and-recover" basis: that is, the guaranty association has the obligation to pay the claim in the first instance, and the right to be reimbursed by the policyholder.¹¹ Thus, claimants are fully protected, and for large deductible policies, this mirrors the structure of the policy for claims within the deductible. In states with guaranty association laws similar to Guideline #1980 or the NCIGF Model, this is the same reimbursement right the guaranty association would have as the insurer's successor in the absence of the exclusion.

If the policyholder is cooperative, the guaranty association has the option of negotiating an agreement where the policyholder advances funding for claims within the deductible. However, if the policyholder is not cooperative, guaranty associations have expressed concern that the pay-and-recover framework is burdensome and gives the policyholder too much leverage to avoid or delay paying its obligations in full. If Model 540's Alternative 2 is modified to treat workers' compensation claims the same as other third-party claims, then the guaranty association has no obligation unless the formerly high-net-worth policyholder has become insolvent.¹² Otherwise, the claimant's only recourse is against the policyholder or the insured's estate. As stated above, the injured worker should be protected by some means in these cases.

When a guaranty association net worth exclusion and a large deductible both come in to play on the same claim, it is imperative that the receiver and guaranty association stay in close communication in order to avoid any confusion regarding which entity is responsible for the collection. In IRMA 712, Guideline #1980 and the NCIGF Model, the guaranty fund is entitled to collect net worth reimbursements. Coordination of these collections with receiver efforts to collect on high deductible will do much to avoid duplication of billings and potential resulting collection delays.

iiii. Deductible Exclusions:

Model 540 does not contain any explicit deductible exclusion. Instead, it simply provides that "In no event shall the association be obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under

¹⁰ Model 540, § 13.

¹¹ Alternative 1 applies the pay-and-recover obligation to all third-party claims. Alternative 2 excludes most third-party claims as well as all first-party claims, but requires the guaranty association to pay workers' compensation claims, statutory automobile insurance claims, and other claims for ongoing medical payments. Alternative 3 excludes only first-party claims and claims by out-of-state claimants that are subject to a net worth exclusion in the claimant's home state; this alternative does not create any statutory right of recovery when the guaranty association is obligated to pay a third-party claim.

¹² Model 540, § 13(B)(2) Alternative 2.

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the policy or coverage from which the claim arises.”¹³ However, some states have enacted explicit language further clarifying that there is no guaranty association coverage for amounts within a policy’s deductible or self-insured retention.¹⁴ For example, Minnesota law excludes “any claims under a policy written by an insolvent insurer with a deductible or self-insured retention of \$300,000 or more, nor that portion of a claim that is within an insured’s deductible or self-insured retention” from coverage by the property and casualty guaranty association.¹⁵ A Minnesota employer entered into an employee leasing arrangement with a PEO, which obtained a workers’ compensation policy with a \$1 million deductible. Both the PEO and the insurer became insolvent, and the Minnesota Court of Appeals held that there was no guaranty association coverage for workers’ compensation claims against the client employer because of the statutory deductible exclusion.¹⁶ The court observed that the Legislature deliberately chose to protect the guaranty association from unlimited exposure, without mentioning that the Legislature also deliberately created an exception making the cap on coverage inapplicable to workers’ compensation claims (which strongly suggests that the statute in question, which is tied to the statutory \$300,000 cap on coverage, was not written with workers’ compensation in mind).¹⁷ Likewise, the court took for granted that the statute’s undefined term “deductible” included the contract provision at issue in the case, even though the insurer had assumed the unconditional liability to pay all claims in full. The opinion did not consider the possibility that the Legislature’s intent was simply to clarify that the guaranty association has no obligation to drop down and pay claims from the first dollar if the insurer would have had no obligation to pay those claims.

Therefore, if states determine that there is a need to include express provisions addressing deductibles and self-insured retentions in their guaranty association laws, it is essential to avoid unintended consequences. In particular, the key terms should not be left undefined. For this reason, IRMA coined the term “loss reimbursement policy” in its section addressing these types of policies, to distinguish them from true deductibles, where the insurer has no obligation to pay anything except the portion of the loss that exceeds the deductible.¹⁸

This is the crucial difference between a “large deductible” workers’ compensation policy and an excess policy. Although “large deductible” policies transfer a significant amount of risk back to the policyholder, they do not extinguish the insurer’s liability. That is why “large deductible” policies, in states that allow them, are accepted as a mechanism for satisfying the policyholder’s compulsory coverage obligations, while excess policies generally are not. Usually, excess workers’ compensation policies may only be issued to self-insurers that have been approved by the state. It is the approved self-insurance program, not the excess policy, that satisfies the employer’s compulsory coverage obligation, and the insurer has no liability for any portion of a claim that falls within the employer’s self-insured retention.¹⁹ Thus, despite the terminology that is commonly used, it is the excess policy, not the large deductible policy, that functions as a “deductible” in the traditional sense of the term.

It is worth noting, however, that commercial self-insured retention and large deductible policies can vary widely in policy terms and sometimes “side agreements” supplement the policies. Arrangements can contain aggregate limits, can vary on the obligation for defense cost and expenses and, in some cases permit the insured to “self-

¹³ Model 540 § 8(A)(1)(b). *Compare Life and Health Insurance Guaranty Association Model Act (#520)*, § 3(B)(2)(a), expressly excluding from life and health guaranty association coverage “A portion of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner.”

¹⁴ Currently, the only states with language specifically excluding claims within policy “deductibles” are Iowa, Louisiana, Minnesota, Missouri, and Nevada, Louisiana’s exclusion applies only to policies issued to group self-insurance funds, and Missouri’s does not apply to workers’ compensation claims.

¹⁵ Minn. Stat. § 60C.09(2)(4).

¹⁶ *Terminal Transport v. Minnesota Ins. Guar. Ass’n*, 862 N.W.2d 487 (Minn. App. 2015), *review denied* June 30, 2015.

¹⁷ Minn. Stat. § 60C.09(3).

¹⁸ For example, if a consumer has an auto policy with a collision deductible of \$1,000, and the repair costs \$5,000, the insurer’s liability is limited to \$4,000. “Self-insured retentions” (SIRs) in commercial excess policies are designed to function the same way on a larger scale. If a business is found liable (or a third-party claim is settled) for \$500,000, and its liability policy has an SIR of \$300,000, the insurer is never responsible for more than the remaining \$200,000, even if the policyholder is bankrupt.

¹⁹ In many states, a separate self-insurance guaranty fund protects claimants if a self-insured employer becomes insolvent. Those funds typically operate entirely under the state’s workers’ compensation laws, not the state’s insurance receivership or insurance guaranty fund laws.

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fund” its claims with an account in the possession of the TPA which is handling the claims. Because of these complexities, policy terms and any related endorsements and side agreements should be carefully reviewed. Whether such side agreements are legally enforceable requires a thorough case-by-case analysis in light of applicable state laws.

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*Receiver's Handbook for Insurance Company Insolvencies***Federal Home Loan Bank (FHLB) Claims Supplement**

This supplement will provide additional details for receivers' involved in FHL Bank Transactions.

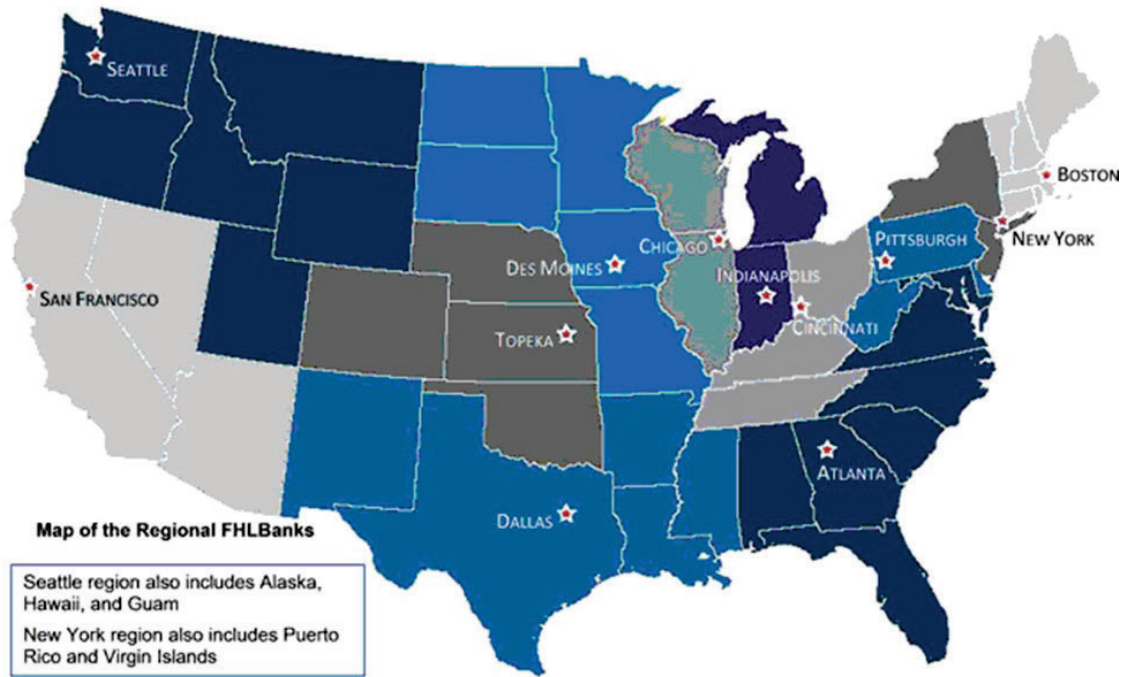
Definitions Specific to FHLBank Transactions

The following are common terms that a receiver is likely to encounter when dealing with an FHLBank, and may be more specifically defined in FHLBank documents:

- a. "Advance" means a secured loan from the FHLBank to its member in accordance with such terms and conditions as are applicable to such loan under an Advances Agreement, and includes without limitation a funding agreement executed under an Advances Agreement.
- b. "Advances Agreement" means one or more written agreements, including any written, document, policy, or procedure of the FHLBank and incorporated by reference into such written agreements between the FHLBank and its members pursuant to which the FHLBank makes or agrees to make advances and provide other extensions of credit or other benefits to the member and the member, among other things, grants to the FHLBank a security interest in certain collateral.
- c. "AHP" means the Affordable Housing Program of the FHLBank.
- d. "Assuming Insurer" means an Insurer that has entered into a purchase and assumption agreement with the Insurance Department by which the Assuming Insurer has agreed to assume some or all Obligations of a member.
- e. "Member" means an insurer that is a member of an FHLBank. Such member will own FHLBank capital stock and may from time to time have outstanding advances or other obligations to the FHLBank, which have not been satisfied in full, or have not expired or been terminated.
- f. "Capital Stock" means all capital stock of the FHLBank owned by a member. Each FHLBank has its own capital plan (which is published on the FHLBank's website), with its own specific capital stock requirements and policies, but generally, each FHLBank requires a member to purchase membership stock (calculated annually) and activity-based stock (required amount fluctuates with the amount of a member's advances or other obligations outstanding). By statute, Capital Stock is Collateral for a member's Obligations to the FHLBank.
- g. "Collateral" means all property, real, personal, and mixed, in which either a member, or an affiliate of the member, has granted a security interest to the FHLBank or the FHLBank has otherwise acquired a security interest. Each FHLBank has its own policies regarding collateral that the FHLBank will accept to secure advances and other obligations, the minimum amount of collateral required, and how the value of such collateral is calculated for purposes of pledging to the FHLBank.
- h. "Obligations" are any and all indebtedness, obligations and liabilities of the member to the FHLBank pursuant to the terms and conditions of the Advance Agreement or any other agreement between the member and the FHLBank, subject to applicable law.

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FHLBank Atlanta	Member Support Operations	mergers@fhlbatl.com
FHLBank Boston	Director of Credit	617-292-9705
FHLBank Chicago	General Counsel	312-565-5805
FHLBank Cincinnati	Vice President, Credit Risk Management	513-852-7525
FHLBank Dallas	Chief Banking Operations Officer	214-441-8546
FHLBank Des Moines	VP/Credit Risk Officer	515-281-1054
FHLBank Indianapolis	Chief Credit and Marketing Officer	317-465-0459
FHLBank New York	General Counsel	212-441-6822
FHLBank Pittsburgh	Chief Credit Officer	412-288-3425
FHLBank San Francisco	Chief Credit Officer	415-616-1000
FHLBank Seattle	Chief Counsel	206-340-2300
FHLBank Topeka	Chief Credit Officer	785-438-6055

3. Coordination of Efforts with a FHLBank

When an insurer that is a member of the FHLBank system is placed in receivership, the Receiver must address a number of issues. There is no prescribed order of steps for managing the insurer’s obligations to an FHLBank. The following may facilitate the process:

1. Gain an Understanding of the History and the Current Status of the FHLBank Program²⁰

²⁰ The guidance in sections B.1, B.8, B.9, and B.10 are intended only to offer practical suggestions for managing the relationship between the receiver and the FHLBank based on the experience of the Shenandoah Life Insurance Company in receivership, related discussions and circumstances as existed generally at the time of this writing. It is important to note that

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It is imperative that the receiver understand fully the history and components of the program. Important aspects of this basic information include:

a. Contacts

Who are the individuals at the bank (including outside counsel and advisors) who manage the bank's role with the insurer and how can they be reached, especially if contact on short notice becomes necessary. Similarly, who will be "point" for the receiver in managing the ongoing relationship? Providing the bank a contact person upon inception of delinquency proceedings will temper the possibility that the bank will take summary protective action for lack of information.

b. Complete Documentation

The receiver should strive to obtain and review carefully all of the documents governing the relationship, including the initial documents establishing the relationship and those related to subsequent advances and repayments.

c. Inception Date and Terms

The terms on which the relationship was established are likely to govern all subsequent advances and repayments. Not only is the formal agreement important, but so are emails and other communications that may provide a more complete understanding of the parties' actual expectations and concerns. Whether or not legally sufficient to alter the formal agreement, course of conduct may be critical guidance on how transactions actually were to be conducted.

d. History of Advances and Repayments

The relationship may have been in place for years and involved a number of advances and repayments. It is important that the receiver gain a thorough understanding of this history to determine whether certain remedial steps (such as stock redemption or release of excess collateral) are indicated immediately.

e. History of Collateral

For similar and other reasons, the collateral requirements upon which the parties agreed when the relationship was established and with each subsequent Advance, and how the posting and release of that collateral has evolved over time, are very important factors in understanding what company assets are properly hypothecated or pledged to the FHLBank (and therefore unavailable to pay other claims or expenses), and which assets may be so identified on the company's records but may in fact be eligible for release from such FHLBank claims. Note that the agreement(s) with the FHLBank may require that the insurer post collateral of a stated value in excess of outstanding advances and may also prescribe a reduction in the value assigned to that collateral (the "haircut"), with the combined effect of leaving the bank over-collateralized. It may be possible to negotiate some relief from the over-collateralization of outstanding advances. Note also that the use of proceeds from Advances and posting of collateral **form other invested assets of the insurer** may create or exacerbate asset-liability mismatches. For example, using previously acquired longer duration high grade assets as collateral but using the Advance proceeds to acquire shorter duration and/or lower grade (higher potential yield) investments may result in an imbalance between the duration of existing liabilities and newly acquired investments intended to fund them.

every situation has its own characteristics and circumstances and that the relationship between one insurer and one FHLBank is likely to differ materially from any other such relationship. Further, no effort is made in this guidance to explore the legal or policy bases for the parties' rights and liabilities, nor to evaluate suggested legislative or regulatory improvements

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f. History of Acquisition and Redemption or Disposition of Bank Stock

As a condition of becoming a member of the FHLBank system, and therefore eligible for advances, the insurer will likely have been required to purchase a certain amount of “membership” stock in the FHLBank. There is typically no independent market on which that stock can be sold and the only way in which the insurer can dispose of it is to sell it back to the FHLBank on redemption terms established by the parties’ agreement. Normally the agreement requires that the insurer retain the membership stock so long as the agreement remains in place and advances remain outstanding. But redemption by the bank of membership stock may be subject to its discretion informed by the bank’s own liquidity and financial condition. As a result, an insurer may be required to retain membership stock for which there is no market and which has no liquidity long after repaying all Advances in full.

Further, with each advance, the insurer may have been required to purchase additional bank stock as “activity stock”, typically in quantities constituting a small percentage of each advance. As with “membership” stock, there is no independent market on which activity stock can be sold, and the only way in which the insurer can dispose of it is to sell it back to the FHLBank on redemption terms established by the FHLBank’s capital plan and the parties’ agreement. The agreements or explicit terms and conditions of the stock may give the FHLBank discretion to postpone the redemption of membership and activity stock.

Because the stock is illiquid and therefore of little value to the receiver in managing the rehabilitation or liquidation, exploring prompt redemption of outstanding stock may be prudent.

g. Investment of Advances

It is important to determine whether the collateral obligations created by advances have resulted in the hypothecation of other assets of the insurer in a way that may have resulted in asset-liability mismatches and potential liquidity problems. It is not unusual to find a disproportionate share of the insurer’s high-grade, liquid, assets pledged as collateral for advances the proceeds of which were instead invested to potentially create beneficial leverage or interest rate arbitrage. Over time, and with deteriorating conditions in the capital market, this can create serious challenges for the receiver. The potential substitution of collateral should be explored with the FHLBank to ameliorate these challenges. However, an FHLBank is limited by regulation on the types of collateral it may accept.

h. Performance in Relation to Repayment Obligations

By design, the FHLBank program is structured so that the FHLBank does not take on much risk in connection with advances to members, including insurers. The pricing (interest rates charged) for the advances do not typically contemplate material risk of default, and collateral requirements are intended to all but eliminate such risk. The receiver should familiarize himself or herself with the history of the relationship to determine whether there are outstanding concerns for the bank that should be addressed promptly so that the bank does not feel compelled to exercise its rights to the collateral in a manner that might prove disruptive to the receivership. Outstanding defaults or near-defaults should be identified and remedied to preserve the collateral.

i. Current Balance of Advances

Obviously, the amount of outstanding advances and resulting repayment obligations must be understood well by the receiver, particularly in relation to collateral pledges. The records of troubled insurers may not be sufficiently complete or accurate to allow for proper monitoring of these outstanding balances and efforts should be made to reconcile the insurer’s records to those of the bank.

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j. Repayment Due Dates and Segregated Cash Account Balance

Advances are made with specific repayment obligations. These obligations will address both interest and principal payment obligations, with specific dates established for both. It is common for segregated-cash-account requirements to be imposed from which the bank can draw some or all of these payments. The receiver needs to identify how much cash the insurer is required to maintain in specified accounts by the agreement(s) and the dates and amounts of required interest and principal payments. Plans should be made to assure liquidity and the ability to comply with these requirements or to make other payment arrangements. If forbearance or accommodations become necessary or desirable, those should be negotiated promptly, if the bank has the ability to provide them.

k. Excess Cash

If the insurer finds itself with more cash than required in the specified account(s), discussions should be undertaken with the FHLBank. Ideally the receiver and the bank will agree that excess cash will automatically be redirected to the insurer's general account. However, if the bank is unwilling to permit the receiver to withdraw cash from the account to which the bank has no contractual claim, it may be necessary to resort to the receiver's right to seek a court order mandating the release of excess cash collateral.

l. Prepayment Fees

Typically, the agreements discourage early repayment of advances because such repayments may be inconsistent with hedges and other arrangements made by the bank in connection with the advances to the insurer. Prepayment may therefore trigger prepayment charges or fees owed by the insurer. However, the bank's need to charge those prepayment fees may be reduced or eliminated by changing circumstances affecting the hedges or other arrangements made by the bank. The receiver should therefore consider whether prepayment may be advantageous (for example because of associated collateral release or stock redemption). If prepayment would be helpful to the receiver's strategy, discussions with the bank should ensue to determine the most optimal prepayment timing that will result in the lowest applicable prepayment fees.

m. Cash Required

As noted, the agreements typically require the insurer to maintain specified liquidity, likely in segregated accounts at the bank, for the protection of the bank. The receiver will need to address these requirements.

2. Notice of Receivership to the FHLBank

a. Notify FHLBank of Receivership

Immediately following the establishment of the receivership, the receiver should contact the FHLBank (see initial FHLBank contact information above) to inform the FHLBank that the Insurer has been placed into receivership.

b. Identify Authorized Individuals

The receiver should forward electronically to the FHLBank all legal agreements, court orders, and/or notices that evidence the appointment of the receiver and a delegation of authority designating individuals authorized to transact business on behalf of the receiver in a mutually satisfactory form. To protect the receiver, the FHLBank may place the account of the member "on hold," prohibiting any additional member/receiver-initiated activity until the required agreements and authority delegations are received.

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c. Schedule Initial Conference Call or Meeting

The receiver and the FHLBank should schedule a mutually convenient time to hold a conference call meeting following the establishment of receivership.

3. Considerations for the Initial conference Call or Meeting with the FHLBank

a. Identify Contact Person(s)

The FHLBank, the receiver, and the Assuming Insurer, if applicable, should each identify their primary contact person(s) and business activity coordinator(s). The receiver should also provide to the FHLBank a key point person(s) who will remain involved with the disposition of all residual issues pertaining to the receivership through completion.

b. Identify Outstanding Obligations, Pledged Collateral, and Capital Stock

During the initial conference call meeting, the receiver should request that the FHLBank identify all outstanding advances and any other outstanding obligations of the member, including AHP subsidy exposures, letters of credit, and correspondent services exposures. Furthermore, the receiver should request that the FHLBank provide information regarding the amount and nature of collateral pledged the balance of any member cash accounts or safekeeping accounts, and the member's capital stock.

c. Establish Receivership Timeline

During or prior to the initial conference call meeting, the receiver should inform the FHLBank of the planned receivership timeline; and the identity of any other parties involved in the receivership process.

d. Discuss Payment of Obligations and Collateral Releases

The FHLBank will need to know what the receiver's intentions are with respect to the obligations and if it desires to retain continued correspondent services activities during the receivership. Depending on the facts and circumstances, and subject to renegotiation with the receiver, FHLBank may allow the receiver to:

- Level the obligations outstanding in accordance with their existing terms and conditions, including scheduled interest and principal payment dates and collateral requirements;
- Prepay the obligations, subject to FHLBank policies and procedures regarding prepayments; or
- Transfer the obligations to an Assuming Insurer acceptable to all parties.

The receiver should request that the FHLBank discuss the process and timing for release of any collateral once all or any part of the outstanding obligations have been satisfied, assumed, or secured with other collateral. If a court ordered or statutory stay is in effect, the receiver and the FHLBank may need to execute an agreement detailing the agreed upon payment of obligations and treatment of collateral.

e. Prepayments

If the receiver wants to pay down advances prior to the scheduled maturity date, the receiver should contact the FHLBank and request that the FHLBank calculate an estimation of the final

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payment due as of that agreed upon prepayment date. The requested estimation should include outstanding principal, accrued interest up to the date of prepayment, and applicable prepayment/settlement fees.

f. Assuming Insurer

If the Obligations of the member are expected to be transferred to an Assuming Insurer, such transfer is subject to the approval of the receiver, the FHLBank and the receivership court. If approved, the FHLBank likely will require that the Assuming Insurer execute²¹ an assumption agreement, and such agreement will stipulate that the Assuming Insurer is responsible for the timely payment of assumed Obligations, direct or contingent, in accordance with the terms and conditions of the Advances Agreement and any other agreements in effect between the member and the FHLBank.

g. Summary of Call

Following the initial conference call, the receiver should request that the FHLBank provide a detailed closing statement for the receiver along with a summary of other matters discussed and agreed upon during the call. The summary of the call could provide the framework for the development of a Memorandum of Understanding between the parties.

4. Disposition of Obligations

The FHLBank will expect payment from the receiver in the event Obligations are outstanding unless the Obligations have been purchased by or assigned to an acceptable Assuming Insurer.

With the approval of the receiver, FHLBank, and the receivership court, the obligations may be transferred to an Assuming Insurer through the execution of an Assumption Agreement that will be provided by the FHLBank. Such Obligations will be required to be collateralized in a manner acceptable to the FHLBank prior to any release of collateral pledged by the failed member. Such collateral requirements may differ from the requirements the Assuming Insurer may be accustomed to if it is a member of another Federal Home Loan Bank.

Obligations that the receiver has decided not to resolve immediately will need to remain collateralized in accordance with the Advances Agreement.

5. Release of Collateral

(Assuming all member obligations have either been satisfied or assumed and fully collateralized by the assignee)

If mortgages have been listed and/or delivered to the FHLBank or to a third-party custodian, the FHLBank will initiate the delivery of those mortgages to the receiver or the receiver's designee in a timely manner and the FHLBank will file a UCC-3 termination statement²² upon request.

If cash or securities have been pledged by the member, the FHLBank's interest in those assets will be promptly released and the assets will be delivered to the receiver or receiver's designee based on instructions provided.

²¹ If the assumption is consummated during a receivership proceeding, then the receivership court would have to approve the transaction and if the assuming insurer is a US insurer, then the domiciliary insurance department would also have to approve the transaction.

²² When a secured lender obtains a lien on collateral pledged to it, the lender files a UCC -1 so that there is a public record putting other creditors on notice of the lien. A UCC-3 is a termination statement filed by a secured lender to update the UCC record to reflect the lien has been released.

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Partial payment of obligations may allow for partial release of collateral in accordance with the FHLBank's collateral release practices.

6. Capital Stock

Typically, Capital Stock holdings of the member may be retained by the receiver or transferred to an Assuming Insurer, if such Assuming Insurer is a current member of the FHLBank. If the Assuming Insurer is not a member of the FHLBank, then the Capital Stock may be repurchased if permissible under applicable laws, regulations, regulatory obligations, and the FHLBank's capital plan and the proceeds of the Capital Stock transferred to the Assuming Insurer or receiver as long as the proceeds of the capital stock are not required to be retained by the FHLBank as collateral or as capital required against remaining outstanding business activity, in accordance with the FHLBank's policies, procedures, or practices.

Treatment of Capital Stock and any payment of dividends are subject to the provisions and restrictions set forth under applicable laws, regulations, regulatory obligations, and the FHLBank's capital plan.

7. Other Matters

If the member was a participant in other FHLBank programs such as AHP or letters of credit, collateral will be required to support all obligations that continue to exist past the life of the member. The receiver should request that the FHLBank provide a detailed account of all other programs in which the member participated and the term of exposure and the amount and type of collateral required.

The receiver and the FHLBank should determine an appropriate frequency of follow-up correspondence throughout the receivership process.

8. Areas of Possible Agreement

The receiver seeks to maximize the value of the estate and to protect policyholders, claimants and beneficiaries of the insurer. To this end, the receiver takes all appropriate steps to marshal and preserve assets for distribution in a liquidation or to facilitate rehabilitation or other resolution of the impaired or insolvent insurer. Apart from maximizing the value of the estate, liquidity is important to both the on-going operation of the estate and more timely distributions. While more formal means to accomplish the purposes of the receivership are always available and should be pursued if necessary, money and other resources ought not to be devoted to that pursuit unless good faith attempts to reach consensual resolution with the FHLBank have failed. In particular, receivers may seek agreement with the FHLBank in the following areas:

a. Release of Excess Cash

As noted, the history of the relationship may have resulted in the insurer porting more cash than required by the agreement in accounts accessible solely by the bank and unavailable to the receiver for other purposes. Release of this excess cash to the general assets of the receivership should be pursued promptly.

b. Release of excess Collateral

Over time the insurer may have caused more collateral to be pledged to the bank than is required by the agreements (for example because repayments may not have resulted in full release of the associated collateral or because of the appreciation of the collateral). In addition, because of the deteriorating condition of the insurer the bank may have had the right to require that the insurer post additional collateral (sometimes as much 25% over the amount of outstanding advances). If

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may be possible to convince the bank to release some of this excess collateral so that it can be used for other receivership purposes. This is particularly true if the bank can be assured that reducing collateral will not unduly endanger the probability for full repayment when due.

c. Reduction of Haircut and Excess Collateral Requirements

If the formula for determining excess collateral and haircuts applied to collateral values no longer reflect economic reality, the receiver should work with the FHLBank to recalculate these in the light of current conditions, again resulting in the release of some collateral.

d. Repurchase of Excess Stock

Over time, the insurer may have accumulated more bank stock, especially activity stock, than is required by outstanding advances (i.e. “excess stock”), for example because the bank may have been slow in repurchasing stock following repayment of advances. Although the bank cannot be required to redeem excess stock upon demand by the receiver, except after expiration of a redemption period (typically five years), if the bank’s financial condition is not an issue, and barring any statutory or regulatory prohibition, the receiver might seek waiver of the redemption period in order to negotiate the repurchase of excess stock, converting it into liquid assets available for receivership purposes.

9. Managing the Relationship²³

Apart from seeking accommodations, the receiver should manage the ongoing relationship.

a. Evaluate Pre-Payment

The receivership should consider when it would be optimal to repay outstanding advances and plan accordingly in cooperation with the bank.

b. Evaluate Need for Extensions

It may be necessary or appropriate to renegotiate the repayment schedule with the bank and to evaluate the cost of doing so.

c. Evaluate Substitution of Collateral

Due to asset liability matching considerations or for other reasons, it may be helpful to explore the possibility of substituting collateral posted against outstanding advances.

d. Determine Desirability of Maintaining the FHLBank Program

The FHLBank program typically provides the insurer a facility for financing or access to liquidity on desirable terms. The receiver should consider whether continuation of the program may play a useful role in rehabilitation or liquidation plans. If sale of the company is being considered, preservation of the program may add value to potential buyers, making the insurer that much more attractive.

e. Develop Exit Strategy if Desirable

Conversely, the receiver may conclude that terminating the FHLBank program is the best option. In that case a thoughtful program for concluding the relationship in cooperation with the bank should be developed and implemented.

²³ See Footnote 3

*Chapter 5 – Claims*10. Share Experience with the NAIC²⁴

In any case, because this is a relatively new development in the world of insurance receiverships, sharing the receiver's experience with the NAIC and other receivers is indicated provided that appropriate confidentiality can be maintained under applicable law. Developing a body of knowledge will facilitate the management of these programs by banks and receivers involved in subsequent cases.

²⁴ See Footnote 3



Assignment of Claims Issues Considerations and Guidelines

On a national level, there is an increase in the number of claim assignments that are presented to receivers. One of the many regulator consumer protection duties to be fulfilled on behalf of the policyholder is to make certain that claims assignments are being carried out. Some states have developed policies for managing the assignment of claims and the Receivership Technology and Administration Working Group provided a forum to draw upon the experience of those states as well as those of other state regulators and other interested parties to a receivership to develop guidance on how to address claims assignment issues. Keeping consumer protection in mind, each state should review its state statutes and regulations regarding the access to information that potential claim buyers have and whether there are any legal privacy issues at the state and federal levels.

1. Cost to Receivership of Claims Assignments

A. Explanation of the issue

Each state is going to have different issues addressing the specific cost of claims assignments contingent upon their specific state laws pertaining to claims assignments, and their own rules that apply to verify and process such assignments. Some specific costs are noted below.

B. Considerations

1. Developing and maintaining the proper infrastructure to record a claims assignment. The Liquidator must maintain the original claim, and record the claim assignee as the new proper claim beneficiary.
2. Processing the request. Some form of external notice must be generated to initiate a claim assignment. How is it received and recorded?
3. Due diligence. The liquidation must verify whether the assignor is the appropriate party to execute the assignment.
4. The disparity of knowledge between the claim seller and claim buyer regarding the claim assignment process can be significant. This results in increased communication demands from buyers on the Liquidator.

C. Recommendations

1. Provide additional court filings with required listings of all approved claims on a quarterly basis.
2. Establish a specified time frame to respond to a claims assignment request irrespective of the quality of information submitted in the request.
3. Revise the existing database to record whether the creditor was eligible to have the personal data of his claim published or not.

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CENTRAL OFFICE • 1100 Walnut Street, Suite 1500 • Kansas City, MO 64106-2197	p 816 842 3600	f 816 783 8175
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4. Research all open estates, provide listings of creditor information, and obtain consent from all creditors for the release of personal claims data.
5. Require the Liquidator to make a good faith effort to predict when distributions would occur and estimate pay-out percentages for the distribution.

2. Difficulty Associated With Verifying Claims

A. Explanation of the issue

1. Some companies placed in liquidation (hereinafter called “Estates”) have poor records (e.g., accounting, policy, claim and reinsurance records). Records have to be reconstructed by Estate staff before basic policy information can be verified (e.g., in-force coverage at time of loss, policy terms, deductibles and exclusionary endorsements). This information is necessary for the Estate and guaranty funds to verify coverage and appropriately handle asserted claims against the Estate.
2. Some Estates have switched to a paperless environment (i.e., system only records). If these record only systems are not maintained properly or kept current, the Estate is unable to transition complete and accurate records or to access pertinent supporting documents. See 2.A.1. above for reconstructing Estate records.
3. Claimants do not keep Estate informed of changed information (e.g., corporate name change, merger of company into another entity, change of address, name change due to divorce and death of claimant). Lack of updated claimant information slows down the verification process.

B. Considerations

1. The Estate and guaranty funds require accurate information to verify coverage and to appropriately handle asserted claims against the Estate.
2. The issue of the Estate utilizing resources in order to handle inquiries concerning the claims assignment process. Additional pressures exerted on Estate staff to finish verification process quickly by third party vendors.
3. Possibility that the Estate may have to retain legal counsel to assist the Estate in complex claim assignment issues.

C. Recommendations

1. Establish standards, as well as a submission package, for use by all Estates for processing of claim assignments with third party vendors.
2. Permit Estates to bill third party vendors for work performed in processing claim assignments (e.g., telephone inquiries, production of reports; verification of assignment from claimant; detailed claims history information and updating Estate records).

3. Cut-Off Dates

A. Explanation of the issue

1. Establishing a date prior to the issuance of any Estate distribution monies where incomplete and/or unverified claim assignments will no longer be processed by the Estate. Some Estates bulk or batch process its distribution documents (e.g., letters, envelopes and distribution checks). Time

is needed to close the Estate records from any future updates so the distribution documents can be bulk or batch processed.

2. Many third party vendors are either on the Estate’s service list or receive notification through other means of pending Estate distributions. The number of claim assignment requests increase significantly just prior to a pending Estate distribution.
3. Generally, once complete and verified claim assignments are received, Estate records can be updated quickly in 1 or 2 days.

B. Considerations

1. Sufficient time is needed to close the Estate records from any future updates so the distribution documents can be bulk or batch processed. Without establishing a cut-off date, last minute claim assignments could disrupt the Estate distribution process.
2. The concern that the third party vendor (“assignee”) may have more information than is known by the claimant (“assignor”). The need to ensure that the assignor has full knowledge of all relevant facts before making the decision to assign the claim to a third party vendor.
3. Time needed to verify the accuracy of the claim assignment with the assignor prior to the pending Estate distribution.

C. Recommendations

1. Establish a date (1 day to 1 week) prior to any Estate distribution where incomplete and/or unverified claim assignments will not be further processed by the Estate before the pending Estate distribution.

4. Interpretation of Financial Information

A. Explanation of the issue

Explore options to facilitate the interpretation of financial information by entities and claimants that are interested in buying/selling claims.

B. Considerations

1. Publish financial statements and court information (in GRID and/or on receivership websites) with no additional interpretation. (This is currently available in GRID)
2. Develop a consumer guide that would help claimants make an informed decision regarding the potential value of their claim.

Concerns

1. Interpretation of financial information varies based on the type of financial information made available, which varies from state to state.
2. Development of a consumer guide to encompass all types of receiverships.
3. Publish in GRID and/or receivership websites a number to call to receive information on if/when a distribution may be made and possible percentage.

4. Publish a good faith estimate or other type of predictive information regarding the timing and amounts of potential distribution with no additional interpretation.
5. Any combination of the above.

C. Recommendations

To close the gap on asymmetric information concerns, it is recommended that receivers publish a consumer guide with a “Frequently Asked Question” document. However, further discussion is needed to finalize a long term recommendation regarding other available options.

5. Consumer Protection (Fairness)

A. Explanation of the issue

Basic question: What duty, if any, does the Insurance Commissioner in his capacity of statutory liquidator have to claimants who may wish to sell their claim?

Claims Assignment Vendors (the entities who purchase creditor claims) who purchase creditor claims in an insurance insolvency proceeding are not regulated. They do not have generally accepted practices applicable to purchasing claims. There is no definition of the due diligence required for identifying the party with the proper legal authority to sell a claim. They have no specific statutory prohibition on what advice they may give the seller of a claim, nor is there any guideline on what they are required to pay for the purchase. There is no statutory requirement that the Claims Assignment Vendor must get a claim purchase approved by the Court overseeing the liquidation process.

Conversely, there is statutory authority which requires a Liquidator to accept assignments, but there are no regulations what the Liquidator may require before it accepts a claim assignment.

Many estates cover several years before a first distribution occurs for the non-Guaranty Association claimants, generally the “little guys” who would be the most likely to benefit from selling a claim for a percentage of its ultimate value and receiving payment for their claim now. The Claims Assignment Vendor then bears whatever risk that unforeseen circumstances may reduce the ability of an Estate to make distributions, but the vendor does receive the entirety of the amount which would have been received by the seller whenever distributions are made.

Consumer protection considerations for the Commissioner include the attempt to make sure that all the claimants are treated equitably. This duty appears to be at least twofold, i.e. the claimant harmed by the insurance insolvency should get the fair value of their claim at any given time, and the Liquidator should not be burdened with a set of rules and regulations that are onerous which causes the Estate to incur expenses which diminish the value of claims of other creditors.

Each state must be conversant with their own, as well as the Federal, consumer protection statutes in terms of what information can go into the public domain. For example, do name, address and amount approved for the creditor claim submitted for a court filing constitute any kind of issue for the Liquidator? Does it make a difference if the creditor is a corporation versus an individual? Does it make a difference if you add a tax payer ID or a Social Security number? How about if you post the same information on the Liquidator’s website instead of within a court filing?

B. Considerations

1. Should claim assignments require court approval whereby a Judge overseeing the liquidation specifically approves the assignment for “fairness”?

2. Should Claims Assignment Vendors be regulated to ensure scrupulous practices; or, should the Liquidator be allowed to create whatever rules deemed appropriate to control the assignment process?
3. What constitutes reasonable expense for the Liquidator to make the creditor information available for Claim Assignment Vendors whereby other creditors of the Estate are not harmed?
4. What mechanism allows creditors to find a Claims Assignment Vendor?
5. In general, individuals are perceived to have more acute needs for immediate money than corporate entities, but they also have more privacy protections afforded. Should the Claims Assignment process be limited to just businesses?
6. Should the liquidator allow all approved creditors the opportunity to opt-in, or to opt-out, of the publication of their name, address, approved claim amount, and Tax-ID or SS#?
7. Should the liquidator be responsible for having sufficiently simple financial data available on their website to allow relatively unsophisticated creditors to knowledgeably be able to discuss the value of their claim with a probably more sophisticated representative of the Claims Assignment Vendor?

C. Recommendations

Each state should review its current state statutes and requirements to make sure they are compliant.

6. Information Exchange

A. Explanation of the issue

Explore options to facilitate the exchange of information between entities and claimants that are interested in buying/selling claims.

B. Considerations

1. Provide information through a matchup of willing buyers and willing sellers.
 - a. Identify willing sellers through an “opt in” process and a forum for willing buyers and sellers to communicate.
 - b. Concerns:
 - i. Limiting the exchange of information to a subset of claimants willing to sell their claims may not pass public records scrutiny.
 - ii. Providing a forum for buyers and sellers to exchange information will add additional cost to the receivership.
 - iii. The creation of a receiver-sponsored forum will create potential issues regarding the implied endorsement/recommendation of a particular buyer and may influence the consumer’s ultimate decision to sell a claim.
2. Provide information by filing claim reports with the receivership court.
 - Address privacy concerns regarding protected personal information.
3. Provide non-protected information through claim report court filings.
4. Provide non-protected information through web postings.

5. Provide non-protected information in response to public records request.

C. Recommendations

To promote efficiency of receivership resources and transparency in providing non-protected information to the public, it is recommended that receiverships provide non-protected information through claims report filing with the receivership court and web posting of such information as it becomes available.

7. Availability of Receivership Information to the Public and Related Procedures

A. Explanation of the issue

Consumer privacy concerns (both legal and common sense) advocate identity protection for consumer claimants. However, certain state laws contain requirements regarding identifying information which must be included in receivership proceedings. To the extent permitted by state law, receivership pleadings should accordingly seek to protect specific identifying information of individual consumer claimants. For example, where permitted, receivership pleadings should not combine both names and addresses, or other specific identifying information, for individual consumer claimants.

B. Considerations

1. Privacy concerns aside the receiver has no fundamental objection to claim assignments.
 - a. Property right
 - b. A fair claim assignment can be a good result (time, uncertainty)
 - c. Receiver has sold claims it holds in other receiverships
2. Nonetheless, assignments have consumer protection issues that are Commissioner/ Receiver's legitimate concern
 - a. Fundamentally, consumer protection is a key aspect of insurance regulation
 - b. Obligation to have a process that is designed to yield best results for creditors (not a duty to achieve a particular result, but for good process)
3. Reasonable measures to protect creditor interest in claims trading are warranted. Areas of concern that these measures address should include:
 - a. Information symmetry/transparency
 - b. Preventing abuse
 - c. No undue administrative burden
 - d. Fraud detection

C. Recommendations

1. Receiver should develop practical methods for distinguishing individual consumer claims from commercial/corporate creditors in receivership pleadings.
2. Contested claim pleadings, where specific identifying information may need to be plead, may require special procedures where appropriate (e.g. filing under seal).
3. Receiver believes it has identified a number of protections that, in combination, can give the Director confidence that claims trading on receiver Estate claim takes place in a fair environment.
 - a. Convenient publication of better Estate information including publishing allowable corporate claim lists with identifiers.

- b. Good Faith Estimates (forward looking statements of intent, typically regarding amount and time of distribution)
 - c. Requiring acknowledgement of information.
 - d. Tracking of assignment percentage (price),
4. With these protections in place, the receiver is not, as an initial matter, opposed to a carefully constructed process by which buyers and sellers find each other (whether an information exchange or a publication of claimant identifying information that avoids legal and common sense privacy concerns). The construction and ultimate acceptance and implementation of any such process would involve consideration of many complex issues such as: liability, unintended implicit receiver approval, and use of resources.

8. Federal / State Privacy of Claimants' Personal Information

A. Explanation of the issue

Information regarding claims is typically reported in a receivership proceeding in accordance with the state receivership act. Receivership acts vary regarding the information that must be included in a report. Some laws require that each individual claimant must be named. Under certain circumstances, information may be submitted to the court under seal.

Federal privacy laws, such as the Gramm-Leach-Bliley Act (GLBA) and the Health Insurance Portability and Accountability Act (HIPAA), restrict the disclosure of personal information by insurance companies. In addition, states have adopted privacy statutes and regulations regarding the disclosure of information by insurance companies.

The disclosure requirements in these statutes are summarized in the attached **Addendum**. There are issues regarding the applicability of these laws in a receivership.

B. Considerations

GLBA

GLBA imposes restrictions on an insurer's disclosure of "non-public personal information" about a consumer. A list of names and addresses derived from personally identifiable financial information is non-public personal information. Subject to certain exceptions, an insurer is **prohibited** from disclosing to a nonaffiliated third party any non-public personal information, unless the consumer does not "opt out" after proper notice. This prohibition does not apply to disclosures to regulators, or to comply with laws, investigations, subpoenas or other judicial process. **GLBA's privacy requirements do not override state law**, except to the extent that a law is inconsistent with GLBA. A state law is not inconsistent with GLBA if the protection it affords is greater than the protection provided by GLBA.

HIPAA

HIPAA privacy standards apply to health plans, clearinghouses, and health care providers that transmit health information as defined in the act. HIPAA protects "individually identifiable health information", which includes names and geographic subdivisions smaller than a state. HIPAA restricts the disclosure of protected health information without the consent of the individual.

State Privacy Laws

GLBA requires insurance regulators to adopt privacy standards for insurers. The NAIC has adopted the Privacy of Consumer Financial and Health Information Regulation. The NAIC Model rule applies to licensed insurers, producers and others required to be licensed. It does not specify whether it

applies to an insurer in receivership. However, a drafting note to the Model suggests that a rule could provide an exception for insurers in receivership.

C. Recommendations

A Receiver should consider the following:

1. If a receivership act requires the disclosure of a claimant's name and/or address:
 - a. Is the information regarding the claimant considered publicly available under GLBA because disclosure is required by state law, or
 - b. Is the requirement to disclose information regarding the claimant pre-empted because it is inconsistent with GLBA?
2. If GLBA governs the content of a claim report:
 - a. What information may a claim report include if a claimant has opted out? What information may a claim report include if a claimant has not opted out?
 - b. To avoid the administrative costs involved in identifying those claims who have opted out, should all claimants be treated as if they opted out?
3. Under HIPAA, what information may a claim report include regarding a health insurance claim filed by an individual?
4. Is an insurer in receivership a “licensee” under the state privacy law? If there is a conflict between a state's receivership act and privacy act, which law prevails?
5. If the disclosure of information regarding individuals with insurance claims is prohibited, should a claim report identify other claimants (*e.g.*, corporations or general creditors)? If these claims are reported differently, will this impose an administrative burden on the receivership Estate?
6. Under what circumstances should a claim report be submitted to the court under seal for *in camera* inspection?
7. If a receivership act only requires that a claim report disclose the amount and class of each claim, what information should be provided to identify claims?

Addendum

Summary of Disclosure Provisions

Federal Privacy Laws

Gramm-Leach-Bliley Act (GLBA)

GLBA imposes requirements on financial institutions to protect the privacy of their customers. *See* 15 U.S.C. Subchapter I, §§ 6801-6809.

Applicability

GLBA applies to a “financial institution”, which is defined by 15 U.S.C. § **6809** (3) (A) to mean an institution engaging in financial activities as described in 12 USC § 1843 (k). Section 1843(k) provides that activities that are considered to be financial in nature include insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities.

15 U.S.C. § 6809(4) defines “non-public personal information” to mean personally identifiable financial information resulting from any transaction with the consumer or any service performed for the consumer, or otherwise obtained by the financial institution. The term specifically includes “any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any nonpublic personal information other than publicly available information”, but excludes “any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any nonpublic personal information.” Nonpublic personal information does not include “publicly available information”, as defined by regulations prescribed under 15 U.S.C. § 6804.

Non-public personal information is further described by regulations. 16 C.F.R. 313.3 (n) provides examples of nonpublic personal information, including "any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information (that is not publicly available), such as account numbers." Nonpublic personal information does not include “any list of individuals' names and addresses that contains only publicly available information, is not derived, in whole or in part, using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.”

16 C.F.R. 313.3 (o)(1) defines personally identifiable financial information to mean any information a consumer provides to a financial institution: (i) to obtain a financial product or service; (ii) about a consumer resulting from any transaction involving a financial product or service; or (iii) that a financial institution otherwise obtains about a consumer in connection with providing a financial product or service. Examples of such information include the fact that an individual is or has been a customer, or has obtained a financial product or service from a financial institution, and any information about a consumer that is disclosed in a manner that indicates that the individual is or has been a consumer of a financial institution.

16 C.F.R. 313.3 (p)(1) provides that “publicly available information” means any information that a financial institution has a reasonable basis to believe is lawfully made available to the general public from federal, State, or local government records; widely distributed media; or “disclosures to the general public that are required to be made by Federal, State, or local law.”

Restrictions on Disclosure

GLBA imposes restrictions on a financial institution’s disclosure of non-public personal information provided by a consumer. Subject to certain exceptions, 15 U.S.C. § **6802** prohibits a financial institution from disclosing to a nonaffiliated third party any nonpublic personal information, unless the financial institution provides the consumer with an “opt out” notice, gives the consumer a reasonable opportunity to opt out, and the consumer does not opt out. Section **6802** (e) (8) provides that this prohibition does not apply to “the disclosure of nonpublic personal information to comply with Federal, State, or local laws, rules, and other applicable legal requirements;

to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.”

Relation to State laws

15 U.S.C. § 6807 provides that GLBA’s privacy requirements “shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this subchapter, and then only to the extent of the inconsistency.” A state statute, regulation, order, or interpretation is not inconsistent with GLBA if the protection it affords is greater than the protection provided by GLBA.

Health Insurance Portability and Accountability Act (HIPAA)

Applicability

The HIPAA Standards for Privacy of Individually Identifiable Health Information apply to health plans, health care clearinghouses, and to any health care provider that transmits health information in electronic form in connection with transactions for which the Secretary of HHS has adopted standards under HIPAA.

Restrictions on Disclosure

HIPAA protects all “individually identifiable health information” held or transmitted by a covered entity. Under 45 C.F.R. § 164.514 (b), a name and any geographic subdivision smaller than a state, including street address, city, county, precinct, zip code or geocode, is considered an “identifier” of an individual.

45 CFR 164.512 describes the conditions under which protected health information can be disclosed without the consent of the individual. 45 CFR 164.512 (a) provides that a covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. A covered entity must meet the requirements described in § 164.512 (c) [relating to disclosures about victims of abuse, neglect or domestic violence]; (e) [relating to disclosures for judicial and administrative proceedings]; or (f) [relating to disclosures for law enforcement purposes].

2. State Privacy Laws

Title V of GLBA requires state insurance regulators to adopt standards relating to the privacy and disclosure of nonpublic personal financial information applicable to the insurance industry. States have adopted statutes or regulations based on the NAIC Privacy of Consumer Financial and Health Information Regulation (the “NAIC Model”).

Applicability

The NAIC Model applies to “licensees”, which is defined as “all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the Insurance Law of this state, [and health maintenance organizations].” It does not specify whether it applies to an insurer in receivership. However, a drafting note to the Model states: “Because the notice requirements of this regulation could be a financial burden on a company in liquidation or receivership and negatively impact the ability of the liquidator or receiver to pay claims, regulators may want to consider adding an additional exception providing that licensees in liquidation or receivership are not subject to the notice provisions of this regulation.”

Restrictions on Disclosure

The NAIC Model defines “nonpublic personal financial information” to include personally identifiable financial information, and any list, description or other grouping of consumers (and publicly available information

pertaining to them) derived using personally identifiable financial information that is not publicly available. “Personally identifiable financial information” as defined in the NAIC Model includes “[t]he fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee”.

An example of nonpublic personal financial information given in the Model is a list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers. In contrast, a list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution, is not considered to be nonpublic personal financial information.

The NAIC Model defines “publicly available information” to mean any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state or local government records; widely distributed media; or disclosures to the general public that are required to be made by federal, state or local law.

3. State Receivership Laws

The contents of a claim report are typically described in the state receivership act. The act may also specify notice requirements for matters submitted to the court (*See* IRMA § 107). Under IRMA § 107 B (1), if the Receiver determines that any documents supporting the application are confidential, they may be submitted to the court under seal for *in camera* inspection.

Draft: 7/19/22

Receivership Law (E) Working Group
Virtual Meeting
July 18, 2022

The Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force met July 18, 2022. The following Working Group members participated: Kevin Baldwin, Co-Chair (IL); Laura Lyon Slaymaker, Co-Chair (PA); Joe Holloway and Jack Hom (CA); Jared Kosky (CT); Miriam Victorian (FL); Tom Travis (LA); Robert Wake (ME); Thomas Mitchell (MI); Shelley Forrest (MO); Lindsay Crawford (NE); and Brian Riewe (TX).

1. Adopted its June 10 and May 12 Minutes

The Working Group met June 10 and May 12. During these meetings, the Working Group took the following action: 1) discussed a draft memorandum of understanding (MoU) between state insurance departments, receivers, and guaranty funds the states could consider using in the event of an unexpected liquidation to enhance pre-liquidation coordination and communication; and 2) discussed proposals and options for enhancing pre-liquidation coordination and communication proposed by the National Conference of Insurance Guaranty Funds (NCIGF).

Mr. Kosky made a motion, seconded by Mr. Holloway, to adopt the Working Group's June 10 (Attachment Three-A) and May 12 (Attachment Three-B) minutes. The motion passed unanimously.

2. Discussed a Proposal for Enhancing Pre-Liquidation Coordination and Communication

Mr. Baldwin said Rowe Snider (Locke Lord LLP) walked the Working Group through the draft MoU from its June 10 meeting. Edits were made based on comments from that meeting, including the addition of a cover page that provides background of the MoU. The Working Group agreed to expose the draft MoU (Attachment Three-C) for a 45-day public comment period ending Sept. 1.

Having no further business, the Receivership Law (E) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/RITF/2022 Summer NM/071822_RLWGmin.docx

Draft: 7/19/22

Receivership Law (E) Working Group
Virtual Meeting
June 10, 2022

The Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force met June 10, 2022. The following Working Group members participated: Kevin Baldwin, Co-Chair (IL); Laura Lyon Slaymaker, Co-Chair (PA); Joe Holloway and Jack Hom (CA); Jared Kosky (CT); Kim Cross (IA); Tom Travis (LA); Christopher Joyce (MA); Robert Wake (ME); James Gerber (MI); Shelley Forrest (MO); Justin Schrader (NE); Shawn Martin (TX); and Charles Malone (WA). Also participating was: Matt Gendron (RI).

1. Discussed a Proposal for Enhancing Pre-Liquidation Coordination and Communication

Mr. Baldwin said the National Conference of Insurance Guaranty Funds (NCIGF) gave presentations on its proposals related to pre-liquidation coordination and information sharing to the Financial Analysis (E) Working Group at the 2021 Fall National Meeting and to the Receivership and Insolvency (E) Task Force at the Spring National Meeting (see *NAIC Proceedings – Summer 2022, Receivership and Insolvency (E) Task Force, Attachment Three-B1*).

Ms. Slaymaker said during the last call, the Working Group talked about the various proposals from the NCIGF related to pre-liquidation coordination and information sharing. On that call the Working Group decided to pursue the Memorandum of Understanding (MoU) option. The MoU would be entered into during the process of planning for a liquidation to provide legal ability to share information in advance of liquidation.

Rowe Snider (Locke Lord LLP) said the draft is very flexible. He said similar agreements have been used sporadically in certain rehabilitations, run-offs to liquidation and other insolvency situations. The intent is to make the process better. This document although drafted as a form could be affected by the legislative backdrop in a particular state where state laws affect the kinds of information that could be passed along under this agreement or that may have other constraints or authorizations that might need to be taken into consideration in the documents.

Mr. Snider explained each paragraph of the draft MoU as follows. Discussion or questions were addressed as shown below.

- Introduction and Parties to the Agreement

Mr. Snider said the first paragraph identifies the parties to the agreement and would be tailored to the specific circumstances. It would include the state department of insurance, the receiver, and the applicable guaranty funds. Mr. Kosky asked if the company would need to be a party to the agreement depending on the timing of the receivership, for example, at rehabilitation, or earlier stages such as conservation or supervision. Mr. Kosky said in Connecticut, supervision proceedings are confidential and would need to understand how this agreement would work with that proceeding. Mr. Snider said the intent is to use the document early in the process after a troubled company is identified so there is a long runway into liquidation; longer than has traditionally been in the past. Mr. Snider said there may be occasions where the company would be a party to the agreement if the regulators desired them to be. He said the obligations, duties, and responsibilities of the trouble company would be defined by the laws of the state that govern the obligation of the company to turn over information to the state insurance regulator. The state insurance regulator would then turn over information to the guaranty funds under the terms of the agreement. From a guaranty fund perspective, the preference would be that the troubled

company is not party to the agreement. There are enforcement provisions in the agreement that in some situations, the troubled company could cause problems if they were opposed to the next step in the process, such as moving from rehabilitation to liquidation. He said companies may need to be informed about the dissemination of information in pre-liquidation but that is separate from this agreement.

- I. Definitions
 - 1.1, 1.2, and 1.3

Mr. Snider said within the Definitions section, paragraphs 1.1, 1.2 and 1.3 define confidential information and evaluation materials. These definitions came from models that NCIGF had and are not unusual definitions. Mr. Holloway asked if “material risk of receivership” should be “material risk of liquidation” since guaranty funds are triggered at liquidation. Mr. Snider said if there is a long glide path to liquidation, he did not feel strongly about the phrase.

Mr. Baldwin said “evaluation materials” may be too vague and suggested the definition be more specific on the types of information, analysis, studies, etc., are needed. Barbara Cox (Barbara Cox LLC, representing NCIGF) said it would be broader than “data,” such as odd policy forms or unique lines of business. She said NCIGF can clarify this definition. Mr. Snider said the definition was intended to be broad in case there is material that gets shared so that regulators and receivers have comfort that anything turned over will be confidential. Mr. Baldwin suggested it still have the broad language for that reason but suggested adding a list that is “including but not limited to.” Ms. Cox said she would add a list.

Ms. Slaymaker said in paragraph 1.2.b, it includes information that is subject to “privilege.” She said she would be concerned about accidentally waiving the privilege by turning over this information. Mr. Snider said if there was a necessity to turn over privileged information, e.g., attorney client privileged information, there would have to be either a written common interest agreement to preserve the privilege or a state statute that allows and maintains the privilege for examination information that is turned over by the receiver. That is an individual situation. This agreement is intended to be flexible. The agreement does not create an obligation on the part of the regulator to turn over privileged information.

- 1.10

Mr. Snider said in paragraph 1.10 covered claims is defined by reference to the appropriate state statute.

- II. Recitals
 - 2.1, 2.2 and 2.3

Mr. Snider said recitals are articulations of the background. Recitals 2.1 and 2.2 explain the responsibility of the commissioner and regulatory background. “Material risk of receivership” can be changed to “material risk of liquidation.” Patrick Cantilo (Cantilo & Bennett LLP) suggested changing “Commissioner will” to “Commissioner may” in 2.2. For 2.3, Mr. Cantilo suggested adding “or if other statutory requirements are met” after “a finding of insolvency” as there may be other statutory triggers for liquidation. Mr. Snider agreed.

- 2.4

Mr. Snider said 2.4 is the premise of the agreement that preparation for liquidation and transition is essential. It doesn't create any obligations but puts the parties on the same page.

- 2.5

Mr. Snider said 2.5 articulates the process of sharing appropriate and necessary information. It states what is shared is subject to the commissioner's discretion. It does not create an obligation. The last sentence is a comfort sentence that is an emphatic confidentiality clause. The clause is an express ability for the commissioner, under appropriate circumstances to withhold the name of the company. The guaranty funds have enormous incentive to comply with these agreements, which is the motivation to add this clause.

- 2.6

Mr. Snider said 2.6 articulates that this memorandum is consistent, necessary, and proper with respect to the statutory roles of the guaranty funds, the state insurance regulator, and the receiver.

- III. Use and Treatment of Evaluation Materials

- 3.1

Mr. Snider said section three is critical to the agreement. He said 3.1 limits and articulates the legitimate purposes for which the guaranty funds can use the evaluation materials including copying them for their own purposes.

- 3.2

Mr. Snider said 3.2 is key to the confidentiality provisions. This language is the sort of confidentiality clause that appears in protective orders and common interest agreements. With respect to "privilege," even though privilege is mentioned here, there is no obligation to share any privilege, which is a protective aspect.

- 3.3

Mr. Snider said 3.3 is a clause that permits the guaranty funds and NCIGF to share evaluation materials with consultants, attorneys, and agents, as necessary. It requires those persons to agree to the terms of the agreement and subjects them to the injunctive remedies. It also creates a joint liability whereby if a guaranty fund or NCIGF turned over information to a consultant, attorney or agent and that agent breaches the agreement, both the turnover party and the breaching party would be liable and subject to an injunction.

Mr. Gendron said the examination statues have language that information is confidential and not subject to subpoena. Does this clause cover subpoenas? Mr. Snider said the privilege that is alluded to in this agreement is not limited to the conventional attorney client privilege that you might see in a common interest agreement or a protective order in the litigation context. That is a statutory privilege. The privilege language in this agreement is intended to preserve that. It's a question for each states' interpretation of how that works. If you interpret that as having authority to provide privileged information to third parties, this says the guaranty fund will work with the state to preserve that privilege. He said there is no intention that sharing information under the agreement waives any of the protections for that information. Guaranty funds do not want to be subpoenaed for information in their custody that they think is protected. Mr. Snider said it may need tailoring to your state or the citation to the state statute may need to be added. Mr. Gendron suggested using the language that is in *Model Law on Examinations* (Model #390) section 1.A.

- 3.4

Mr. Snider said this is a forbidden recipient clause that guaranty funds or NCIGF will not share information with a list of recipients but focuses on boards of directors who might be recipients only as necessary to discharge their official duty.

- 3.5

Mr. Snider said 3.5 is a promise to cooperate. It is common language in other agreements. It obligates the guaranty funds to take reasonable actions to prevent confidentiality.

- IV. Remedies

- 4.1

Mr. Snider said the intent of this section is to provide injunctive relief and is common language in other agreements.

- 4.2

Mr. Snider said 4.2 is an attorney's fee clause providing for reasonable fees and the source of the fees. There is a clause that forbids guaranty funds or NCIGF from filing a claim in the estate for reimbursement of attorney's fees.

- 4.3

Mr. Snider said 4.3 is a standard non-waiver clause.

- 4.4

Mr. Snider said 4.4 is a disclaimer of liability or assertion of liability by the recipients of the evaluation materials against the commissioner or receiver. This is related to paragraph 5.4.

- V. Warranties and Representations

- 5.1

Mr. Snider said 5.1 is a mutual good faith, cooperation and communication clause that is standard in these types of agreements.

- 5.2

Mr. Snider said 5.2 states that guaranty funds and NCIGF have authority to enter into this agreement.

- 5.3

Mr. Snider said 5.3 is a representation with respect to authorized signatures.

- 5.4

Mr. Snider said 5.4 is an express disclaimer of warranties about the accuracy or completeness of evaluation materials made by the recipients, guaranty funds and NCIGF. This is intended to provide comfort about the disclosures creating any kind of liability with respect to accuracy or completeness.

Mr. Cantilo suggested a new paragraph 5.5 to state that the guaranty funds understand and acknowledge that the evaluation information may include information furnished by consultants, access to which will require additional agreements with such consultants, for example, actuarial agreements. Mr. Snider and Ms. Cox agreed.

- VI. Termination

- 6.1

Mr. Snider said 6.1 permits termination of the agreement with 30-days' notice. The termination of the agreement, without further agreement, does not eliminate the confidentiality of the evaluation materials. The term receivership can be changed to liquidation.

- 6.2

Mr. Snider said 6.2 articulates what the guaranty funds can do with evaluation materials up to the date of termination. It also addresses that the agreement would terminate without obligation to destroy evaluation material or maintain it as confidential, in the event of a receivership order. The term receivership can be changed to liquidation.

Mr. Baldwin asked if the intent of 6.2 is to mean that the confidentiality is over? He asked that upon liquidation the receiver would enter into confidentiality agreements with the guaranty funds, so why would this confidentiality be terminated? Mr. Snider said yes, as drafted, it would terminate the confidentiality. He said the guaranty funds would prefer to eliminate the pre-planning agreement and replace it with another agreement upon entering liquidation. He said guaranty funds could be flexible on this or this paragraph could be stricken.

- 6.3

Mr. Snider said 6.3 addresses the duty of the guaranty funds to destroy evaluation materials and not retain anything if the agreement is terminated without an order of liquidation and to provide an affidavit attesting to the destruction. Another option that could be tailored to the situation is to return the materials; however, with digital copies it is easier to destroy than to return.

Ms. Slaymaker said that because the Pennsylvania insurance department's office of corporate and financial regulation is separate from the receivership office, the receivership office would not be able to agree to some of these terms without the other office. Mr. Snider said the parties to the agreement could be tailored, as necessary.

Ms. Cross asked how fees and expenses of the guaranty fund as a result of pre-planning would be handled and if fees would be assessed to the receivership estate. Ms. Cox said she feels these expenses will not be material since most files will be electronic. She said she has not yet fully vetted this topic with guaranty fund and NCIGF is open to discussion about this topic.

- VII. Miscellaneous Provisions

- 7.1

Mr. Snider said 7.1 states there is no attorney client relationship.

- 7.2

Mr. Snider said 7.2 is a choice of law provision that suggests the domiciliary state be the law chosen.

- 7.3

Mr. Snider said 7.3 is a counterparts provision that allows signature pages to be exchanged.

- 7.4

Mr. Snider said 7.4 allows the agreement to be retroactive for evaluation materials that were shared before the effective date of the agreement.

- 7.5

Mr. Snider said 7.5 is a notice provision that can be tailored to the specific situation.

- 7.6

Mr. Snider said 7.6 is a good faith cooperation clause that adds an agreement to meet periodically to discuss the implementation of the agreement.

Jane Koenigsman (NAIC) suggested adding a cover page to address some of the comments. Ms. Cox said NCIGF could draft edits based on the discussion. Mr. Baldwin said NAIC staff would circulate the notes from today's call to those that had comments and to NCIGF to draft edits. He asked for edits to be sent to NAIC staff by July 1.

Bill O'Sullivan (National Organization of Life and Health Insurance Guaranty Associations—NOLHGA) said life guaranty associations have not experienced challenges entering into these kinds of arrangements, when necessary to get access to information, in a variety of situations, even pre-receivership, which is rare. He said typically, the agreements are more complicated. The agreements are typically confidentiality, and joint and common interest agreements. For these reasons NOLHGA does not want to sidetrack this effort by pursuing a similar sort of effort on the life side. Mr. Baldwin suggested the cover memo indicate this MoU is applicable to property and casualty.

Having no further business, the Receivership Law (E) Working Group adjourned.

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Draft: 7/19/22

Receivership Law (E) Working Group
Virtual Meeting
May 12, 2022

The Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force met May 12, 2022. The following Working Group members participated: Kevin Baldwin, Co-Chair (IL); Laura Lyon Slaymaker, Co-Chair (PA); Joe Holloway (CA); Rolf Kaumann (CO); Jared Kosky (CT); Miriam Victorian (FL); Tom Travis (LA); Christopher Joyce (MA); Robert Wake (ME); James Gerber (MI); Shelley Forrest (MO); Brian Riewe (TX); and Darryl Colman (WA).

1. Discussed a Proposal for Enhancing Pre-Liquidation Coordination and Communication

Mr. Baldwin said the National Conference of Insurance Guaranty Funds (NCIGF) gave presentations on its proposals related to pre-liquidation coordination and information sharing to the Financial Analysis (E) Working Group at the 2021 Fall National Meeting and to the Receivership and Insolvency (E) Task Force at the Spring National Meeting (Attachment Three-B1).

Ms. Slaymaker summarized the NCIGF's proposals. She said the reasons the NCIGF gave for proposing changes to the pre-receivership coordination process are that companies that fail are more complex and have a high volume of electronic claims files, and multiple information technology (IT) systems and claims operations are delegated to third-party administrators (TPAs). The NCIGF's need is for a more consistent and timely transfer of usable claims data to guaranty funds and receivers at the time of insolvency. The NCIGF's proposed solution is to have a confidential exchange of fundamental information between state insurance regulators, receivers, and guaranty funds well before the liquidation order is signed. The type of information would be policy information, claims records, and information about TPA relationships. The NCIGF proposed that states implement statutory changes that would modify the *Property and Casualty Insurance Guaranty Association Model Act* (#540), the *Insurance Holding Company System Regulatory Act* (#440), and the *Model Law on Examinations* (#390). However, understanding that that may not be a solution for all states and states may not be willing to revise those models, the NCIGF has proposed the revisions as a model guideline. Another proposed alternative approach is a memorandum of understanding (MoU). The NCIGF stated in its presentation to the Task Force that to protect confidentiality, the information would not be shared with the NCIGF or state board members, which includes industry members. The NCIGF said it has a plan to work through that. A final part of the proposal is to make updates to NAIC handbooks, including the *Troubled Insurance Company Handbook*, which is confidential and maintained by the Financial Analysis (E) Working Group; the *Financial Analysis Handbook*; and the *Financial Condition Examiners Handbook*, to include guidance, references, and reminders for early coordination.

Barbara Cox (Barbara Cox LLC, representing NCIGF) said if information flow is not timely, it creates problems for receivers, guaranty funds, and hurts consumers. For example, with health care claims, the guaranty fund cannot authorize surgery for a consumer without policyholder information. Another example with auto insurance is that the guaranty fund cannot authorize payment for repairs for auto damage without policy and claim information, delaying the claimant's ability to get their car out of the shop.

Ms. Cox said the guaranty fund system is studying cybersecurity risk, which has a different time frame from that which guaranty funds are used to. The longer the situation remains without mitigation or repairing data, the longer the situation is on hold. This may be worse for small to medium size companies.

Mr. Travis said without taking a position, the Receivership Law (E) Working Group should look at options to speed up the transfer of data. In Louisiana, several property/casualty (P/C) insurers that went under due to hurricanes have resulted in problems for policyholders with the insurer and the guaranty fund largely due to the difficulties in the transition. Mr. Travis said there have been proposals in the Louisiana legislature to make the guaranty funds liable for penalties and attorney's fees under the bad faith laws, which are currently exempt.

Mr. Gerber said there seems to be a reluctance to use rehabilitation. It would give policyholders time to shop for replacement coverage and the state insurance regulator time to notify loss payees (e.g., mortgage companies and servicers). A short rehabilitation would give the state insurance regulator time to work with the guaranty fund to settle things in advance. Mr. Baldwin said there are a lot of examples of where rehabilitation has been used to achieve these kinds of goals. He asked if the fact that the rehabilitation could be used for consumer protection could be put into a guideline.

Ms. Cox said the NCIGF appreciates a long runway to liquidation and a rehabilitation where guaranty funds can do things in advance. She said a rehabilitation is normally a public proceeding, and if there is a concern that the company may be salvaged, the attention a company would get in a formal rehabilitation proceeding would not help matters. There may be reluctance on the part of the state insurance regulator to put the company into rehabilitation for this purpose. Ms. Slaymaker said in Pennsylvania, the state insurance regulator cannot use rehabilitation if they know there will be a liquidation. The court requires that they try to rehabilitate the company. Mr. Baldwin said those are good points and counterpoints, where rehabilitation may not be an available tool.

Mr. Gerber said seizure and conservation may be available, as they are confidential proceedings. Mr. Baldwin said there may be some merit to what the NCIGF is proposing; i.e., to have a clear statutory permission to share the existence of such confidential proceedings to prepare for a potential liquidation.

Ms. Cox said there may be some reluctance under current law and practice to share and coordinate with guaranty funds. Before a public proceeding, there are efforts being made to save the company. Sometimes states do not have resources to plan for liquidation while they work on saving the company. The recent changes to the IT examination guidelines might be able to ameliorate some of that, but this is still a concern. That is not to say conservation or a confidential proceeding will not work, but the culture around that type of situation needs to change.

Mr. Kaumann said an interim solution is to call a targeted examination to be able to have department staff at the company, identify key people, locate bank accounts and signatories, and identify claims systems and servers so the state can have all of the information ready when the receiver and guaranty fund arrive on day one. He said he believes this is something all states have the authority to do. This could be implemented immediately through best practices to address some of the issues. Ms. Cox said this suggestion aligns with new guidance for IT examinations where data can be reviewed on examination to determine information about data systems (e.g., if it is segregated, easily segregated, convertible to a Uniform Data Standards (UDS) format, as well as information about relationships between parties). She suggested that guaranty funds be involved in this process, as they have experience that may be helpful, or at least the information can be shared with guaranty funds at the earliest juncture. She suggested that the Receivership Law (E) Working Group hear from the IT Examination (E) Working Group about the new examination guidelines.

Mr. Riewe said the targeted examination is a logical approach because it is addressing the issue of gathering the information. He said it is often not because the state is not sharing the information with the guaranty fund; rather, the state insurance regulators cannot get to the information.

Mr. Baldwin said programming that is required to gather the information and distribute it in the format that guaranty funds need takes time.

Mr. Holloway said California uses administrative supervision as the early detection tool to get into a company and evaluate the situation. He said all goals are aligned in that claimants and consumers need to be protected and it must be ensured that there is not an interruption in the payment of claims. Where it is possible for state insurance regulators, receivers, and guaranty funds, they should coordinate their efforts in support of that goal. Mr. Holloway said California would like to work with the Working Group on the MoU. He said he believes there are enough tools available through examination to handle this issue. He does not believe changes are necessary to existing laws.

Mr. Baldwin said every state may be different, where some states may need to change their laws and others might find the MoU necessary. He asked Ms. Cox if either is acceptable. She said yes, and they would also favor handbook changes because statutory changes are hard to do. She said the NCIGF wants the opportunity to be able to share information and coordinate, however that is accomplished.

Ms. Slaymaker asked what the trigger would be to share information. Ms. Cox said it could be tied to a specific risk-based capital (RBC) level. She said in conversations with the IT Examination (E) Working Group, she was told by financial regulators that RBC may be too late. Another option is to trigger if there is “a material possibility of insolvency.” Mr. Baldwin said the Illinois Legislature recently addressed this by amending IL law to permit information disclosure to guaranty associations, based on an early RBC trigger, subject to the “Director’s discretion.”

Mr. Baldwin asked Ms. Cox to describe the type of information to be shared. Ms. Cox said the primary focus has been on data, including claim data, location of data, condition of data, segregated data, ability to make the data transition, volume of claims, states where claims are located, policy information, and any cyber components, to name a few key types of information. She said the NCIGF had a receivership that included cybersecurity polices, which is new to guaranty funds. Other information could be on large deductible coverage, collateral securing the large deductible, how the collateral is secured, what collection processes are in place, and what would need to happen to have a seamless liquidation process.

Bill O’Sullivan (National Organization of Life and Health Insurance Guaranty Associations—NOLHGA) said the experience on the life and health side is different than the P/C side. He said the life and health guaranty funds have generally had good success in getting access to information needed; although, it is not always perfect. NOLHGA has found ways to get around concerns regarding confidentiality and privilege. The guaranty funds typically enter into common interest and confidentiality agreements early in the process (e.g., pre-receivership).

Mr. O’Sullivan said NOLHGA has experienced similar sensitivities to early sharing of information as the NCIGF describes. To the extent that there are solutions that work on the P/C side, the relevance on the life and health side and any parallel treatment on the P/C side should be considered.

Mr. Kosky asked Mr. O’Sullivan if the insurers are a party to the common interest and confidentiality agreements. Mr. O’Sullivan said yes, in certain cases, the insurer would be party to the agreement. Mr. Kosky asked Ms. Cox what the enforceability of the draft MoU would be if, as drafted, the insurer is not a party to the agreement. Ms. Cox said the involvement of the insurer is not something the NCIGF has looked at, but she would like to talk about that further. She said there is some coverage within the draft statutory revisions where the state insurance regulator should have the comfort to share information in these situations, just as they have authority to share information with federal law enforcement and other parties. She said this can be made clearer within the MoU.

Mr. Baldwin said Illinois has had experience with the insurer opposing sharing confidential information with guaranty funds, which is part of why the Illinois legislative changes include the director's discretion, regardless of the insurer's opposition. He asked Ms. Cox to explain who the information is intended to be shared with. Ms. Cox said it would be limited to guaranty fund staff, counsel, and technicians. She said it would not be shared with any other company staff that are on guaranty fund boards and committees. Sharing with guaranty fund boards and committees would be limited until such time as there is a public order of liquidation or rehabilitation, boards have voted on an assessment, etc.

Ms. Slaymaker asked the Receivership Law (E) Working Group for its preference on pursuing drafting a model guideline or an MoU. Working Group members indicated their preference for an MoU. Connecticut, Massachusetts, and Michigan all agreed with pursuing the MoU. Ms. Slaymaker said a virtual meeting would be set up to walk through and consider revisions to the initial draft MoU that the NCIGF proposed. She said regarding best practices, the Receiver's Handbook (E) Subgroup can consider revising the takeover checklists and in other areas of the *Receiver's Handbook for Insurance Company Insolvencies*. Mr. Baldwin said as he is chair of the Subgroup, it will consider revisions. Ms. Slaymaker said any recommended changes to other handbooks previously mentioned are handled by other NAIC groups, so referrals can be sent, as determined necessary, after the Working Group completes the work on the MoU.

Having no further business, the Receivership Law (E) Working Group adjourned.

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Guideline for Troubled Company Information Sharing and Coordination with Guaranty Associations

Drafting Note: Pre-liquidation information sharing and coordination with guaranty associations has become even more critical in the modern insurance environment. Ideally such sharing and coordination should take place early on when a company becomes a “troubled company.” Regulators should consider involving guaranty funds even before the company is put in a receivership status.¹ It is essential that guaranty funds have usable claims data in order to service claims once a company is found insolvent and ordered into liquidation. (This is when most property casualty funds are “triggered.”) Moreover, complex new products such as cyber security are being written by insurance companies. Older products such as large deductible workers compensation often use complex collateral arrangements and collection protocols. Advance study and information sharing in such cases is essential for a smooth transition into liquidation if a liquidation does occur.

Regulators may have concerns regarding whether there is adequate statutory authority to share information before a receivership. The guideline below offers statutory language that could be used to amend state law to clearly permit sharing and coordination in cases where regulators feel it is appropriate. Confidentiality concerns are paramount and are addressed in the text provided below. Note that amendments to the property casualty guaranty fund model act, the Model Holding Company Act and the Examinations Act may be necessary. Amendments to all of these Models is offered.

In some states, a regulator may determine that current state law and regulatory practice already permits pre-receivership coordination. If this is the case a regulator may want to consider memorializing the terms of information sharing and coordination with a Memorandum of Understanding (MOU). A template for such an MOU is also provided as a separate document.

PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION MODEL ACT NCIGF Suggested Revisions to Section 10

Section 10. Duties and Powers of the Commissioner

- A. The commissioner shall:
- (1) Notify the association of the existence of an insolvent insurer not later than three (3) days after the commissioner receives notice of the

¹ The NAIC Troubled Company Handbook suggests that such coordination begin when a company’s RBC levels are --- or below. (Cite)

determination of the insolvency. The association shall be entitled to a copy of a complaint seeking an order of liquidation with a finding of insolvency against a member company at the same time that the complaint is filed with a court of competent jurisdiction;

- (2) Provide the association with a statement of the net direct written premiums of each member insurer upon request of the board of directors.

B. The commissioner may:

- (1) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of a member insurer that fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on a member insurer that fails to pay an assessment when due. The fine shall not exceed five percent (5%) of the unpaid assessment per month, except that a fine shall not be less than \$100 per month;
- (2) Revoke the designation of a servicing facility if the commissioner finds claims are being handled unsatisfactorily.
- (3) Examine, audit, or otherwise regulate the association.
- (4) If the Commissioner determines that any member insurer as defined in Section 5K above may be subject to a future delinquency proceeding under Article XIII of this Code (insert citation to the liquidation section of the Code), then in order to assist in the performance of the Commissioner's duties, the Commissioner may:
 - (i) share confidential and privileged documents, material, or information reported pursuant to an enterprise risk filing with the Association regarding that member insurer; and
 - (ii) share confidential and privileged documents, material, the contents of an examination report, a preliminary examination report or its results, or any matter relating there to, including working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or to any other person in the course of any examination with the Association regarding that member insurer.

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**PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION MODEL
ACT**

(iii) The Commissioner may disclose the information described in this subsection to the Association so long as the Association agrees in writing to hold that information confidential, in a manner consistent with this Code, and uses that information to prepare for the possible liquidation of the member insurer. Access to the information disclosed by the Commissioner to the Association under this subsection shall be limited to the Association's staff and its counsel. The Board of Directors of the Association may have access to the information disclosed by the Commissioner to the Association once the member insurer is subject to a delinquency proceeding under this Code (insert citation to the liquidation section) subject to any terms and conditions established by the Commissioner.

(iv) The Commissioner may disclose the information described in this subsection with Associations in other states, and with any organization of one or more state Associations of similar purposes, so long as the recipient of such information agrees in writing to hold that information confidential, in a manner consistent with this Code, and uses that information to prepare for the possible liquidation of the member insurer. Access to the information disclosed by the Commissioner under this subsection shall be limited to the Association's staff and its counsel. The Board of Directors of the Association may have access to the information disclosed by the Commissioner to the Association once the member insurer is subject to a delinquency proceeding under this Code (insert citation to the liquidation section) subject to any terms and conditions established by the Commissioner.

(v) Should the Commissioner determine a liquidation is likely, he or she may cooperate with the Association and with any organization of one or more state Associations of similar purposes to provide for an orderly transition to liquidation in order to minimize any delay in the handling and payment of claims.

(3)

Drafting Note: This section does not require periodic examinations of the guaranty associations but allows the commissioner to conduct examinations as the commissioner deems necessary.

- C. A final action or order of the commissioner under this Act shall be subject to judicial review in a court of competent jurisdiction.

NCIGF Recommended Changes to the NAIC Model Holding Company Act

Section 8. Confidential Treatment

- A. Documents, materials or other information in the possession or control of the Department of Insurance that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 6 and all information reported or provided to the Department of Insurance pursuant to Section 3B(12) and (13), Section 4, Section 5 and Section 7.1 are recognized by this state as being proprietary and to contain trade secrets, and shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.
- (1) For purposes of the information reported and provided to the Department of Insurance pursuant to Section 4L(2), the commissioner shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any NCIGF Recommended Changes to NAIC Model Holding Company Act group capital information received

from an insurance holding company supervised by the Federal Reserve Board or any U.S. group wide supervisor.

- (2) For purposes of the information reported and provided to the [Department of Insurance] pursuant to Section 4L(3), the commissioner shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the Federal Reserve Board and non-U.S. group wide supervisors.

Drafting Note: This group capital calculation and group capital ratio includes confidential information and filings received from insurance holding companies supervised by the Federal Reserve Board. Similarly, the liquidity stress test may include confidential information and filings received from insurance holding companies supervised by the Federal Reserve Board. The confidential treatment afforded to group capital calculation filings includes any Federal Reserve Board group capital filings and information.

- B. Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner or with whom such documents, materials or other information are shared pursuant to this Act shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Subsection A.
- C. In order to assist in the performance of the commissioner's duties, the commissioner:
 - (1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Subsection A, including proprietary and trade secret documents and materials with other state, federal and international regulatory agencies, with the NAIC, and with any third-party consultants designated by the commissioner, with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 7, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the legal authority to maintain confidentiality.
 - (2) Notwithstanding paragraph (1) above, the commissioner may only share confidential and privileged documents, material, or information reported pursuant to Section 4L(1) with commissioners of states having statutes or regulations substantially similar to Subsection A and who have agreed in writing not to disclose such information.

- (3) Notwithstanding paragraphs (1) and (2) above, the Commissioner may share confidential and privileged documents, material, or information reported pursuant to Section 4L(1) or otherwise described in paragraph A of this section with the [name of state property casualty insurance guaranty association] by any member insurer defined in [section in guaranty association act defining member insurer] if the Commissioner determines that the member insurer may be subject to a future delinquency proceeding under [provisions related to delinquency proceeding] of this Code. The Commissioner may disclose the information described in this subsection so long as the parties agree in writing to hold that information confidential, in a manner consistent with this Code, and use that information to prepare for a possible delinquency proceeding of the member insurer. Access to the information disclosed by the Commissioner to the [state guaranty fund] shall be limited to the [state guaranty fund's] staff and its counsel. The Board of Directors of the [state guaranty fund] may have access to the information disclosed by the Commissioner to the [state guaranty fund] once the member insurer is subject to a delinquency proceeding under [provisions relating to delinquency proceeding] of this Code subject to any terms and conditions established by the Commissioner.

The Commissioner may also, pursuant to this subsection, disclose the information described in this subsection with Associations in other states, and with any organization of one or more state Associations of similar purposes, so long as the recipient of such information agrees in writing to hold that information confidential, in a manner consistent with this Code, and uses that information to prepare for a possible delinquency proceeding of the member insurer. Access to the information disclosed by the Commissioner under this subsection shall be limited to the Association's staff and its counsel. The Board of Directors of the Association may have access to the information disclosed by the Commissioner to the Association once the member insurer is subject to a delinquency proceeding under this Code (insert citation to the liquidation section) subject to any terms and conditions established by the Commissioner.

Should the Commissioner determine that a delinquency proceeding is likely, he or she may cooperate with the Association and with any organization of one or more state Associations of similar purposes to provide for an orderly transition to liquidation in order to minimize any delay in the handling and payment of claims.

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MODEL LAW ON EXAMINATIONS

NCIGF Recommended Changes to Section in 5F

Section 5. Examination Reports

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F. Privilege for, and Confidentiality of Ancillary Information

(1) (a) Except as provided in Subsection E above and in this subsection, documents, materials or other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under this Act, or in the course of analysis by the commissioner of the financial condition or market conduct of a company shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner’s official duties.

(b) Documents, materials or other information, including, but not limited to, all working papers, and copies thereof, in the possession or control of the National Association of Insurance Commissioners and its affiliates and subsidiaries shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action if they are:

- (i) Created, produced or obtained by or disclosed to the National Association of Insurance Commissioners and its affiliates and subsidiaries in the course of the National Association of Insurance Commissioners and its affiliates and subsidiaries assisting an examination made under this Act, or assisting a commissioner in the analysis of the financial condition or market conduct of a company; or
 - (ii) Disclosed to the National Association of Insurance Commissioners and its affiliates and subsidiaries under Paragraph (3) of this subsection by a commissioner.
- (c) For the purposes of Paragraph (1)(b), “Act” includes the law of another state or jurisdiction that is substantially similar to this Act.
- (2) Neither the commissioner nor any person who received the documents, material or other information while acting under the authority of the commissioner, including the National Association of Insurance Commissioners and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials or information subject to Paragraph (1).
- (3) In order to assist in the performance of the commissioner’s duties, the commissioner:
 - (a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (1), with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication or other information;
 - (b) May receive documents, materials, communications or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as

confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; ~~and~~

- (c) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (1), with the [name of state property casualty guaranty association] regarding any member insurer defined in [section in guaranty association act defining member insurer] if the commissioner determines that the member insurer may be subject to a future delinquency proceeding under [provisions related to delinquency proceeding] of this Code. The commissioner may disclose the information described in this subsection so long as the parties agree in writing to hold that information confidential, in a manner consistent with this Code, and use that information to prepare for a future delinquency proceeding of a member insurer. Access to the information disclosed by the commissioner to the [state guaranty fund] shall be limited to the [state guaranty fund's] staff and its counsel. The Board of Directors of the [state guaranty fund] may have access to the information disclosed by the Commissioner to the [state guaranty fund] once the member insurer is subject to a delinquency proceeding under [provisions relating to delinquency proceeding] of this Code subject to any terms and conditions established by the commissioner.

The commissioner may also, pursuant to this subsection (3)(c), disclose the information described in this subsection with Associations in other states, and with any organization of one or more state Associations of similar purposes, so long as the recipient of such information agrees in writing to hold that information confidential, in a manner consistent with this Code, and uses that information to prepare for -a possible delinquency proceeding of the member insurer. Access to the information disclosed by the commissioner under this subsection shall be limited to the Association's staff and its counsel. The Board of Directors of the Association may have access to the information disclosed by the commissioner to the Association once the member insurer is subject to a delinquency proceeding under this Code (insert citation to the liquidation section) subject to any terms and conditions established by the commissioner.

Should the commissioner determine that a delinquency proceeding is likely, he or she may cooperate with the Association and with any organization of one or more state Associations of similar purposes to provide for an orderly transition to liquidation in order to minimize any delay in the handling and payment of claims.

- (d) ~~[Optional provision]~~ And mMay enter into agreements governing sharing and use of information consistent with this subsection.

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DRAFT 3-18-22**MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (“MOU”) is among the [state] Department of Insurance (“DOI”), the [Receiver of the insolvent company – if appointed] and the [guaranty fund in the state of domicile of the troubled company, the other insurance guaranty funds which have executed this agreement (collectively “Guaranty Funds”) and the National Conference of Insurance Guaranty Funds.(NCIGF)

Definitions:

- 1.1 “Agreement” or “MOU” refers to this Memorandum of Understanding;
- 1.2 “Confidential Information” refers to any:
 - a) documents, data or other information relating to any domestic insurance company in the State of [state] where the Commissioner has determined that the financial condition of such company creates a material risk of Receivership that are not publicly available or public records, whether written or not, including but not limited to claims files and data; financial analyses, modeling and projections; trade secrets, technical processes and know-how; agency agreements, arrangements, accounts, proposals, lists, and other information; policyholder lists and information; costs and pricing information; internal procedures, strategies and plans; and computer programs;
 - b) work product or other information regarding any such Company that is confidential and/or privileged; and
 - c) communications between the Parties regarding any potential or pending legal actions involving any such company that is a threat to such companies’ solvency.
- 1.3 “Evaluation Material” refers to all information, oral or written, including but not limited to Confidential Information as defined herein, that is furnished to Guaranty Funds or NCIGF under the terms of this Agreement, and all analyses, compilations, studies, or other materials prepared by Guaranty Funds or NCIGF containing or based in whole or in part upon such information.
- 1.4 “Company or Companies” refers to any domestic property and casualty insurance company in the State of [state] where the Commissioner has determined the financial condition of such company creates a material risk of receivership.
- 1.5 “Commissioner” refers to the Commissioner of Insurance of the State of [state].
- 1.6 “Party” and “Parties” refer to the Commissioner, the Receiver, if appointed, the signatory Guaranty Funds and the NCIGF.
- 1.7 “Receivership Court” refers to the [court with jurisdiction over the receivership]
- 1.8 “Receivership” refers to the rehabilitation or liquidation of any domestic insurance

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company in the State of [state].

- 1.9 “Receiver” refers to [name of deputy receiver if appointed] or any of his or her successors.
- 1.10 “Covered Claim” shall have the same meaning as contained in the applicable statutes of the Guaranty Funds.

II. Recitals

- 2.1 The Commissioner is responsible for the financial regulation of Companies. From time-to-time the financial condition of one or more of such Companies creates a material risk of Receivership.
- 2.2 Should a Receivership occur of a Company, the Commissioner will appoint a special deputy receiver who will be responsible for the handling of such Receivership.
- 2.3 If the Receivership of a Company includes an order of liquidation with a finding of insolvency, the Guaranty Funds will have the responsibility for the payment of “Covered Claims” arising from such Receivership.
- 2.4 The Parties agree that in order to properly prepare for any Receivership, to provide for a smooth transition to liquidation should it become required, and in order to avoid delay in the payment of “Covered Claims,” it is essential to share Confidential Information among them with respect to any Company the Commissioner determines is at material risk of Receivership.
- 2.5 It is agreed by the Parties that, subject to the Commissioner’s discretion, the Commissioner can freely consult with the Receiver (if appointed), the Guaranty Funds, and NCIGF, with respect to any Company, including but not limited to, the dissemination of Confidential Information and Evaluation Material as defined herein. It is understood that such consultations are to be held in strictest confidence and the Commissioner may, in his or her discretion, withhold the name of the Company being discussed from the Guaranty Funds and the NCIGF.
- 2.6 The Guaranty Funds have determined that in order to protect consumers and to better fulfill their mission (*see* cite to applicable Guaranty Funds’ statutes) it is necessary and proper for them to enter into this Agreement and likewise it is necessary and proper for the NCIGF, as a membership organization that supports the Guaranty Funds in their mission, to enter into this Agreement. The DOI and Receiver have determined that this Agreement enables them to better serve the insurance consumers in [involved states] and to better protect them from the adverse consequences of a Company liquidation.

III. Use and Treatment of Evaluation Material

- 3.1 Subject to the terms of this Agreement, the Commissioner and Receiver will grant the Guaranty Funds and NCIGF Evaluation Material as they determine is appropriate. The

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Evaluation Material shall be used by the Guaranty Funds and NCIGF to determine potential obligations of the Guaranty Funds, prepare for the possible assumption of such obligations, and to perform such statutory obligations in the event they become obligated to pay “Covered Claims” under policies of insurance issued by a Company. The Guaranty Funds and NCIGF shall be allowed to copy such Evaluation Material for their own use consistent with the terms of this Agreement.

- 3.2 The Guaranty Funds and the NCIGF agree to maintain the confidentiality of all Evaluation Material provided to them, and of any privileges with respect to such information. The Guaranty Funds and the NCIGF agree not to disclose any Evaluation Material to any person or entity, except as expressly provided herein.
- 3.3 The Guaranty Funds and the NCIGF may share Evaluation Material with their respective counsel, consultants or agents as it deems necessary, provided that such persons agree to comply with terms of this Agreement, including but not limited to the remedies provided under Part IV. In the event of a breach of this Agreement by any person to whom Evaluation Material has been provided, the Party or Parties providing such information shall also remain liable for the breach.
- 3.4 The Guaranty Funds and the NCIGF agree that no Evaluation Material shall be provided to any insurance companies or the owners, directors, officers, employees, agents, representatives, or affiliates of any insurance companies, except as necessary to discharge statutory duties, for official action or consideration by the Board of Directors.
- 3.5 In the event that the Guaranty Funds or the NCIGF are served with process seeking the production of Evaluation Material, including but not limited to a subpoena or order of a court of competent jurisdiction, an investigation by a government entity, or discovery demand issued in connection with any action, the Guaranty Funds and NCIGF, as appropriate, shall notify the Commissioner and Receiver in writing as promptly as practicable. The Guaranty Funds and NCIGF, as appropriate, shall take reasonable actions to protect the confidentiality and, if applicable, the privileged status of such information, unless otherwise requested by the Commissioner or the Receiver. If a protective order or other remedy is not obtained prior to the date that compliance with the request is legally required, the Guaranty Funds and the NCIGF, as appropriate, will furnish only that portion of the Evaluation Material or take only such action as is legally required.

IV. Remedies

- 4.1 The Guaranty Funds and the NCIGF agree that money damages would not be a sufficient remedy for a breach of this Agreement, and that the Commissioner or Receiver shall be entitled to equitable relief, including injunctive relief, as a remedy for such breach. Such remedy shall be in addition to all other remedies available at law or in equity, and shall not be deemed the exclusive remedy for a breach of this Agreement. Any action to enforce this Agreement shall be brought in the [appropriate court for the proceeding].
- 4.2 In the event of an action alleging a breach of this Agreement, the prevailing party shall be

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entitled to reimbursement for its reasonable attorney's fees. Any attorney's fees awarded to the Guaranty Funds or the NCIGF shall be handled as an administrative expense in the proceeding, subject to [cite to applicable law]. Any attorney's fees awarded to the Commissioner or Receiver shall be paid from the Guaranty funds and NCIGF's funds, and shall not be submitted as a claim in the proceeding.

- 4.3 No failure or delay by any Party in exercising any right, power or privilege shall operate as a waiver thereof. Any exercise of a right, power or privilege shall not be considered to preclude any other or further exercise thereof.
- 4.4 There shall be no liability on the part of the Commissioner or Receiver or the Company(ies) to the Guaranty Funds or NCIGF relating to or arising from the Evaluation Material or any other documents, material, information or communications provided under this Agreement.

V. Warranties and Representations

- 5.1 The Commissioner, the Guaranty Funds, and the NCIGF to the extent consistent with their statutory and other obligations, shall in good faith cooperate and communicate promptly with each other with respect to the performance of their duties under this Agreement.
- 5.2 The Guaranty Funds and the NCIGF represent that they have the authority to enter into this Agreement and fulfill their obligations under this Agreement.
- 5.3 Each undersigned person represents that he or she is authorized to sign this Agreement on behalf of the Party he or she represents.
- 5.4 The Guaranty Funds and the NCIGF understand and acknowledge that the Commissioner or Receiver makes no representations or warranties as to the accuracy or completeness of any Evaluation Material provided under this Agreement.

VI. Termination

- 6.1 This Agreement may be terminated at any time by agreement among the Parties or by any single Party in writing with 30 days' notice, provided that all Evaluation Material obtained prior to such termination shall remain confidential, unless otherwise agreed by the Parties, and except as otherwise provided by law. Further, this Agreement shall be terminated upon a determination in writing by the Commissioner or the Receiver that the Company no longer presents a material risk of Receivership.
- 6.2 The Guaranty Funds and the NCIGF are permitted to use Evaluation Material in the manner and for purposes described herein until delivery by the Receiver or Commissioner of a written notice specifying the date of termination of this Agreement. Upon a receivership order wherein one or more Guaranty Funds are triggered this Agreement shall terminate in all respects without the obligation to destroy Evaluation material or maintain it as confidential.

DRAFT 3-18-22

6.3 Except as provided in Paragraph 6.2, in the event of a termination of this Agreement, the Guaranty Funds and NCIGF shall immediately undertake to destroy all Evaluation Materials, and all copies, summaries, analyses and notes of the contents or parts thereof, and shall provide an affidavit attesting to the destruction of all such Evaluation Materials being provided to the Receiver, if appointed, and the Commissioner within 30 days after termination, and no part thereof shall be retained by the Guaranty Funds or NCIGF in any form without the prior written consent of the Commissioner or Receiver.

VII. Miscellaneous Provisions

7.1 Nothing in this Agreement shall be deemed to create an attorney-client relationship between any Party’s counsel and any other Party.

7.2 This Agreement shall be governed by and construed in accordance with the laws of the State of [state of domicile of the insolvency].

7.3 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes, and all of which together shall constitute one and the same instrument.

7.4 This Agreement shall be effective upon the date signed by each party and shall also apply to any and all Evaluation Material that has previously been shared between the Parties.

7.5 All communications under this Agreement shall be in writing and shall be sent by email to the addresses specified below. A copy of any such notice shall also be personally delivered or sent by either first class registered or certified U.S. Mail, return receipt requested, postage prepaid, or by a bonded mail delivery service, to the address set out below:

The Commissioner:
[name, address, phone, email address]

The Receiver:
[name, address, phone, email address]

Guaranty Funds:

[list of contact information for signatory funds]

7.6 The Parties agree to meet periodically, at least annually, to discuss issues arising under this Agreement and its implementation with respect to any specific Company.

[SIGNATURES OF PARTIES ON FOLLOWING PAGES]

DRAFT 3-18-22

IN WITNESS WHEREOF, the Parties have executed this Agreement on this ____ day of _____, 2019:

Commissioner

By: _____
Its: _____
Date: _____

Receiver (if appointed)

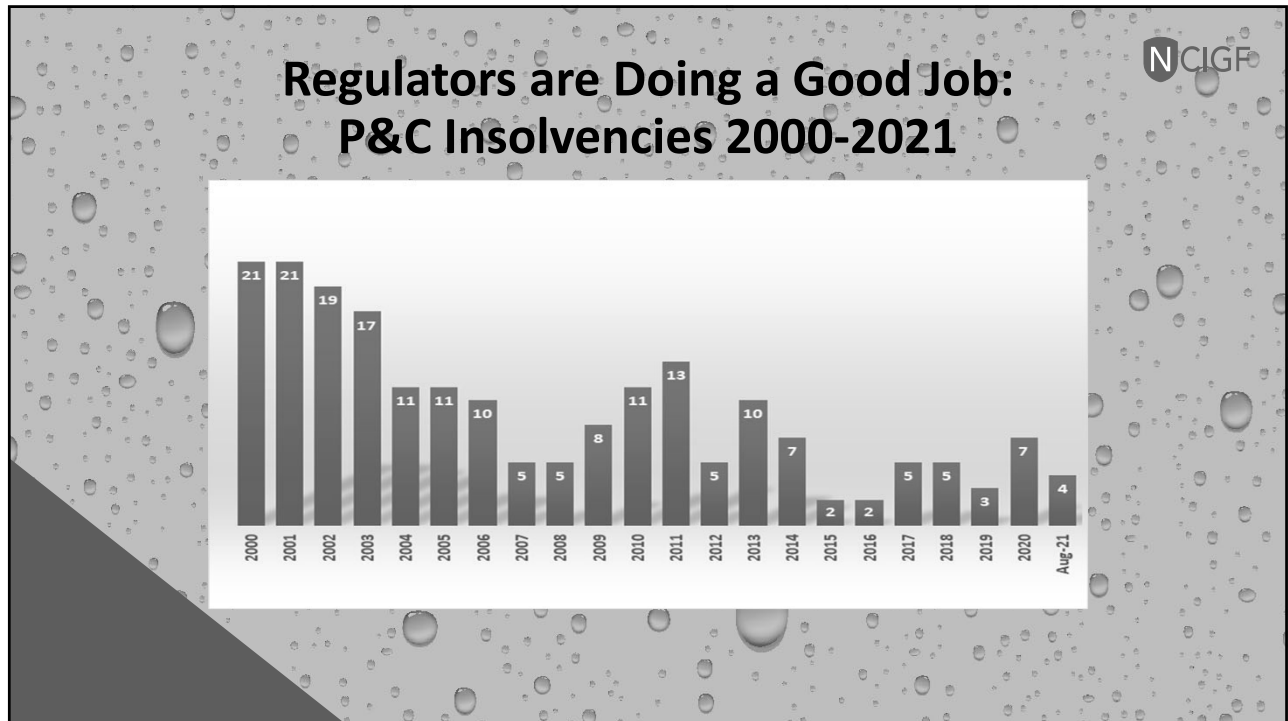
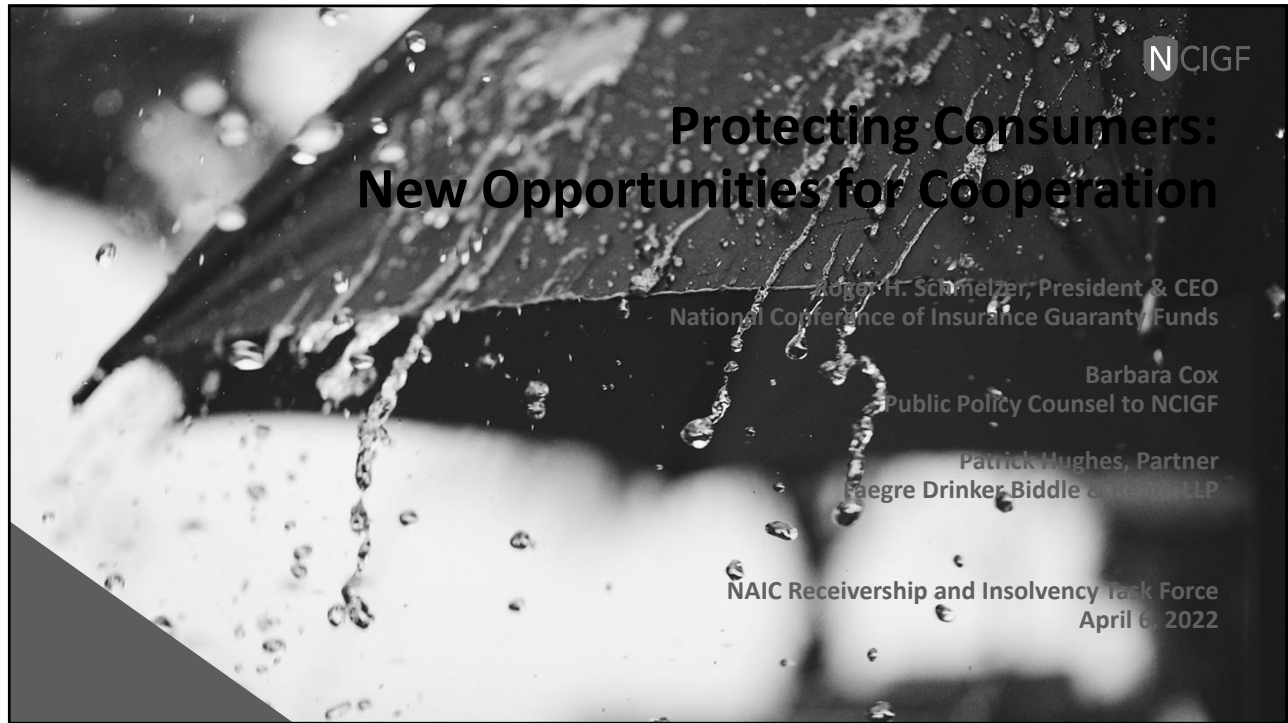
By: _____
Its: _____
Date: _____

NCIGF:

By: _____
Its: _____
Date: _____

Guaranty Fund:

Separate signature pages may be appropriate.



The Short Runway Insolvency is an Outdated Biz Model for the Protection of Insurance Consumers

The few companies that fail are more complex than ever:

- Multi-state, multi-line carriers
- High volume of electronic claims files
- Claims operations delegated to TPAs/Multiple IT systems
- Limited specialized insolvency data management expertise due to fewer insolvencies

The Need

Consistent and timely transfer of usable claims data via UDS to guaranty funds and receivers at the time of insolvency

Achieved through enhanced PRE-LIQUIDATION coordination (Regulators/Receivers/Guaranty Funds)

- ✓ Smooth, seamless (as possible) transitions are important for the reputation of the U.S. state regulatory system
- ✓ Delay and appearance of chaos undermines stakeholder confidence

Public Policy & Technology Solutions Exist

Level Setting: UDS

- ✓ Specialized NAIC Communications Protocol developed for GFs and Receivers to read and process claims
- ✓ Not an industry standard, but regulator approved; data must be converted for receivers and guaranty funds to meet their statutory obligations to consumers—this can be tricky.
- ✓ NCIGF has developed and maintains Data Mapper and SUDS, the support software for UDS

UDS-Back to the Receiver: Monthly, Quarterly and Annual Reporting from GFs

<u>Urgency</u>	<u>Impediments</u>
<ul style="list-style-type: none"> ✓ Ongoing periodic benefits for workers compensation claimants ✓ In auto claims, essential transportation for work or medical needs ✓ Smooth, seamless as possible, transitions are important for the reputation of the US state regulatory system ✓ Delay and appearance of chaos is never good 	<ul style="list-style-type: none"> ✓ Files controlled by third parties using various data systems ✓ Third parties may not treat transition with the same urgency as receivers and Gas ✓ As liquidation is imminent, TPA may be laying off people due to loss of business ✓ High volume of data – imaged files – takes time to transition ✓ Antiquated Data systems

The Technology Solution




NCIGF MEMBERS HAVE INVESTED HEAVILY IN THESE COMPETENCIES AND ESTABLISHED A SUBSIDIARY (GSI) TO ASSIST RECEIVERS WITH THE EXTRACTION AND CONVERSION OF CLAIMS DATA TO UDS



NCIGF AND GSI CAN STEP IN AT THE EARLY, CHAOTIC, BUT CRUCIALLY IMPORTANT PARTS OF AN INSOLVENCY. WE MAKE SURE DATA GETS WHERE IT NEEDS TO GO, THEN STEP AWAY ONCE THE TRANSITION BECOMES MORE ORDERLY



ESSENTIAL TO MAKING THIS WORK FOR ALL PARTIES IS DELIVERY OF THESE SERVICES THROUGH A LEGALLY SEPARATE SUBSIDIARY TO MITIGATE CLAIMS-PAYING RESPONSIBILITIES TO NCIGF AND ITS MEMBER GUARANTY FUNDS



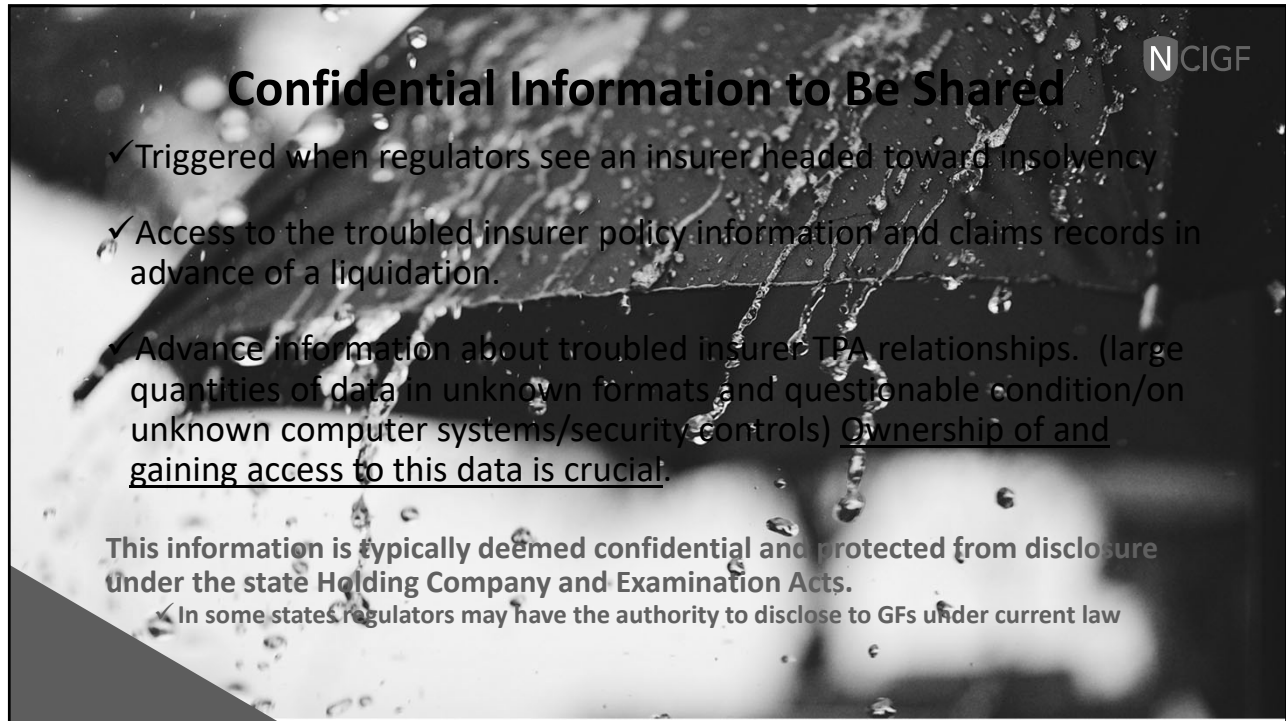
The Public Policy Solution

A Confidential Exchange of Fundamental Information

- Regulators, Receivers & GFs
- Well Before the Liquidation Order is Signed

Advantages

- ✓ Regulators can gain valuable insight into data transition readiness and complex product lines
- ✓ GFs involved can more fully prepare to pay claimants
- ✓ Receivers will have usable data sooner in order to track reinsurance recoveries and process POCs.



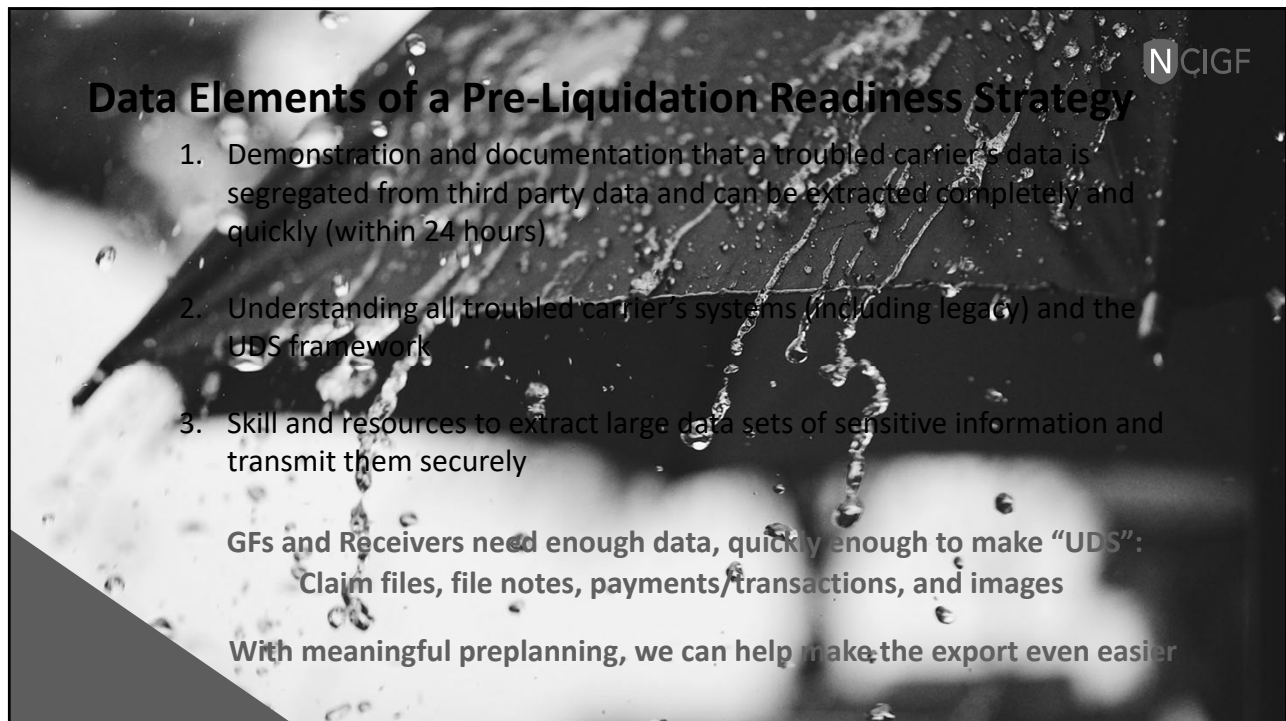
NCIGF

Confidential Information to Be Shared

- ✓ Triggered when regulators see an insurer headed toward insolvency
- ✓ Access to the troubled insurer policy information and claims records in advance of a liquidation.
- ✓ Advance information about troubled insurer TPA relationships. (large quantities of data in unknown formats and questionable condition/on unknown computer systems/security controls) Ownership of and gaining access to this data is crucial.

This information is typically deemed confidential and protected from disclosure under the state Holding Company and Examination Acts.

- ✓ In some states regulators may have the authority to disclose to GFs under current law



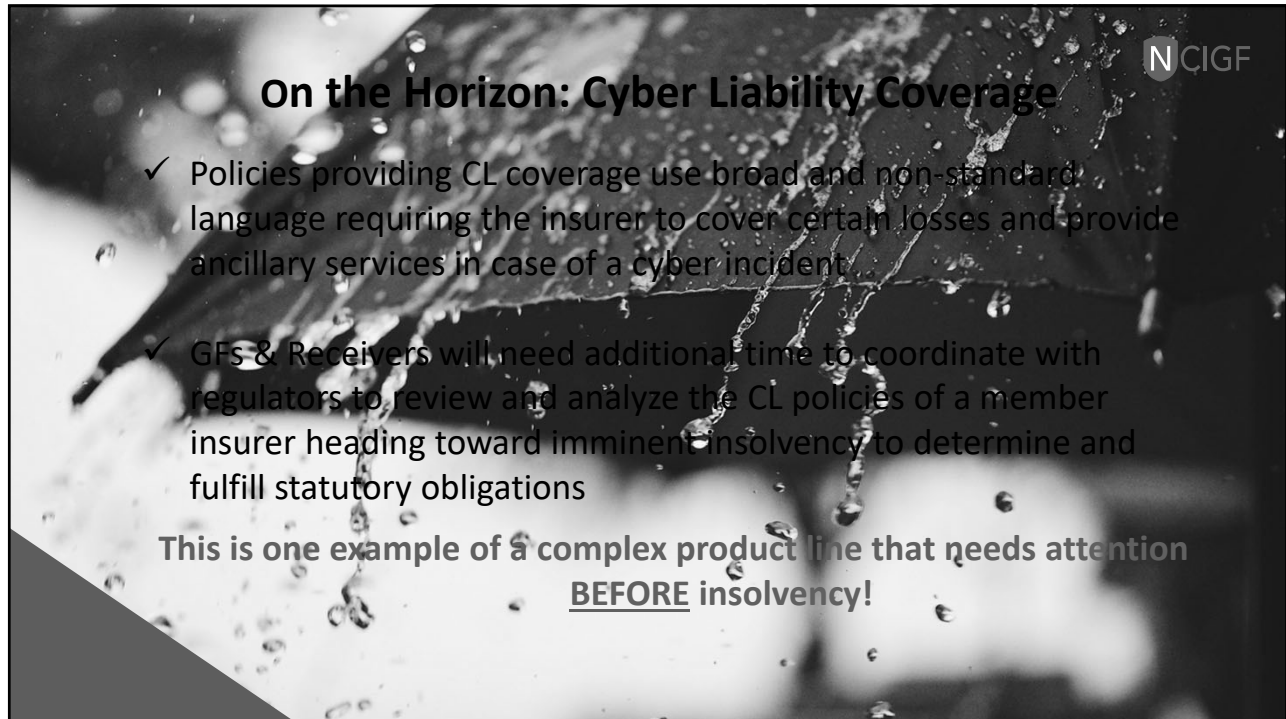
NCIGF

Data Elements of a Pre-Liquidation Readiness Strategy

1. Demonstration and documentation that a troubled carrier's data is segregated from third party data and can be extracted completely and quickly (within 24 hours)
2. Understanding all troubled carrier's systems (including legacy) and the UDS framework
3. Skill and resources to extract large data sets of sensitive information and transmit them securely

GFs and Receivers need enough data, quickly enough to make "UDS":
Claim files, file notes, payments/transactions, and images

With meaningful preplanning, we can help make the export even easier



On the Horizon: Cyber Liability Coverage

- ✓ Policies providing CL coverage use broad and non-standard language requiring the insurer to cover certain losses and provide ancillary services in case of a cyber incident.
- ✓ GFs & Receivers will need additional time to coordinate with regulators to review and analyze the CL policies of a member insurer heading toward imminent insolvency to determine and fulfill statutory obligations

This is one example of a complex product line that needs attention **BEFORE** insolvency!



Developments Moving the Needle

2021 Holding Company Act Changes Already Adopted by the NAIC As a Result of a Referral from RITF!

- ✓ More controls on affiliated companies holding claims data and other essential information.
- ✓ IT Examination Working Group has adopted additional steps for the examination structure to address new holding company law requirements.

Combined with new requirements for TPA UDS competency @ appropriate RBC level, these are critical readiness tactics already in place

We Have Proposed A Next Step NCIGF

NAIC model law amendments or guidance to facilitate pre-receivership cooperation and coordination

- ✓ Further revisions to state holding company laws and regulations, exam laws and guaranty fund acts in some states. Others could do this with a memorandum of understanding (MOU) providing for and preserving confidentiality.
- ✓ Information sharing would improve cooperation and coordination
- ✓ Addresses our mutual interest of protecting insurance consumers
- ✓ NCI GF has amendments and a draft MOU ready for consideration

Traction: 2022 Proposals in IL & CA based on the NCI GF amendments

How it Would Work NCIGF

Once a Regulator makes a finding of insolvency and subsequent liquidation in the next 3-12 months, we recommend the following:

- Step 1:** Regulator schedules initial meeting with GF manager (no documents necessary)
- Step 2:** First meeting covered by statute being proposed or an MOU (if delinquency proceeding is highly likely then detailed confidentiality agreement is required to move forward)
- Step 3:** GFs begin review of claim data, policy information and other documents to prepare for an orderly transfer
- Step 4:** Regulator and GF manager develops plan for transition to liquidation (other GFs may be involved)
- Step 5:** GFs can advise Regulator on condition and location of data which may be useful to Regulator in deciding when to sign liquidation order

Much of this could be done during a rehabilitation period if there is sufficient time and access

Protecting Communications, Part I

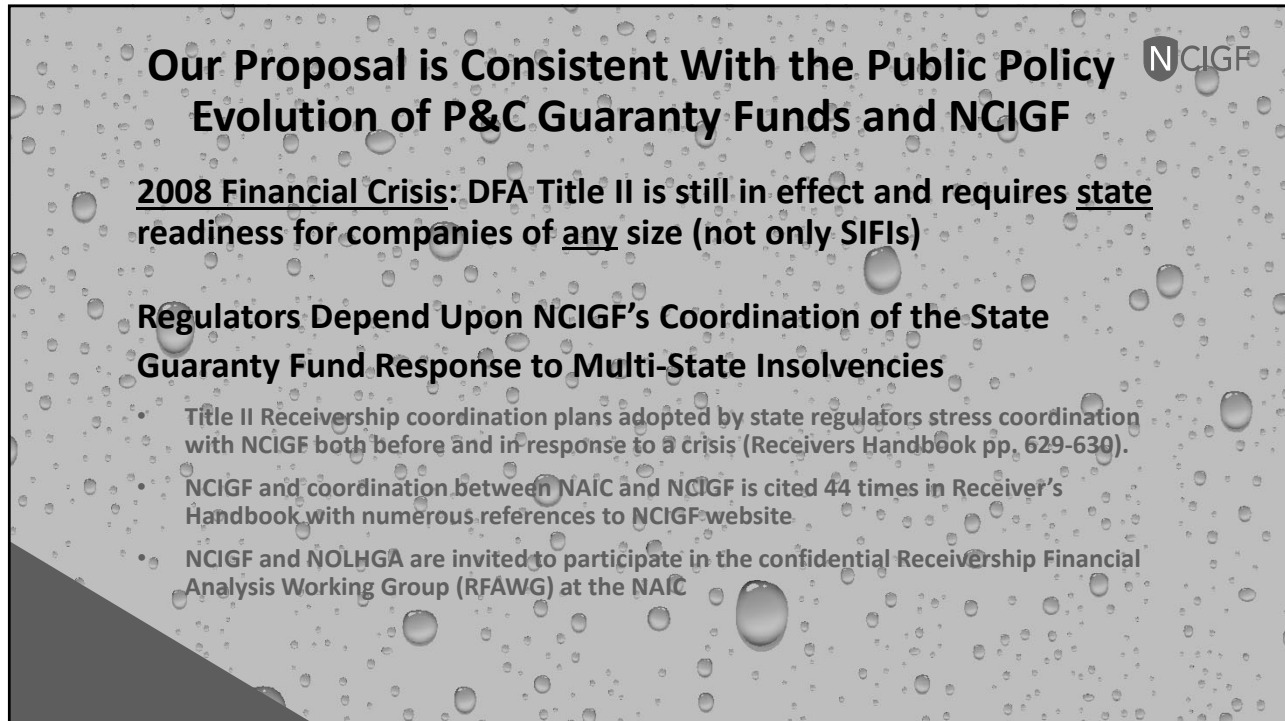


- ✓ Guaranty Funds have a huge incentive to maintain confidentiality.
- ✓ Guaranty Funds understand the sensitivity of this information and the need to keep it confidential
- ✓ Guaranty Funds have a proven track record with confidential agreements with Receivers that are standard for every rehabilitation/liquidation
- ✓ NOLHGA and the life funds have been collaborating closely at the troubled company level for several years.
- ✓ The role of the property casualty funds (and NCIGF) may differ, but this precedent matters and demonstrates feasibility.

Protecting Communications, Part II



- ✓ MOU extends the confidentiality required by the statute to any guaranty fund receiving the information
- ✓ MOU could be an alternative approach where states have this authority under current law
- ✓ Our model MOU can be tailored to address any specific confidentiality concerns
- ✓ Confidential information will NOT be shared with state Board members until such time there is a public court proceeding



NCIGF

Our Proposal is Consistent With the Public Policy Evolution of P&C Guaranty Funds and NCIGF

2008 Financial Crisis: DFA Title II is still in effect and requires state readiness for companies of any size (not only SIFIs)

Regulators Depend Upon NCIGF's Coordination of the State Guaranty Fund Response to Multi-State Insolvencies

- Title II Receivership coordination plans adopted by state regulators stress coordination with NCIGF both before and in response to a crisis (Receivers Handbook pp. 629-630).
- NCIGF and coordination between NAIC and NCIGF is cited 44 times in Receiver's Handbook with numerous references to NCIGF website
- NCIGF and NOLHGA are invited to participate in the confidential Receivership Financial Analysis Working Group (RFAWG) at the NAIC



NCIGF

Thank You For Your Time! This Conversation is Underway

- ✓ Constructive & collaborative
- ✓ Readiness in general, data transfer specifically
- ✓ Goal: A near seamless safety net for consumers
- ✓ Strengthen state insurance regulation

We Are on the Same Team!

Roger H. Schmelzer, President & CEO
NCIGF
rschmelzer@ncigf.org

EXPOSURE DRAFT 07/18/22

BACKGROUND OF THE
MEMORANDUM OF UNDERSTANDING

When a property & casualty insurer is liquidated, our regulatory system mitigates the adverse effects on policyholders and claimants through the state insurance resolution system. This system includes the coordinated management of the liquidation and wind down of the insurance company, in accordance with the state’s receivership laws, and the payment of statutorily defined “covered claims” by the state guaranty fund system. In today’s technological world, the insurance financial regulators, insurance receivers and the guaranty funds need advance planning for the transition from a troubled insurance company to liquidation.

This model Memorandum of Understanding (“MOU”) is flexible and can be tailored the individual state insurance department and the specific troubled property and casualty insurer situation.

The MOU is intended to be used to facilitate transitional planning and preparation, starting when a troubled property and casualty insurer faces a material risk of being liquidated as insolvent¹. Such a liquidation creates various obligations for the insurance receiver and triggers the guaranty funds’ statutory duties to pay “covered claims.” One goal of this transitional planning is to ensure that the guaranty funds are prepared and have the appropriate information necessary to assume their statutory duties to protect policy claimants promptly upon liquidation. Another important goal of this early estate planning process is to facilitate the receiver’s duties upon liquidation, which include transition of claims to the guaranty funds, marshalling the remaining company assets and resolving claims against the insurer.

This planning process necessarily involves the sharing of confidential information about the troubled company that is protected by statutory confidentiality and privilege provisions. The parties sharing such information intend that it stay confidential and privileged and that no such protection be waived. This MOU is intended to document an agreement to that effect. The parties are the (1) Commissioner, (2) the insurance receiver if appointed (and who may be added later) or a standing insurance receivership office, if applicable, (3) the potentially triggered guaranty funds, and (4) the National Conference of Insurance Guaranty Funds (“NCIGF”).² If separate from a state’s receivership office, the state’s insurance financial regulatory office could also be a party to the MOU, as the MOU can be tailored to the specific state.

The MOU provides that all non-public planning information provided to the guaranty funds under it shall be kept confidential, with the protective mechanism to maintain confidentiality spelled out. Specifically, confidential information initially may only to be shared with NCIGF and guaranty fund staff, agents, and counsel and, importantly, *may only be used for purposes of planning for liquidation of the troubled company*. Confidential information will not be shared with industry representatives who sit on or participate in a guaranty fund’s Board of Directors until such time as the information is necessary for the Board to discharge statutory duties or consider or take for official action. Confidential information received by the Insurance Commissioner pursuant to its examination authority, which based upon NAIC Model 390 typically is “confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action,” is as shared agreed to retain such privileged status, particularly given the common interest of the parties in the MOU in facilitating the

¹ This model MOU is intended for use with only property and casualty receiverships. Life and health guaranty associations utilize confidentiality, and joint and common interest agreements, to gain access to information in the event of receivership, when necessary.

² See <https://www.ncigf.org/>. In general, the legal relationships between the troubled company and the regulatory authorities will be governed comprehensively by appropriate statutes and regulations in the state insurance code, thus generally there is no need for the troubled company be a party to the MOU. There may be, however, considerations in particular cases where it would be prudent to add the troubled company as a party, particularly if slow or incomplete compliance with disclosure and reporting requirements are an issue. For example, additional enforcement mechanisms could be added and troubled company cooperation with the prospective receiver and the guaranty funds could be spelled out in more detail.

EXPOSURE DRAFT 07/18/22

prospective liquidation proceedings and the insurance resolution mechanism. As further protection for the privileged status of such confidential information, the guaranty funds are obligated under the MOU to defend against any attempt to discover any confidential or privileged information shared with them and to notify the other parties to the MOU of discovery or disclosure request.

The proposed MOU is a template that contains the essential terms of a confidential information sharing agreement and can easily be customized to address specific issues that may arise in the course of addressing troubled company concerns and in planning for liquidation.

EXPOSURE DRAFT 07/18/22

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is among the [state] Department of Insurance (“DOI”), the [Receiver of the insolvent company – if appointed] and the [guaranty fund in the state of domicile of the troubled company, the other insurance guaranty funds which have executed this agreement (collectively “Guaranty Funds”) and the National Conference of Insurance Guaranty Funds.(NCIGF)

Definitions:

- 1.1 “Agreement” or “MOU” refers to this Memorandum of Understanding;
- 1.2 “Confidential Information” refers to any:
 - a) documents, data or other information relating to any domestic insurance company in the State of [state] where the Commissioner has determined that the financial condition of such company creates a material risk of Liquidation that are not publicly available or public records, whether written or not, including but not limited to claims files and data; financial analyses, modeling and projections; trade secrets, technical processes and know-how; agency agreements, arrangements, accounts, proposals, lists, and other information; policyholder lists and information; costs and pricing information; internal procedures, strategies and plans; and computer programs;
 - b) work product or other information regarding any such Company that is confidential and/or privileged;
 - c) communications between the Parties regarding any potential or pending legal actions involving any such company that is a threat to such companies’ solvency; and
 - d) specifically contemplates information received by the Insurance Commissioner pursuant to its examination authority [insert state adoption of NAIC Model Law 390], which is “confidential by law confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.”
- 1.3 “Evaluation Material” refers to all information, oral or written, including but not limited to Confidential Information as defined herein, that is furnished to Guaranty Funds or NCIGF under the terms of this Agreement, and all analyses, compilations, studies, or other materials prepared by Guaranty Funds or NCIGF containing or based in whole or in part upon such information. “Evaluation Material” includes but is not limited to information on the financial condition of the company, information data systems utilized and condition of the data, location of data files, involved third party administrators, UDS test files that may be created, policy forms – especially those for unique or complex lines of business, company organization charts, claims counts and liability amounts by line and by state, and lists of cases in trial, attorney contacts and any other information appropriate to enable the Guaranty Funds to fulfill their statutory duties upon liquidation. This material shall be updated from time to time as appropriate.
- 1.4 “Company or Companies” refers to any domestic property and casualty insurance company in the State of [state] where the Commissioner has determined the financial condition of such company creates a material risk of Liquidation.
- 1.5 “Commissioner” refers to the Commissioner of Insurance of the State of [state].

EXPOSURE DRAFT 07/18/22

- 1.6 “Party” and “Parties” refer to the Commissioner, the Receiver, if appointed, the signatory Guaranty Funds and the NCIGF.
- 1.7 “Receivership Court” refers to the [court with jurisdiction over the receivership]
- 1.8 “Receivership” refers to the rehabilitation or liquidation of any domestic insurance company in the State of [state].
- 1.9 “Receiver” refers to [name of deputy receiver if appointed] or any of his or her successors.
- 1.10 “Covered Claim” shall have the same meaning as contained in the applicable statutes of the Guaranty Funds.

II. Recitals

- 2.1 The Commissioner is responsible for the financial regulation of Companies. From time-to-time the financial condition of one or more of such Companies creates a material risk of Liquidation.
- 2.2 Should a Receivership occur of a Company, the Commissioner may appoint a special deputy receiver who will be responsible for the handling of such Receivership.
- 2.3 If the Receivership of a Company includes an order of liquidation with a finding of insolvency or if other statutory requirements are met, the Guaranty Funds will have the responsibility for the payment of “Covered Claims” arising from such Receivership.
- 2.4 The Parties agree that in order to properly prepare for any Receivership, to provide for a smooth transition to liquidation should it become required, and in order to avoid delay in the payment of “Covered Claims,” it is essential to share Confidential Information among them with respect to any Company the Commissioner determines is at material risk of Liquidation.
- 2.5 It is agreed by the Parties that, subject to the Commissioner’s discretion, the Commissioner can freely consult with the Receiver (if appointed), the Guaranty Funds, and NCIGF, with respect to any Company, including but not limited to, the dissemination of Confidential Information and Evaluation Material as defined herein. It is understood that such consultations are to be held in strictest confidence and the Commissioner may, in his or her discretion, withhold the name of the Company being discussed from the Guaranty Funds and the NCIGF.
- 2.6 The Guaranty Funds have determined that in order to protect consumers and to better fulfill their mission (*see* cite to applicable Guaranty Funds’ statutes) it is necessary and proper for them to enter into this Agreement and likewise it is necessary and proper for the NCIGF, as a membership organization that supports the Guaranty Funds in their mission, to enter into this Agreement. The DOI and Receiver have determined that this Agreement enables them to better serve the insurance consumers in [involved states] and to better protect them from the adverse consequences of a Company liquidation.

III. Use and Treatment of Evaluation Material

- 3.1 Subject to the terms of this Agreement, the Commissioner and Receiver will grant the Guaranty Funds and NCIGF access to Evaluation Material as they determine is appropriate. The Evaluation Material shall be used by the Guaranty Funds and NCIGF to determine potential obligations of the Guaranty Funds, prepare for the possible assumption of such obligations, and to perform such

EXPOSURE DRAFT 07/18/22

- statutory obligations in the event they become obligated to pay “Covered Claims” under policies of insurance issued by a Company. The Guaranty Funds and NCIGF shall be allowed to copy such Evaluation Material for their own use consistent with the terms of this Agreement.
- 3.2 The Guaranty Funds and the NCIGF agree to maintain the confidentiality of all Evaluation Material provided to them, and of any privileges with respect to such information. The Guaranty Funds and the NCIGF agree not to disclose any Evaluation Material to any person or entity, except as expressly provided herein.
- 3.3 The Guaranty Funds and the NCIGF may share Evaluation Material with their respective counsel, consultants or agents as they deem necessary, provided that such persons agree to comply with terms of this Agreement, including but not limited to the remedies provided under Part IV. In the event of a breach of this Agreement by any person to whom Evaluation Material has been provided, the Party or Parties providing such information shall also remain liable for the breach.
- 3.4 The Guaranty Funds and the NCIGF agree that no Evaluation Material shall be provided to any insurance companies or the owners, directors, officers, employees, agents, representatives, or affiliates of any insurance companies, except as necessary to discharge statutory duties, for official action or consideration by the Board of Directors.
- 3.5 In the event that the Guaranty Funds or the NCIGF are served with process seeking the production of Evaluation Material, including but not limited to a subpoena or order of a court of competent jurisdiction, an investigation by a government entity, or discovery demand issued in connection with any action, the Guaranty Funds and NCIGF, as appropriate, shall notify the Commissioner and Receiver in writing as promptly as practicable. The Guaranty Funds and NCIGF, as appropriate, shall take reasonable actions to protect the confidentiality and, if applicable, the privileged status of such information, unless otherwise requested by the Commissioner or the Receiver. If a protective order or other remedy is not obtained prior to the date that compliance with the request is legally required, the Guaranty Funds and the NCIGF, as appropriate, will furnish only that portion of the Evaluation Material or take only such action as is legally required.

IV. Remedies

- 4.1 The Guaranty Funds and the NCIGF agree that money damages would not be a sufficient remedy for a breach of this Agreement, and that the Commissioner or Receiver shall be entitled to equitable relief, including injunctive relief, as a remedy for such breach. Such remedy shall be in addition to all other remedies available at law or in equity, and shall not be deemed the exclusive remedy for a breach of this Agreement. Any action to enforce this Agreement shall be brought in the [appropriate court for the proceeding].
- 4.2 In the event of an action alleging a breach of this Agreement, the prevailing party shall be entitled to reimbursement for its reasonable attorney’s fees. Any attorney’s fees awarded to the Guaranty Funds or the NCIGF shall be handled as an administrative expense in the proceeding, subject to [cite to applicable law]. Any attorney’s fees awarded to the Commissioner or Receiver shall be paid from the Guaranty funds and NCIGF’s funds, and shall not be submitted as a claim in the proceeding.
- 4.3 No failure or delay by any Party in exercising any right, power or privilege shall operate as a waiver thereof. Any exercise of a right, power or privilege shall not be considered to preclude any other or further exercise thereof.

EXPOSURE DRAFT 07/18/22

- 4.4 There shall be no liability on the part of the Commissioner or Receiver or the Company(ies) to the Guaranty Funds or NCIGF relating to or arising from the Evaluation Material or any other documents, material, information or communications provided under this Agreement.

V. Warranties and Representations

- 5.1 The Commissioner, the Guaranty Funds, and the NCIGF to the extent consistent with their statutory and other obligations, shall in good faith cooperate and communicate promptly with each other with respect to the performance of their duties under this Agreement.
- 5.2 The Guaranty Funds and the NCIGF represent that they have the authority to enter into this Agreement and fulfill their obligations under this Agreement.
- 5.3 Each undersigned person represents that he or she is authorized to sign this Agreement on behalf of the Party he or she represents.
- 5.4 The Guaranty Funds and the NCIGF understand and acknowledge that the Commissioner or Receiver makes no representations or warranties as to the accuracy or completeness of any Evaluation Material provided under this Agreement.
- 5.5 The Guaranty Funds and NCIGF understand and acknowledge that the Evaluation Material may include information furnished by consultants, access to which will require additional agreements with such consultants.

VI. Termination

- 6.1 This Agreement may be terminated at any time by agreement among the Parties or by any single Party in writing with 30 days' notice, provided that all Evaluation Material obtained prior to such termination shall remain confidential, unless otherwise agreed by the Parties, and except as otherwise provided by law. Further, this Agreement shall be terminated upon a determination in writing by the Commissioner or the Receiver that the Company no longer presents a material risk of Liquidation.
- 6.2 The Guaranty Funds and the NCIGF are permitted to use Evaluation Material in the manner and for purposes described herein until delivery by the Receiver or Commissioner of a written notice specifying the date of termination of this Agreement. Upon a liquidation order wherein one or more Guaranty Funds are triggered this Agreement shall terminate in all respects without the obligation to destroy Evaluation material or maintain it as confidential.
- 6.3 Except as provided in Paragraph 6.2, in the event of a termination of this Agreement, the Guaranty Funds and NCIGF shall immediately undertake to destroy all Evaluation Materials, and all copies, summaries, analyses and notes of the contents or parts thereof, and shall provide an affidavit attesting to the destruction of all such Evaluation Materials being provided to the Receiver, if appointed, and the Commissioner within 30 days after termination, and no part thereof shall be retained by the Guaranty Funds or NCIGF in any form without the prior written consent of the Commissioner or Receiver.

VII. Miscellaneous Provisions

EXPOSURE DRAFT 07/18/22

- 7.1 Nothing in this Agreement shall be deemed to create an attorney-client relationship between any Party’s counsel and any other Party.
- 7.2 This Agreement shall be governed by and construed in accordance with the laws of the State of [state of domicile of the insolvency].
- 7.3 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes, and all of which together shall constitute one and the same instrument.
- 7.4 This Agreement shall be effective upon the date signed by each party and shall also apply to any and all Evaluation Material that has previously been shared between the Parties.
- 7.5 All communications under this Agreement shall be in writing and shall be sent by email to the addresses specified below. A copy of any such notice shall also be personally delivered or sent by either first class registered or certified U.S. Mail, return receipt requested, postage prepaid, or by a bonded mail delivery service, to the address set out below:

The Commissioner:

[name, address, phone, email address]

The Receiver:

[name, address, phone, email address]

Guaranty Funds:

[list of contact information for signatory funds]

- 7.6 The Parties agree to meet periodically, at least annually, to discuss issues arising under this Agreement and its implementation with respect to any specific Company.

[SIGNATURES OF PARTIES ON FOLLOWING PAGES]

EXPOSURE DRAFT 07/18/22

IN WITNESS WHEREOF, the Parties have executed this Agreement on this ____ day of _____, 2019:

Commissioner

By: _____
Its: _____
Date: _____

Receiver (if appointed)

By: _____
Its: _____
Date: _____

NCIGF:

By: _____
Its: _____
Date: _____

Guaranty Fund:

Separate signature pages may be appropriate.

Draft: 8/11/22

Adopted by the Executive (EX) Committee and Plenary, [REDACTED], [REDACTED], [REDACTED]

Adopted by the Financial Condition (E) Committee, [REDACTED], [REDACTED], [REDACTED]

Adopted by the Receivership and Insolvency (E) Task Force, Aug. 11, 2022

2023 Proposed Charges

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE

The mission of the Receivership and Insolvency (E) Task Force is to be administrative and substantive as it relates to issues concerning insurer insolvencies and insolvency guarantees. Such duties include, without limitation: 1) monitoring the effectiveness and performance of state administration of receiverships and the state guaranty fund system; 2) coordinating cooperation and communication among state insurance regulators, receivers, and guaranty funds; 3) monitoring ongoing receiverships and reporting on such receiverships to NAIC members; 4) developing and providing educational and training programs in the area of insurer insolvencies and insolvency guarantees to state insurance regulators, professionals, and consumers; 5) developing and monitoring relevant model laws, guidelines, and products; and 6) providing resources for state insurance regulators and professionals to promote efficient operations of receiverships and guaranty funds.

Ongoing Support of NAIC Programs, Products or Services

1. The **Receivership and Insolvency (E) Task Force** will:
 - A. Monitor and promote efficient operations of insurance receiverships and guaranty associations.
 - B. Monitor and promote state adoption of insurance receivership and guaranty association model acts and regulations, and monitor other legislation related to insurance receiverships and guaranty associations.
 - C. Provide input and comments to the International Association of Insurance Supervisors (IAIS), the Financial Stability Board (FSB), or other related groups on issues regarding international resolution authority.
 - D. Monitor, review, and provide input on federal rulemaking and studies related to insurance receiverships.
 - E. Provide ongoing review of the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook), other related NAIC publications, and the Global Receivership Information Database (GRID), and make any necessary updates.
 - F. Monitor the work of other NAIC committees, task forces, and working groups to identify and address any issues that affect receivership law and/or regulatory guidance.
 - G. Perform additional work as directed by the Financial Condition (E) Committee and/or received through referral by other groups.
2. The **Receivership Financial Analysis (E) Working Group** will:
 - A. Monitor receiverships involving nationally significant insurers/groups to support, encourage, promote, and coordinate multistate efforts in addressing problems.
 - B. Interact with the Financial Analysis (E) Working Group, domiciliary regulators, and lead states to assist and advise as to what might be the most appropriate regulatory strategies, methods, and/or action(s) regarding potential or pending receiverships.
3. The **Receivership Law (E) Working Group** will:
 - A. Review and provide recommendations on any issues identified that may affect states' receivership and guaranty association laws (e.g., any issues that arise because of market conditions; insurer insolvencies; federal rulemaking and studies; international resolution initiatives; or the work performed by or referred from other NAIC committees, task forces, and/or working groups).
 - B. Discuss significant cases that may affect the administration of receiverships.

4. The **Receiver's Handbook (E) Subgroup** ~~of the Receivership and Insolvency (E) Task Force~~ will:
- A. Complete the Review of the Receiver's Handbook to identify areas where information is outdated, updates are required, or additional guidance is needed. Based on this review, draft and propose recommended edits to the Receiver's Handbook. Complete by the 2023~~2~~ Fall National Meeting.

NAIC Support Staff: Jane Koenigsman

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/RITF/2022 Summer NM/RITF 2023 Charges_081122.docx

REINSURANCE (E) TASK FORCE

Reinsurance (E) Task Force July 25, 2022, Minutes..... 9-1110

Reinsurance (E) Task Force May 16, 2022, Minutes (Attachment One)..... 9-1113

Revisions to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Attachment One-A) 9-1115

Email from Thomas Dawson (McDermott Will & Emery LLP) on Behalf of the International Underwriting Association of London (IUA) to Jake Stultz (NAIC) and Dan Schelp (NAIC), Dated April 22, 2022, Regarding Reinsurance (E) Task Force Exposure of Revisions to the Uniform Checklist for Reciprocal Jurisdiction Reinsurers (Attachment One-B)..... 9-1121

Reinsurance (E) Task Force 2023 Proposed Charges (Attachment Two)..... 9-1122

Implementation of the 2019 Revisions to the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786), Status as of July 21, 2022 (Attachment Three)..... 9-1124

Implementation of the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787), Status as of July 8, 2022 (Attachment Four) 9-1126

Draft: 8/1/22

Reinsurance (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)
July 25, 2022

The Reinsurance (E) Task Force met July 25, 2022. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Chris Nicolopoulos, Vice Chair, represented by Doug Bartlett and Pat Gosselin (NH); Lori K. Wing-Heier represented by David Phifer (AK); Mark Fowler represented by Linda Wilson (AL); Alan McClain represented by Mel Anderson and Leo Liu (AR); Ricardo Lara represented by Monica Macaluso (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Wanchin Chou (CT); Trinidad Navarro represented by Rylynn Brown (DE); David Altmaier represented by Robert Ridenour (FL); John F. King (GA); Doug Ommen represented by Daniel Mathis (IA); Vicki Schmidt represented by Tish Becker (KS); James J. Donelon represented by Tom Travis (LA); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott and Robert Wake (ME); Troy Downing represented by Steve Matthews (MT); Mike Causey represented by Lori Gorman (NC); Jon Godfread represented by Patrick Hendrickson (ND); Eric Dunning represented by Jill Gleason (NE); Marlene Caride represented by Diana Sherman (NJ); Russell Toal (NM); Adrienne A. Harris represented by Ahmed Saleh (NY); Judith L. French represented by Dale Bruggeman (OH); Elizabeth Kelleher Dwyer represented by Ted Hurley (RI); Michael Wise represented by Daniel Morris (SC); Cassie Brown represented by Jamie Walker (TX); Jon Pike represented by Jake Garn (UT); Scott A. White represented by David Smith and Doug Stolte (VA); Kevin Gaffney represented by Karen Ducharme (VT); and Nathan Houdek represented by Mark McNabb (WI).

1. Adopted its May 16 and Spring National Meeting Minutes

The Task Force met May 16 to adopt revisions to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers*. Superintendent Toal made a motion, seconded by Ms. Sherman, to adopt the Task Force's May 16 (Attachment One) and March 22 (*see NAIC Proceedings – Spring 2022, Reinsurance (E) Task Force*) minutes. The motion passed unanimously.

2. Adopted its 2023 Proposed Charges

Ms. Macaluso made a motion, seconded by Mr. Phifer, to adopt the 2023 proposed charges of the Task Force and the Reinsurance Financial Analysis (E) Working Group (Attachment Two). The motion passed unanimously.

3. Adopted the Report of the Reinsurance Financial Analysis (E) Working Group

Mr. Kaumann stated that the Working Group meets in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. He stated that the Working Group met May 18 to approve one certified reinsurer and eight reciprocal jurisdiction reinsurers for passporting.

Mr. Kaumann stated that the Working Group has now approved 22 reciprocal jurisdiction reinsurers for passporting and plans to meet several more times in 2022 as more applications are received. He noted that the list of passported reinsurers can be found on the Certified and Reciprocal Jurisdiction Reinsurer web page. He stated that NAIC staff have revised the web page to better meet the needs of state insurance regulators, industry, and other interested parties. He stated that NAIC staff have created a point-of-contact list to be included on that web page, which includes the single best contact for each state for any issues regarding reciprocal jurisdiction reinsurers and certified reinsurers. He requested that each state provide its point of contact person to NAIC staff.

Mr. Kaumann made a motion, seconded by Mr. Wake, to adopt the Working Group's report. The motion passed unanimously.

4. Received a Status Report on the Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group

Mr. Wake stated that the Working Group has met twice since the Spring National Meeting to work on group capital calculation (GCC) issues that are unrelated to the Task Force. He stated that the Working Group plans to meet later this year to reapprove the status of the seven existing qualified jurisdictions and the three reciprocal jurisdictions that are not subject to either the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance* (EU Covered Agreement) or *Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance* (UK Covered Agreement), collectively referred to as the Covered Agreements. He stated that NAIC staff established a due diligence review process in 2021 and provided a recommendation to the Working Group that the existing qualified jurisdictions and reciprocal jurisdictions not subject to a Covered Agreement should retain their status, and this recommendation was then adopted by the Working Group. He stated that the Working Group will perform this same review toward the end of 2022 and will report this to the Task Force at the Fall National Meeting. Mr. Wake stated that the Working Group would meet if there were any updates with the qualified jurisdiction review of the Republic of Korea.

5. Received a Status Report on the States' Implementation of the 2019 Revisions to Model #785 and Model #786

Dan Schelp (NAIC) stated that as of July 21, 54 NAIC jurisdictions have adopted the 2019 revisions to the *Credit for Reinsurance Model Law* (#785), while one jurisdiction has action under consideration. He noted that since the maps were last published, the U.S. Virgin Islands were able to adopt their legislation and that American Samoa is considering issuing an order that would bring it into compliance with the Covered Agreements. He stated that 49 jurisdictions have adopted the revisions to the *Credit for Reinsurance Model Regulation* (#786) and that three jurisdictions currently have action pending. He noted that the remaining three jurisdictions will issue their regulations soon. He stated that he is optimistic that all NAIC jurisdictions will have their laws, regulations, or orders in place by Sept. 1. He stated that the maps showing the adoption of the 2019 revisions to Model #785 and Model #786 were included in the meeting materials (Attachment Three).

Mr. Schelp stated that he has held discussions with the Federal Insurance Office (FIO) to talk about the status of the federal preemption reviews that were being conducted. He stated that the federal Dodd-Frank Wall Street Reform and Consumer Protection Act lays out a process that the FIO must go through before it can make any federal preemption determinations. He noted that the FIO has publicly praised the NAIC's efforts, stating that the NAIC has made tremendous progress, and that each state has made a sincere effort to adopt the spirit of the models. He stated that the FIO is focusing its review on technical details in the law and regulation, and that there might need to be some clean-up made by the states after the reviews are completed. He noted that these have been constructive conversations with the FIO, and that the NAIC does not have reason for concern that this will lead to any federal preemption determinations. Mr. Schelp asked that if any state is contacted directly by the FIO, it should reach out to NAIC staff.

Mr. Schelp stated that after the law and regulation have been passed by the legislatures, there are several additional steps that must be completed. He noted that each state needs to establish a web page that contains the list of reciprocal jurisdictions and list of reciprocal jurisdiction reinsurers operating in its state. He noted that the *NAIC List of Reciprocal Jurisdictions* and *NAIC List of Reciprocal Jurisdiction Reinsurers* are posted on the Certified and Reciprocal Jurisdiction web page and on the Task Force's web page. He added that NAIC staff have created a point of contact list of individual contacts in each state that reinsurers and consumers may contact if they have any questions on reciprocal jurisdiction reinsurers. He noted that NAIC staff will contact states that have

not created their web page to assist in the process. Mr. Schelp recommended that if a state approves a reciprocal jurisdiction reinsurer that is not intended to be passported, the information should still be sent to the Reinsurance Financial Analysis (E) Working Group, which will collect this information to maintain uniformity in the reviews of the reinsurers and to ensure compliance with the Covered Agreements.

6. Received a Status Report on the States' Implementation of Model #787

Jake Stultz (NAIC) stated that the *Term and Universal Life Insurance Reserve Financing Model Regulation (#787)* becomes an accreditation standard on Sept. 1, with enforcement beginning on Jan. 1, 2023. He noted that as of July 8, 20 jurisdictions have adopted Model #787, with another four jurisdictions with action under consideration. He stated that the map showing the current adoption status for Model #787 was included in the meeting materials (Attachment Four) and added that the adoption of Model #787 is unrelated to the Covered Agreements and is not potentially subject to federal preemption. Mr. Stultz noted that Model #787 mirrors *Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48)*, and that under the accreditation standards, a state may meet the requirements through an administrative practice, such as an actuarial guideline. He added that if a state adopts Model #787, it also will need to adopt Section 5B(4) of Model #785.

Mr. Schelp stated that some states are using AG 48 and will issue an insurance bulletin to announce this practice. He added that the map will later be updated to reflect states that are adopting in this manner.

Having no further business, the Reinsurance (E) Task Force adjourned.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/RTF/2022SummerNM/Minutes/ReinsuranceTFmin 07.25.2022.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/RTF/2022SummerNM/Minutes/ReinsuranceTFmin%2007.25.2022.docx)

Draft: 5/26/22

Reinsurance (E) Task Force
Virtual Meeting
May 16, 2022

The Reinsurance (E) Task Force met May 16, 2022. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Chris Nicolopoulos, Vice Chair, represented by Pat Gosselin (NH); Jim L. Ridling represented by Jennifer Haskell (AL); Alan McClain represented by Leo Liu (AR); Ricardo Lara represented by Monica Macaluso (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Joel Henry (CT); David Altmaier represented by Virginia Christy (FL); John F. King represented by Martin Sullivan (GA); Doug Ommen represented by Kim Cross (IA); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); James J. Donelon represented by Stewart Guerin (LA); Gary D. Anderson represented by John Turchi (MA); Kathleen A. Birrane represented by Lynn Beckner (MD); Timothy N. Schott represented by Robert Wake (ME); Mike Causey represented by Jackie Obusek (NC); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by Diana Sherman and John Tirado (NJ); Adrienne A. Harris represented by Michael Campanelli (NY); Judith L. French represented by Dale Bruggeman (OH); Alexander S. Adams Vega represented by Brenda Perez (PR); Elizabeth Kelleher Dwyer represented by Ted Hurley (RI); Michael Wise represented by Daniel Morris (SC); Cassie Brown represented by Jamie Walker (TX); Jon Pike represented by Jake Garn (UT); Scott A. White represented by David Smith and Doug Stolte (VA); and Nathan Houdek represented by Mark McNabb (WI).

1. Exposed Revisions to the Uniform Checklist

Mr. Rehagen stated that the Reinsurance Financial Analysis (E) Working Group met March 3 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss the revisions to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Uniform Checklist). The Working Group also met March 14 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. Then, the Working Group conducted an e-vote to adopt the draft revisions to the Uniform Checklist. The Task Force met March 22 to expose the Uniform Checklist (Attachment One-A) for a 30-day public comment period.

Mr. Rehagen stated that one comment letter was received from the International Underwriting Association of London (IUA) (Attachment One-B). He stated that the comment letter did not propose revisions to the exposed document but included comments on the procedural usage of Schedule F and Schedule S data when analyzing potential reciprocal jurisdiction reinsurers. He noted that when performing a review, NAIC staff will complete a slow-pay analysis with respect to U.S. domiciled insurers by reviewing their Schedule F and Schedule S. For reinsurers that are domiciled outside the U.S., the reciprocal jurisdiction reinsurers are to file Form CR-F and Form CR-S, which are the same documents that are now required for certified reinsurers. Mr. Rehagen stated that this is consistent with the new *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers*. He stated that during the review of reciprocal jurisdiction reinsurers, Schedule F and Schedule S data will be used to review U.S. claims, and if there is an issue with slow payment of U.S. claims, the reviewers will request information directly from the reinsurer or its supervisor.

Mr. Kaumann made a motion, seconded by Ms. Crawford, to adopt the revisions to the Uniform Checklist. The motion passed unanimously.

Mr. Rehagen stated that NAIC staff have created a point-of-contact list that is included on the *Certified and Reciprocal Jurisdiction Reinsurers* web page, which includes a single best contact for each state for any issues

regarding reciprocal jurisdiction reinsurers and certified reinsurers. He requested that each state provide their point of contact person to Jake Stultz (NAIC).

Having no further business, the Reinsurance (E) Task Force adjourned.

[https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/RTF/2022SummerNM/Minutes/1 ReinsuranceTFmin 05.16.2022.docx](https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member%20Meetings/E%20CMTE/RTF/2022SummerNM/Minutes/1%20ReinsuranceTFmin05.16.2022.docx)

Draft Revisions Approved by the Reinsurance Financial Analysis (E) Working Group on March 14, 2022

Uniform Checklist for Reciprocal Jurisdiction Reinsurers

Reciprocal Jurisdiction Reinsurer Information:
 Company Name:
 Address:
 Primary Contact:
 Domiciliary Jurisdiction / Supervisory Authority:
 Applicable Lines of Business:

I. Filing Requirements for “Lead State” of Reciprocal Jurisdiction Reinsurer

Check appropriate box:

- Initial Filing Annual Filing

The “Lead State” will uniformly require assuming insurers to provide the following documentation so that other states may rely upon the Lead State’s determination:

Citation to State Law / Regulation	Requirements	Y or N	Reference and Supporting Documents
Model #786 § 9A & B Model #785 §2F(1)(a)	<p>Status of Reciprocal Jurisdiction: The assuming insurer must be licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction that is listed on the <i>NAIC List of Reciprocal Jurisdictions</i>:</p> <ul style="list-style-type: none"> • A non-U.S. jurisdiction that is subject to an in-force Covered Agreement with the United States; • A U.S. jurisdiction that meets the requirements for accreditation under the NAIC Financial Standards and Accreditation Program; • A Qualified Jurisdiction that has been determined by the commissioner to meet all applicable requirements to be a Reciprocal Jurisdiction. 		The Reciprocal Jurisdiction Reinsurer should identify which type of jurisdiction it is domiciled in and provide any documentation to confirm this status if requested by the commissioner.
Model #786 § 9C(2)	<p>Minimum Capital and Surplus: The assuming insurer must have and maintain on an ongoing basis minimum</p>		

Uniform Checklist for Reciprocal Jurisdiction Reinsurers

~~Approved by the Reinsurance (E) Task for on June 9, 2020~~

Citation to State Law / Regulation	Requirements	Y or N	Reference and Supporting Documents
	the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer. This is for purposes of evaluating Prompt Payment of Claims.		<u>(property/casualty) and/or Schedule S (life and health). Applicants domiciled outside the U.S. may provide this information using Form CR-F (property/casualty) and/or Form CR-S (life and health), which ReFAWG considers sufficient to meet this requirement.</u>
Model #786 § 9C(6) Model #785 §2F(1)(f)	<p>Prompt Payment of Claims: The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:</p> <ul style="list-style-type: none"> • More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner; • More than fifteen percent (15%) of the assuming insurer’s ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a Covered Agreement; or • The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a Covered Agreement. 		<u>The calculation for Prompt Payment of Claims is based upon the total global claims of the Reciprocal Jurisdiction Reinsurer, and not based solely on U.S. claims. NAIC staff will perform a slow-pay analysis based upon filings of Schedule F by U.S. domiciled ceding insurers with respect to property reinsurance. The level of detail required to perform a slow pay analysis does not exist in Schedule S with respect to life reinsurance. The Lead State should attempt to obtain this information directly from the Reciprocal Jurisdiction Reinsurer and/or its supervisor.</u>
	<p>Fee: [Insert \$ amount of the fee applicable in this state.]</p>		

Uniform Checklist for Reciprocal Jurisdiction Reinsurers
Approved by the Reinsurance (E) Task for on June 9, 2020

II. Filing Requirements for “Passporting State” of Reciprocal Jurisdiction Reinsurer

In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called “passporting” under which the commissioner has the discretion to defer to another state’s determination with respect to compliance with this section. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings.

If an NAIC accredited jurisdiction has determined that the conditions set forth under the *Filing Requirements for Lead States* have been met, the commissioner has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC. The following documentation must be filed with the Passporting State:

Citation to State Law / Regulation	Requirements	Y or N	Reference and Supporting Documents
Model #786 § 9E(2) Model #785 §2F(3)	Form RJ-1: An assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require, except to the extent that they conflict with a Covered Agreement.		<u>Form RJ-1</u>
Model #786 § 9E(1)	Lead State: If an NAIC accredited jurisdiction has determined that the required conditions have been met, the commissioner has the discretion to defer to that jurisdiction’s determination. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of this requirement.		<u>The applicant must provide a copy of the approval letter or other documentation provided to the applicant by the NAIC accredited jurisdiction. The letter should include the state, effective date, and lines of business. The applicant also should have been reviewed and recommended for passporting by ReFAWG.</u>
	Fee: [Insert \$ amount of the fee applicable in this state.]		

Uniform Checklist for Reciprocal Jurisdiction Reinsurers

~~Approved by the Reinsurance (E) Task for on June 9, 2020~~

III. Interaction Between Certified Reinsurers and Reciprocal Jurisdiction Reinsurers

Under Section 8A(5) of the *Credit for Reinsurance Model Regulation* (#786), credit for reinsurance shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer with respect to Certified Reinsurers. Under Section 2F(7) of the *Credit for Reinsurance Model Law* (#785), credit shall be taken with respect to Reciprocal Jurisdiction Reinsurers only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements to be designated a Reciprocal Jurisdiction Reinsurer, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

It is expected that certain assuming insurers may be considered to be Certified Reinsurers for purposes of in-force business and Reciprocal Jurisdiction Reinsurers with respect to reinsurance agreements entered into, amended, or renewed on or after the effective date. In addition, these same reinsurers may also have certain blocks of business that are fully collateralized under the prior provisions of Model #785 and Model #786. The NAIC blanks will be amended to reflect the status of these reinsurers with respect to each type of insurance assumed.

From: Dawson, Thomas <Tmdawson@mwe.com>
Sent: Friday, April 22, 2022 9:32 AM
To: Stultz, Jake <jstultz@naic.org>; Schelp, Daniel <dschelp@naic.org>
Subject: Reinsurance Task Force Exposure of revisions to the Uniform Checklist for Reciprocal Jurisdiction Reinsurers

Dear Messrs. Stultz and Schelp,

Many thanks for the opportunity to submit brief comments on the proposed revised Uniform Checklist for Reciprocal Jurisdiction Reinsurers (the “Revised Checklist”). We do so on behalf of the International Underwriting Association of London (IUA). In sum, the IUA believes that the last round of changes to the Revised Checklist should assist regulators in reviewing and analyzing new and renewal reciprocal reinsurer applications.

Having said this, IUA members hope that while reliance on the CR-F/CR-S reporting forms (which we believe have worked well in the certified reinsurer context) and NAIC Staff’s proposed reviews of U.S. reinsurers’ Schedules F and S will help to quickly surface any “disputed and overdue reinsurance claims [from U.S. cedents] outstanding for 90 days or more,” IUA members also hope that the CR-F/CR-S reports and Schedules F and S information are used primarily in a way that help establish that the non-U.S. reinsurer has or has not breached any of the prompt payment of claims metrics set forth in the Revised Checklist.

If instead the Schedules F and S data are used to try to reconcile to the penny ceding insurers’ books with reciprocal reinsurers’ books, without also applying a *de minimis* standard to eliminate inevitable minor differences that are always present for a variety of reasons, all parties concerned (and including reinsurance brokers as well) could experience considerable frustration, particularly given the increased complexity of Schedules F and S that must now capture a wider array of ceded reinsurance information than ever before (e.g. as to cessions with collateral in the form of funds withheld, single cedent trusts, LOCs or multi-beneficiary reinsurance trusts, reduced collateral for certified reinsurance and now zero collateral for reciprocal reinsurance).

We would be happy to further discuss or to answer any questions that you or colleagues may have. Again, the IUA much appreciates the opportunity to comment.

Yours sincerely,

Tom Dawson

THOMAS M. DAWSON

Partner

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REINSURANCE (E) TASK FORCE
2023 Proposed Charges

The mission of the Reinsurance (E) Task Force is to monitor and coordinate activities and areas of interest that overlap to some extent the charges of other NAIC groups—specifically, the International Insurance Relations (G) Committee.

1. The **Reinsurance (E) Task Force** will:

- A. Provide a forum for the consideration of reinsurance-related issues of public policy.
- B. Oversee the activities of the Reinsurance Financial Analysis (E) Working Group.
- C. Monitor the implementation of the 2011, 2016 and 2019 revisions to the *Credit for Reinsurance Model Law* (#785); and the 2011 and 2019 revisions to the *Credit for Reinsurance Model Regulation* (#786) and the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787).
- D. Communicate and coordinate with the Federal Insurance Office (FIO), other federal authorities, and international regulators and authorities on matters pertaining to reinsurance.
- E. Consider any other issues related to the revised Model #785, Model #786 and Model #787.
- F. Monitor the development of international principles, standards and guidance with respect to reinsurance. This includes, but is not limited to, monitoring the activities of various groups within the International Association of Insurance Supervisors (IAIS), including the Reinsurance and Other Forms of Risk Transfer Subcommittee, the Reinsurance Mutual Recognition Subgroup and the Reinsurance Transparency Group.
- G. Consider the impact of reinsurance-related federal legislation, including, but not limited to, the federal Nonadmitted and Reinsurance Reform Act (NRRRA) and the Federal Insurance Office Act, and coordinate any appropriate NAIC action.
- H. Continue to monitor the impact of reinsurance-related international agreements, including the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (EU Covered Agreement) and the “Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance” (UK Covered Agreement).

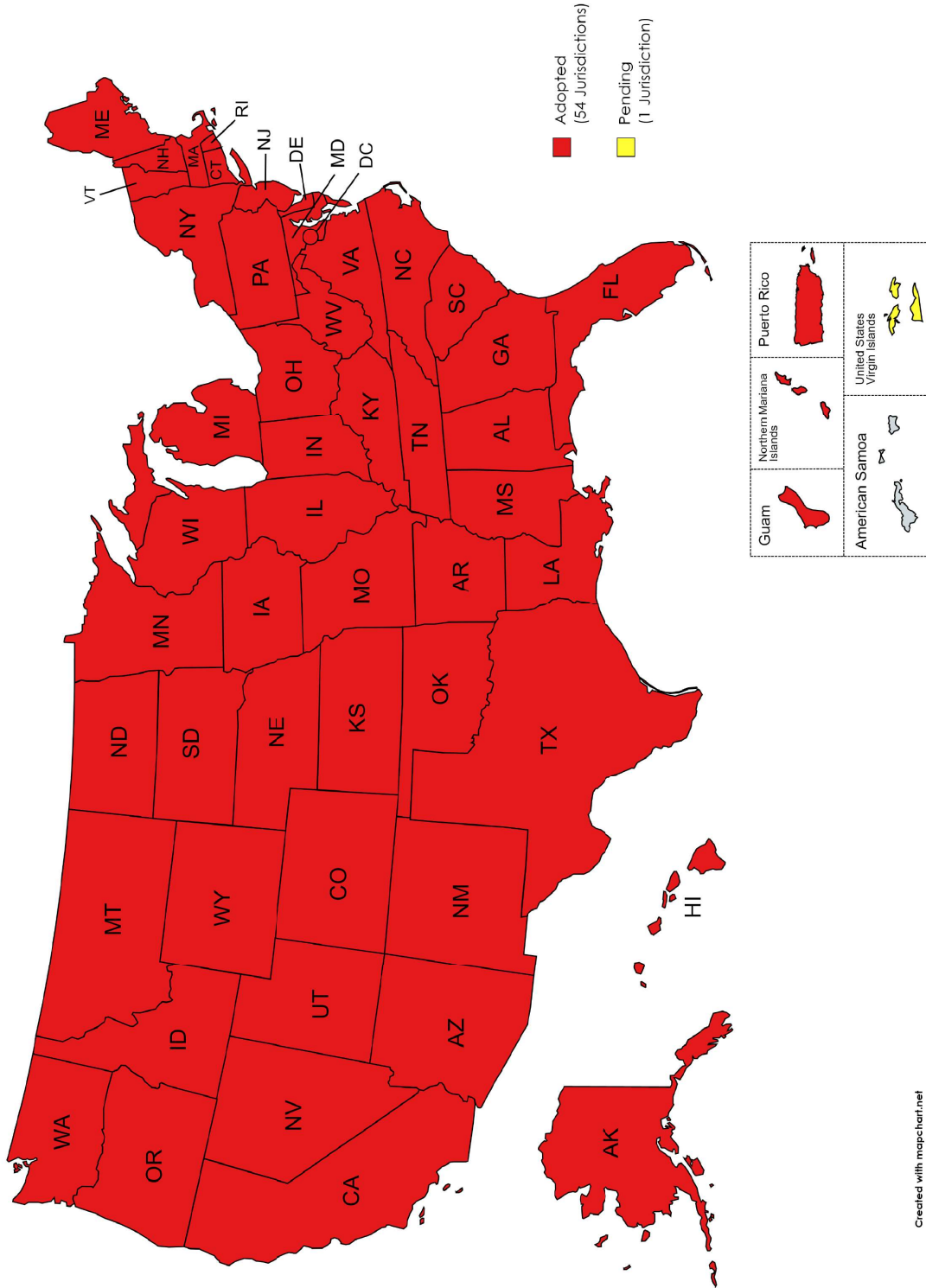
The **Reinsurance Financial Analysis (E) Working Group** will:

1. Operate in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings and operate in open session when discussing certified reinsurance topics and policy issues, such as amendments to the Uniform Application for Certified Reinsurers.
2. Provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.
3. Provide a forum for discussion among NAIC jurisdictions of reinsurance issues related to specific companies, entities or individuals.
4. Support, encourage, promote and coordinate multistate efforts in addressing issues related to certified reinsurers, including, but not limited to, multistate recognition of certified reinsurers.
5. Provide analytical expertise and support to the states with respect to certified reinsurers and applicants for certification.
6. Provide advisory support with respect to issues related to the determination of qualified jurisdictions.
7. Ensure the public passporting website remains current.

8. For reinsurers domiciled in Reciprocal Jurisdictions, determine the best and most effective approaches for the financial solvency surveillance to assist the states in their work to protect the interests of policyholders.

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/e cmte/rtf/2022summernm/minutes/2 2023 proposed charges.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmte/rtf/2022summernm/minutes/2%2023%20proposed%20charges.docx)

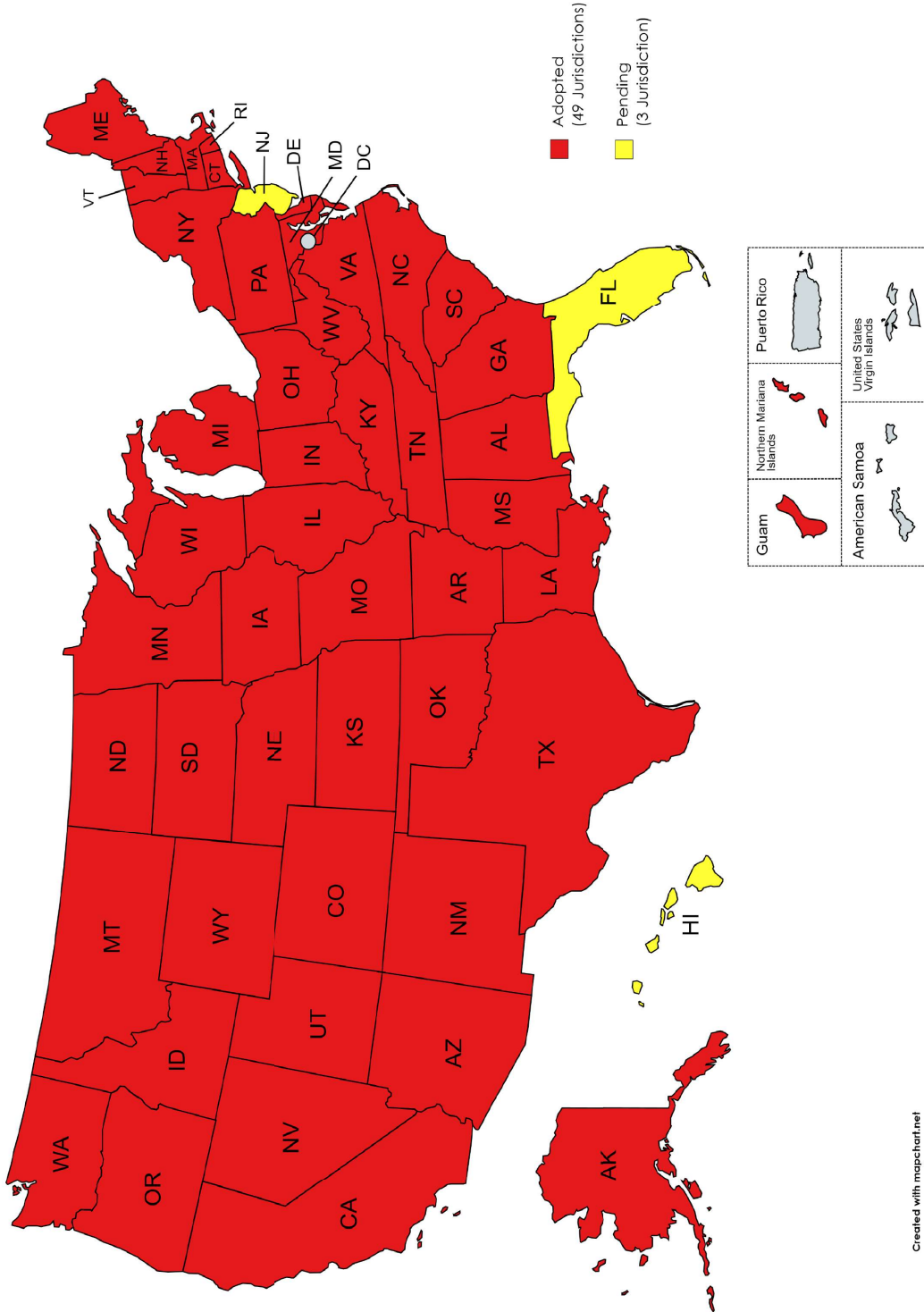
Implementation of the 2019 Revisions to the
Credit for Reinsurance Model Law #785
[status as of July 21, 2022]



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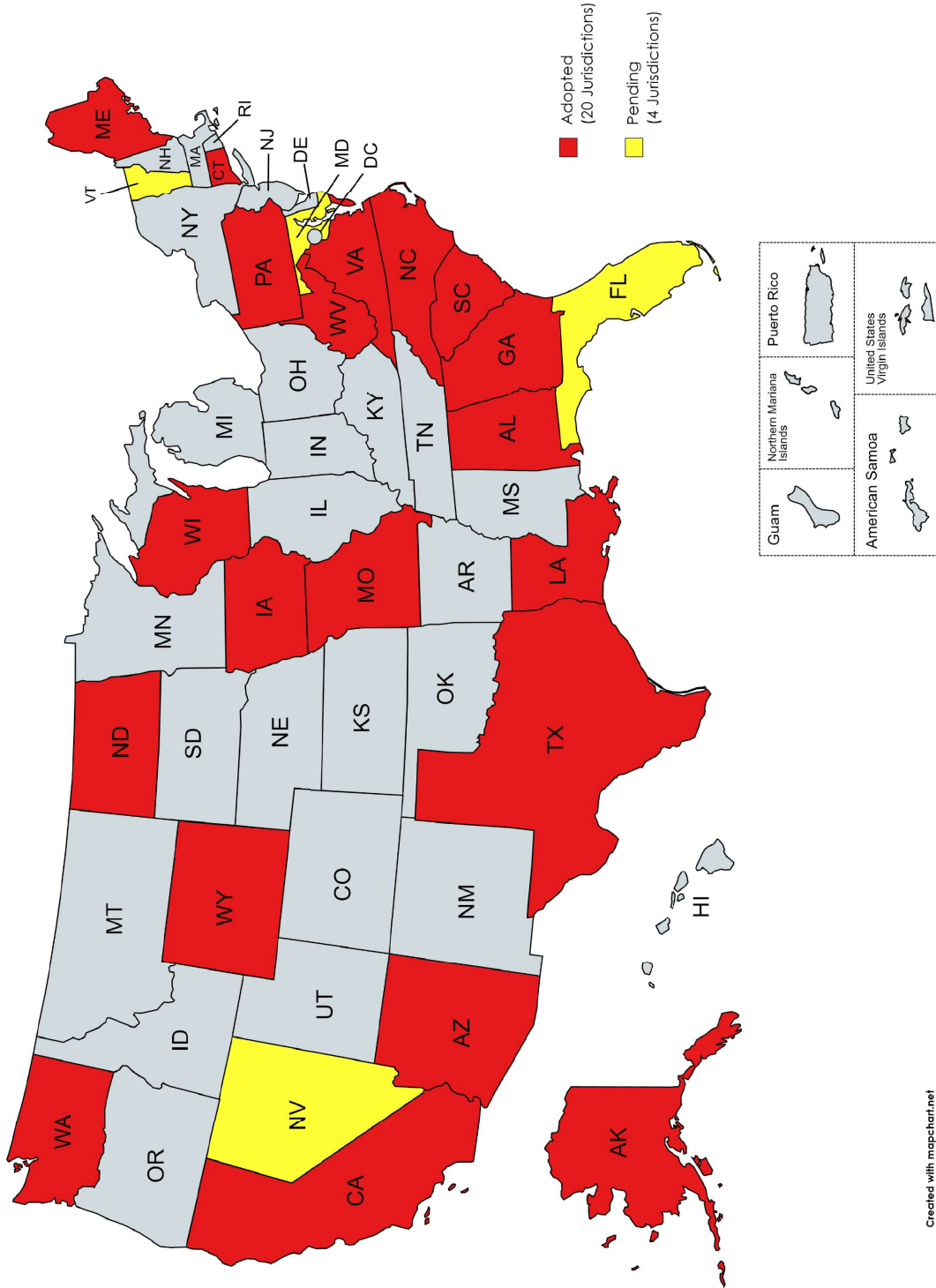
Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.

Implementation of the 2019 Revisions to the
Credit for Reinsurance Model Regulation #786
[status as of July 21, 2022]



Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.

Implementation of Model #787 (XXX/AXXX)
Term and Universal Life Insurance Reserve Financing Model Regulation
[status as of July 8, 2022]



Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.

RISK RETENTION GROUP (E) TASK FORCE

The Risk Retention Group (E) Task Force did not meet at the Summer National Meeting.

VALUATION OF SECURITIES (E) TASK FORCE

Valuation of Securities (E) Task Force Aug. 11, 2022, Minutes	9-1129
Valuation of Securities (E) Task Force June 9, 2022 Minutes (Attachment One)	9-1141
American Council of Life Insurers (ACLI), Private Placement Investors Association (PPIA), and North American Securities Valuation Association (NASVA) Joint Comment Letter Regarding the Proposed <i>Purposes and Procedures Manual of the NAIC Investment Analysis Office</i> (P&P Manual) Amendment to Clarify the Role of the Securities Valuation Office (SVO) Regarding Interpreting Accounting and Reporting (Attachment Two).....	9-1149
Anderson Insights LLC Comment Letter Regarding the Proposed P&P Manual Amendment to Clarify the Role of the SVO Regarding Interpreting Accounting and Reporting (Attachment Three)	9-1151
P&P Manual Amendment to Clarify the Role of the SVO Regarding Interpreting Accounting and Reporting (Attachment Four)	9-1155
ACLI, PPIA, and NASVA Joint Comment Letter Regarding the Proposed P&P Manual Amendment to Update Part Four for NAIC Designation Categories and Additional Price Points (Attachment Five)..	9-1160
P&P Manual Amendment to Update Part Four for NAIC Designation Categories and Additional Price Points (Attachment Six).....	9-1162
ACLI, PPIA, and NASVA Joint Comment Letters Regarding the Proposed P&P Manual Amendment to Update the Definition of Principal Protected Securities (PPS) (Attachment Seven).....	9-1172
P&P Manual Amendment to Update the Definition of PPS (Attachment Eight)	9-1176

Draft: 8/23/22

Valuation of Securities (E) Task Force
Portland, Oregon
August 11, 2022

The Valuation of Securities (E) Task Force met in Portland, OR, Aug. 11, 2022. The following Task Force members participated: Doug Ommen, Chair, represented by Carrie Mears (IA); Scott A. White, Vice Chair, represented by Greg Chew (VA); Lori K. Wing-Heier represented by David Phifer (AK); Ricardo Lara represented by Laura Clements (CA); Andrew N. Mais represented by Kenneth Cotrone (CT); Trinidad Navarro represented by Rylynn Brown (DE); David Altmaier represented by Virginia Christy (FL); Dean L. Cameron represented by Eric Fletcher (ID); Vicki Schmidt represented by Tish Becker (KS); James J. Donelon represented by Stewart Guerin (LA); Gary D. Anderson represented by John Turchi (MA); Kathleen A. Birrane represented by Matt Kozak (MD); Chlora Lindley-Myers represented by Debbie Doggett and John Rehagen (MO); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by John Sirovetz (NJ); Adrienne A. Harris represented by Bob Kasinow and Jim Everett (NY); Cassie Brown represented by Amy Garcia (TX); Jon Pike represented by Jake Garn (UT); Mike Kreidler represented by Steve Drutz (WA).

1. Adopted its June 9 and Spring National Meeting Minutes

Ms. Mears said the first item is to consider adoption of the Task Force’s June 9 and Spring National Meeting minutes. Michael M. Monahan (American Council of Life Insurers—ACLI) provided one comment in advance on the Spring National Meeting minutes. He asked that one sentence be clarified on the topic of the use of designations by non-U.S. jurisdictions. It currently reads, “Mr. Monahan said to address two jurisdictions, Japan FSA and the BMA, US dollar private placements are currently a core asset class ... ,” which is not an easily readable sentence. The recommended update to the final minutes will be made and read, “Mr. Monahan said *this proposal is meant* to address two jurisdictions, Japan FSA and the BMA, *where* US dollar private placements are currently a core asset class”

Ms. Doggett made a motion, seconded by Ms. Clements, to adopt the Task Force’s June 9 (Attachment One) and April 5 (*see NAIC Proceedings – Spring 2022, Valuation of Securities (E) Task Force*) minutes. The motion passed unanimously.

2. Discussed Comments and Adopted a Proposed Amendment to the P&P Manual Clarifying the Role of the SVO Regarding Interpreting Accounting and Reporting

Ms. Mears said the next item is to discuss comments and consider adoption of a proposed amendment to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) to clarify the role of the Securities Valuation Office (SVO) regarding interpreting accounting and reporting.

Marc Perlman (NAIC) said the SVO has historically worked with statutory accounting colleagues to make accounting and reporting determinations, which guided whether the SVO could analyze and designate an insurer’s investment. However, the P&P Manual currently provides conflicting guidance on whether the SVO should have a role interpreting accounting and reporting guidance. Paragraphs 32, 33, and 34 of Part One of the P&P Manual state that: 1) the assessment of an investment’s credit risk is distinct from the determination of statutory accounting or reporting under the *Accounting Practices and Procedures Manual* (AP&P Manual); 2) accounting and reporting determinations for investments are the obligation of the insurance company, but state insurance regulators remain the final authority; and 3) the SVO may assign NAIC designations to any investment filed with it for which it has a methodology. However, it is also specified in Part One, paragraph 40 that the SVO is assigned to assess investments reported only on Schedules D and BA and shall communicate to insurers if an investment is

not eligible for those schedules and can therefore not be assigned an NAIC designation. The SVO recommends amending paragraph 40 to provide consistent instructions to the SVO regarding its accounting and reporting guidance authority. The proposal would clarify, in accordance with Part One, paragraph 34, that the SVO can assign NAIC designations to investments that it does not believe are eligible for Schedule D or BA reporting so long as it has the methodology to do so. However, the SVO would have the authority, at its discretion, to notify the appropriate state insurance regulators of any investments that, in its opinion, would not or might not be eligible for reporting on Schedules D or BA. The SVO would also maintain its authority to offer its accounting and reporting opinion, when requested to do so, as part of its Regulatory Treatment Analysis Service (RTAS), it being understood that such opinions would not be authoritative and might not reflect the opinion of the relevant state insurance regulator. Also, to be clear, the SVO would not be required to designate investments that deviate from specific guidelines in the P&P Manual for that investment type. For example, for the SVO to designate a working capital finance investment (WCFI), the investment will still need to meet the very specific WCFI guidelines currently in the P&P Manual.

The SVO recommends adoption of the amendment, as exposed. There was a proposed change submitted by the ACLI, the Private Placement Investors Association (PPIA), and the North American Securities Valuation Association (NASVA) in their joint comment letter that would require the SVO to also notify the filing company or the company on which the SVO is providing its opinion. The SVO strongly recommends that this additional change not be included. The mission of the SVO, as explained in the P&P Manual, is to “support the financial solvency objectives of state regulators.” The SVO’s role is to support state insurance regulators, who, pursuant to paragraph 33, are the ultimate arbiters of accounting and reporting. It is the state insurance regulators’ role to direct insurers on proper accounting and reporting. Additionally, requiring the SVO to inform companies of its regulatory opinion could interfere with the SVO’s ability to have confidential discussions with state insurance regulators on matters that can, and have, involved not only regulatory but, even, criminal action.

Ms. Mears said this is ultimately somewhat of a formality, as the Statutory Accounting Principles (E) Working Group has clearly continually stated that the existence of an NAIC designation does not define the accounting treatment of an investment, and thus formalizes that assumption in the P&P Manual as well. To Mr. Perlman’s point about not making the edit proposed in the ACLI joint comment letter (Attachment Two), the Task Force encourages transparent and collaborative discussion between the SVO and insurers, but there may be times where that is not appropriate, particularly when there is confidential action needed, which is why this requirement should not be put into the P&P manual.

Michael Reis (Northwestern Mutual), on behalf of the ACLI, the PPIA, and NASVA, said these groups understand the rationale for not including that language and support the proposal as suggested.

Chris Anderson (Anderson Insights LLC) said he hopes there would be symmetry between what the analyst at the SVO considers to be a bond and what will appear in the statutory accounting principles (Attachment Three). Designations and credit ratings are expressions of the probability of payment on a scale of 1 to 20. If there is a probability of payment on a scale of 1 to 20, that indicates that the asset is a bond. It does not mean state insurance regulators should not have additional information about what kind of bond it is, but it seems that the most important element of investing in fixed income is whether there will be repayment. When the SVO or another analyst has expressed a considered view, reviewing all the facts and circumstances in an individual asset, it would seem to be compelling evidence. Mr. Anderson also hopes there will be coordination between the Task Force, the Statutory Accounting Principles (E) Working Group, and Capital Adequacy (E) Task Force.

Mr. Phifer made a motion, seconded by Mr. Chew, to adopt the amendment to clarify the roles of the SVO regarding interpreting accounting and reporting (Attachment Four). The motion passed unanimously.

3. Discussed Comments and Adopted a Proposed Amendment to the P&P Manual to Update Part Four for NAIC Designation Categories and Additional Price Points

Ms. Mears said the next item is to discuss comments and consider adoption of a proposed amendment to the P&P Manual to update Part Four for NAIC Designation Categories and additional price points.

Charles A. Therriault (NAIC) said, as noted in the memo, this amendment reflects the adoption of new risk-based capital (RBC) factors for each NAIC Designation Category in 2021 by the Capital Adequacy (E) Task Force and the Financial Condition (E) Committee, and it proposes the technical updates needed in the P&P Manual to reflect a consistent reference to “NAIC Designation Category” and the additional price points needed to determine them. A joint comment letter was received from the ACLI, the PPIA, and NASVA supporting the proposed change (Attachment Five).

Mr. Reis, on behalf of the ACLI, the PPIA, and NASVA said these groups support the proposed changes.

Ms. Brown made a motion, seconded by Ms. Doggett, to adopt the amendment to update Part Four for NAIC Designation Categories and additional price points (Attachment Six). The motion passed unanimously.

4. Discussed Comments and Adopted a Proposed Amendment to the P&P Manual to Update the Definition of PPS

Ms. Mears said next item is to discuss comments and consider adoption of a proposed amendment to the P&P Manual to update the definition of principal protected securities (PPS).

Mr. Perlman said the SVO has proposed amending the P&P Manual definition of PPS because it is seeing transactions that pose similar risks to PPS transactions, as currently defined in the P&P Manual, but which are structured in a way that does not cleanly fit the current definition, which requires “underlying investments.”

These new securities could be described as “synthetic PPS” because they are not issued by a special purpose vehicle (SPV) holding an “underlying” principal protection bond and performance asset. Instead, the security is the direct obligation of a large financial institution, which is obligated to pay principal at maturity and a premium based on the performance of referenced assets, such as equity, fixed-income or futures indices (or a combination thereof), and other financial assets. Though the obligation is solely that of the issuing financial institution, meaning there are no underlying bonds or performance assets, the structure poses the same risk of exposure to a performance asset because the amount of the issuer’s payment obligation is directly dependent on the performance of the referenced indices or assets. Additionally, unlike a PPS transaction with an underlying bond and performance asset, the likelihood of payment of the performance asset premium, whatever the amount might be, is linked directly to the creditworthiness of the issuer.

Following the introduction of this topic at the 2021 Fall National Meeting, comments were received from interested parties that they agreed with the substance behind the proposed amendment but requested that the wording be thoroughly discussed, as was the case with the original P&P Manual definition. At the Spring National Meeting this amendment was re-exposed for an additional 30 days. The current proposed amendment, which reflects comments from industry, expands the PPS definition to capture the structures that did not meet the original definition, yet which posed the same risks.

Mr. Reis, on behalf of the ACLI, the PPIA, and NASVA, said they are very supportive of the proposed amendment and are optimistic that it is structured in a way, principle-based, not unlike the bond definition, which will help address the risk once and for all (Attachment Seven).

Mr. Fletcher made a motion, seconded by Ms. Clements, to adopt the P&P Manual amendment to update the definition of PPS (Attachment Eight). The motion passed unanimously.

5. Received and Discussed a Referral from the Statutory Accounting Principles (E) Working Group on the Adoption of Agenda Item 2021-21

Ms. Mears said the Task Force received a referral from the Statutory Accounting Principles (E) Working Group regarding the adoption of agenda item 2021-21: Related Party Reporting. The purpose of the referral was to notify the Task Force that the Working Group adopted agenda item 2021-21 and recommend that the Task Force assess whether edits to the P&P Manual are necessary resulting from comments raised regarding filing exemption (FE) for affiliated structured securities with unaffiliated credit exposure. The SVO is reviewing the referral to determine whether it needs to develop additional procedures or clarify that the instructions for affiliated investments that do not have underlying affiliated credit exposure qualify for FE. If so, a proposed amendment will be brought to the Task Force for potential exposure at an upcoming meeting. There is no action required from the Task Force at this time, and it will follow up later with any potential amendments.

Ms. Mears directed SVO staff to continue their review and, if needed, draft a proposed P&P Manual amendment to clarify the related party instructions.

6. Received and Discussed a Referral from the Macroprudential (E) Working Group on its Plan for the List of MWG Considerations

Ms. Mears said the Task Force received a referral from the Macroprudential (E) Working Group of the Financial Stability (E) Task Force. The Working Group was charged with coordinating the various NAIC activities related to private equity (PE)-owned insurers. As an initial step, the Working Group developed a list of 13 regulatory considerations, which is included in the materials. The list included three items specific to either the Valuation of Securities (E) Task Force or the work of the SVO.

First, the Risk-Focused Surveillance (E) Working Group is considering the material terms of the investment management agreements (IMAs) and whether they are arm's length or include conflicts of interest. In the state insurance regulator discussions, it was noted, "Given the increasing prevalence of bespoke agreements, does it make sense to tie this work in to the work of the NAIC Valuation of Securities (E) Task Force and/or the NAIC Securities Valuation Office? If yes, how best to do so?"

Second, the Working Group is considering the material increases in privately structured securities, both by affiliated and non-affiliated asset managers, which introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk. To assist state insurance regulators in identifying concerns with these investments, state insurance regulators expressed support for the Task Force proposal to obtain market yields to allow a comparison with the NAIC designation. Once such data is available, state insurance regulators ask NAIC staff to develop a tool or report to automate this type of initial screening. Also, state insurance regulators again recognized that the Statutory Accounting Practices (E) Working Group Schedule D revamp work will help in identifying other items for initial screening.

Third, the Risk-Focused Surveillance (E) Working Group is considering the level of reliance on rating agency ratings and their appropriateness for regulatory purposes (e.g., accuracy, consistency, comparability, applicability, interchangeability, and transparency). The Task Force has previously addressed and will continue to address this issue. A small ad hoc group was formed—i.e., key representatives from NAIC staff, state insurance regulators, and industry—to develop a framework for assessing rating agency reviews. This will be a multi-year project, will include discussions with rating agencies, and will include the inconsistent meanings of ratings and terms. State insurance regulators agreed to monitor the work of the ad hoc group in lieu of any specific recommendations at

this time. Recognizing that this will likely be a multi-year project, state insurance regulators reserve the right to raise specific concerns that may arise as the various NAIC committee groups work to address this list of considerations.

No specific action is required by the Task Force at this time other than receiving this referral and continuing its work on these initiatives.

It is important to highlight the Macroprudential (E) Working Group's, the Financial Stability (E) Task Force's, and Life Actuarial (A) Task Force's support for adding fixed income analytical risk measures to investments reported on Schedule D, Part One, a topic that will be discussed later.

7. Discussed, Received Comments, and Exposed the Proposed Task Force Charges for 2023

Ms. Mears said the next item is to discuss and consider for exposure the proposed Task Force charges for 2023. Most of the proposed charges for 2023 are unchanged from 2022. The two additional charges are as follows:

- J. Implement additional and alternative ways to measure and report investment risk.
- K. Establish criteria to permit staff's discretion over the assignment of NAIC designations for securities subject to the filing exempt process (the use of credit rating provider ratings to determine an NAIC designation) to ensure greater consistency, uniformity and appropriateness to achieve the NAIC's financial solvency objectives.

The first new charge is consistent with the fixed income analytical risk measures that will be discussed later. The second new charge is a continuation of the existing charge I that says the Task Force will "implement policies to oversee the NAIC's staff administration of rating agency ratings used in NAIC processes, including staff's discretion over the applicability of their use in its administration of filing exemption." This charge would begin establishing when staff's discretion is permitted.

The new charges will be reordered slightly since charge K is effectively a continuation of charge I and should follow it. Also, the existing charge G refers to the groups the Task Force will coordinate with; the new RBC Investment Risk and Evaluation (E) Working Group will be added.

Stephen Broadie (American Property Casualty Insurance Association—APCIA) said he appreciates the explanation that charge K is supposed to follow charge I. It seemed like it might possibly be a broad grant of authority to the staff, and he wanted to ensure how far that is intended.

Ms. Mears said the charge is to establish that the criteria and any criteria that would be proposed would go through the normal due process of exposure and comment by any interested parties.

Ms. Mears directed staff to re-order the new charges so that the text for charge J and charge K are switched, add the Working Group to charge G, and expose the Task Force's 2023 proposed charges for a 30-day public comment period ending Sept. 12.

8. Received and Discussed Comments and Next Steps on a Proposal to Add Fixed Income Analytical Measures for Investments Reported on Schedule D, Part One

Ms. Mears said the next item is to receive, discuss comments, and consider next steps on a proposal to add fixed income analytical measures for investments reported on Schedule D, Part One. This was first discussed at the Spring National Meeting and at the June 9 meeting. The proposed new fields will not only support the SVO's analytical processes, but they also align with the regulatory initiatives of the Capital Adequacy (E) Task Force, the

Life Actuarial (A) Task Force, and concerns expressed by the Financial Stability (E) Task Force and its Macroprudential (E) Working Group, which looks at industry-level and systemic risk, including their plans to build regulatory dashboards to reflect those risks. The commonly used bond analytical fields in this request are interconnected, one way or another, to the investment risk analysis being performed by these other regulatory groups and will ultimately benefit the NAIC by strengthening its overall regulatory framework. This request is not new and relates back to the 2010 recommendation from the Rating Agency (E) Working Group to look for an alternative way to measure risk, but its implementation is long overdue.

There were concerns raised in the comment letters related to the operational burden of collecting this data and explanations as to the reasons why some investments may have a higher yield spread versus a U.S. Treasury that may not be related to credit risk, such as liquidity or complexity risk. As discussed at the June meeting, while these other risks may exist and influence an investment's yield, the NAIC's current framework does not separately capture them and encapsulates essentially all investment risk into the NAIC designation.

There were also suggestions to use total return measures, such as the Sharpe and Sortino ratios and performance attribution analysis to assess risk. These ratios are better suited for evaluating relative value than they are for identifying market risk premiums related to credit risk. Additionally, the system changes, data, pricing, and other information that would be required for insurers to calculate total return on each security, produce statistically significant annual standard deviations of those returns, as well as the performance attribution of each security would be a substantially greater burden on insurers than the proposed analytical fields. The Task Force respects the feedback from industry that this would be operationally burdensome, and it wants to look at alternative ways to collect this information.

SVO staff prepared a memo to consider optional paths and the operational issues to implementing this proposal. The memo outlines several benefits and two possible paths to deliver this information along with pros and cons of both.

Mr. Therriault said the SVO proposed adding these additional market data fields for bond investments to the annual statement for several reasons. The recommendation was based on 2010 adopted recommendations of the Rating Agency (E) Working Group, the NAIC Investment Analysis Office (IAO) staff's findings regarding the discrepancies between ratings, presented in its Nov. 29, 2021, memo, as well as the work and discussions occurring within other regulatory groups that are also trying to assess insurers' investment risk.

The SVO and the Structured Securities Group (SSG) have raised concerns over the past several years about asset classes and specific securities where a rating agency rating does not adequately reflect the investment risk for NAIC purposes. The SVO will use this analytical information to help it identify investment risk assessment inaccuracies, and, coupled with some level of discretion over NAIC designations derived from ratings, take potential action on them. Without this information and authority to act, there will continue to be a large incentive for RBC arbitrage utilizing CRP ratings. Rating agencies are effectively a de-facto "super regulator" today in that any investment security assigned a rating by any rating agency will automatically be accepted by the NAIC without any regulatory discussion, analysis, oversight, or consideration as to how the rating agency's decisions align to the NAIC's financial solvency framework.

As a ratings consumer with regulatory objectives unique to those of the rating agencies, the SVO believes there are several regulatory benefits to the NAIC collecting this additional market data:

- Assisting in SVO identification of securities with CRP ratings, which may be inconsistent with a security's actual overall risk for NAIC purposes.
- Greater transparency for state insurance regulators into the risks and characteristics of insurer investments and portfolios.

- Incorporation of insurer investment portfolio analysis into the examination process.
- Allowing state insurance regulators to assess the capabilities of an insurer's investment management or risk management processes by reviewing the quality and accuracy of the market data fields.

The SVO believes there are two primary alternatives to providing this information to the NAIC. The first alternative is to assign the SVO the responsibility of producing the analytical data elements requested in the proposal. This would require significant enhancements to the SVO's existing systems—VISION, AVS+, and STS—additional vendor pricing data; investments in new systems to provide the analytical modeling; additional staff for the incremental and ongoing support of these systems, processes, and data, along with reporting capabilities to provide this information to state insurance regulators. Enhancements would also include the ability for insurers to electronically provide the SVO with the full security structure of any investment that the modeling software does not know about. Insurers may still need to report this information on the statutory statements.

The second alternative would be to have insurers calculate this information and provide it to the NAIC, as originally proposed. As noted in the memo, insurer's investment managers should already have the market data fields requested in the proposal. Insurers would need to get this security issue level information (e.g., the Committee on Uniform Securities Identification Procedures [CUSIP]) into their systems that produce their Schedule D filings. This option would require more work up front on the part of the insurers and less work by the NAIC. The ultimate usefulness of the data, whether by state insurance regulators, the SVO, or other interested NAIC groups, could be significantly more limited than in the first option, because of the likely data and modeling inconsistencies between insurers. This alternative would also preclude other analytical processes, such as portfolio cash flow modeling that could be performed by the SVO.

This is an important first step in finding alternative ways to measure insurers' investment risk and reducing the NAIC reliance on rating agency ratings. Both alternatives will involve a commitment of resources either by the NAIC or industry. The major question before the Task Force is whether it has a preferred source for these market data fields; i.e., the NAIC's SVO or insurer reporting. The SVO believes that the first option would provide the most standardization in data and utility to state insurance regulators, the SVO, and other interested NAIC groups, and it would be worth the slightly longer time and cost needed to develop the capabilities.

If, as the SVO recommends, the Task Force prefers the SVO as the source of this analysis, then the next step recommended is a referral to the Financial Condition (E) Committee to request its sponsorship for this initiative and, if provided, begin a fiscal request. If the Committee declines to sponsor the initiative or if insurer reporting is the preferred source, the recommendation is to revert to insurer reporting and direct SVO staff to prepare the Blanks referral.

The SVO believes that the benefits to be gained by state insurance regulators, the SVO, and other NAIC groups with interests in investment risk of bringing this modelling capability in-house greatly outweigh, in the long run, the initial costs and effort to make these capabilities. However, it would require a substantial commitment of NAIC resources.

Ms. Mears said no recommendation is expected from the Task Force today, but rather continued discussion and exposure of the memo just detailed and an opportunity to provide direction at an upcoming meeting. As this is put out for exposure, the Task Force welcomes comments, as these are clearly two options that the staff has really laid out. Any other insights or nuanced response from industry as to the best way to be able to gather this information is welcome, along with an open dialog to find the best solution.

Mr. Anderson said the objectives stated here are certainly laudable. The question is whether it is time now to decide which data needs to be assembled to accomplish those objectives. First, NAIC designations today are the same as nationally recognized statistical rating organization (NRSRO) ratings as they relate to credit risk, ability,

and willingness to pay on a scale of 1 to 20. What the staff memo talks about for the first time here is something that has been discussed as investment risk and now been renamed actual overall risk. Actual overall risk, which includes liquidity and any number of other elements, is interesting to state insurance regulators and important, but it is not part of today's structure. If there is a desire to broaden the notion of overall risk from today's structure, which is credit risk, or default risk, then tools need to be developed for state insurance regulators with them and their input in mind because it would be very unfortunate to develop a dashboard or something that is not useful at the examination level. Before a determination is made as to which data elements should be required, some work should be done on a workbench to see what kind of product can be developed using those inputs. It is not appropriate to use investment risk or actual overall risk to evaluate the performance of the rating agencies. The NRSROs are not looking at the overall investment risk; they are looking at what the NAIC looks at for C1 and R1, and that is default risk. RBC is presently structured to consider and measure default risk; then, within the structure, it deals with things like recovery, concentration, and other elements, but it would be inappropriate to use anything other than the present designation method, which is the same as rating agency metrics to judge a rating agency. There are other ways to judge a rating agency, and that is one of the things the Office of Credit Ratings (OCR) of the U.S. Securities and Exchange Commission (SEC) has offered up—the performance measurement data—which is published in a uniform standard for NRSROs. There are other methods, but the idea of using something other than credit default metrics to evaluate the performance of a rating agency is inappropriate.

Ms. Mears said the intent to the newer option, where the SVO would produce the metrics, would be to implement more of a risk analytic system that has some flexibility, where the data fields do not need to be defined in advance. That is a downside of the Scheduled D proposal with insurers doing the reporting; it limits the data fields. State insurance regulators may discover over time that other measures of analytical risk are more appropriate. That is something to consider as well as these options are reviewed.

Mr. Therriault clarified that NAIC designations are not the same as a rating agency rating. The SVO does not hold itself out as a rating agency, and there should be no comparability or equivalency between the two. NAIC designations reflect the NAIC's financial solvency framework. It is very explicit in Part One of the P&P Manual, which contains the policies of the Task Force, as to what an NAIC designation is and what it is not.

Ms. Mears directed staff to expose the memo on alternatives to add fixed income analytical risk measures to investments reported on Schedule D, Part One for a 30-day public comment period ending Sept. 12.

9. Discussed, Received Comments, and Exposed a Revised Proposed Amendment to the P&P Manual to Update the Definition of Other Non-Payment Risk Assigned a Subscript "S"

Ms. Mears said the next item is to discuss and consider exposing an amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript "S."

Mr. Perlman said at the 2021 Fall National Meeting, the Task Force exposed a proposed amendment, which was intended to clarify the meaning of Other Non-Payment Risk warranting a Subscript "S," with the inclusion of additional illustrations, and add such investments to the ineligible for FE list. At the Spring National Meeting, the SVO was directed to work with industry on technical modifications to this proposed amendment. The SVO met with representatives of the ACLI, the PPIA, and NASVA on April 29, May 6, May 24, and June 17. The revised amendment reflects items discussed during those meetings. However, there was not consensus on three primary issues, each a proposed illustration of an Other Non-Payment Risk warranting a Subscript "S": 1) maturities equal to or exceeding 40 years; 2) certain deferred principal payment features; and 3) certain deferred interest payment features.

The SVO recommends exposing the definitional updates to Part Two of the P&P Manual, which include the new illustrations, and deferring the proposed Part Three instructions to remove securities with Other Non-Payment

Risks from FE. This deferral is intended to give industry sufficient time to provide examples of securities that are publicly rated by different CRPs, which have any of the three characteristics just listed for which there was not consensus, so the SVO can study them.

Ms. Mears said in prior conversations, there was a request from interested parties to just get some additional context on some of the reasoning behind why each of these were listed.

Ms. Mears directed staff to expose the revised proposed amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript “S” for a 30-day public comment period ending Sept. 12.

10. Received Comments on IAO Issue Paper on the Risk Assessment of Structured Securities – CLOs

Ms. Mears said the next item is to receive comments on the IAO paper on the risk assessment of Structured Securities – Collateralized Loan Obligations (CLOs).

Jean-Baptiste Carelus (NAIC) said the SSG made two recommendations to the Task Force. The Task force should direct the modeling of CLOs by the NAIC and direct referrals to the Capital Adequacy (E) Task Force and the RBC Investment Risk and Evaluation (E) Working Group, requesting that those groups consider creating or breaking out the NAIC 6 Designation into three designation categories; i.e., 6.A, 6.B, and 6.C. The rationale for the recommendation is that the aggregate RBC factor for owning all the CLO tranches should be the same as required for owning all the underlying loan collateral. This would eliminate RBC arbitrage that currently exists. The modeling would be based on the current CLO stress tests. The methodology for the stress tests is available on the NAIC website under the Resource Center in the Capital Markets section. Currently, the scenarios and probabilities have not been set, and the SSG will come up with eight to 12 scenarios. The scenarios will probably be various combinations of default rates and recovery stresses.

The Task Force exposed the IAO’s memo with the recommendation from staff, and there were several comments received. Most of the comments were supportive but cautious, and others were concerned, especially about the implication of the recommendation. The SSG grouped the responses into four categories: timing, policy arguments, transparency, and methodology. Under the timing, respondents were concerned that the recommendation would be implemented immediately. To alleviate that concern, the SSG estimated a timeline. In that timeline, the exposure for comments on the proposed P&P Manual amendment would be late 2022. The development and refinement of methodology, excluding the scenarios, would be about late 2022 as well, but going most likely into mid-2023. Then there is the development of scenarios, probabilities, and the RBC tie out. SSG staff estimate that that would also be in 2023, and the process itself would most be the most collaborative and interactive step in the process. The final implementation, which at the earliest is estimated to be about year-end 2023, will possibly be pushed into year-end 2024.

The NAIC process in moving this proposal forward will be collaborative and provide many opportunities for comment from interested parties. The next category of comments is policy arguments. Respondents emphasized the importance of the CLOs to the U.S. capital markets and the historical performance of the asset class. State insurance regulators and staff appreciate and understand the role of insurers and their investments in the U.S. economy and the financial markets. The main priority of state insurance regulators is policyholders and ensuring their protection through prudent financial solvency policies.

As for performance, the historical performance of CLOs has been good; this is especially true for the top of the capital stack. The recommended action is designed to allow insurers to continue participating in the CLO market without the risk that aggressive structuring puts policyholders and the investments in jeopardy. Given the performance of CLOs, some respondents commented that staff have not justified RBC at the 75% and 100% level. The current system works well if the intrinsic price is 70 or above since the highest RBC is currently 30%. A good

example comes from the 2008 financial crisis, where a mezzanine residential mortgage-backed securities (RMBS) tranche was evaluated with an intrinsic price of 5. The resulting RBC was far below the risk evaluated. This may also occur in the residual tranches, such as CLO equity, if cash flows are interrupted to protect senior tranches. There will be plenty of opportunity for commenting about modeling, and there will be plenty of opportunities to discuss the comments related to modeling, transparency, and methodology.

As this process moves forward into modeling, the SSG will expose all proposals with sufficient time for comment and feedback. Staff recommends that the Task Force proceed with the proposal, specifically referring the RBC issue to the RBC Investment Risk and Evaluation (E) Working Group and directing staff to draft P&P Manual language for exposure and direct staff to work with interested parties to fine tune methodology and draw up scenarios and probabilities.

There are three main questions that have been encountered within interactions and comments about this. The first question is whether this is applicable to other structured assets if there are many structured assets. This proposal from staff is purely related to CLOs in terms of risk arbitrage. The recommendation in terms of internal modeling is solely for that purpose. The second question is whether there is sufficient staff and expertise because the work is overwhelming. The SSG has been doing this modeling since 2018 when the first CLO stress test was conducted. Given that this will now be formally put into policy, it will be much easier when the process is deliberately staffed and funded. The final question is how it will work and whether insurers will need to look up a table or database to recognize the arbitrage adjustment. It will work the same way it currently works for RMBS. The insurer would go to the website for the AVS+; download the designation or break points, as appropriate; and determine how to report their tranche.

Ms. Mears said while the modeling itself is a distinct effort from the SVO and the SSG under the Task Force and the creation of RBC would fall to the RBC groups, the Task Force recognizes that the efforts need to be coordinated, and it anticipates ongoing workstreams with constant touch points, as was hopefully reiterated several times. This is meant to be a very transparent process. This initial proposal or exposure was to give the “heads up” that the Task Force is looking at this and to get some initial feedback and start this process. There were some interested parties that thought this was it and that was everything they were going to see. That was certainly not the intent. This will be very deliberative and transparent as the Task Force moves through this process. There will be several points for discussion, exposure, and comment, including starting with the methodologies and moving on to scenarios and probabilities. The RBC groups will have their own timeline as well for looking at potential factors. The Task Force will be referring an issue to the RBC groups, which is the concept that perhaps additional granularity within the NAIC 6 category may be necessary to accurately capture the risk associated with residual tranches. In the Task Force’s recommendation, it suggests that charges higher than 30% are needed. That is something that clearly the RBC groups will look at and decide how to implement. This is expected to be a very interactive process, potentially with multiple iterations in some of these workstreams, and encourage the open dialog that has already occurred with interested parties that want to know what is going to happen and to continue that dialog with those parties.

Ms. Mears said comment letters were received from the American Investment Council (AIC), Athene, Egan-Jones Ratings Company, the Loan Syndications and Trading Association (LSTA), PineBridge Investments, the Structured Finance Association, the Teachers Insurance and Annuity Association of America (TIAA), and the ACLI.

Steven Clayburn (ACLI) said it struck him that there is an issue paper on the stress methodology. The ACLI asked if there will be time to allow for an exposure of that issue paper since it was unaware of that paper or any discussion when the stress testing was done. This would give time to see if the modeling has similarities to what was done for the C1 bond factors that went to the expansion of 20 pieces. The ACLI asked if there would also be an opportunity to have the SSG’s comment letter response exposed so further comments could be provided.

Mr. Carelus said the methodology paper for the CLO stress test was first published back in 2018 after the first time the stress was run. The SSG has run it every year since 2019 and 2020. The CLO stress test methodology paper is available on the NAIC website, under the Resource Center in the Capital Markets Bureau section. Ms. Mears said the CLO stress test methodology will be exposed with the materials on the Task Force web page.

Rebekah Goshorn Jurata (AIC) said the AIC is an advocacy and research organization that represents the leading PE and credit firms around the world. The AIC has a lot of experience with the investment needs of insurers, as well as the customers of the insurance companies. The AIC has a vested interest in the important work of the Task Force and welcomes the continued engagement and exposure of these materials.

Ms. Mears directed staff to expose the presentation along with the existing methodology paper for a 30-day public comment period ending Sept. 12 and prepare a proposed P&P Manual amendment that would assign the responsibility for assigning NAIC designation for CLOs to the SSG. This proposed amendment will be discussed at a future meeting and publicly exposed for comment. Ms. Mears directed staff to prepare papers for eventual exposure of the proposed CLO methodology, scenarios, and probabilities. As mentioned earlier, each of these will be exposed for public comment, and there will be an opportunity for informal dialog in between exposures to help inform what the initial exposure will look like. Ms. Mears also directed staff to prepare a referral to the Capital Adequacy (E) Task Force and the RBC Investment Risk and Evaluation (E) Working Group requesting them to contemporaneously consider the recommended additional NAIC Designation Categories and RBC factors for the residual tranche while this Task Force continues with its work on assessing the investment risk and assigning NAIC designations to CLOs.

11. Heard a Report on Projects Before the Statutory Accounting Principles (E) Working Group

Ms. Mears said the next item is to hear a report on projects before the Statutory Accounting Principles (E) Working Group.

Julie Gann (NAIC) said the principles bond project, the definition issue paper, and actual statutory revisions to *Statement of Statutory Accounting Principles (SSAP) No. 26R—Bonds* and *SSAP No. 43R—Loan-Backed and Structured Securities* is exposed on the Working Group web page.

12. Heard a Staff Update on the Ad Hoc CRP Study Group

Ms. Mears said the next item is to hear a staff update on the Ad Hoc Study Group. The ad hoc group continues to meet and does not have any deliverables at this point, but it does expect to move forward with conversations with CRPs later and will keep the Task Force informed once there is something to propose.

13. Received an Update from the SSG on Modeling Scenarios

Ms. Mears said the next item is to hear a staff update from the SSG on modeling scenarios.

Mr. Therriault said he would go through the macroeconomic scenarios and probability assignments that the SSG is planning. If there are any specific technical questions, he recommended emailing them to the SSG.

The commercial mortgage-backed securities (CMBS) and residential mortgage-backed securities (RMBS) scenarios were previously presented at the June 9 Task Force meeting. Additional macroeconomic scenarios are being added to better differentiate the risk across the 20 NAIC Designation Categories. This is an expansion from the current four scenarios to a total of eight for RMBS and CMBS. Probability weights have been assigned to each scenario, with a reallocation of probability weights with lower probabilities at the tail and increased aggregate probabilities at the belly of the distribution.

The new distribution now has a more typical bell shape of the range of macroeconomic scenarios for both RMBS and CMBS. The new scenarios are presented in bold for CMBS and RMBS in tabular and graphical form.

Having no further business, the Valuation of Securities (E) Task Force adjourned.

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer NM/Minutes/VOSTF 8.11.22 Summer NM Minutes.docx>

Draft: 7/13/22

Valuation of Securities (E) Task Force
Virtual Meeting
June 9, 2022

The Valuation of Securities (E) Task Force met June 9, 2022. The following Task Force members participated: Doug Ommen, Chair, represented by Carrie Mears (IA); Scott A. White, Vice Chair, represented by Doug Stolte (VA); Ricardo Lara represented by Laura Clements (CA); Andrew N. Mais represented by Kenneth Cotrone (CT); Trinidad Navarro represented by Rylynn Brown (DE); David Altmaier represented by Carolyn Morgan (FL); Dean L. Cameron represented by Eric Fletcher (ID); Dana Popish Severinghaus represented by Vincent Tsang (IL); Vicki Schmidt represented by Tish Becker (KS); James J. Donelon represented by Stewart Guerin (LA); Kathleen A. Birrane represented by Matt Kozak (MD); Chlora Lindley-Myers represented by Debbie Doggett (MO); Eric Dunning represented by Lindsay Crawford (NE); Marlene Caride represented by John Sirovetz (NJ); Adrienne A. Harris represented by Jim Everett (NY); Cassie Brown represented by Amy Garcia (TX); Mike Kreidler represented by Tim Hayes (WA).

1. Received and Discussed a Memorandum of Support from the Financial Condition (E) Committee to the Task Force

Ms. Mears said the first item on the agenda is to receive and discuss a memorandum of support from the Financial Condition (E) Committee to the Valuation of Securities (E) Task Force, the Capital Adequacy (E) Task Force, the Statutory Accounting Principles (E) Working Group, the Life Insurance and Annuities (A) Committee, and other regulatory groups and interested parties. The purpose of the memo was to express support for several interrelated initiatives focused on asset risk that are underway by the Valuation of Securities (E) Task Force as well as other committees, task forces, and working groups. The Financial Condition (E) Committee recognized that there is a range of risk management practices across the industry, but it highlighted the importance of "... establishing standards if necessary to address issues that could translate into material risk if not properly and timely considered within the NAIC solvency framework." The Committee highlighted the Task Force's work on the use of or reduction of reliance on rating agencies and the use of other risk identifiers such as market data, which are two agenda items today. This memo was received and supports the work of the Task Force.

2. Received and Discussed Comments on a Proposed Referral to the Blanks (E) Working Group to Add Fixed Income Analytical Risk Measures to Investments Reported on Schedule D, Part One

Ms. Mears said the next agenda item is to receive and discuss comments on a proposed referral to the Blanks (E) Working Group to add fixed income analytical risk measures to investments reported on Schedule D, Part One. As noted on the memo, it is important to establish standards necessary to address issues that could translate into material risks. This request is not necessarily new, and it relates back to a 2010 recommendation from the Rating Agency (E) Working Group that looked at alternative ways to measure risk. As per the comment letters, there are concerns from a few areas, one being the operational burden of collecting this data for reporting on Schedule D, which is something that can be discussed. There were a few other notes as well that there may be reasons those investments have outperforming spreads or yields that may not be related to credit risk. This is one that is important to note, because while this was brought up in relation to the review of credit ratings, there may be a sense that the credit rating itself should be looked at if there are spreads that are outsized compared to comparable assets. It is also something that helps note that there are other risks that can support those extra returns. It may not necessarily be reflected in the framework right now, such as liquidity or complexity. In that case, it may not be looking to the credit rating itself, but the ability to review the framework must still be available so it is encompassing all measures of both returns and risk in a holistic way. That is ultimately the information that

is to be gathered to continue the transparency into these portfolios. Most note that it is not a world of just buy and hold very traditional assets through maturity within the industry, but rather investments are actively traded and managed through times of stress or a recessionary environment. There are multiple reasons for this market value data, and it will be very valuable. It is important to be aware that it is not just for one particular purpose, but it is more broadly reflective of how to see portfolios being managed today.

Charles Therriault (NAIC) said the Securities Valuation Office (SVO) views this proposal as a vital step in achieving two of the primary and long outstanding goals of the Rating Agency (E) Working Group that were referenced in the paper: 1) developing additional or alternative ways to measure risk; and 2) using those risk measures to lessen the NAIC's reliance on rating agency ratings. These common bond analytical fields can be used for a variety of other regulatory purposes, such as identification of risk, valuation assessment, interest rate sensitivity, cash flow life, and NAIC designation validation. Any changes to assumptions or cash flow expectations after purchase will be picked up by these measures. The yield on an investment cannot be changed without also changing the market price of that security. These metrics are an easy way to identify where the insurer or market perceives the overall risk level for an investment of a given quality level. There may be several other sources of risk that are driving a yield spread; but it is still a very useful tool. SVO staff strongly support getting this information and looking at the different means by which to operationalize it.

Ms. Mears said three comments letters were received: 1) a joint comment letter from the American Council of Life Insurers (ACLI), the Private Placement Investors Association (PPIA), and the North American Securities Valuation Association (NASVA); 2) a letter from the Lease-Backed Securities Working Group; and 3) a comment letter from Anderson Insights.

Mike Reis (Northwestern Mutual), on behalf of the ACLI, the PPIA, and the NASVA, said industry wants to provide meaningful data to the state insurance regulators. The concern was that the effort to supply the data from each individual company would not be inconsequential. Industry wants to prevent adopting it as is and finding out later that that it did not hit the nail on the head with providing the proper data. Industry wants to work with the state insurance regulators and the SVO to think of the best way to achieve the ends that are important to state insurance regulators, whether that is centrally aggregating it, filing through the VISION system, or whatever other means that is most efficient to get the data to the state insurance regulators. For example, 75% of asset-backed securities (ABS) do not rely on rating agencies; if you add collateralized loan obligations (CLO), which is later on the agenda, to the commercial mortgage-backed securities (CMBS) and residential mortgage-backed securities (RMBS), that would all be modeled by the NAIC. Much of the public market data is either publicly available or available through the U.S. Department of the Treasury (Treasury Department) or other similar securities where such data is not relevant. The most efficient way to do it must be found so it is not a burdensome expense without the requisite bang for the buck.

John Garrison (Lease-Backed Securities Working Group) said the main point of the letter was to alert state insurance regulators that there could be a number of issues, particularly when it comes to applying public bond spreads or prices as an indicator for the credit rating when applied to private investments, for which there are many more factors that could influence pricing.

Chris Anderson (Anderson Insights) said it is now possible with some creativity, even on a personal computer, for an analyst to start working with the data that is available. Some may have to be calculated, some frameworks can be created and what exists can be operationalized. There is generally no substitute for getting your hands dirty starting on something, and it has the potential for avoiding false starts. It has a potential for assuring that the data that is sought for thousands of companies is the data that will be helpful. Another element is to distinguish between C-1, R-1, credit risk, and other investment risks. C-1 and R-1, credit risk, is something that is derived from credit analysis, which is what the SVO and credit agencies do. The NAIC relies substantially on the thousands of

credit analysts working at the nationally recognized statistical ratings organization (NRSRO) that it recognizes. There is every reason to evaluate those credit ratings and ensure they are of a quality that is sufficient to support the calculation of risk-based capital (RBC) because R-1 and C-1 are just credit risk. That is one objective to ensure there is reasonable quality of rating agency ratings in SVO designations. The other question is of not just credit risk, but investment risk; credit risk is a subset of investment risk. There are many other elements of risk that will affect spreads, and the difficult element here is to not just say that spreads are wide, but to do an assessment and evaluation and attribute the reason for the widespread. State insurance regulators need to know that. Just knowing that the spread is wide is interesting, but with hundreds of thousands of securities, it would be very helpful to understand if there is complexity, because an examiner might then want to go in and look at the companies' analytics; Or if it is liquidity, then an examiner might want to look at liquidity. What is addressed in the letter is doing an analysis of attribution and the work that is being done in attribution. The CFA Institute just offered a 12-hour program to do that. Getting back to the core point, assessing the reliability of rating agencies is one project that can be undertaken. The second is more complicated; i.e., not just looking at spreads but giving state insurance regulators the information they need as to why those spreads may be wide.

Ms. Mears encouraged everyone to follow all the committees and groups that were referenced in the Financial Condition (E) Committee letter, because it points to the interconnectivity between the outcomes and the data that would be utilized to review the overall regulatory framework. There was a conference call of the Life Actuarial (A) Task Force that spoke to some of the key elements that Mr. Anderson was referring to, including attribution of spread and some more higher yielding assets in comparison to other assets of similar credit rating. The regulatory framework is built very much around credit risk and using the inputs from the NAIC designations, whether they come from a credit rating provider (CRP) or other sources for NAIC designations, and it measures the overall risk of an investment. Historically, that really was enough. Other sources that contributed to that return were less material in relation to the credit risk component. As there is a gain in materiality, to the points that were made here, it really helps from a regulatory standpoint to have some transparency into what the components are and then review the regulatory framework accordingly.

There is absolutely the understanding that all of those will not necessarily be measured by credit risk, but currently, that is the input. These efforts are not only helpful to the Valuation of Securities (E) Task Force, but they can contribute to the analysis being done across the board from all these other initiatives as well. For example, looking from an industry-wide perspective, the NAIC is building out capabilities within the Macroprudential (E) Working Group to look at more industry-level risks and systemic risks and looking at dashboards to reflect those risks. That would be another forum where a lot of this data could be aggregated from a market basis and utilized for establishing perspective even from an industry-wide standpoint. From that perspective, the comments made are very much heard and understood, and they really help support looking at this on a more holistic basis. The operational difficulties of getting this reported on Schedule D are being heard along with some intriguing ways to do that outside of the statutory reporting process, including using other platforms like Bloomberg or Aladdin. This is a great opportunity from an SVO standpoint to take a step back and look at the capabilities and investment infrastructure at the SVO and how it can be pulled together to help achieve some of these initiatives across the board that were laid out in the Committee letter.

Mr. Everett said the project started with the discussion of the reduction of reliance on rating agencies. The Rating Agency (E) Working Group called not only for substituting items, but also looking to complementary sources of credit information. This was to stay within the credit gambit. These included multivariate accounting-based credit scoring that could be tied back into the Statutory Accounting Practices (E) Working Group since they are accounting based. Other methodologies like contingent claims valuation methodologies or imputed promises methodologies; certification and endorsement regimes like the European Securities and Markets Association (ESMA); central credit registers, which were closed at the time but are more accessible; and central financial statement databases, which are substantially more open than they had been. Regarding some of the proposals,

while a lot of the items being called for would cover small yield changes or over the short-run and parallel yield curve shifts, more might be needed to cover for stress situations where the curves do not move parallel. Without going into the attribution side, it might be possible to use something like the Sortino ratio as a screening device because it has been widely tested and verified across industries and market periods. It is elementary and easy to apply that, as departmental analysts and examiners could be able to use it. It can be used for even highly concentrated portfolios, such as commercial real estate holdings or CLOs and large portfolios. Subsequent testing has shown that it can be used for smaller ones. The Sortino ratio is a variation of the Sharpe ratio. That differentiates harmful volatility from total overall volatility by using the asset's standard deviation of negative portfolio returns. It is sort of a Sharpe ratio, but it came to mind since the concern seems to be with downside volatility, and it takes an asset or portfolio's return, subtracts the risk-free rate, and then divides the amount by the asset's downside deviation. This could be a screening device. There are other complementary sources of credit information that were considered, and while they were not mentioned expressly in the Rating Agency (E) Working Group's report, they were talked about in that the Bank for International Settlements (BIS) said it had given great credit to those.

Ms. Mears said as the Task Force takes a step back here to look at operationalizing this, it can continue to look at what type of data and metrics can be utilized as well. She recommended that this work continue and that the Task Force work with industry on their ideas, as well in a collaborative effort to obtain these types of information that are market value-based metrics, including ways that make sense both from the list from industry, but also from the SVO, that might result in some questioning and modernize some of the processes at the SVO to accommodate that.

3. Received a Proposed Amendment to the P&P Manual to Update the Role of the SVO Regarding Interpreting Accounting and Reporting

Marc Perlman (NAIC) said the SVO has historically worked with the NAIC's statutory accounting colleagues to make accounting and reporting determinations, which guided whether the SVO could analyze and designate an insurer's investment. However, the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) currently provides conflicting guidance on whether the SVO should have a role in interpreting accounting and reporting guidance. While many sections of the P&P Manual state that the SVO may assign NAIC designations to any investment filed with it for which it has a methodology, it also specifies in Part One, paragraph 40 that the SVO is assigned to assess investments reported on Schedules D and BA and shall communicate to insurers if an investment is not eligible for those schedules and can therefore not be assigned an NAIC designation. Part One, paragraph 32 of the P&P Manual explains that the assessment of an investment's credit risk is distinct from the determination of statutory accounting or reporting under the *Accounting Practices and Procedures Manual* (AP&P); i.e., obtaining an NAIC designation does not change an investment's applicable statement of statutory accounting principles (SSAP) annual or quarterly statement reporting schedule, nor does it override other SSAP guidance required for the investment to be an admitted asset.

Paragraph 33 of the P&P Manual explains that accounting and reporting determinations for investments are the obligation of the insurance company, but the state insurance regulators remain the final authority.

Paragraph 34 of the P&P Manual expressly states that the SVO can assess any investment filed with it, so long as it has the methodologies to do so. Because SVO analytical determinations of credit quality do not convey opinions, conclusions, or informational content relative to statutory accounting status, the SVO may assign an NAIC designation to any obligation or asset that is filed by an insurer, provided that its credit quality can be assessed consistently with the policies and methodologies specified in the P&P Manual.

However, Part One, paragraph 40 of the P&P Manual states that the SVO is only assigned to assess investments reported on Schedules D and BA, and it may need to communicate to insurers that the investment is not eligible for reporting on Schedules D or BA; therefore the investment cannot be assigned an NAIC designation.

The SVO is assigned to assess investment securities reported to state insurance regulators on Schedules D and BA. To fulfill its function, the SVO must be able to communicate to an insurer that has filed a financial instrument or security that the financial instrument or security is not an investment security eligible for reporting on Schedules D and BA. The SVO may be required to communicate to an insurer that it must refile a financial instrument or security to another schedule. The SVO may also have to communicate to an insurer that an instrument the insurer has filed does not meet the definition of an investment security in the P&P Manual and is therefore not eligible to be assessed.

The SVO recommends amending Part One, paragraph 40 of the P&P Manual to provide consistent instructions to the SVO regarding its accounting and reporting guidance authority. The proposal would clarify, in accordance with Part One, paragraph 34, that the SVO can assign NAIC designations to investments that it does not think are eligible for Schedules D or BA reporting, so long as it has the methodology to do so. However, the SVO would have the authority, at its discretion, to notify the appropriate state insurance regulators of any investments that, in its opinion, would not or might not be eligible for reporting on Schedules D or BA. The SVO would also maintain its authority to offer its accounting and reporting opinion, when requested to do so, as part of its Regulatory Treatment Analysis Service (RTAS), it being understood that such opinions would not be authoritative and might not reflect the opinion of the relevant state insurance regulator. Also, to be clear, the SVO would not be required to designate investments that deviate from specific guidelines in the P&P Manual for that investment type. For example, for the SVO to designate a working capital finance investment (WCFI), the investment will still need to meet the very specific WCFI guidelines currently in the P&P Manual.

Mr. Reis said the ACLI had a meeting today, discussed this proposal, and asked if this proposal will be exposed. Ms. Mears said it will be exposed.

Mr. Anderson said anytime there is clarification in the P&P Manual is a good thing. Something mentioned earlier is coordinating between groups. One interested group here is the Risk-Based Capital Investment Risk and Evaluation (E) Working Group. Mr. Anderson said there is a little bit of tension here in his mind because the NAIC says something is not a bond and does not qualify for the bond schedule. On the other hand, there is a proposal to assign RBC factors—i.e., credit risk factors—which are bond factors and based on bonds and credit. It would be appropriate sooner rather than later, but preferably before any changes are made to ensure there is coordination with the Working Group.

Ms. Mears directed staff to expose this proposed amendment for a 30-day public comment period.

4. Received a Proposed Amendment to the P&P Manual to Update Part Four for NAIC Designation Category and Additional Price Points

Ms. Mears said the next agenda item is to receive a proposed amendment to the P&P Manual to update Part Four for NAIC Designation Category and Additional Price Points. The Task Force and the Structured Securities Group (SSG) have discussed these anticipated changes several times over the past year, including at the 2021 Summer National Meeting, the subsequent interim meetings, and again at the 2022 Spring National Meeting.

Eric Kolchinsky (NAIC) said last year, the SSG did not fully implement all 20 new NAIC designation categories. It was known that it was going to take longer to do this for modeled RMBS and CMBS. Temporary language was added to the P&P Manual until new price ranges were developed to reflect the full range of RBC factors adopted

for each NAIC category. This has now essentially been completed, and Mr. Kolchinsky wants to reflect it in the P&P Manual. The changes are to the categories, as can be seen in the markup of the P&P Manual, to reflect shifting away from six to 19 breakpoints and changing the language in Part Four, paragraph 27 regarding some of the temporary language. The intention is to proceed with the procedure for deriving the midpoint, as has been done before; that is the midpoint for the two categories. The intention is, outside of the change in the risk-based factors, to maintain status quo procedurally. The SSG recommends the exposure and then adoption of these new breakpoint factors.

Ms. Mears directed staff to expose this proposed amendment for a 30-day comment period and will discuss it at the Summer National Meeting.

5. Received and Discussed an IAO Issue Paper on the Risk Assessment of Structured Securities – CLOs

Ms. Mears said the next item on the agenda is to receive and discuss and Investment Analysis Office issue paper on risk assessment of structured securities, specifically CLOs. The IAO has identified large RBC arbitrage opportunities and incentives with these structures.

Mr. Kolchinsky said CLOs have been a topic of a lot of conversations and one of the things that the SSG has found within the structure of CLOs is the great potential for risk arbitrage. If you take a pool of assets with effectively a single “B” rating, put it in a CLO and calculate the total RBC on every single tranche of the CLO when it is produced, there is a huge amount of regulatory arbitrage. The risk weighting is reduced by about two-thirds. This is an issue, and Mr. Kolchinsky is making two recommendations: 1) the Task Force should direct the NAIC to promote modeling CLOs; and 2) the Task Force should direct referrals to the Capital Adequacy (E) Task Force and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group requesting that those groups consider creating or breaking out the NAIC 6 Designation into three designation categories; i.e., 6. A, 6.B, and 6.C. That would allow the SSG to capture some of the tail risk in these securities through weights in the middle. It is not expected that many securities will fall in there, but in case there are tail risks to equalize the RBC, it would be helpful to have 30%, 75%, and 100%. The modeling would be based off the current CLO stress test methodology. Currently, scenarios and probabilities have not been set, and the SSG will come up with eight to 12 scenarios. The scenarios would probably be various combinations of default rates and recovery stresses. The idea that they would arrive at probabilities by trying to balance the total risk on the assets within the risk of tranches. This would be a risk-based approach. The tranches can be a little convex within a set of thresholds. This process would be completely transparent and could do it periodically if something changes. It would be a de-arbitrage approach and do something like what the SSG does for RMBS and CMBS, provide this on an annual basis, and publish via AVS+ or a similar system.

Mr. Tsang said there are many structured assets. He asked if a system must be come up with to unionize this arbitration and how this will be accomplished. Mr. Kolchinsky said this would just be for CLOs in terms of the risk arbitrage; although, in the past, the Valuation of Securities (E) Task Force has been pretty responsive to changes like RMBS and CMBS. There are now concerns about CLOs, which is about three-quarters of the structure finance market or at least the credit sensitive part of the structure finance market. If the Task Force determines another issue or another part of the market where there is an issue, that is something the SSG can look at as well. The recommendation in terms of internal modeling is solely for CLOs, at this time.

Mr. Tsang said he supports the initiative, but the work is overwhelming. Mr. Kolchinsky said the SSG has been running stress scenarios for the CLO universe for three years. The SSG has a lot of ex-CLO people in the New York office. This will not be a huge endeavor. Other asset classes, such as auto floor plan loans, would require further research, but the SSG can certainly do CLOs.

Mr. Tsang asked if the insurer needs to look up a table or database to recognize this arbitration adjustment. Mr. Kolchinsky said the methodology approach would be done just like it is for RMBS and CMBS today. The insurer would go to the website for the AVS+; download the designations or break points, as appropriate; and determine how to report their tranche. The insurer would not have to do anything more than they do today for RMBS and CMBS.

Mr. Anderson said setting RBC factors is the domain of the Capital Adequacy (E) Task Force. He asked if this will be referred to the Risk-Based Capital Investment Risk and Evaluation (E) Working Group.

Ms. Mears said this will involve referrals to those groups. That will be a discussion of whether it currently calibrates to the existing bond factors like what is in place for CMBS/RMBS. There is discussion underway in the Working Group about whether a new set of factors is needed for structured securities. If that is decided within the Working Group, then this process should go forward and adjust accordingly to reflect that and calibrate to those factors. The overall modeling would not change. It would be the mapping process that would occur to the factors that are defined by the Working Group. All these initiatives are a multi-group process. It is important to get some preliminary feedback on the concept and suggest that staff expose this issue paper for a 30-day public comment period. Ms. Mears said she would recommend that staff move forward with drafting the amendment and work through what that process would look like. The comments may be more questions on specifics of how to move forward to keep that process moving. Ms. Mears said formal comments are welcome during the 30-day public comment period, but if there are any informal comments that want to be shared during that time as the amendment is drafted, staff can feel free to share those. That would include the referral, as well as to both the Capital Adequacy (E) Task Force and Risk-Based Capital Investment Risk and Evaluation (E) Working Group.

6. Heard a Presentation from the SSG on Modeling and Scenarios

Ms. Mears said the next item on the agenda is to receive a presentation from the SSG on modeling scenarios.

Mr. Kolchinsky said these are the macroeconomic scenarios for RMBS and CMBS. The SSG is proposing moving from the current four to eight scenarios. Now that there are 20 designation categories, the SSG wants more differentiation among the securities. The idea here is not to change the balance of a risk but to differentiate between the various tranches. These proposed scenarios are meant to be through-the-cycle. The probabilities have not been finalized for each but will be lowering the probabilities at the tail and increasing the probabilities in the belly of the distribution. For CMBS, there are three scenarios between the old scenarios and an added tale scenario. It is not too different from the shape in the past to differentiate. These are based on the simulation that was run and the numbers that were exposed in the past. For RMBS, three scenarios were added in between the older scenarios, and a tail scenario was added. RMBS probabilities are still being optimized. The goal is not to increase or decrease capital but to differentiate. The stress scenario does not need to be so large because it is covered by more extreme scenarios in the tail scenarios. These should be completed shortly once the fine tuning is done. These are the SSG's thoughts for the year-end scenarios and are meant to be through-the-cycle and will not be changing from year to year.

Mr. Tsang asked what NPI and HPI are. Mr. Kolchinsky said HPI is a home price index, Case Shiller, a national measure of home prices and the way the RMBS scenarios have been benchmarked. CMBS has a similar measure called the National Price Index for commercial real estate. The tables and charts are identical in terms of form to what is normally produced for the annual year-end scenario disclosure.

Francisco Paez (MetLife) asked if the SSG plans to do a sampling year for year-end 2022 so industry could do a little bit more comparison of how this change would affect capital versus 2021.

Mr. Kolchinsky said the SSG is working on it and hopes to provide it so people can compare and look at what the impact is around the mid-year September/October timeframe.

Mr. Tsang said there is speculation of a recession this year or next. He asked if Mr. Kolchinsky believes a tail would cover that. Mr. Kolchinsky said he believes the tail is much worse than the global financial crisis in terms of the change in price. The tail covers scenarios like the potential recession. While these scenarios are future looking, a lot of results are driven about the performance in the current portfolio. Loans will go delinquent or go special servicing, which will be reflected. This is just a question of what will happen in the future, starting from a time of running the scenarios so it does not completely take us out if there is underperforming or well-performing, which will be reflected in the current portfolio starting point. These are just forward-looking scenarios and economic scenarios.

Mr. Tsang said he is looking at the slides and tables for the HPI and the NPI. If a column could be added with the probability estimate that would give the reader a little bit more appreciation of probabilities that will run into this kind of thing. Otherwise, there is no way to know which one would be more likely than the others.

Mr. Kolchinsky said the SSG will get back with the probabilities assigned to each one, and they will be part of the public disclosure in a few weeks.

7. Discussed Other Matters

Ms. Mears asked Mr. Therriault to give a brief update on the Ad Hoc CRP Group's work.

Mr. Therriault said the Ad Hoc CRP Group has been meeting monthly to discuss several issues related to the use of ratings. At the last meeting, it discussed possible changes to the definition of an NAIC designation in Part Two to better align it to the definition in Part One. The definition in Part One includes whether there is an appropriateness and consistency of the RBC model factor for the designation assigned. Part Two does not mention that. The Ad Hoc CRP Group is also discussing the SVO Notching Guidelines in Part Two and the possibility of adding a definition of a default to clarify the notching process. There will be a meeting later this month where the Ad Hoc CRP Group plans to discuss possible qualitative factors for CRPs. Any output or recommendations from the Ad Hoc CRP Group, because it is informal, will come before the Task Force to be publicly exposed and fully discussed with all parties.

Ms. Mears said the Ad Hoc CRP Group continues to work through the high-level setting of some of the workstreams to move forward and where to prioritize. This framework will continue to be built out, so that is very repeatable and something that can be kept in place over time. As new providers enter the market, they would be subject to the same framework. It communicates what the Task Force's expectations are to CRPs but will ultimately be agnostic to the CRPs that exist. It is anticipated that all the existing CRPs would go through this process. What that process will look like is not yet known, but as the Ad Hoc CROP Group continues to work down that route, it will be fully transparent and discuss among itself and other stakeholders before anything is implemented. It is expected to be a fairly long process, and any continued questions are welcome, but Ms. Mears said she will report back when there is something firm to share.

Having no further business, the Valuation of Securities (E) Task Force adjourned.

[https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer National Meeting/01 - Minutes/VOSTF 6.9.2022 Minutes \(Final\).docx](https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer National Meeting/01 - Minutes/VOSTF 6.9.2022 Minutes (Final).docx)



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July 8, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners 1100 Walnut
Street, Suite 1500
Kansas City, MO 64106-2197

Dear Ms. Mears,

Re: Amendment to the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) to Update the Role of the SVO Regarding Interpreting Accounting and Reporting.

The undersigned (ACLI, PPIA, NASVA) support the proposal in the exposure as it is important to be provide clarity to the P&P Manual whenever possible. The undersigned propose one slight modification (below in underline). Intended to clarify that the SVO would simultaneously notify the company when sharing the SVO's opinion on any particular security. This would serve as a courtesy to help ensure the company and its regulator have the same information in the likely event they need to reach a conclusion on the security in question.

40. The SVO is assigned to assess investment securities reported by insurers to state regulators on Schedule D and Schedule BA. For the avoidance of doubt, the SVO's opinion that an investment is ineligible for reporting on Schedule D or Schedule BA shall not prevent the SVO from assigning an NAIC Designation to that investment. The SVO may, but is not obligated to, notify appropriate state regulators of an insurer's investment which, in its opinion, would not or might not be eligible for reporting on Schedule D or Schedule BA, regardless of the investment's NAIC Designation status. If the SVO notifies a state regulator

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PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office ("SVO") to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC's ISIS electronic security filing system, and commenting on year-end processes.

of their opinion, they will also simultaneously notify the filing company and/or the company on which the SVO is providing its state regulator an opinion. The SVO shall give its statutory accounting and reporting opinion, if requested to do so, as part of its Regulatory Treatment Analysis Service, it being understood that such opinion is not authoritative and may not reflect the opinion of the relevant state regulator.

Thank you for considering the undersigned comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,



Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey NASVA

John Petchler

John Petchler
on behalf of PPIA Board of
Directors

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer National Meeting/02 - SVO Role regarding accounting and reporting/ACLI Comment.docx>



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July 8, 2022

Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners 1100
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Kansas City, MO 64106-2197

*Re: Staff Proposal to Update to the Purposes and Procedures Manual of the NAIC Investment Analysis Office
Clarifying the SVO's Role Regarding Accounting and Reporting*

Dear Ms. Mears and Task Force Members,

As an independent consultant and long-time observer of the work of the Valuation of Securities Task Force I appreciate the opportunity to comment on the captioned proposal.

Adoption of this proposal would empower the Securities Valuation Office to assign NAIC Designations to assets that do not meet the NAIC's own standards to qualify for reporting on Schedules D and BA. At the very least this is perplexing and it appears to be contradictory.

I recommend that the VOSTF not adopt this proposal at this time. More discussion and coordination is needed among relevant NAIC groups¹ as well as the supporting staff (notably the SVO and Structured Securities Group) to understand the intended and unintended consequences to assessing insurers' solvency and whether this change is truly necessary. Furthermore, the practical aspects of broadening the authority of the SVO need additional coordination and consideration.

Responsibility for Establishing Capital Requirements

It is clear from the extensive and detailed official record of the development of Risk-Based Capital² that it is the responsibility of the Capital Adequacy Task Force to determine the RBC factors for all assets. For bonds and preferred stock the basis for assigning an asset to a particular Class to determine its RBC factor is an estimation of the likelihood of its default. Thus it is the responsibility of the SVO to categorize individual issues of bonds and preferred stock into their appropriate Classes based on their credit quality, *i.e.* likelihood of loss given default. So the CATF fulfills the executive function of setting the factors and the SVO performs the administrative function involved in actually assigning the factors to individual assets based on their credit quality.

¹ The Risk-Based Capital Investment Risk and Evaluation Working Group, the Capital Adequacy Task Force, the Statutory Accounting Principles Working Group and this Task Force

² Bernard L. Webb and Claude C. Lilly III for the National Association of Insurance Commissioners, *Raising the Safety Net -- Risk-Based Capital for Life Insurance Companies*, First Edition, Kansas City, MO: National Association of Insurance Commissioners Publications Department, 1994

Ms. Mears and the VOSTF

July 8, 2022

VOSTF & SVO Roles in Monitoring Investment Risks

An important element of solvency assessments and RBC in particular is monitoring new investment risks that insurers may be adding to their balance sheets. Historically, the SVO has been charged with being the “eyes and ears” of the VOSTF, and more broadly the NAIC and even insurance regulators, concerning all manner of investment risks that may affect insurer solvency. It then refers its observations to the appropriate NAIC decision-making entity or regulator, possibly along with recommendations.

The NAIC’s processes for assigning Designations to bonds provides insurers with uniform inputs for their RBC calculations as specified by the CATF. So while the principal function of the SVO is to determine some of these Designations it and the VOSTF can and should pursue more comprehensive examinations of insurer asset risks beyond the RBC context as they serve insurance regulators. While doing so it is imperative, however, that the SVO continue to determine Designations with at least the level of accuracy required to compute RBC with reasonable accuracy. It is beyond the authority of staff, however, to invent new or independent standards. That would be the responsibility of the CATF.

Practical Issues

There are some very practical problems with this proposal. Unlike the Nationally Recognized Statistical Rating Organizations the SVO tends to “borrow” from various NRSROs their detailed ratings methodologies. The Securities and Exchange Commission requires the publication of these methodologies by the rating organizations it regulates. NRSROs are all accountable to the SEC, their regulator, for basing their ratings strictly on their published methodologies. If a bond is of low quality its rating will reflect that. If the NRSRO cannot determine that there will be sufficient resources to meet obligations then it is not permitted to rate the asset and it becomes NR (Not Rated). The SEC publishes a detailed report of its examinations of NRSRO compliance annually.³

The SVO, in addition to lacking its own published methodologies, declines to even disclose which of the many methodologies it uses in determining individual Designations. This is problematic in itself for a number of reasons (e.g. lack of transparency). It also raises the serious question of how the SVO could use methodologies the NRSROs have developed to rate bonds and then apply them to assets that the NAIC has determined are not bonds when it does not even disclose its use of methodologies for the bonds it does Designate.

Paradox

Obviously it is not reasonable to take methodologies developed for bonds and then apply them to assets that are determined not to be bonds. One response to this would be to not grant the SVO the authority sought in this proposal.

Another possibility is to examine very carefully the standards being developed by the NAIC that, for insurance regulatory purposes, would disqualify from bond treatment certain assets that the NRSROs would rate as bonds based on their published methodologies. At the NAIC there has been much thought and discussion attempting to arrive at a definition of what is a bond. Things are simpler for the NRSROs. There is no need for an NRSRO to develop arbitrary one-size-fits all standards. They do not need to define “what is a bond” because they only assign bond ratings to

³ Securities and Exchange Commission, Office of Credit Ratings, *Staff Report on Nationally Recognized Rating Organizations*, January, 2022, <https://www.sec.gov/files/2022-ocr-staff-report.pdf>

Ms. Mears and the VOSTF

July 8, 2022

actual bonds that meet their published standards. The objectives of the NRSRO are to predict, as accurately as possible and with all available information, the likelihood that a given bond will have sufficient resources to pay as promised. In effect they use their methodologies to determine what is a ratable bond and they do this in each and every instance, not relying on generalized rules. Poorly supported issues receive poor ratings and very poorly backed issues are not rated at all (NR) whether they are “bonds” or not. Essentially “NR” means the NRSRO does not have an opinion of the credit quality of an asset and the ability of the issuer of that debt instrument to fulfill its obligations.

Admittedly the NRSROs are in a different position than the SVO. NRSROs are under no obligation to undertake the difficult and time-consuming process of developing methodologies for every type of asset. (The SEC regulation does require, however, that adopted methodologies must be reasonable and that they be adhered to). For that, as well as other reasons, the NRSROs can be selective concerning which assets they will and will not rate. If they cannot or will not accept an application they simply decline it. The SEC reviews and examines the work of the NRSROs and this imposes discipline on this process.

When it comes to the SVO, insurers can submit any asset to the SVO for a Designation and this can have the same result as with an NRSRO: a poor rating or a rejection. An important difference, however, is that the SVO is not required to and does not justify its Designations by specifically referring to the methodologies upon which it has relied as would be required if it were regulated by the SEC. Also, unlike the NRSROs, the SVO is not subject to examination concerning the methodologies it has used in arriving at its decisions.

Coordination Within the NAIC

Part of the impetus for this proposal for the SVO to assign Designations to assets deemed not to be bonds may be related to work underway by the Statutory Accounting Principles Working Group. It would be wise to coordinate efforts in this regard. A possible result of that project now underway may be to define “bonds” in such a way as to disqualify assets for inclusion on Schedules D and BA when their terms and conditions may appear to make it questionable that the issuer will have resources that are “sufficient” to make all promised payments.

If such debt instruments are placed in “limbo” based on standardized accounting definitions an expected consequence of that would be exactly what is being seen in this proposal: no logical way of determining reasonable RBC factors for the excluded assets. The proposal addresses this in a way but it essentially has the SVO applying Designations to assets that are not bonds. Clearly if this were even desirable the decision to do this would need to be made by the CATF because presently the SVO is only empowered to Designate bonds and preferred stock.

Coordinated efforts might well determine that it would be counterproductive to adopt accounting definitions that would remove debt instruments from the scrutiny of analysts who are using existing methodologies. Presently the determination of whether an issuer is likely to have “sufficient” resources is already being made on an individual basis for each and every bond reported by insurers. An analyst or a team of analysts, whether at the SVO or at an NRSRO, is responsible for determining the likelihood of repayment. These proposals are reviewed internally by committees before being finalized and for NRSROs the SEC requires that historic records be publicly disclosed to document performance. Since this work is already being done for each bond it is not clear what is achieved by adding levels of complexity to definitions. Coordination among NAIC entities should bring these facts to light so they can be adequately considered.

Analysts, whether they may be at the SVO or an NRSRO, could work within a very simple definition of what constitutes a debt instrument and use existing tools already developed to assess

Ms. Mears and the VOSTF

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the likelihood of repayment, including “sufficiency” of resources. If this is not being done to levels of accuracy needed to reasonably calculate RBC than that is the matter that should be addressed directly. Adding levels of accounting complexity, however, does not contribute to this process even as it introduces needless complexity and, most likely, unnecessary confusion.

Coordinating the well-intentioned work of SAPWG with other efforts and initiatives, gaining a holistic picture of what is needed to compute RBC as well meeting other needs of insurance regulators, would be very desirable.

Summary

The purpose of NAIC Designations is to enable the computation of RBC to at least a degree of accuracy that will allow regulators to identify weakly capitalized insurers. The NAIC is to be commended for forming the Risk-Based Capital Investment Risk and Evaluation (E) Working Group to coordinate work to continue to make improvements. It is this new group that has the potential for coordinating the efforts of the three NAIC entities to which this proposal relates.⁴

Coordination may very well bring to light that low quality bonds already have low ratings/ Designations -- or none at all -- and this has the same effect as excluding them from definitions. Assuming that they are being done reasonably well the bond-by-bond analyses that are already being performed virtually obviate the necessity for complicated exclusionary definitions. Of course if it is found that sufficiently accurate ratings/Designations are not being generated under the existing structure then that is the issue that must be addressed.

Recommendation

As to this specific proposal it is clearly not desirable for the SVO to apply bond-based RBC factors to assets that the NAIC itself defines as not being bonds. Fortunately the existing rating and Designation procedures can accomplish exactly what the definitional changes are attempting to do but in a much more precise and straightforward way without adding needless complexity. This, in turn, means it should not be necessary for the SVO to Designate assets that have been disqualified definitionally as bonds. This is because poorly supported issues would remain within the existing structure and be judged on their merits using existing methodologies. Specifically, assets with “insufficient” support would be denied bond treatment on a case-by-case basis and not in accordance with generic rules. In fact the current Designation process is being examined by what is being called the *ad hoc* group of this task force so one expects that group will opine on the reliability of NRSRO ratings and NAIC Designations for determining RBC factors and recommend any needed action.

Hopefully the RBC IREWG will be able to coordinate the work of the three relevant NAIC groups to devise effective and efficient procedures that meet the needs of insurance regulators without adding needless complexity and confusion that would be the result of this proposal if it were adopted.

Sincerely,



Copies: Philip Barlow, Denise Genao-Rosado and Charles Therriault

⁴ The Valuation of Securities Task Force, the Statutory Accounting Principles Working Group and the Capital Adequacy Task Force (and its subsidiary entities)

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer National Meeting/02 - SVO Role regarding accounting and reporting/Anderson Insights to VOSTF.docx>



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Update to the Purposes and Procedures Manual of the NAIC Investment Analysis Office
clarifying the SVO's role regarding accounting and reporting

DATE: May 23, 2022

Summary - Historically, the SVO has worked with our statutory accounting colleagues to make accounting and reporting determinations which guided whether the SVO could analyze and designate an insurer's investment. The Purposes and Procedures Manual of the Investment Analysis Office (the "P&P Manual"), however, currently provides conflicting guidance on whether the SVO should have a role interpreting accounting and reporting guidance. While many sections of the P&P Manual state that the SVO may assign NAIC Designations to any investment filed with it for which it has a methodology, it also specifies in Part One, Paragraph 40 that the SVO is assigned to assess investments reported on Schedules D and BA and shall communicate to insurers if an investment is not eligible for those schedules and can therefore not be assigned an NAIC Designation.

Part One, Paragraph 32 of the P&P Manual explains that the assessment of an investment's credit risk is distinct from the determination of statutory accounting or reporting under the Accounting Practices & Procedures Manual ("AP&P):

NAIC Designations Do Not Communicate Statutory Accounting or Reporting - The assessment of credit risk for an obligation or asset, as specified in the P&P Manual, is a separate and distinct process from the determination of statutory accounting or reporting under the AP&P Manual. The manner in which an NAIC Designation is used within statutory accounting guidance is limited to that, if any, specified in a Statement of Statutory Accounting Principles (SSAP) and cannot be derived or implied by language in the P&P Manual. Obtaining an NAIC Designation does not change an investment's applicable SSAP, annual or quarterly statement reporting schedule, or override other SSAP guidance required for the investment to be an admitted asset. There are limited instances in which a SSAP specifically identifies, within its scope, the inclusion of specific SVO-Identified investments. The SVO review required for an investment to be included on an SVO listing is a separate evaluation process that focuses on the structure of the investment. This process is distinct from the SVO's assessment of an investment's credit risk, which results in a NAIC Designation. As stated in the Statutory Hierarchy, Section V of the Preamble,

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the AP&P Manual is the highest level of authoritative guidance.

Part One, Paragraph 33 of the P&P Manual explains that accounting and reporting determinations for investments are the obligation of the insurance company but that the state regulators remain the final authority:

Sources and Application of Statutory Accounting Guidance - The authority to determine and interpret existing statutory accounting guidance in, or to develop new statutory accounting guidance for, the AP&P Manual, is a charge assigned by the Financial Condition (E) Committee through its Accounting Practices and Procedures (E) Task Force to the Statutory Accounting Principles (E) Working Group. The application of statutory accounting guidance to any specific obligation or asset to determine its status under the AP&P Manual is the obligation of the insurance company and its management. The state of domicile is the final authority with respect to statutory accounting and reporting guidance. Deviations from the authoritative guidance in the Statutory Accounting Hierarchy are reflected as a permitted or prescribed practice.

Part One, Paragraph 34 of the P&P Manual expressly states that the SVO can assess any investment filed with it, so long as it has the methodologies to do so:

Impact on SVO Operations - Because SVO analytical determinations of credit quality do not convey opinions, conclusions or informational content relative to statutory accounting status, the SVO may assign an NAIC Designation to any obligation or asset that is filed by an insurer, provided that its credit quality can be assessed consistently with the policies and methodologies specified in the P&P Manual.

Part One, Paragraph 40 of the P&P Manual, however, states that the SVO is assigned to assess investments reported on Schedules D and BA and that it may need to communicate to insurers that the investment is not eligible for reporting on Schedules D or BA and, therefore, cannot be assigned an NAIC Designation:

Authority to Direct Insurers on Reporting - The SVO is assigned to assess investment securities reported to state regulators on Schedule D and Schedule BA. To fulfill its function SVO must be able to communicate to an insurer that has filed a financial instrument or security that the financial instruments or security is not an investment security eligible for reporting on Schedule D and Schedule BA. SVO may be required to communicate to an insurer that it must refile a financial instrument or security to another schedule. SVO may also have to communicate to an insurer that an instrument the insurer has filed does not meet the definition of an Investment Security in this Manual and is therefore not eligible to be assessed or that the financial transaction or security is a Regulatory Transaction that can only be assessed by the SVO but only in accordance with the procedures discussed in this Manual if requested by a state insurance department. When situations occur that require the SVO to communicate reporting or related statutory guidance to an insurer, SVO consults with Financial Regulatory Services Division staff to ensure the communication to the insurer is accurate.

Recommendation – The SVO recommends the below changes to P&P Manual Part One, Paragraph 40 to provide for consistent instruction to the SVO regarding its authority regarding accounting and reporting

guidance. The proposal would clarify, in accordance with Part One, Paragraph 34, that the SVO can assign NAIC Designations to investments which it does not think are eligible for Schedule D or BA reporting so long as it has the methodology to do so. The SVO, however, would have the authority, at its discretion, to notify the appropriate regulators of any investments which, in its opinion, would not or might not be eligible for reporting on Schedules D or BA. The SVO would also maintain its authority to offer its accounting and reporting opinion, when requested to do so, as part of its Regulatory Treatment Analysis Service, it being understood that such opinions would not be authoritative and might not reflect the opinion of the relevant state regulator.

Proposed Amendment - The proposed text changes to P&P Manual are shown below with additions in red underline, deletions in ~~red strikethrough~~ as it would appear in the 2022 P&P Manual format.

PART ONE

POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE

POLICIES PERTAINING TO SVO AND SSG OPERATIONS

...

Authority to Direct Insurers on Reporting

40. The SVO is assigned to assess investment securities reported by insurers to state regulators on Schedule D and Schedule BA. For the avoidance of doubt, the SVO's opinion that an investment is ineligible for reporting on Schedule D or Schedule BA shall not prevent the SVO from assigning an NAIC Designation to that investment. The SVO may, but is not obligated to, notify appropriate state regulators of an insurer's investment which, in its opinion, would not or might not be eligible for reporting on Schedule D or Schedule BA, regardless of the investment's NAIC Designation status. The SVO shall give its statutory accounting and reporting opinion, if requested to do so, as part of its Regulatory Treatment Analysis Service, it being understood that such opinion is not authoritative and may not reflect the opinion of the relevant state regulator. To fulfill its function SVO must be able to communicate to an insurer that has filed a financial instrument or security that the financial instrument or security is not an investment security eligible for reporting on Schedule D and Schedule BA. SVO may be required to communicate to an insurer that it must refile a financial instrument or security to another schedule. SVO may also have to communicate to an insurer that an instrument the insurer has filed does not meet the definition of an Investment Security in this Manual and is therefore not eligible to be assessed or that the financial transaction or security is a Regulatory Transaction that can only be assessed by the SVO but only in accordance with the procedures discussed in this Manual if requested by a state insurance department. When situations occur that require the SVO to communicate reporting or related statutory guidance to an insurer, SVO consults with Financial Regulatory Services Division staff to ensure the communication to the insurer is accurate.

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-06-09 - Interim Meeting/03 - SVO Role regarding accounting and reporting/2022-002.01 Task Force 2022 Amend SVO Accounting Reporting.docx>



Mike Monahan
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July 8, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners 1100
Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) to Update Part Four for NAIC Designation Category and Additional Price Points – Comments Due July 9, 2022

Dear Ms. Mears,

The undersigned (ACLI, PPIA, NASVA) appreciate the opportunity to comment on the above referenced exposure to update the P&P Manual for NAIC Designation Category and Additional Price Points.

The undersigned support the proposal in the exposure. Sincerely,

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office ("SVO") to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC's ISIS electronic security filing system, and commenting on year-end processes.

Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Directors

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer National Meeting/03 - Part Four Updates/ACLI Comment Letter.docx>



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau
Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

RE: Part Four Manual Updates

DATE: February 25, 2022

Summary: With the adoption of new Risk Based Capital factors for each NAIC Designation Category in 2021 by the Capital Adequacy (E) Task Force and its parent, the Financial Condition (E) Committee, technical updates are needed in the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) to reflect a consistent reference to “NAIC Designation Category” and the additional price points needed to determine them.

Recommendation: The Securities Valuation Office (SVO) and Structured Securities Group (SSG) staff recommend adoption of these non-substantive technical updates to the P&P Manual that were discussed at the Task Force’s 2021 Summer National Meeting, Sep. 30, and Nov. 17, 2021 interim meetings, and 2022 Spring National Meeting.

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PART FOUR
THE NAIC STRUCTURED SECURITIES GROUP

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DEFINITIONS

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- **Price Grids** means and refers to CUSIP-specific price matrices containing ~~six~~ **nineteen** price breakpoints; i.e., each price corresponding to a specific NAIC **Designation and Designation Category**. Each breakpoint on a Price Grid is the price point that tips the NAIC **Designation and Designation Category** for the RMBS **or CMBS** CUSIP into the next NAIC **Designation and Designation Category** (credit quality/credit risk) **category**. The plural is used because two Price Grids are generated for any CUSIP. This reflects the difference in RBC for those insurance companies that maintain an asset valuation reserve and for those insurance companies that do not.

...

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ANALYTICAL ASSIGNMENTS

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Use of Financial Modeling for Year-End Reporting for RMBS and CMBS

22. Beginning with year-end 2009 for RMBS and 2010 for CMBS, probability weighted net present values will be produced under NAIC staff supervision by an NAIC-selected vendor using its financial model with defined analytical inputs selected by the SSG. The vendor will provide the SSG with a Intrinsic Price and/or a range of net present values for each RMBS or CMBS corresponding to each NAIC Designation and Designation Category. The NAIC Designation and Designation Category for a specific Legacy Security RMBS or CMBS is determined by the insurance company, based on book/adjusted carrying value ranges, and the NAIC Designation and Designation Category for a specific non-Legacy Security RMBS or CMBS is determined by the NAIC Designation Intrinsic Price Mapping by SSG.

NOTE: Please refer to *SSAP No. 43R—Loan-Backed and Structured Securities* for guidance on all accounting and related reporting issues.

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Use of Net Present Value and Carrying Value for Financially Modeled Legacy Security RMBS and CMBS

26. For each modeled Legacy Security RMBS and CMBS, the financial model determines the net present value at which the expected loss equals the midpoint between the RBC charges for each NAIC Designation **and Designation Category**; i.e., each price point, if exceeded, changes the NAIC Designation **and Designation Category**. Net present value is the net present value of principal losses, discounted using the security's coupon rate (adjusted in case of original issue discount securities to book yield at original issue and in case of floating rate securities, discounted using **LIBOR-curve benchmark rate** + Origination spread). Because of the difference in RBC charge, the deliverable is **five nineteen** values for each RMBS and CMBS security for companies required to maintain an asset valuation reserve (AVR) and **five nineteen** values for companies not required to maintain an AVR. This is illustrated in the chart below.

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NAIC Designation Category	Life		P&C	
	RBC Factor (Pre-Tax)	Midpoint	RBC Factor	Midpoint
1.A	0.158%	0.215%	0.200%	0.300%
1.B	0.271%	0.345%	0.400%	0.500%
1.C	0.419%	0.471%	0.600%	0.700%
1.D	0.523%	0.590%	0.800%	0.900%
1.E	0.657%	0.737%	1.000%	1.150%
1.F	0.816%	0.916%	1.300%	1.400%
1.G	1.016%	1.139%	1.500%	1.650%
2.A	1.261%	1.392%	1.800%	1.950%
2.B	1.523%	1.846%	2.100%	2.300%
2.C	2.168%	2.660%	2.500%	4.000%
3.A	3.151%	3.844%	5.500%	5.750%
3.B	4.537%	5.277%	6.000%	6.300%
3.C	6.017%	6.702%	6.600%	6.850%
4.A	7.386%	8.461%	7.100%	7.400%
4.B	9.535%	10.982%	7.700%	8.200%
4.C	12.428%	14.685%	8.700%	9.250%
5.A	16.942%	20.370%	9.800%	10.350%
5.B	23.798%	26.899%	10.900%	11.450%
5.C	30.000%	30.000%	12.000%	21.000%
6	30.000%		30.000%	

RBC charge / NAIC designation (pre-tax)

P&C	RBC	Midpoint
1	0.3%	0.65%
2	1.0%	1.50%
3	2.0%	3.25%
4		7.25%
5		20.00%
6		
Life		Midpoint
1		0.85%
2		2.95%
3		7.30%
4	10.0%	16.50%
5	23.0%	26.50%
6	30.0%	

To Be Deleted

27. The NAIC Designation and NAIC Designation Category for a given modeled Legacy Security RMBS or CMBS CUSIP owned by a given insurance company depends on the insurer’s book/adjusted carrying value of each RMBS or CMBS, whether that carrying value, in accordance with *SSAP No. 43R—Loan-Backed and Structured Securities*, paragraphs 25 through 26a, is the amortized cost or fair value, and where the book/adjusted carrying value matches the price ranges provided in the model output for each NAIC Designation ~~and Designation Category and the mapped NAIC Designation Category, reflected in the table below, to be used for reporting an NAIC Designation Category until new prices ranges are developed to reflect the full range of new Risk Based Capital factors adopted for each NAIC Designation Category~~; except that a modeled Legacy Security RMBS or CMBS tranche that has no expected loss under any of the selected modeling scenarios would be assigned an **NAIC 1 Designation** and **NAIC 1.A Designation Category** regardless of the insurer’s book/adjusted carrying value.

NOTE: Please refer to the detailed instructions provided in SSAP No. 43R.

NAIC Designation Determined by Modeled Price Ranges	Mapped NAIC Designation Category
1	1.D
2	2.B
3	3.B
4	4.B
5	5.B
6	6

MORTGAGE REFERENCED SECURITIES

...

NAIC Risk Assessment

32. In determining the NAIC Designation **and Designation Category** of a Mortgage Referenced Security, the SSG may use the financial modeling methodology discussed in this Part, adjusted (if and as necessary) to the specific reporting and accounting requirements applicable to Mortgage Referenced Securities.

Quarterly Reporting for Mortgage Reference Securities

33. To determine the NAIC Designation **and Designation Category** to be used for quarterly financial statement reporting for a Mortgage Reference Security purchased subsequent to the annual surveillance described in this Part, the insurer uses the prior year-end modeling data for that CUSIP (which can be obtained from the NAIC) until the annual surveillance data is published for the current year. For a Mortgage Reference Security that is not in the prior year-end modeling data for that CUSIP, the insurer may follow the instructions in Part Two of this manual for the assignment of the SVO Administrative Symbol “Z” provided the insurer owned security meets the criteria for a security that is in transition in reporting or filing status.

...

GROUND LEASE FINANCING TRANSACTIONS

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SSG Role and Process

35. On occasion, the SVO may refer a GLF transaction to the SVO for financial modeling of the GLF space leases or business operation, as applicable, in accordance with the process set forth in “Ground Lease Financing Transactions” in Part Three of this Manual. Following an SVO referral the SSG and SVO will maintain open communication related to requests for additional data, analytical questions and analytical conclusions. Any GLF transaction NAIC Designation **and Designation Category** will be assigned by the SVO.

...

THE RTAS – EMERGING INVESTMENT VEHICLE

Purpose

36. Price grids and/or NAIC Designation and Designation Categories are generated for the exclusive use of insurance companies and the NAIC regulatory community. Insurance companies use official Prices Grids and/or NAIC Designations and Designation Categories by following the instructions in *SSAP No. 43R—Loan-Backed and Structured Securities* to derive a final NAIC Designation **and Designation Category** for the RMBS or CMBS, which they use to derive the RBC applicable for the RMBS or CMBS.

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-06-09 - Interim Meeting/04 - Part Four Updates/2022-003.01 Part Four Updates v2.docx>



Mike Monahan
Senior Director, Accounting Policy
202-624-2324 t
mikemonahan@acli.com

February 10, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to the P&P Manual to update the definition of Principal Protected Securities (PPS)

Dear Ms. Mears,

The American Council of Life Insurers (“ACLI”), Private Placement Investors Association (“PPIA”), and North American Securities Valuation Association (“NASVA”) (“the undersigned”) appreciate the opportunity to engage with state regulators and the NAIC on the SVO’s proposed Amendment to the P&P Manual to update the definition of Principal Protected Securities (PPS).

The undersigned support the efforts to the SVO to continue to update the P&P Manual for new developments. The complete reorganization of the P&P Manual, several years ago, was a welcome development in making it more user friendly, and therefore we support continued diligence toward providing clarity as well as minimizing operational challenges for those that need to comply with the provisions of the manual.

While the undersigned agree with the substance behind the proposed amendment, in the spirit of the preceding paragraph, we propose rolling this proposed amendment into the proposed amendment entitled, “Amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript “S” for the following two reasons:

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States.

acli.com

PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office (“SVO”) to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC’s ISIS electronic security filing system, and commenting on year-end processes.

- 1) PPS securities are a type of Subscript S security. Subscript S securities are already not eligible for filing exemption, and the Subscript S proposed amendment, recommends collectively adding Subscript S securities to the list of non-filing exempt securities (because they were inadvertently left off the list due to a historical oversight). Therefore, we recommend including PPS, as one the illustrations listed under Subscript S, and removing it as a stand-alone example on the list of non-filing exempt securities in a similar manner as with other Subscript S illustrations. Such consistency will improve the clarity and usability of the P&P Manual.
- 2) While the undersigned supported the SVO's effort to included PPS as a non-filing exempt security, it took several iterations and meetings with the SVO to arrive at a definition that proved workable. By trying to layer in this additional concern, to the PPS definition, we believe a similar effort and dialogue would be needed. Further, it appears some of the additional recommended illustrations in the Subscript S proposed amendment, appear to be attempting to address the same concern. Including that concern in one spot will improve the clarity and usability of the P&P Manual.

We discussed these concepts with Charles Therriault, and his team, and suggested we would like to work with the SVO to address this matter in the most efficient way possible. Our understanding is Charles and team are amenable to this suggestion. Please see our additional letter in response to the Proposed Amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript "S".

We look forward to working with the SVO and regulators on this issue.

Sincerely,



Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey
NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Directors

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-04 - Spring National Meeting/02 - Update Definition PPS/2021-048.02 ACLIJointComments_VOSTF_PPS.docx



Mike Monahan
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July 28, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners 1100
Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) to Update the Definition of Principal Protected Securities in the Purposes and Procedures Manual of the NAIC Investment Analysis Office

Dear Ms. Mears,

The undersigned (ACLI, PPIA, NASVA) appreciate the opportunity to comment on the above referenced exposure to update the definition of Principal Protected Securities in the Purposes and Procedures Manual of the NAIC Investment Analysis Office.

The undersigned support the proposal in the exposure. Sincerely,

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office ("SVO") to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC's ISIS electronic security filing system, and commenting on year-end processes.

Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey
NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Directors

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-08-11 - Summer NM/04 - Update Definition PPS/2021-048.04 ACLI Comment Letter_VOSTF_Update_Def_PPS_v072822.docx



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Update the Definition of Principal Protected Securities in the Purposes and Procedures Manual of the NAIC Investment Analysis Office (**Revised June 23, 2022**)

DATE: November 11, 2021

Update – At the Spring National Meeting held on Apr. 5, the SVO was directed work with industry on technical modifications to the original proposed language and expose a revised amendment. The SVO met with representatives of the American Council of Life Insurers (ACLI), Private Placements Investors Association (PPIA) and North American Securities Valuation Association (NASVA) on Apr. 29, May 6 and 24, and Jun. 17. The attached revised amendment reflects those discussions.

Summary – In May 2020 the Task Force adopted an amendment to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (the “P&P Manual”) to include Principal Protected Securities (“PPS”) as a new security type ineligible for the filing exempt process. At the time, the types of PPS which the SVO had seen were mixes of a traditional bond or bonds with additional assets that could possess any characteristic. These additional assets, which we called “performance assets,” were intended to generate excess return. They included, among other things, derivatives, common stock, commodities and equity indices. The performance assets generally included undisclosed assets and were typically not securities that would otherwise be permitted on Schedule D, Part 1 as a bond. In each case, the external credit rating provider (CRP) rating was based solely on the component dedicated to the repayment of principal and ignored the risks and statutory prohibitions of reporting the performance asset on Schedule D, Part 1

Recently, the SVO received a proposal for a security which posed many of the same risks as a PPS but was structured in a way that it did not cleanly fit the definition in the P&P Manual. In this example, the security was not issued by an SPV holding both the principal protection bond and the performance asset. Rather, the security was the direct obligation of a large financial institution whose obligation it was to pay principal at maturity and a premium based on the performance of a referenced equity index and an index comprised of equities, fixed-income instruments, futures and other financial assets. Though the obligation was solely that of the issuing financial institution, meaning there were no *underlying* bonds or performance assets, the structure posed the same risk of exposure to a performance asset because the amount of the issuer’s payment obligation was directly dependent on the performance of the referenced indices. Additionally, unlike a PPS transaction with an underlying bond and performance asset, the likelihood of payment of that performance asset premium, whatever the amount might be, was linked directly to the creditworthiness of the issuer.

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As such, the SVO proposes amending the P&P Manual definition of Principal Protected Securities to account for alternate structures which pose similar risks.

Proposed Amendment - The proposed text changes to the definition of Principal Protected Securities is shown below with additions in red underline and deletions in ~~red strikethrough~~, as it would appear in the 2021 P&P Manual format. Text changes in green underline reflect existing guidance that has been moved to improve clarity.

PART ONE**POLICIES APPLICABLE TO SPECIFIC ASSET CLASSES**

...

PRINCIPAL PROTECTED SECURITIES~~*Defined*~~

~~116. Principal Protected Securities (PPS) are a type of security that repackages one or more underlying investments and for which contractually promised payments according to a fixed schedule are satisfied by proceeds from an underlying bond(s) but for which the repackaged security generates potential additional returns as described in the detail criteria for PPSs, along with examples, in Part Three of this Manual.~~

Intent

117. Transactions meeting the criteria of a PPS as defined in Part Three of this Manual may possess Other Non-Payment Risks and must be submitted to the SVO for review under its Subscript S authority.

PRINCIPAL PROTECTED SECURITIES

~~(NOTE: This change is effective as of Jan. 1, 2021. PPS acquired prior to Jan. 1, 2021 must be filed with the SVO by Jul. 1, 2021.)~~

Definition

313. Principal Protected Securities (PPSs) typically have both a principal protected component and a performance component whose payments originate from, or are determined by, non-fixed income like sources and, therefore, pose the risk of non-fixed income like cashflows. PPS do not include the exclusions listed below in this section.
314. The following transaction examples are included for demonstrative purposes only, to highlight the intent behind the principle-based PPS definition and the core regulatory concern (that there are Other Non-payments Risks associated with PPSs beyond the contractually promised payments that may not be reflected in a CRP rating) but are not intended to encompass all possible PPS variants. Each of these examples meets the definition of a PPS. Any design that circumvents the definition, and related examples, through technical means but which in substance achieves the same ends or poses the same risk, shall be deemed a PPS.

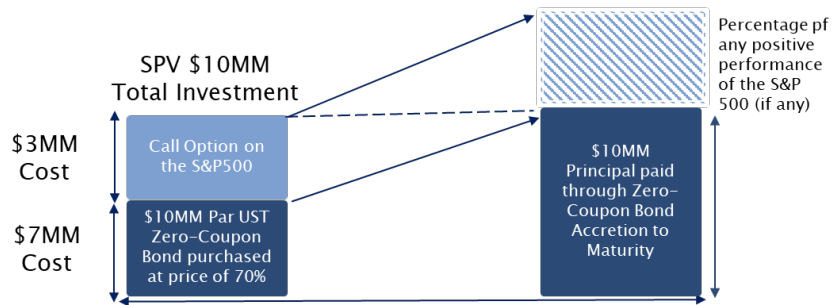
Example Transactions

315. Example 1 – PPSs are a type of includes any security that repackages one or more underlying investments and for which contractually promised payments according to a fixed schedule are satisfied by proceeds from an underlying bond(s) (including principal and, if applicable, interest, make whole payments and fees thereon) that if purchased by an insurance company on a stand-alone basis would be eligible for Filing Exemption, but for which:
- (i)
 - a. the repackaged security structure enables potential returns from the underlying investments in addition to the contractually promised cash flows paid to such repackaged security according to a fixed schedule;
- OR
- b. the contractual interest rate paid by the PPS is zero, below market or, in any case, equal to or below the comparable risk-free rate;

AND

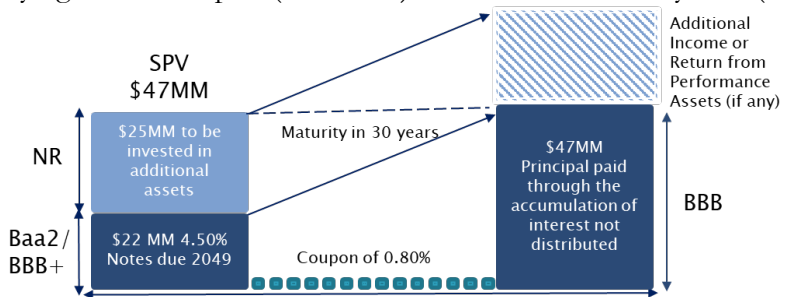
- (ii) the insurer would obtain a more favorable Risk Based Capital charge or regulatory treatment for the PPS through Filing Exemption than it would were it to separately file the underlying investments in accordance with the policies in this Manual.

316. Example 2 – In this initial example there are only two components: 1) a \$10 million par United States Treasury (UST) zero-coupon bond sold at discount (ex.



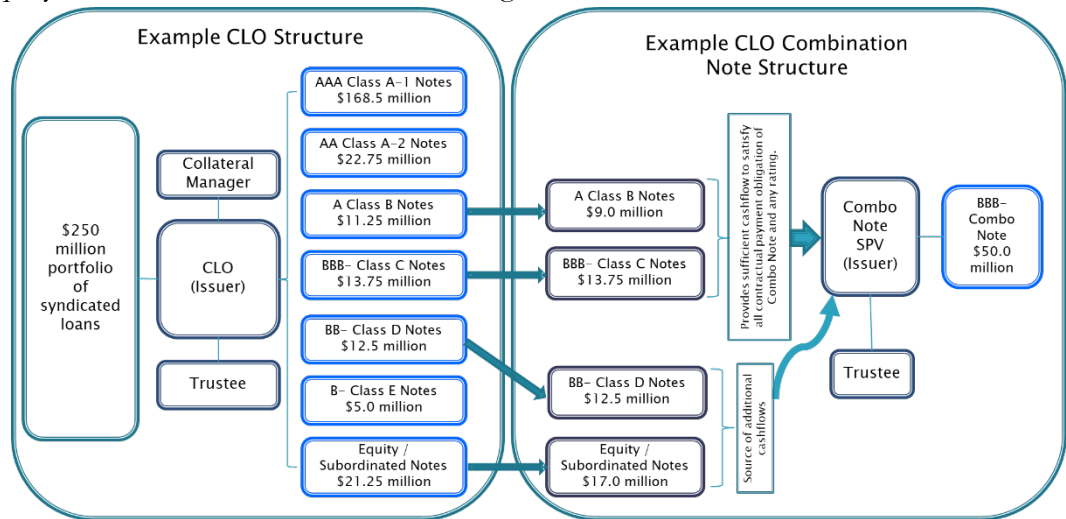
\$70) from par (\$100) that will pay par (\$100) at maturity and 2) a return linked to any positive performance of call options on the S&P 500 Index (if the S&P 500 Index has a negative performance, investors will only receive an amount equal to their initial investment). The CRP rating would be AAA/AA+ or an NAIC 1.A, based solely on the risk of the UST security; whereas, the Weighted Average Ratings Factors (WARF) applied by the SVO would result in an NAIC 4.B when it includes the exposure to the call options on the S&P 500 Index.

317. Example 3 – In ~~the second~~ this example there are multiple components: 1) a \$22 million corporate bond paying a fixed coupon (ex. 4.50%) with a stated maturity date (ex. 9/30/2049), 2) the corporate bond has two CRP ratings (Moody’s Baa2, S&P BBB+), 3) the Special Purpose Vehicle (SPV) also invests \$25 million in additional



undisclosed and unrated assets, 4) the SPV pays a below market semi-annual coupon of 0.80%, 5) the excess coupon difference (4.50% - 0.80% = 3.70%) is used to accumulate into the required principal to pay at maturity, and 6) a CRP rated the PPS a BBB or NAIC 2.B. , Again, the PPS rating is based solely on the corporate bonds that represent less than 50% of the total investment in this example, whereas, the WARF methodology would result in an NAIC 4.C when the exposure to all of the underlying investments are included.

318. *Example 4 – This The third* example is a repackaging of collateralized loan obligation (CLO) notes into a CLO Combination Note (Combo Note). The initial CLO holds \$250 million of syndicated loans and issues \$255 million of notes (the CRP rating for each tranche is listed before the Class, ranging from AAA to B-) and Equity / Subordinated Notes. The Combo Note is formed in this example by re-packaging the Class B, C, D, and Equity / Subordinated Note tranches together. The total notional amount of all the



tranches in the Combo Note is \$52.25 million. The Combo Note raises proceeds by issuing a single \$50 million notional tranche of debt through an SPV. The cashflows from the Class B and C notes are sufficient to repay the \$50 million Combo Note principal and interest, if any; which, may constitute a reclassification of the Class B and C tranche interest to repay principal on the Combo Note. Payments from the underlying investments in the Class D and Equity / Subordinated Note tranches provide returns to the repackaged security in addition to the contractually promised cash flows according to a fixed schedule that are based upon the payments from the Class B and Class C Notes. The Combo Note receives a BBB- rating or NAIC 2.C on the notional of \$50 million based upon payments from the Class B and C tranches even though \$29.5 million or 57% of the underlying investments are rated BB- or unrated, whereas, the WARF would result in an NAIC 4.B when the exposure to all of the underlying investments are included.

319. Example 5 – In this example, a financial institution issues notes pursuant to which it is obligated to make (i) fixed quarterly coupon payments which are less than the comparable risk-free rate, (ii) performance payments linked to the performance of referenced equity and futures indices and the net asset value of a basket of undisclosed securities, and (iii) a principal payment at maturity. This example differs from the others in that the issuer is an operating entity and not an SPV with underlying assets. Even though the payment of all amounts is the obligation of the issuing financial institution, the size of the performance payments, if any, is wholly dependent on the performance of non-fixed income like reference assets.

Exclusions

320. For the avoidance of doubt, PPSs shall not include defeased or pre-refunded securities which have separate instructions in this Manual; broadly syndicated securitizations, such as collateralized loan obligations (CLOs) (including middle market CLOs) and asset backed securities (ABS), except as described in the examples in this section; or CLO or ABS issuances held for purposes of risk retention as required by a governing law or regulation.

Filing Requirements

321. Investments in PPSs must be submitted to the SVO for review because they may possess Other Non-Payment Risks that the SVO must assess under its Subscript S authority. If the SVO determines in its judgement that there are not any Other Non-Payment Risks, the SVO will permit the security to benefit from Filing Exemption, if it is otherwise eligible.

322. In addition to *Filing Process and Required Documents* outlined in Part Two of this manual, the following additional information is required for PPSs:

- Disclosure of any Subsidiary, Controlled or Affiliated relationship between the PPS or any of the underlying investments and the insurer; including, how the underlying investments were acquired.
- Prior four quarterly financial statements, if produced, trustee or collateral agent reports from the entity issuing the PPS sufficient to identify: security specific details of each underlying investment (security identifier, descriptive information, all Eligible NAIC CRP Credit Ratings (if any), par value, market value, and explanation as to how the market value was determined).

FINANCIAL REGULATION STANDARDS AND ACCREDITATION (F) COMMITTEE

Financial Regulation Standards and Accreditation (F) Committee Aug. 10, 2022, Minutes 10-2
Revisions to the Examination Coordination Accreditation Guidelines (Attachment One)..... 10-5
Receivership Updates to the *Insurance Holding Company System Regulatory Act* (#440) and the
Insurance Holding Company System Model Regulation with Reporting Forms and Instructions
(#450) (Attachment Two) 10-8
Recommendation Regarding Variable Annuity (VA) Captives (Attachment Three) 10-9

Date: 8/16/22

Financial Regulation Standards and Accreditation (F) Committee
Portland, Oregon
August 10, 2022

The Financial Regulation Standards and Accreditation (F) Committee met Aug. 10, 2022. The following Committee members participated: Lori K. Wing-Heier, Chair (AK); Vicki Schmidt, Co-Vice Chair (KS); Sharon P. Clark, Co-Vice Chair (KY); Alan McClain (AR); Andrew N. Mais (CT); Timothy N. Schott (ME); Gary D. Anderson (MA); Eric Dunning (NE); Mike Causey represented by Jackie Obusek (NC); Andrew R. Stolfi represented by Doug Hartz (OR); Elizabeth Kelleher Dwyer represented by Matthew Gendron (RI); Michael Wise represented by Daniel Morris (SC); Larry D. Deiter (SD); Scott A. White (VA); and Jeff Rude (WY).

1. Adopted its Spring National Meeting Minutes

Commissioner Schmidt made a motion, seconded by Commissioner Clark, to adopt the Committee's April 5 minutes (see *NAIC Proceedings – Spring 2022, Financial Regulation Standards and Accreditation (F) Committee*). The motion passed unanimously.

Director Wing-Heier said the Committee met Aug. 9 in regulator-to-regulator session, pursuant to paragraph 7 (consideration of individual state insurance department's compliance with NAIC financial regulation standards) of the NAIC Policy Statement on Open Meetings. During this meeting, the Committee voted to award continued accreditation to Alaska, Iowa, Minnesota, and Ohio.

2. Adopted Revisions to the Examination Coordination Accreditation Guidelines

Director Wing-Heier stated that at the Spring National Meeting, the Financial Examiners Handbook (E) Technical Group provided a referral regarding updates to the exam coordination guidelines in the accreditation program. The Technical Group identified an inconsistency between guidance in the NAIC *Financial Condition Examiners Handbook* (Handbook) and the accreditation guideline regarding exam coordination. Specifically, the Handbook guidance requires coordination documentation for holding company groups with insurers domiciled in multiple states, whereas the accreditation guidance requires the same documentation for holding company groups with multiple insurers. Since the coordination guidance is intended to facilitate work between states, the recommendation is to align the accreditation guideline with the Handbook guidance. The referral was exposed for a 30-day public comment period, and no comments were received.

Commissioner White made a motion, seconded by Commissioner Mais, to adopt the recommendation to change the accreditation guidance to require coordination documentation for holding company groups with insurers domiciled in multiple states (Attachment One). The motion passed unanimously.

3. Adopted Receivership Updates to Model #440 and Model #450

Director Wing-Heier stated that at the 2021 Summer National Meeting, the Receivership and Insolvency (E) Task Force adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership. Because both models are part of the accreditation standards, the Committee considers the impact of any changes. The Task Force provided a recommendation that the model revisions should be considered acceptable but not required for accreditation. The recommendation was exposed for a 30-day public comment period, and no comments were received.

Mr. Hartz made a motion, seconded by Commissioner Clark, to adopt the recommendation from the Receivership and Insolvency Task Force that the 2021 revisions to Model #440 and Model #450 be acceptable for accreditation but not required (Attachment Two). The motion passed unanimously.

4. Adopted a Recommendation Regarding VA Captives

Director Wing-Heier stated that captives are generally excluded from the accreditation standards with the exception of captive risk retention groups (RRGs), and captives that reinsure term and universal life with secondary guarantees, variable annuity (VA), or long-term care (LTC) business. Currently, VA and LTC have “to be determined” effective dates as work was ongoing in these areas. Last year, this Committee sent a request to the Financial Condition (E) Committee for more information on the extent VA and LTC captives are used, any relevant trends, and updates on related work. The focus of the exposure is the second paragraph, which discusses updates to the NAIC *Valuation Manual* to alleviate concerns regarding captives that reinsure VA business. The memorandum recommends replacing the “to be determined” effective date with a reference to VM-21, Requirements for Principle-Based Reserves for Variable Annuities. Since the *Valuation Manual* is already required for accreditation, the proposed revision does not represent a new requirement. Rather, it serves as a reference for how this item is addressed in the standards. This means there is no proposed requirement that would apply directly to captives. Rather, the issue is being addressed through the standards for traditional insurers. If future trends indicate a concern, the Committee may reconsider at that time.

Commissioner White made a motion, seconded by Commissioner Schmidt, to adopt the updates to the preamble to reference VM-21 regarding VA business (Attachment Three). The motion passed unanimously.

5. Received Updates on the Status of Model Laws for Accreditation

Director Wing-Heier stated that when model laws are adopted as requirements for accreditation, states are given a period of time to work within the legislative processes for their state to put the requirements in place. The NAIC provides support to the states and tracks adoption of the requirements. There are two new requirements that become effective Sept. 1, 2022. While this date is less than a month away, review of states’ laws and regulation for compliance with accreditation will not begin until Jan. 1, 2023.

Holly Weatherford (NAIC) provided an update on the adoption of the 2019 revisions to the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786). She stated that jurisdictions have until Sept. 1, 2022, to adopt these revisions or face potential federal preemption by the Federal Insurance Office (FIO) pursuant to the “Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance” (Covered Agreement) with the European Union (EU) and United Kingdom (UK). She stated that just this morning, the U.S. Virgin Islands signed its legislation, as expected, bringing the count to all 56 NAIC jurisdictions having adopted the equivalent of Model #785. The three smaller territories, American Samoa, Guam and Northern Mariana Islands, were all able to adopt the models by an Order, with the approval of the FIO. With respect to the model regulation, 51 jurisdictions have adopted so far, another three jurisdictions currently have action pending, and it is expected that the other two jurisdictions will issue their regulations shortly. It is anticipated that all NAIC jurisdictions will have their laws, regulations, or orders in place by Sept. 1.

Ms. Weatherford provided an update on the status of the federal preemption reviews currently being conducted by the FIO. The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) lays out a process under which the FIO must go through before it can make any federal preemption determinations. The NAIC has been in frequent communication with the FIO regarding its reviews of state laws. Publicly, the FIO has praised the NAIC’s efforts, stating that the NAIC has made tremendous progress on this front and that each state has made a sincere effort to adopt the spirit of the models. The NAIC is aware that the FIO is focusing its review

on technical details in the law and regulation, and that there might need to be some clean-up made by the states after the reviews are completed. In summary, these have been constructive conversations with the FIO, and at this moment, the NAIC does not have reason for concern that this will lead to any federal preemption determinations. However, if any state is contacted directly by the FIO, please notify the NAIC.

Ms. Weatherford stated that the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787) becomes an accreditation standard on Sept. 1, 2022, with enforcement beginning on Jan. 1, 2023. As of July 8, when the last updates were received, 20 jurisdictions have adopted Model #787, with another four jurisdictions with action under consideration. Model #787 mirrors *Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued Under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation* (AG 48), and under the accreditation standards, a state may meet the requirements through an administrative practice, such as an actuarial guideline. Additionally, if a state adopts Model #787, it also will need to adopt Section 5B(4) of Model #785.

Commissioner Clark stated that the FIO reached out to Kentucky, and it appears it was primarily regarding drafting notes that are in place to abide by legislative procedures. Ms. Weatherford responded that the corrections from the FIO are typically highly technical and not related to the Covered Agreement. If there were concerns, states would hear from the NAIC and the FIO.

Having no further business, the Financial Regulation Standards and Accreditation (F) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/F CMTE/2022Summer



MEMORANDUM

TO: Financial Regulation Standards and Accreditation (F) Committee

FROM: Susan Bernard (CA), Chair, Financial Examiners Handbook (E) Technical Group
John Litweiler (WI), Vice-Chair, Financial Examiners Handbook (E) Technical Group

DATE: Feb. 9, 2022

RE: Consideration for Financial Accreditation Standards
2022 Financial Condition Examiners Handbook

The *Accreditation Program Manual* (Manual) includes Review Team Guidelines to be used for financial examinations performed using the risk-focused surveillance approach that is found in the NAIC *Financial Condition Examiners Handbook* (Handbook). This memorandum is to update the Financial Regulation Standards and Accreditation (F) Committee on changes the Financial Examiners Handbook (E) Technical Group has made to the Handbook in 2021.

Modifications are made to the Handbook each year, and a new edition is printed annually. This process allows for an efficient way to update the Handbook and ensures that users have the latest version. The Technical Group made several changes to the Handbook in 2021, the majority of which it considers non-significant; i.e., having no impact on accreditation guidance.

The Technical Group noted an opportunity to better align the guidance in the Handbook and the Manual as it relates to exam coordination. This change should be considered “significant” for accreditation purposes, which the Technical Group defines as a change that may immediately warrant a change to at least one accreditation standard or the Review Team Guideline(s) for said standard. Although this change is categorized as “significant” by the Technical Group, this is not meant to suggest the modifications are synonymous with the term “significant” within the accreditation context.

During 2021, the Technical Group made the following changes:

Significant Changes to the Handbook Affecting Accreditation Standards and/or Review Team Guidelines:

- Revisions to the Coordination Framework to clarify the roles and responsibilities of each state that has a company in a holding company group.

When reviewing the guidance contained in the Coordination Framework, the Technical Group noted that Handbook guidance requires the use of Exhibit Z – Exam Coordination when documenting coordination efforts for

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examinations of holding company groups *with insurers domiciled in multiple states*. This is inconsistent with the guidance in the Manual, which requires the use of Exhibit Z for examinations of holding company groups *with multiple insurers*.

To ensure a consistent approach to documenting coordination efforts, the Technical Group advises the Committee to consider revising the guidance pertaining to Accreditation Standard B2(e): General Examination Procedures and Accreditation Standard B2(g): Scheduling of Examinations, as well as the related questions on the Accreditation SEG/IAR Form regarding the use of Exhibit Z. The Technical Group suggests incorporating the tracked revisions below to reflect this change in the Manual:

Accreditation Standard B2(e): Use of Appropriate Guidelines and Procedures, Results-Oriented Guideline 1:

The examiner should utilize a risk-focused approach and prepare examination documentation in sufficient detail to provide a clear understanding of the work performed. The content and organization of the documentation should support conclusions reached and effective execution of the risk-focused approach. When assessing compliance with this guideline, consideration should be given to the following:

- Utilization of a risk-focused approach in establishing priority of accounts or operational areas.
- The clarity and accuracy of the documentation used to support examination conclusions.
- Extent of involvement with contract examiners if utilized.
- Utilization of audit work when relied upon to support an identified risk.
- Fulfillment of coordination efforts as determined by the state in Exhibit Z – Examination Coordination, and consistent with their role as described in the Examiners Handbook, for companies that are part of a holding company group with insurers domiciled in multiple states ~~that includes more than one insurer~~.

Accreditation Standard B2(e): Use of Appropriate Guidelines and Procedures, Process-Oriented Guideline 3:

If the company being examined is part of a holding company group with ~~multiple~~ insurers domiciled in multiple states, the state should complete the appropriate section of Exhibit Z, Part Two (or similar document) as follows:

- If the state is the exam facilitator conducting a fully coordinated group examination, Exhibit Z, Part Two, Section B (or similar document) should be completed.
- If the state is a participating state in a fully coordinated group examination, the state should complete Exhibit Z, Part Two, Section C (or similar document).
- If the state did not participate in a coordinated group examination or utilized existing work outside of a fully coordinated group examination, the state should complete Exhibit Z, Part Two, Section D (or similar document).

Accreditation Standard B2(g): Use of Appropriate Guidelines and Procedures, Process-Oriented Guideline 3:

The department should document the attempt to coordinate examination efforts with departments of other states consistent with the coordinated exam approach prescribed in the Examiners Handbook. Each company that is part of a holding company group ~~that includes more than one insurer~~ with insurers domiciled in multiple states should include a copy of the coordination plan, documented in Section A of Exhibit Z, Part Two (or similar document), in its examination file.

Accreditation SEG/IAR Form, Standard B2(e), Question 5:

For examinations of companies that are part of a holding company group with insurers domiciled in multiple states that includes more than one insurer, does the department complete the applicable section of Exhibit Z – Examination Coordination based on its role in the examination?

Non-Significant Changes to the Handbook:

- Revisions to the Reserves Repositories (Life, Health and Property/Casualty [P/C]), as well as the Underwriting Repository, to provide additional possible completeness and accuracy procedures for examination teams to consider that align with the testing approach used by external auditors. Additionally, procedures were added to enhance collaboration with the actuary to determine significant lines of business/data elements to focus on for testing purposes.
- Revised guidance related to information technology (IT) in the following areas:
 - Additional guidance for evaluating the accessibility and transferability of policyholder data was incorporated into the following sections of the Handbook: 1) Section 1-3 narrative guidance; 2) Exhibit C, Part Two – IT Planning Questionnaire (ITPQ); and 3) Exhibit C, Part Two – IT Work Program and Instructional Notes.
 - Ransomware guidance was incorporated into the following sections of the Handbook: 1) Section 1-3 narrative guidance; and 2) Exhibit C, Part Two – IT Work Program.

If there are any questions regarding the proposed recommendations, please contact either me or NAIC staff (Bailey Henning at bhenning@naic.org) for clarification. Thank you for your consideration.



Date: November 30, 2021

To: Superintendent Elizabeth Kelleher Dwyer (RI), Chair of Financial Regulation Standards and Accreditation (F) Committee

From: Commissioner Cassie Brown (TX), Chair of Receivership and Insolvency (E) Task Force

Re: 2021 Amendments to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450)

On August 17, 2021, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The revisions help ensure efficient coordination with affiliates and to enforce the continuation of essential services by an affiliate to an insurer in the event of insolvency.

These revisions were drafted by the Receivership Law (E) Working Group under charges assigned by the Receivership and Insolvency (E) Task Force. These revisions, referred to as the “receivership revisions” do not include recent revisions to Models #440 and #450 for group capital calculation or liquidity stress test. The receivership revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership by: 1) bringing affiliate service providers deemed “integral” or “essential” to an insurer’s operations under the jurisdiction of a rehabilitator, conservator, or liquidator for purposes of interpreting, enforcing, and overseeing the affiliate’s obligations under the service agreement and give the commissioner authority to require that “integral” or “essential” affiliate service providers consent to such jurisdiction; 2) further clarifying the ownership of data and records of the insurer that are held by the affiliate; and 3) clarifying that premiums of the insurer held by the affiliate are the property of the insurer and rights of offset are determined by receivership law. See attachment A for a copy of the amendments.

The recommendation for Part A Accreditation Standards is that these receivership revisions be considered acceptable, but not required to be adopted by states. However, the revisions are considered important and all states are encouraged to adopt them. States may consider adoption of the changes in conjunction with opening their holding company laws to consider adoption of the Group Capital Calculation and Liquidity Stress Test revisions.

The Task Force will continue to encourage states to adopt these revisions based on the benefits these revisions add to state regulation, and to the goal of improving efficiencies in receivership and reducing costs to a receivership estate.

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

TO: Superintendent Elizabeth Kelleher Dwyer, Chair of the Financial Regulation Standards and Accreditation (F) Committee

FROM: Commissioner Scott A. White, Chair of the Financial Condition (E) Committee

DATE: Nov. 19, 2021

RE: Use of Captives to Reinsure Variable Annuity and Long-Term Care Business

I received your April 14 memo requesting information on the extent the referenced captives are used, any trends on the use of the captives, reasons for such trends, and any relevant updates on work done in the areas of variable annuities and long-term care insurance (LTCl). Upon receiving your memo, I referred your request to the Financial Analysis (E) Working Group. Since the Working Group ultimately collected the information on the use of captives by surveying domestic states using the states' confidentiality standards, the Working Group's response memo will be submitted to the Financial Regulation Standards and Accreditation (F) Committee as a separate regulator-only document. However, for the purposes of this memo, I would note that one of the key takeaways from the Working Group is that the current impact to the risk-based capital (RBC) of the domestic insurers utilizing these captives is minimal.

I would also like to provide you with updates on work done on variable annuities and LTCl. In 2018, the Financial Condition (E) Committee adopted a revised framework for variable annuities, which became effective Jan. 1, 2020. The changes were specifically designed to remove the non-economic volatility within the previous framework, therefore removing the major reason for the use of captives for variable annuities. The Committee believes it is an appropriate time to remove the to be determined (TBD) effective date in the Accreditation Preamble and replace it with a reference to VM-21, Requirements for Principle-Based Reserves for Variable Annuities.

For LTCl, the Financial Condition (E) Committee has not developed any new standards that could be used to justify the removal of the TBD status. Although the impact of the use of captives for LTCl still appears to be minimal, the Committee recommends that this aspect of the Accreditation Preamble be retained and that the Financial Regulation Standards and Accreditation (F) Committee continue to monitor the use of captives for LTCl.

In summary, the Financial Condition (E) Committee recommends a replacement of the TBD in the Accreditation Preamble for variable annuities with VM-21 and retaining the TBD for LTCl.

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Excerpt from Accreditation Manual – Part A PreambleCaptive Reinsurers

The following Part A standards apply to the regulation of a state's domestic insurers licensed and/or organized under its captive or special purpose vehicle statutes or any other similar statutory construct (captive insurer) that reinsure business covering risks residing in at least two states, but only with respect to the following lines of business:

- 1) Term and universal life with secondary guarantee policies that are applicable under Section 3 of the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787)(commonly referred to as XXX/AXXX policies). The application of this provision is intended to have a prospective-only effect, so that regulation of captive insurers, special purpose vehicles and any other entities that reinsure these types of policies will not be subject to the Part A standards if the policies assumed were both (1) issued prior to Jan. 1, 2015, and (2) ceded so that they were part of a reinsurance arrangement as of Dec. 31, 2014. [Drafting Note: This paragraph of the Preamble became effective Jan. 1, 2016]
- 2) Variable annuities valued under Actuarial Guideline XLIII—CARVM for Variable Annuities (AG 43) or VM-21: Requirements for Principle-Based Reserves for Variable Annuities. [Drafting Note: ~~This paragraph of the Preamble is not yet effective. Effective date for compliance to be determined.~~ This paragraph of the Preamble was addressed through revisions to VM-21 of the Valuation Manual.]
- 3) Long term care insurance valued under the *Health Insurance Reserves Model Regulation* (Model #10). [Drafting Note: This paragraph of the Preamble is not yet effective. Effective date for compliance to be determined.]

With regard to a captive insurer, special purpose vehicle, or any other entity assuming XXX/AXXX business, regulation of the entity is deemed to satisfy the Part A accreditation requirements if the applicable reinsurance transaction complies with Model #787.

[Drafting Note: The Part A standards with respect to entities assuming ~~variable annuities and~~ long term care reinsurance business are intended to be effective with respect to both currently in-force and future business. However, the effective dates for ~~variable annuities and~~ long term care insurance ~~are~~ is not yet determined, and ~~their~~ its application to in-force business need further discussion].

INTERNATIONAL INSURANCE RELATIONS (G) COMMITTEE

International Insurance Relations (G) Committee Aug. 10, 2022, Minutes 11-2
 International Insurance Relations (G) Committee July 21, 2022, Minutes (Attachment One) 11-5

Draft: 8/16/22

International Insurance Relations (G) Committee
Portland, Oregon
August 10, 2022

The International Insurance Relations (G) Committee met in Portland, OR, Aug. 10, 2022. The following Committee members participated: Gary D. Anderson, Chair (MA); Eric Dunning, Vice Chair (NE); Evan G. Daniels (AZ); Andrew N. Mais (CT); David Altmaier (FL); Doug Ommen (IA); Dana Popish Severinghaus (IL); James J. Donelon (LA); Kathleen A. Birrane (MD); Anita G. Fox (MI); Troy Downing (MT); Marlene Caride (NJ); Alexander S. Adams Vega (PR); and Michael Wise (SC).

1. Adopted its July 21 and Spring National Meeting Minutes

The Committee met July 21 to discuss and hear views and comments from interested parties on the International Association of Insurance Supervisors' (IAIS') public consultation on the draft criteria that will be used to assess whether the aggregation method (AM) provides comparable outcomes to the Insurance Capital Standard (ICS).

Additionally, Commissioner Anderson noted that the Committee met June 6 in regulator-only session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to hear a preview of and provide steering on main agenda items for the IAIS committee meetings and Global Seminar, which took place mid-June.

Commissioner Altmaier made a motion, seconded by Commissioner Caride, to adopt the Committee's July 21 (Attachment One) and April 7 (*see NAIC Proceedings – Spring 2022, International Insurance Relations (G) Committee*) minutes. The motion passed unanimously.

2. Discussed the FRB's IPAC Paper on the ICS

Commissioner Anderson explained that the purpose of this agenda item was to highlight ongoing developments both domestically and at the international level on the ICS, in particular a recent paper released by the Federal Reserve Board's (FRB's) Insurance Policy Advisory Committee (IPAC) on the ICS.

Pooja Rahman (IPAC/Protective Life) gave an overview of the IPAC's recent work, explaining that the objective of the study was to assess the potential impact of the IAIS' ICS on U.S. insurers, policyholders, and markets, with a focus on long-duration life insurance and retirement products. She noted that the paper considers the impact specifically of the reference version of the ICS being used during the monitoring period. She explained that the ICS stylized model used for the study leverages the work of the Chief Risk Officer Coalition and the IAIS' reference ICS. She said that the IPAC's analysis identified a number of issues but that a redesigned ICS has the potential to provide regulators with a globally comparable measure of group solvency that is consistently market-based and reflective of an expanded set of risk factors relative to the existing U.S. state-based capital regime.

Ms. Rahman explained three main observations that the IPAC identified: 1) the ICS fails to reflect several relevant asset classes and is overly reactive to credit spread movements; 2) the treatment of participating life insurance (par-life) in the ICS discounting methodology is misaligned with the actual risk-mitigating profile of that business, causing overstatement of risk charges in low interest rate environments; and 3) the ICS does not recognize dynamic hedging programs or the use of long-term alternative assets in liability management, introducing regulatory conflict between the ICS and U.S. statutory rules to which many businesses conform. The IPAC paper recommends certain changes to address or mitigate these observations and also proposes that such changes be considered for the version of the ICS that would be used in the forthcoming AM comparability assessment.

3. Heard an Update on 2022 Activities of the IAIS

Director Dunning reported on recent IAIS activities, starting with an update on the IAIS committee meetings and Global Seminar held in Dubrovnik, Croatia, in mid-June, where significant developments were made on a variety of workstreams.

Director Dunning said that on the holistic framework, work is progressing on the targeted jurisdictional assessment (TJA) draft individual reports for the 10 involved jurisdictions that are currently being reviewed by a TJA member review panel. Later this fall, the focus will shift to drafting reports that the IAIS will provide to the Financial Stability Board (FSB) to inform its decision on whether to continue the designation process of global systemically important insurers. As reported earlier, the U.S. on-site assessment took place in mid-January, which included Connecticut, New Jersey, and New York as state volunteers.

Director Dunning noted that in September, the IAIS will conduct its annual collective discussion as part of the global monitoring exercise. Through the individual insurer monitoring and sector-wide monitoring data collections, the IAIS has identified themes and insurers to discuss for potential financial stability issues and what supervisors are doing to mitigate such risks. These discussions will also help inform what is included in the IAIS' Global Insurance Market Report, which is published towards year-end.

Director Dunning reported that in June, the IAIS released a public consultation on draft comparability criteria to assess whether the AM provides comparable outcomes to the ICS. The Committee met July 21 to discuss these draft criteria, and stakeholders were encouraged to submit comments to the IAIS by the Aug. 15 deadline. Relatedly, he noted that templates were released in April for the AM and ICS data collections, which are part of the third year of the five-year monitoring period, and that this data is due at the end of August.

Director Dunning concluded by noting that a number of other IAIS activities are underway related to the several metrics, including: climate; diversity, equity, and inclusion (DE&I); operational resilience; cyber; and liquidity. The upcoming September committee meetings will include discussion and work on the IAIS' 2023–2024 road map.

4. Heard an Update on International Activities

a. Regional Supervisory Cooperation

Commissioner Anderson highlighted the three topics of focus in 2022 for the European Union (EU)-U.S. Insurance Dialogue Project: 1) climate risk financial oversight, including climate risk disclosures, supervisory reporting, and other financial surveillance; 2) climate risk and resilience, including innovative technology, pre-disaster mitigation, and adaptation efforts, and modelling; and 3) innovation and technology, which will include topics such as big data, artificial intelligence (AI), and supervisory technology as a regulatory tool. He noted that the project's working groups have met several times and will be producing a summary report of the discussions by the end of this year. Additionally, he said that a public Project Forum is expected to take place in 2023.

Commissioner Anderson reported that a number of bilateral discussions were held between NAIC representatives and international counterparts over the last few months. This included a biannual meeting with Bermuda, where climate risk, cyber risk, innovation, and the increasing role of private equity in insurance were topics of discussion. The NAIC used the in-person IAIS June committee meetings and Global Seminar as an opportunity to hold bilateral meetings with colleagues from Hong Kong, Japan, Singapore, and Taiwan to discuss a variety of topics of mutual interest. Notably, the NAIC and the Conférence Interafricaine des Marchés D'Assurance (CIMA) discussed respective priorities and took the opportunity to sign a memorandum of understanding that had been put on hold in early 2020 due to COVID-19.

Commissioner Anderson reported that NAIC members and staff joined more than 20 insurance regulators from around the globe for the Bank of England’s virtual 9th Workshop for Heads of Insurance Supervision to discuss recent regulatory updates in the United Kingdom (UK), as well as key challenges to the industry as a whole. He noted upcoming speaking engagements at the Eurofi Conference in Prague, Czech Republic, on Sept. 7 and at the Association of Bermuda Insurance and Reinsurance (ABIR) annual event in Brussels, Belgium, on Sept. 8–9.

Commissioner Anderson noted that the NAIC International Fellows Program will take place in person for the first time in three years this fall, beginning on Oct. 10. With the application period having just closed, he noted applications were received from many qualified regulators from various jurisdictions around the world. Seven states have agreed to serve as hosts, and there is a small window to take more states if they are interested in serving as hosts.

Lastly, Commissioner Anderson noted that the NAIC has been hosting Mimi Vinaiphat from the Office of Insurance Commission (OIC) in Thailand this summer at its Capital Markets and Investments Analysis Office in New York City as an intern as part of completing a master’s degree in data analytics from Carnegie Mellon University (Pittsburgh, PA). He thanked her for her work this summer, which has been extremely helpful and demonstrates the NAIC’s commitment to engagement with international counterparts.

b. OECD

Commissioner Anderson reported that in June, NAIC staff participated in the Organisation for Economic Co-operation and Development (OECD) Insurance and Private Pensions Committee (IPPC) and provided updates on topics from a U.S. perspective, including a summary of 2021 insurance industry statistics; an update on the effects on the U.S. insurance and financial markets of the Ukraine/Russia war; and the NAIC’s climate risk-related workstreams.

c. SIF

Commissioner Anderson reported that the Sustainable Insurance Forum (SIF) had an informal working group meeting in June to discuss net zero transmission plans and access and affordability in insurance. This included new products being offered, such as parametric insurance, and private-public partnerships to address climate risk protection gaps in member jurisdictions. The next meeting of the SIF is expected to be in the fall.

Having no further business, the International Insurance Relations (G) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/G CMTE/National Meetings/2022/Portland – Summer National Meeting/Minutes

Draft: 8/1/22

International Insurance Relations (G) Committee
Virtual Meeting
July 21, 2022

The International Insurance Relations (G) Committee met July 21, 2022. The following Committee members participated: Gary D. Anderson, Chair (MA); Eric Dunning, Vice Chair (NE); Andrew N. Mais (CT); Doug Ommen (IA); Dana Popish Severinghaus (IL); James J. Donelon (LA); Kathleen A. Birrane (MD); Anita G. Fox (MI); Troy Downing (MT); and Marlene Caride (NJ).

1. Discussed IAIS Public Consultation Draft Criteria on AM Comparability to the ICS

Commissioner Anderson explained the purpose of the meeting is to discuss the International Association of Insurance Supervisors (IAIS) public consultation on the draft criteria that will be used to assess whether the aggregation method (AM) provides comparable outcomes to the insurance capital standard (ICS). The IAIS approved release of this consultation at its meetings last month, and comments are due on Aug. 15.

Commissioner Anderson explained that detailed draft criteria were developed for each high-level principle (HLP), and the intention is to have criteria for a process that neither precludes the AM at the outset as an outcome equivalent approach to the ICS for measuring group capital, nor gives it a free pass. Accordingly, the IAIS is looking for stakeholder feedback on whether each individual criterion is clear or too restrictive, considering the HLP to which it relates.

Commissioner Anderson noted the consultation is looking for perspectives and technical input on various parameters included in the criteria. He explained the IAIS is seeking input to aid in the development of specific scenarios for the sensitivity analysis envisaged in the draft criteria for HLP 1.

The IAIS is also seeking feedback on representativeness of the non-life insurance sample as it relates to HLP 5. He said following consideration of consultation comments, the IAIS is expected to finalize the criteria towards the end of the year with the assessment scheduled to begin in the third quarter of 2023. He added that constructive feedback from stakeholders will be important as the IAIS undertakes work to finalize the draft criteria post-consultation.

Ryan Workman (NAIC) explained that questions were circulated in advance of the meeting to help structure the conversation on each HLP, as well as two specific questions on HLP 1 and HLP 5. Interested parties would be invited to provide any high level, general comments on the consultation and then comments on each HLP.

General comments on the criteria from interested parties included the following:

- Many views offered were preliminary as interested parties were still in the process of assessing the draft criteria and would later finalize their official comments on the consultation.
- A number of the criteria could preclude comparability given they are overly focused on quantitative data and based on an assumption that the ICS is always correct. Without significant revisions, it will be impossible for the criteria to create a process for comparability because the criteria are impractical, lack clarity, and are flawed by design.

- The AM could be deemed not comparable simply due to the inoperability of the criteria. A holistic implementation of the criteria will be necessary for the assessment and requires applying a necessary amount of judgement and taking into account quantitative and qualitative aspects.
- The criteria should be revised to recognize that the purpose is to look at approaches to group capital and not just a number.
- An evidence-based approach to the comparability assessment should include both qualitative and quantitative data. The criteria are narrowly focused on quantitative comparison and ignore the qualitative.
- The criteria disregard fundamental differences between the two approaches to group capital and set up a comparison that expects the AM to operate the same as the ICS. Comparing two incompatible frameworks is an impossible task.
- Doing the scenario analysis would require a large amount of work and ignores data that has already been provided during field testing and the monitoring period that shows correlation. There is no value in going through an exercise that would show the same outcomes as those already observed.
- The comparability exercise has become a U.S.-only exercise, which is unrealistic as it ignores the context of the U.S. supervisory regime and tools already available that surround the collected data.
- There are concerns that the process will be used to suggest weakness in the U.S. system of insurance supervision, not comparing approaches to group capital.
- If the overall goal for group capital is financial stability and protecting policyholders, the draft consultation lacks an assessment of how systems achieve such potential outcomes.
- The U.S. system includes tools beyond just capital, and there are also different jurisdictional approaches to insurance supervision. This must be factored into the analysis to make it compatible with the U.S. approach. The U.S. system is distinct and has stood the test of time.
- The criteria and high-level principles preclude the AM from achieving its goal. As the high-level principles preclude comparability, the criteria will too.
- The NAIC should continue to promote the broad selection of supervisory actions and regulatory tools at their disposal to address group solvency; requiring additional capital should not be the only option.
- There are other jurisdictions besides the U.S. taking an aggregation approach, so there is broader interest in this consultation.

In response to some of the comments made, Mr. Workman noted that there were jurisdictions besides the U.S. that had volunteers proving AM data and that how the IAIS will use data from different jurisdictions for the assessment process is something the IAIS will need to figure out. He added that it is important to remember that the ICS is a group capital component, which is more quantitative in nature, but is part of the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame), which has qualitative components related to group solvency. Accordingly, interested parties may want to comment on how that will be taken into account as part of the assessment since the ICS does not operate in isolation from the rest of ComFrame.

Comments made on HLP 1 criteria included the following:

- The criteria for HLP 1 could not be operationalized and would preclude comparability. In particular, Criteria 1.1 and criteria 1.2 preclude comparability as drafted as they narrow the definition of comparability to mean significantly correlated.
- The IAIS would need a granular definition of the scenarios. Then it would need to determine the data that would be needed, followed by performing the analysis. However, the amount of data potentially needed as contemplated by the criteria would be too much to analyze in the time allotted.

- The sensitivity analysis described would take significant resources to tell us what we already know—that both approaches move similarly. Business cycle is undefined and will remain until the scenarios are undefined, which makes it difficult to understand how this will work.
- It is unclear how the differences in valuation treatment would not preclude comparability.
- Simplicity for the sensitivity analysis and scenarios is better.
- The most useful criteria is 1.3e and the type of scenario analysis it describes.

In response to some of the comments made, Ned Tyrrell (NAIC) noted that as part of this year's AM data collection, there are questions about what type of data could be used for scenarios and sensitivity analysis. He encouraged volunteers to provide input as it would help inform the comparability assessment process.

Comments made on HLP 2 criteria included the following:

- Depending on how the criteria are interpreted, if the criteria are applied literally, it would preclude comparability. The sub-criteria ignore the need to look at how a group capital requirement works with the broader solvency framework; one needs to be looking at the frameworks, not just the numbers.
- The narrow definition of comparability exhibits some anchoring bias; broadening the definition of comparability would create more constructive analysis.
- With respect to criteria 2.3 and HLP 2.4, the use of "similar" is effective for setting up expectations for comparability.
- The criteria in HLP 2 could work if applied flexibly and with proportionality.

Comments made on HLP 3 criteria included the following:

- The criteria seem to ignore conservatism that is part of some approaches which is included to avoid short-term market fluctuations.
- The ICS is not yet finalized, yet this criteria assumes ICS results are always correct whereas the recent Federal Reserve Board's (FRB's) Insurance Policy Advisory Committee paper showed one instance where ICS results would have incorrectly required supervisory action. The entire solvency framework needs to be considered when deciding what is or is not prudent.

On HLP 4 criteria, it was noted that the concept makes sense, but there may be times when certain entities are scoped out.

Mr. Workman commented that such an approach is in line with ComFrame.

Comments made on HLP 5 criteria included the following:

- Volunteers have satisfied this principle of representativeness over the last couple of years. There is a difference between how the ICS works with life versus non-life groups, and the non-life sample is sufficiently representative.
- HLP 5 could preclude comparability as it is overly focused on a level of participation rather than representative data to do the assessment.

There were no comments on HLP 6 criteria.

Commissioner Anderson thanked interested parties for their comments and questions and emphasized that stakeholder feedback and input will be important as the IAIS works to finalize the criteria. He said he hopes the discussion helped clarify some things and will help inform stakeholder thoughts on the consultation.

Having no further business, the International Insurance Relations (G) Committee adjourned.

[SharePoint/Support Staff Hub/Member Meetings/G Cmte/National Meetings/2022/Portland - Summer National Meeting/Minutes Materials](#)

INNOVATION, CYBERSECURITY, AND TECHNOLOGY (H) COMMITTEE

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Draft: 8/28/22

Innovation, Cybersecurity, and Technology (H) Committee
Portland, Oregon
August 10, 2022

The Innovation, Cybersecurity, and Technology (H) Committee met in Portland, OR, Aug. 10, 2022. The following Committee members participated: Kathleen A. Birrane, Chair (MD); Evan G. Daniels, Co-Vice Chair (AZ); Dana Popish Severinghaus, Co-Vice Chair (IL); Karima M. Woods (DC); John F. King (GA); Amy L. Beard (IN); Chlora Lindley-Myers (MO); Troy Downing (MT); Jon Godfread (ND); Adrienne A. Harris represented by Sumit Sud (NY); Judith L. French (OH); Elizabeth Kelleher Dwyer (RI); Carter Lawrence (TN); Kevin Gaffney (VT); and Mike Kreidler (WA). Also participating were: Cynthia Amann (MO); and Katie Johnson (VA).

1. Adopted its Spring National Meeting Minutes

Commissioner Birrane said the Committee met April 5.

Commissioner Downing made a motion, seconded by Director Popish Severinghaus, to adopt the Committee's April 5 minutes (*see NAIC Proceedings – Spring 2022, Innovation, Cybersecurity, and Technology (H) Committee*). The motion passed unanimously.

2. Adopted a Request for NAIC Model Law Development from the Privacy Protections (H) Working Group

Ms. Johnson, chair of the Privacy Protections (H) Working Group, presented the Working Group's Request for NAIC Model Law Development, noting that it will incorporate some aspects of the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) into a new model. She said the concepts found in Model #670 and Model #672 need to be modernized considering changes to industry practices, and adopting this request will provide the appropriate next steps for discussing substantive issues regarding the appropriate privacy protections for the insurance marketplace.

Commissioner Godfread made a motion, seconded by Director Lindley-Myers, to adopt the proposed Request for NAIC Model Law Development (Attachment One). The motion passed unanimously.

3. Adopted the Reports of its Working Groups

A. Big Data and Artificial Intelligence (H) Working Group

Superintendent Dwyer said the Big Data and Artificial Intelligence (H) Working Group met July 14 and held a Collaboration Forum on Algorithmic Bias, which included a presentation from Scott Kosnoff (Faegre Drinker Biddle & Reath LLP) on different perspectives on artificial intelligence (AI) risk management and governance and a presentation from Eric Krafcheck (Milliman) on bias detection methods and tools. The Working Group also received reports from Workstreams One and Two. Workstream One is focusing on AI/machine learning (ML) surveys led by Commissioner Gaffney, and Workstream Two reported on its work focusing on determining the appropriate regulatory evaluation of third-party data and model vendors.

B. Cybersecurity (H) Working Group

Ms. Amann said the Cybersecurity (H) Working Group met July 14 and received an update on its work plan. She said the Working Group launched a volunteer group to draft a state insurance regulator survey, and the survey represents one of the Working Group's key deliverables to be completed. She said an initial survey has been

drafted and updated, and it is expected to be sent to state insurance regulators in August. She said the Working Group also received an update on the implementation of the *Insurance Data Security Model Law* (#668), noting that 21 states have now adopted it. She said the Working Group also received an update on federal activity related to cybersecurity, the NAIC’s cybersecurity tabletop exercises, and state insurance regulatory cybersecurity tools.

C. E-Commerce (H) Working Group

Commissioner Downing said the E-Commerce (H) Working Group met May 26 and May 5 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings to plan steps to accomplish its 2022 charges. He said the Working Group has also been working to clarify and analyze the various issues raised by the states and industry in response to the e-commerce surveys that were sent out in late 2021. The survey was sent to the states asking what exceptions to state laws or regulations were implemented during the pandemic to allow e-commerce, electronic transactions, and electronic communications to take place when in-person methods were not possible. Commissioner Downing said at the same time, the survey was sent to industry asking the companies to identify regulations or regulatory practices related to any specific technologies, communications, transactions, or any other forms and methods of e-commerce that may currently impede their ability to conduct business electronically. Based on the survey results, the Working Group prepared a working framework that categorized identified issues related to e-signatures, e-notices, claims, policy, and a general “other” category.

Commissioner Downing said since developing the framework, various members of the Working Group volunteered to dig deeper into each of these topics to explore what options were offered by the states and industry via the survey; identify what actions, if any, have been taken by the states in relation to these topics; and identify potential solutions to any outstanding or otherwise remaining issues. He said the Working Group plans to complete the updated framework to reflect the work done by the Working Group volunteers and expose that document for review and comment in the next few weeks. He said the Working Group also plans to meet to discuss the framework and get feedback on its overall plan.

D. Innovation in Technology and Regulation (H) Working Group

Director Daniels said the Innovation in Technology and Regulation (H) Working Group met May 25 to: 1) review its charges; and 2) outline its plan for the year, including quarterly meetings on various topics. He said the Working Group focused on various state approaches facilitating innovation across the country, including sandbox concepts and other strategies. He said presentations were provided by the District of Columbia, Illinois, and Wisconsin departments of insurance (DOIs); they were well received, and other approaches were discussed. He said the Working Group has plans to meet two more times in 2022 on topics related to innovation and technology in insurance.

E. Privacy Protections (H) Working Group

Ms. Johnson said the Privacy Protections (H) Working Group met three times in regulator-to-regulator session to review draft revisions to Sections 1–12 of Model #670, and it met twice in open meetings. She said during its June 15 meeting, the Working Group: 1) adopted its Spring National Meeting minutes; and 2) received comments on its draft revisions to Sections 1–2 of Model #670. She highlighted a few of the comments, noting that after considering these comments, the Working Group decided to clarify its direction and agreed to replace Model #670 and Model #672 with one new model. She said during its Aug. 9 meeting, the Working Group: 1) adopted its Aug. 2 minutes; 2) heard updates on state and federal privacy legislation; and 3) discussed next steps on the *Consumer Data Ownership and Use* white paper, the drafting of the new model, and the related work plan.

Commissioner Kreidler made a motion, seconded by Commissioner Godfreed, to adopt the reports of the Big Data and Artificial Intelligence (H) Working Group (Attachment Two), the Cybersecurity (H) Working Group (Attachment Three), the E-Commerce (H) Working Group, the Innovation in Technology and Regulation (H) Working Group, and the Privacy Protections (H) Working Group (Attachment Four). The motion passed unanimously.

4. Received an Update on its Projects

A. ICT-Hub Concepts and Progress

Commissioner Birrane asked Scott Morris (NAIC) to provide an update on the Innovations, Cybersecurity, and Technology (ICT) Hub project intended to assist in fulfilling the Committee's charge to coordinate the work of NAIC committees on issues related to innovation, technology, cybersecurity, and data privacy referred to as "Related Groups." She said it is intended to provide a link to committee work pages, a summary of their relevant work, and a library of resources. She said this is intended to enable users to easily identify various workstreams and work products developed or being developed by different committees and groups at the NAIC.

Mr. Morris said the NAIC is working on this project and has gathered information and outlined use cases to define what the ICT-Hub should provide. He said the NAIC Communications Department has built a demo of the platform that was shared with Committee members after the Collaboration Forum on Algorithmic Bias on July 19. He said as part of implementing a new website, a content management platform will be a foundational component and will allow a smarter and more streamlined approach. He said it will benefit all NAIC committees and the website generally by allowing content to be tagged so that it can be presented on different pages or different topics. He provided some examples of what that might be and what it would include. He said the NAIC will start by building a taxonomy to classify the content, beginning with topics related to the Committee and then expand it from there. He said feedback was received, and staff will now go back to the Communications team to help build out a project timeline and costs. He said the project will take a more technology driven approach, but it is believed to be the best approach for the long term. He said there are plans to get something out in the interim that will be based on the more traditional platform in existence today.

B. Collaboration Forum on Algorithmic Bias Program and Kansas City Fly-In

Commissioner Birrane said she wants to clarify that the Collaboration Forum is not an event but a methodology. She said it is intended to bring different groups together to collaborate, and holding educational events as a part of the methodology is part of the process of bringing those groups together regarding a common topic to coordinate through the Collaboration Forum. She said it is a collaboration effort that we are calling a forum.

Commissioner Birrane said the Committee is charged with collaborating and coordinating NAIC work on Committee topics, and most of that work can be done through communication with the Related Groups directly but recognizing that some topics are so big and substantial and cut across so many groups that it makes it important to collaborate to assure consistency and efficiency.

Commissioner Birrane said it became clear early on that there were many workstreams at the NAIC looking at the subject of unfair bias in algorithms and how AI/ML driven decisional systems can result in illegal discrimination, so this was the perfect subject for the first Collaboration Forum. She said it began in May, and as the Collaboration Forum evolved into regulator-to-regulator session, three areas of focus emerged:

1. The need to identify the Related Groups and ensure regular and ongoing communication about what each are doing and communicate regarding the ICT-Hub.

2. Providing foundational education to commissioners and other senior state insurance regulators to ensure a common foundation of understanding.
3. Work together to identify the common and foundational elements of regulatory oversight of AI use in insurance, including the development of a common vocabulary and the identification of regulatory tools.

Commissioner Birrane reviewed the progress made over the last few months, including hosting foundational education at the Commissioners' Mid-Year Roundtable, hosting a regulator-only Fly-In in Kansas City, holding Forum sessions during the Summer National Meeting at the Big Data and Artificial Intelligence (H) Working Group meeting, and continuing that with a session after the Committee meeting. She said there will be other public sessions held on particular "use cases" put on by the other workstreams in the future.

Having no further business, the Innovation, Cybersecurity, and Technology (H) Committee adjourned into the Collaboration Forum on Algorithmic Bias session.

5. Held the Collaboration Forum on Algorithmic Bias

Commissioner Birrane introduced the presenters for the Collaboration Forum on Algorithmic Bias session. She said the topic is, "Approaches Companies Are or Can Implement to Manage and Mitigate the Risk of Unintended Bias and Illegal Discrimination When Developing and Using AI/ML," and she introduced each of the presenters.

Dale Hall (Society of Actuaries—SOA) talked about the SOA's Ethical & Responsible Use of Data & Predictive Models Certificate Program. He said it is designed for state insurance regulators, actuaries, data scientists, and others who work in the insurance profession; the full program was released in 2021, and an executive version is being developed. He said the focus is on an ethical framework. It is based on a set of principles, which are then applied in practice; provides a way to organize data processes and analyze a given situation; facilitates the ability to have checkpoints and ask important questions; and suggests different approaches to frameworks that may have the same core intentions.

Mr. Hall said the three main points of the program are to promote: 1) fairness, ensuring it is equitable, avoids bias, gives thought to social considerations; 2) safety, ensuring the data is robust, useful, meets privacy standards, a technically sustainable model, and accurate; and 3) transparency and accountability, ensuring it is well documented, explained, communicated, and interpreted well, and there is accountability in terms of who owns it and will be answering questions regarding it and its use. He said highlighted in the process is gathering the data and developing the initial models, avoiding bias, and understanding how various modeling approaches relate to the framework. He talked about the need to ensure that models are fair and avoid disparate impact and treatment and unintended discrimination. He said potential approaches to doing this might include collecting protected data to ensure the model does not discriminate and require direct causal relationships.

Mr. Hall said the program also includes model safety and governance. He said this follows generally accepted enterprise risk management (ERM) principles that actuaries are already very involved in and work with auditors and others in the company to ensure it is well understood who owns and manages the processes. He said being able to explain the model is very important and should be a strong and simple explanation. He said there is an ongoing responsibility to ensure feedback and control after deployment.

Tulsee Doshi (Google and Lemonade) presented on today's approaches to algorithmic bias. She reviewed different ways AI is being used across the world, including helping the industry to determine risk, detect fraud, and many other things showing it has many benefits even if it also has risks. She said the question is, how to balance those benefits against the risks while still being intentional about the other effects. She said human biases affect the way products affect the world, and she provided examples.

Ms. Doshi said humans are at the center of creating bias, and that it is not unique to AI, but AI is likely to exacerbate the problem. She said it is not necessarily an issue of equality or providing everyone with the exact same thing but of equity; i.e., providing the same, yet reducing the risk of higher risk areas and communities. She said fairness is a little bit of both. She reviewed the components of developing the models, and she said it is important to have governance and responsibility built into each one. She said human bias can be introduced at each stage. She emphasized that it is important to be intentional in mitigating these biases and document each stage and that humans continue to be in the loop.

Ms. Doshi said because ML uses and users are so diverse, ML fairness concerns can take many different forms, and she provided examples. She said the problems do not look the same; therefore, you must understand the context, user, and use case to understand how bias may manifest itself, which dictates the metrics and what will need to be done to solve for it; therefore, the solutions will be different. She said the approach will need to include establishing the problem with a diverse set of users in mind, collecting data across the user base, defining fairness opportunities, testing, designing mitigation approaches, and monitoring. She said across all of this is developing and growing an inclusive workforce and bringing in diverse perspectives. She talked about the concept of a uniform loss ratio and talked about model cards as methods for detecting bias and providing transparency. She said face detection model cards are an example of something that is growing across the industry in terms of a standardized way to provide transparency around models.

Ms. Doshi identified three important challenges in solving for bias: 1) the need to have class attributes to test for them; 2) it is often hard to collect enough data, as is the case with claims; and 3) even once identified, it can take time to resolve bias issues. She said it is also important to ensure new bias is not created when trying to improve for the first identified bias issue.

Daniel Schwarcz (University of Minnesota) covered understanding the risk of biased AI in general and in insurance and how limiting it requires the initial step of testing for disparate impact. He said there is no effective understanding of potential bias unless testing the outcomes of the model. He said he would focus on the ML aspect of AI, which is based on massive amounts of historic training data and bias in statutorily protected groups.

Mr. Schwarcz provided several examples of bias against protected groups in AI models, including a Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) algorithm that disproportionately over-predicted recidivism for blacks and underpredicted it for whites, Amazon's hiring algorithm that discriminated against women, and Optum's health algorithm that directed resources disproportionately to white individuals. He said one must not only look at the results but why those results are being presented.

Mr. Schwarcz said he did not believe a lot of insurers were using AI and ML in underwriting or rating, but he said it is in flux and they are on the precipice of doing this. He said the issue or proxy discrimination is when a protected attribute is predictive of risk but is illegal to be used. However, it is often predictive of claims, but whatever the reason, those attributes are not allowed to be used. The ML will develop proxies for those attributes because it is predictive of risk.

Mr. Schwarcz said the examples of models behaving with disparate impact have been identified by testing. He said there is no other way to determine if there is bias in algorithms other than to test them, and he said insurers should be explicitly allowed to collect this data to do this testing. He said he recognizes that disparate impact may not represent a legal or regulatory problem, but that is where the inquiry should begin even if it does not create liability or necessarily indicate a problem. He said this is the first step, but there are a lot of additional difficult steps to take and testing is critical to having an effective regulatory regime.

Commissioner Birrane thanked the presenters, and she said to send questions to NAIC staff if one is a state insurance regulator, and for interested parties, there will be a Committee meeting set up to provide an opportunity to speak on this topic.

Having no further business, the Innovation, Cybersecurity, and Technology (H) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/2022_Summer/H_Minutes/H Cmte Minutes 081022 Final.docx

Adopted by the Innovation, Cybersecurity, and Technology (H) Committee – 8/10/22

Adopted by the Privacy Protections (H) Working Group – 8/2/22

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective parent committee and the NAIC's Executive (EX) Committee is required. The NAIC's Executive (EX) Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail, as necessary, to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Privacy Protections (H) Working Group

2. NAIC staff support contact information:

Lois E. Alexander
Market Regulation Manager II lalexander@naic.org
816-783-8517

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form, and reference the section(s) proposed to be amended.

Proposed Title: *Insurance Consumer Privacy Protection Model Law*

The NAIC's models addressing data privacy—*NAIC Insurance Information and Privacy Protection Model Act* (#670) and *Privacy of Consumer Financial and Health Information Regulation* (#672)—were adopted several decades ago. After studying this issue over the past two years, the Privacy Protections (H) Working Group has determined that a new model law is necessary to enhance the consumer protections and the corresponding obligations of entities licensed by the insurance department to reflect the extensive innovations that have been made in communications and technology over these decades.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why:

Access to consumer data by insurance companies, insurance producers, and their third-party vendors has multiplied exponentially via the internet, telematics, and other data tracking technology. This, in turn, has increased the use of complex algorithms, including machine learning (ML) and artificial intelligence (AI). State insurance regulators applying current model law and regulation requirements to consumer privacy notifications have encountered questions about the extent of consumer ownership and control of the use of such consumer data by the insurance industry. Consumers are faced with opt-in/opt-out decisions that leave questions as to whether they may have given away their rights to control their personal data, much of which insure do not even need to determine insurability and risk.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive (EX) Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: The Privacy Protections (H) Working Group has a work plan in place that is posted on the Working Group’s web page and drafting groups committed to drafting and adopting revisions to Models #670 and Model #672 by the 2023 Summer National Meeting.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: NAIC members are aware of the need for a new model law to enhance consumer privacy protections via notifications and education to consumers regarding standards for licensees and their third-party vendors responsibilities regarding collection, use, and disclosure of consumers’ information.

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

It is not.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

The federal Gramm-Leach-Bliley Act (GLBA), enacted in 1999, imposed privacy and security standards on financial institutions and directed state insurance commissioners to adopt certain data privacy and data security regulations. Model #672 is the regulation adopted in response to the GLBA. The new model will include GLBA data privacy standards and replace Model #672.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/2022_Summer/H_Materials/MLR_670and672-Request.docx

Draft: 8/28/22

Big Data and Artificial Intelligence (H) Working Group
Portland, Oregon
August 10, 2022

The Big Data and Artificial Intelligence (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met in Portland, OR, Aug. 10, 2022. The following Working Group members participated: Elizabeth Keller Dwyer, Chair (RI); Amy L. Beard, Co-Vice Chair, represented by Victoria Hastings (IN); Doug Ommen, Co-Vice Chair (IA); Adrienne A. Harris, Co-Vice Chair, represented by Sumit Sud (NY); Kevin Gaffney, Co-Vice Chair (VT); Anna Latham (AK); Ken Allen (CA); Peg Brown (CO); George Bradner and Wanchin Chou (CT); John Reilly (FL); Weston Trexler and Randy Pipal (ID); Erica Weyhenmeyer (IL); Rob Roberts (KY); Tom Travis (LA); Rachel Davison (MA); Kathleen A. Birrane and Alexander Borkowski (MD); Sandra Darby (ME); Karen Dennis (MI); Phil Vigliaturo (MN); Cynthia Amann (MO); Tracy Biehn and Angela Hatchell (NC); Jon Godfread and Chris Aufenthie (ND); Christian Citarella (NH); Barbara D. Richardson (NV); Tom Botsko (OH); Alex Cheng (OR); Shannen Logue and Michael McKenney (PA); Michael Wise (SC); Travis Jordan (SD); Carter Lawrence (TN); Leah Gillum (TX); Jon Pike (UT); Katie Johnson (VA); Molly Nollette (WA); Rebecca Rebholz (WI); and Greg Elam (WV).

1. Adopted its July 14 Minutes

The Working Group met July 14 and took the following action: 1) adopted its April 5 minutes; and 2) received reports from its four workstreams.

Commissioner Ommen made a motion, seconded by Mr. Vigliaturo, to adopt the Working Group's July 14 minutes (Attachment Two-A). The motion passed unanimously.

2. Held the Collaboration Forum on Algorithmic Bias

Superintendent Dwyer said one of the highest priority charges to the Innovation, Cybersecurity, and Technology (H) Committee is to facilitate appropriate levels of coordination and collaboration among NAIC working groups with respect to topics that relate to innovation, technology, cybersecurity, and privacy. This is being accomplished through the Collaboration Forum, which has an initial focus on algorithmic bias. Superintendent Dwyer said the Big Data and Artificial Intelligence (H) Working Group is playing a role in providing a public forum for education and discussion.

Scott Kosnoff (Faegre Drinker Biddle & Reath) talked about how insurers that are using artificial intelligence (AI) or algorithmic decision making can protect themselves from regulatory litigation and reputational risk. Mr. Kosnoff said AI tools can assist in customer engagement, rating, underwriting, claims management, and fraud detection and that insurers invest in these tools for better decision making and to remain competitive. While there are many benefits to the use of these tools, Mr. Kosnoff said state insurance regulators have expressed concerns about fairness, unintended discrimination, and lack of transparency.

Mr. Kosnoff said concerns surrounding the use of AI are not unique to the insurance industry, and he then reviewed steps insurers could take to minimize their risks. He said insurers should have a risk management framework, which includes how to identify potential bias. Mr. Kosnoff said insurers have a difficult situation because there is no clear guidance regarding what level of correlation of a data variable with a protected class is acceptable and under what circumstances. He said an insurer should take reasonable steps to identify, manage, and mitigate the risk of negative outcomes. Mr. Kosnoff said the risk management framework should be an extension of an insurer's enterprise risk management (ERM) and include the following: 1) written policies and

procedures; 2) clear assignment of responsibility and accountability; 3) communication of policies; 4) training and supervision; 5) consistent use and application; 6) monitoring and corrective action, if needed; and 7) documentation.

Mr. Kosnoff said an insurer needs to inventory the organization's algorithms, understand each algorithm's objective and how it will be used, identify potential risks for each algorithm, assess the seriousness of potential harm that could occur, and the likeliness of harm occurring. After this, he said an insurer should implement appropriate safeguards, including humans having some level of oversight. Finally, Mr. Kosnoff said insurers should consider testing for bias and said he thinks this is the only part of the risk management framework that is controversial.

Mr. Kosnoff said an insurer should have a multidisciplinary team, diversity, clear assignment of roles, and board oversight for the development of AI and risk management framework. He said the risk management framework should be proportionate to the likelihood of harm and should cover every stage of the AI life cycle, which includes pre-design, design and development, testing and evaluation, deployment, and monitoring. In response to a question regarding how to monitor an algorithm that can learn over time, Mr. Kosnoff said it is important to recognize testing cannot occur only at initial deployment.

Eric Krafcheck (Milliman) said his comments today are through the lens of how to evaluate a rating plan but are applicable to other ways models are used. He said his comments focus on the testing for bias and said one needs to first identify the scope of analysis, define the fairness measure, and then collect the necessary data to test for bias, which includes protected class data. Mr. Krafcheck said detecting bias for insurance is complicated because insurance is centered on the concept of fair discrimination by treating different risks differently. Because of this, he said any methodology should use multivariate methods.

Mr. Krafcheck said the type of model used and how the model is used will dictate what methodology to use for testing of bias. For example, he said it is easy to tell if a facial recognition model is working as intended, whereas it is more difficult to tell if an insurance pricing model is working as intended. Mr. Krafcheck said the testing method may vary if one is testing for overall model prediction versus testing for disparate impact. He said the volume of data and granularity of protected class data available will also affect testing methodology. Mr. Krafcheck said it is important to establish the questions one is seeking to answer to determine the best testing methodology. He provided an overview of the following potential testing based on the question being asked.

- Is the model/variable a proxy? Mr. Krafcheck suggested the use of a control variable test, which involves adding a protected class variable as a predictor in the model to account for the predictive effect of the protected class. One can then compare the model output before and after the protected class variable is used in the model to see if there is a material difference. Mr. Krafcheck used the hypothetical example of vehicle color being correlated to risk of loss and vehicle color also being corrected to a protected class. The observable difference in how losses vary across vehicle color after accounting for the protective class would identify whether there is a proxy effect through the use of vehicle color.
- Is the predictive effect consistent across protected classes? Mr. Krafcheck suggested the use of an interaction test, which involves adding the protected class variable as an interaction in the model. The output of the model will produce separate estimates for each protected class for that variable. One can then compare the effect across different protective classes to see if there is consistency. Mr. Krafcheck said this test will help determine if the predictive effect is consistent across protected classes.

- Does the inclusion of a variable disproportionately affect otherwise similar risks? Mr. Krafcheck suggested the use of a nonparametric matching test. For every policyholder of a given protected class, this test involves matching a policyholder who is not of the same protected class but has similar risk characteristics for all variables except for the variable being evaluated. Mr. Krafcheck said one would then take two matched data sets and compare average model predictions by protection class by including the evaluated variable and then excluding the evaluated variable. He said one could then add loss experience to determine whether the actual loss experience supports the relationship seen for the variable being evaluated and is within the parameters of defined fairness.
- Does the variable improve predictions across protected classes? Mr. Krafcheck suggested the use of a double life chart test, which is a test that modelers use as they are developing models. This test involves including a variable of interest and then excluding that variable to compare which model lines up better with actual experience. Mr. Krafcheck said this allows one to assess whether the model is consistently improving across protected classes.

Mr. Krafcheck said there are other tools that could be used, and one needs to balance between statistical significance (whether the result of the analysis occurred randomly) and practical significance (whether the result of the analysis has real-world relevance). He said the statistical significance will depend on whether one is using a large or small data set. Mr. Krafcheck also said the results of any analysis may be limited by the available data and that some data may have some sort of selection bias. He said one might also want to consider the intersectionality of protected classes, such as looking at race by gender, and consider looking at groups of variables because there might not be any bias at an individual variable level. In response to a question regarding the importance of having data about loss experiences for protected classes, Mr. Krafcheck said this data is important to any analysis.

3. Received Reports from Workstream One and Workstream Two

a. Workstream One

Commissioner Gaffney said the subject matter experts (SMEs) of Workstream One have been collaborating with multiple states to conduct AI/machine learning (ML) surveys for private passenger automobile (PPA) insurance, homeowners insurance, and life insurance. The goals of these surveys are to: 1) identify the current level of risk and exposure from the use of AI and whether or how the industry is managing or mitigating that risk; 2) develop information for trending, such as how the risk is evolving over time, and the industry's responsive actions; and 3) inform a meaningful and useful regulatory approach, framework, and/or strategy for overseeing and monitoring this activity.

Commissioner Gaffney said the AI/ML PPA survey was conducted last year, and NAIC technical staff produced a confidential data analysis report for the AI/ML PPA survey on June 30. The SMEs been studying this report and plan to present their public PPA survey report to this Working Group at the Fall National Meeting.

Commissioner Gaffney said the homeowners survey was exposed for comment. He said no comments were received by the comment deadline of Aug. 1. However, pilot companies have provided feedback to improve the survey. Commissioner Gaffney said the survey will be completed soon, and the NAIC will then program the survey into its systems. Once programmed, the 10 states conducting the survey will formally issue their market conduct data call. Companies will likely be asked for responses within 30 days from the issuance of the formal data call.

Commissioner Gaffney said the AI/ML life insurance survey is being developed, and outreach to pilot companies has been completed. Similar to the other survey, the pilot companies have provided useful feedback to improve

the survey. The life insurance survey should be exposed by the end of August for a 30-day public comment period. Commissioner Gaffney said the life insurance survey will not be issued until the homeowners survey is completed.

b. Workstream Two

Commissioner Ommen said Workstream Two is leveraging the results of the PPA survey, and the discussions for this workstream have remained regulator-to-regulator since the SMEs have been discussing specific third-party vendors identified through the PPA survey. Commissioner Ommen said recent discussions of the Workstream members have included several potential initial steps for enhanced regulatory oversight of third-party vendors and models. One potential initial approach discussed was that state insurance regulators require contracting insurance companies to obtain verification from their third-party vendor that an actuary/other professional has reviewed a model prior to using the model certifying its compliance with AI standards. Another initial regulatory option discussed was the concept that state insurance regulators create a library of third-party vendors, classified by line of insurance and operational area. This Workstream has a deadline of the Fall National Meeting to report its findings to the Big Data and Artificial Intelligence (H) Working Group with suggestions for implementation of deliverables to be considered by the Innovation, Cybersecurity, and Technology (H) Committee.

David Snyder (American Property Casualty Insurance Association—APCIA) said he supports the approach of determining appropriate definitions for AI. Mr. Snyder said a fundamental issue is how this work fits within the risk-based pricing framework and the regulatory standard of insurance rates not being excessive, inadequate, or unfairly discriminatory.

Scott Harrison (American InsurTech) said he agrees with Mr. Kosnoff's comments and the need for risk management for the use of AI and technology. Mr. Harrison said companies need to understand what they are doing, state insurance regulators need to have confidence that companies understand what they are doing, and consumers need to have confidence in the use of AI and technology. Mr. Harrison said this requires state insurance regulators establishing uniform standards and the ability of state insurance regulators to assess compliance with these standards.

Birny Birnbaum (Center for Economic Justice—CEJ) suggested workstream two address antitrust issues. He said the use of big data and AI is different from past insurer practices and is a revolution in how companies operate. Mr. Birnbaum said he agrees a risk management framework is necessary but said this is not sufficient. He said testing of consumer outcomes is essential. Mr. Birnbaum said the insurance industry is not immune from the impact of structural racism and the data sources and algorithms that perpetuate structural racism. He said actuarial fairness is one standard but that state insurance regulators should also test for racial bias, proxy discrimination, and disparate impact. Mr. Birnbaum said there is a need for a uniform approach that can be measured across insurers and across lines of business.

Having no further business, the Big Data and Artificial Intelligence (H) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/2022_Summer/_BDAIWG/BDAI Minutes 8.10.22.docx

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Big Data and Artificial Intelligence (H) Working Group
Virtual Meeting
July 14, 2022

The Big Data and Artificial Intelligence (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met July 14, 2022. The following Working Group members participated: Elizabeth Keller Dwyer, Chair (RI); Amy L. Beard, Co-Vice Chair (IN); Doug Ommen, Co-Vice Chair (IA); Adrienne A. Harris, Co-Vice Chair, represented by Seema Shah (NY); Kevin Gaffney, Co-Vice Chair (VT); Sian Ng-Ashcraft (AK); Tom Zuppan (AZ); Ken Allen (CA); Peg Brown (CO); Kristin Fabian (CT); Frank Pyle (DE); Rebecca Smid (FL); Judy Mottar (IL); Tom Travis (LA); Caleb Huntington (MA); Kathleen A. Birrane (MD); Sandra Darby (ME); Karen Dennis (MI); Matthew Vatter and Phil Vigliaturo (MN); Cynthia Amann (MO); Kathy Shortt (NC); Chris Aufenthie (ND); Christian Citarella (NH); Gennady Stolyarov (NV); Lori Barron (OH); Teresa Green (OK); Shannen Logue (PA); Anamaria Burg and Andy Dvorine (SC); Carter Lawrence (TN); J'ne Byckoyski and Rachel Cloyd (TX); Tanji J. Northrup (UT); Katie Johnson (VA); Eric Slavich and John Haworth (WA); Nathan Houdek (WI); and Joylynn Fix and Juanita Wimmer (WV).

1. Adopted its Spring National Meeting Minutes

Commissioner Ommen made a motion, seconded by Commissioner Lawrence, to adopt the Working Group's April 5 minutes (*see NAIC Proceedings – Spring 2022, Innovation, Cybersecurity, and Technology (H) Committee, Attachment Two*). The motion passed unanimously.

2. Received Reports on its Workstreams

Superintendent Dwyer said the activity of the Working Group consists of four workstreams. He said the primary purpose today's meeting is to receive updates on the progress of the four workstreams and obtain feedback from state insurance regulators, industry, and consumer representatives to ensure all perspectives are considered as the workstreams develop initial proposals for public discussion and continue their efforts through 2022.

Superintendent Dwyer said the first workstream is focusing on artificial intelligence (AI)/machine learning (ML) surveys. The second workstream is focusing on third-party data and model vendors. This workstream is determining the appropriate regulatory evaluation of third-party data and model vendors, and it will provide recommendations on the appropriate regulatory framework for monitoring and overseeing industry's use of third-party data and model vendors. The third workstream is evaluating tools and resources for monitoring industry's use of data and AI/ML. Superintendent Dwyer said this workstream is gathering data and evaluating information on governance models and software tools, which could assist state insurance regulators in overseeing and monitoring industry's use of data and AI/ML and eliminating any bias in such use. The fourth workstream is focusing on the broader regulatory framework and governance. This workstream is evaluating how best to implement the expectations outlined in the NAIC AI Principles and will provide suggestions on next steps for developing a regulatory framework.

A. Workstream One

Commissioner Gaffney said NAIC staff have reviewed the data from the private passenger auto (PPA) survey conducted in 2021 and produced analysis needed by the state subject matter experts (SMEs) to draft a report identifying potential next steps. The SMEs will present their report to the Working Group at the Fall National Meeting.

Commissioner Gaffney said the draft homeowners (HO) survey and definitions were posted on the NAIC website and exposed for a public comment period ending Aug. 1. Insurance companies that were writing HO insurance in 2020 with HO premium of more than \$50 million will be asked to complete the survey. With this criteria, 190 companies will be asked to complete the survey compared to the 193 for PPA survey. Commissioner Gaffney said the definition of AI/ML was modified for the HO survey to provide companies more clarity. The definition of AI/ML for the PPA survey was intentionally written to exclude the types of models that state insurance regulators have been reviewing for a large portion of the industry for more than 20 years. While not changing the definition applicable to most of the HO survey, Commissioner Gaffney said the HO survey includes a couple of rows to provide an indication of the full scope of AI/ML models used, including the older types of models. The goal of this change is to help ensure consistent reporting by all insurers and collect information needed for other workstreams. Commissioner Gaffney said the HO survey also contains some questions about the types of models being used to help state insurance regulators better understand the impact on consumers and the expertise needed in states to properly regulate models. Commissioner Gaffney said the governance questions asked on the PPA survey are now asked for each operational area of an insurer.

Commissioner Gaffney said progress is being made on the life insurance survey, and outreach has been made to a handful of pilot companies for feedback. The SMEs working on the survey will consider the company feedback and then expose the draft survey for comment by all interested parties. Commissioner Gaffney said the SMEs are planning to expose the draft survey in August and that the life insurance survey will issued shortly after the HO survey is completed.

B. Workstream 2

Commissioner Ommen said the first objective of the workstream is to identify third-party vendors that provide nontraditional data and/or models to insurers. This includes models and data from rating, underwriting, marketing, fraud detection, claims, and loss prevention. The second objective is to identify whether and how states are currently licensing these third-party vendors. Commissioner Ommen said the SMEs for this workstream are reviewing state statutes and definitions for the licensing of advisory organizations, rating organizations, insurance service organizations, and statistical agents. The third objective is to better understand the operating practices of third-party vendors and then develop examination standards or questions that state insurance regulators can use to engage with the third-party vendors. Commissioner Ommen said the results of the PPA survey have been used for these discussions, and the meetings have remained regulator-to-regulator since the SMEs have been discussing third-party vendors identified through the PPA survey.

C. Workstream 3

Ms. Shah said the objective of this workstream is to evaluate the tools and resources for monitoring the insurance industry's use of data and AI. She said this workstream is gathering data and information from publicly available sources, including third-party vendors, academia, and international regulatory authorities. Ms. Shah said this review should help identify governance models and software tools state insurance regulators could use to monitor the insurance industry's use of data with a specific focus on how to detect and mitigate for bias AI/ML activity related to claims, underwriting, and rating. Ms. Shah said the workstream is establishing a foundational vocabulary and a common understanding of concepts to enable a productive dialogue. She said the workstream is seeking input from all parties on the following three questions: 1) What are the tools/metrics and/or resources currently being used by or available to the industry for managing AI/ML activity? 2) What governance frameworks is industry using or are available for managing its AI/ML activity? and 3) What are the strengths and weaknesses of these tools/metrics, resources, and governance frameworks?

D. Workstream 4

Commissioner Beard said this workstream is focusing on the regulatory framework and how best to implement the expectations outlined in the NAIC AI principles, which include regulatory guidance such as model governance. Commissioner Beard said the workstream has started to evaluate other regulatory structures and guidance for overseeing risk. This includes the prior Innovation and Technology (EX) Task Force’s presentation on components of a model governance framework, the Big Data and Artificial Intelligence (H) Working Group presentation on applying cybersecurity lessons learned for AI regulation, and the New York State Department of Financial Service’s (DFS’) climate change disclosure survey review framework. Commissioner Beard said the Information Systems Audit and Control Association (ISACA) framework, National Institute of Standards and Technology (NIST) framework, and European Insurance and Occupational Pensions Authority (EIOPA) approach to monitoring AI are being considered. Commissioner Beard said the workstream is also reviewing *Market Regulation Handbook* and the *Financial Condition Examiners Handbook* guidance related to data breaches, cybersecurity, and information technology (IT) security to identify a potential auditing framework. Commissioner Beard said the workstream will monitor and consider the work products from the other workstreams in the overall recommended regulatory framework.

Commissioner Beard said the workstream is seeking comments from all interested parties on published governance frameworks related to AI, including the ISACA Governance Framework, the NIST Draft Risk Management Framework, the EIOPA AI Governance Principles, or other internationally published guidance such as the Singapore’s AI Governance Framework. Commissioner Beard said the PPA survey results indicated few companies are using existing standards or guidance and is also seeking comments from interested parties to better understand industry’s reasons for not adopting a standard or a publicly available governance framework. Commissioner Beard said the workstream will use its review and feedback from interested parties to develop an outline of components for a potential regulatory framework.

Birny Birnbaum (Center for Economic Justice—CEJ) questioned how workstreams three and four interact with each other, the Special (EX) Committee on Race and Insurance, and the Collaboration Forum. Mr. Birnbaum also asked if the Working Group anticipates allowing interested parties to make presentations in addition to providing comments on the drafts for the workstreams. Superintendent Dwyer said the workstreams are being coordinated through the Working Group, and the use of workstreams is intended to break up the broad scope of work into smaller units. Superintendent Dwyer said some of the work across other areas of the NAIC are being coordinated through the Innovation, Cybersecurity, and Technology (H) Committee.

Mr. Birnbaum said he thinks the collection of more granular data and analysis of consumer outcomes are essential tools for state insurance regulators to use in monitoring the use of data and AI. Mr. Birnbaum said the monitoring of consumer outcomes is important to identify and eliminate unintended bias since algorithms do not always produce the intended results. Mr. Birnbaum said a governance framework does not guarantee fair treatment of consumers. Mr. Birnbaum said any model governance approach should include the collection of more granular data to test the actual outcomes of algorithms.

David Snyder (American Property Casualty Insurance Association—APCIA) said the development of common definitions and an understanding of the existing statutory standards that govern what insurance companies can or cannot do is important for further discussions and engagement. Mr. Snyder said it is important that the discussions do not divert from these standards and that all parties keep in the mind both the cost and effectiveness of potential regulatory frameworks.

Superintendent Dwyer emphasized the desire to have input from all interested parties as draft work products are developed and circulated. Superintendent Dwyer also encouraged all parties to follow individual state efforts, such as the efforts in Colorado and the District of Columbia.

Having no further business, the Big Data and Artificial Intelligence (H) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/2022_Summer/_BDAIWG/July 14 Call/BDAI Min 7.14.22.docx

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Cybersecurity (H) Working Group
Virtual Meeting
July 14, 2022

The Cybersecurity (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met July 14, 2022. The following Working Group members participated: Cynthia Amann, Co-Chair (MO); Wendy Erdly, Co-Chair (NY); C.J. Metcalf, Co-Vice Chair, represented by Erica Weyhenmeyer (IL); Michael Peterson, Co-Vice Chair (VA); Chris Erwin (AR); Damon Diederich (CA); Michael Shanahan (CT); Paula Shamburger (GA); Lance Hirano (HI); Shane Mead (KS); Van Dorsey (MD); Jake Martin (MI); Colton Schulz and Chris Aufenthie (ND); David Bettencourt (NH); Barbara D. Richardson (NV); Don Layson (OH); Rosemary Raszka (VT); John Haworth (WA); and Nathan Houdek (WI). Also participating was: Matt Gendron (RI).

1. Heard Opening Remarks and Updates

Ms. Erdly opened the meeting by acknowledging that the Working Group met May 3 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings, to talk through its updated work plan receiving guidance from the NAIC along the way.

2. Received an Update on its Work Plan

Ms. Erdly and Mr. Peterson then lead a discussion about the Working Group's updated work plan.

Mr. Peterson said the rise of ransomware attacks and the shift to remote work, which increased attack surfaces, has heightened the need to understand insurance industry posture in the future. However, Mr. Peterson indicated that the updated work plan first directs state insurance regulators to look inward, with a survey of regulator policies and procedures being the first substantive item the Working Group will take on. Performing a state insurance regulator survey first, will allow regulators to compare notes and later work with industry on a unified and predictable response to cybersecurity issues.

The plan to complete a state insurance regulator survey first represents a shift from the former plan, which previously included an industry-focused survey. A state insurance regulator survey will also allow the Working Group to prioritize its charges. For instance, the Working Group has a charge to develop a cybersecurity response plan that could benefit from the survey's insights. State insurance regulators have started work on this effort with a volunteer group meeting earlier this year to start the drafting process. The Working Group hopes to have the survey out in August, with responses back this year to allow the Working Group to advance on work based on the responses received.

Ms. Erdly noted that the rest of the work plan includes revisiting the cybersecurity response plan after the Working Group completes the state insurance regulator survey. This is a broad monitoring effort, where state insurance regulators will receive updates on cybersecurity as it is discussed within the NAIC, as well as at federal and international levels, as appropriate, and a training effort, which again will benefit from the completion of the regulator survey work. The NAIC is planning on three cybersecurity themed sessions at the NAIC Insurance Summit, but there is likely an opportunity for the Working Group to provide beneficial input to the NAIC on topics that may be relevant to be covered either at the Insurance Summit or in other settings (e.g., webinars).

3. Received an Update on Implementation of Model #668

The Working Group next received an update from Holly Weatherford (NAIC) on the state effort to adopt the *Insurance Data Security Model Law* (#668).

Ms. Weatherford said state insurance regulators are keenly aware of the potentially devastating effects of cyberattacks and therefore recognize the importance of cybersecurity risk management. Model #668 has now been adopted by 21 states, representing over 80% of the market by gross written premiums. Ms. Weatherford offered to support states considering adoption, as they have learned from the NAIC's experience in supporting other states in passing the law.

Simit Pandya (Medical Professional Liability Association—MPL Association) asked if Ms. Weatherford knows of further states that might be considering adoption of Model #668. Mr. Gendron noted that Rhode Island would be considering passage of the legislation at its next legislative session. Beyond that, Ms. Weatherford indicated that there are likely additional states but none that can be publicly disclosed at this time.

4. Receive an Update on Federal Activity Related to Cybersecurity

The Working Group next received an update from Brooke Stringer (NAIC) on the federal activity related to cybersecurity. Ms. Stringer said the Financial and Banking Information Infrastructure Committee (FBII) has been looking to improve communication and enhance resilience of the financial sector. The current focus has been led by a member, the U.S. Department of the Treasury (Treasury Department), to understand concentration risks. Specifically, the Treasury Department has been studying the risks provided by cloud service providers. The Treasury Department will be publishing a report that summarizes what its research has found focusing on the impact of cloud service providers to the operational resilience of the insurance industry. Legislation wise, the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCA) was signed into law, requiring that owners and operators of critical infrastructure report cybersecurity incidents to the U.S. Department of Homeland Security (DHS) and the Cybersecurity and Infrastructure Security Agency (CISA). Lastly, Ms. Stringer also mentioned that the current instance of the National Defense Authorization Act (NDAA) includes language that would require insurers to report on cyber claims data, which is language that has caused concern among insurance trade associations. Miguel Romero (NAIC) asked Ms. Stringer if there was any discussion of federal preemption of state laws on cybersecurity, which Ms. Stringer said does not seem likely in the immediate future given the changes in administration since that topic was last discussed.

5. Receive an Update on the NAIC's Cybersecurity Tabletop Exercises

The Working Group next received an update from Frosty Mohn (NAIC) on the NAIC's Cybersecurity Tabletop project. Mr. Mohn noted that this project was born out of the Treasury Department's Hamilton series, which was a series of banking-focused tabletop exercises. Mr. Romero noted that at these exercises, insurers, state insurance regulators, and law enforcement agencies have a discussion on how each would react as a simulated cybersecurity event unfolds. In November, the NAIC will host a virtual session with Maryland regulators. Mr. Mohn noted that past exercises have led to the development of best practices for attendees to consider, such as a hard card generated from the last tabletop exercise offering guidance on how insurers and state insurance regulators could respond in the event of a cybersecurity event. Mr. Mohn noted that the NAIC will travel to Ohio for a cybersecurity session in May 2023; the NAIC has had discussions with North Dakota and South Dakota about a joint session as well.

6. Receive an Update on State Insurance Regulator Cybersecurity Tools

Mr. Romero discussed the attached Summary of Cybersecurity Tools drafted by NAIC staff as a resource for state insurance regulators. The memo describes the various tools that state insurance regulators have available, and it is intended to be a reference guide for future regulators that follow the Working Group's work. Given the varying backgrounds of state insurance regulators talking about cybersecurity, this memo can help regulators quickly understand the tools available across functions; i.e., financial and market. Ms. Erdly agreed to expose the document for a public comment period ending Aug. 16. The date was announced via e-mail after the call.

Having no further business, the Cybersecurity (H) Working Group adjourned.

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Privacy Protections (H) Working Group
Portland, Oregon
August 9, 2022

The Privacy Protections (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met in Portland, OR, Aug. 9, 2022. The following Working Group members participated: Katie Johnson, Chair, and Scott A. White (VA); Cynthia Amann, Co-Vice Chair (MO); Chris Aufenthie, Co-Vice Chair (ND); Damon Diederich (CA); George Bradner (CT); LeAnn Crow (KS); Ron Kreiter (KY); Kathleen A. Birrane and Van Dorsey (MD); Robert Wake (ME); T.J. Patton (MN); Troy Downing and Molly Plummer (MT); Martin Swanson (NE); Antonya Debose and Teresa Green (OK); Raven Collins, Brian Fordham, and Cassie Soucy (OR); Gary Jones (PA); Frank Marnell (SD); Mark Worman (TX); Todd Dixon (WA); and Rachel Cissne Carabell and Richard Wicka (WI).

1. Adopted its Aug. 2 Minutes

Ms. Johnson said the Working Group met Aug. 2. During this meeting, the Working Group took the following action: 1) adopted its June 15 minutes, which included updates on state and federal privacy legislation and a discussion of the Working Group's initial work plan for 2022; 2) adopted the Request for NAIC Model Law Development replacing the NAIC Insurance Information and Privacy Protection Model Act (#670) and the Privacy of Consumer Financial and Health Information Regulation (#672) with one new model; and 3) discussed the Working Group's revised work plan.

The Working Group also met three times in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to review draft revisions of sections 1–12 of Model #670. The drafting group of subject matter experts (SMEs) met several times to conduct the initial drafting of the *Consumer Data Ownership and Use* white paper and once on the consumer data privacy ownership and use survey.

Ms. Amann made a motion, seconded by Mr. Kreiter, to adopt the Working Group's Aug. 2 (Attachment Four-A) minutes. The motion passed unanimously.

2. Heard Updates on State and Federal Privacy Legislation

Jennifer McAdam (NAIC) said she reported during the Working Group's June 15 meeting that Connecticut had recently adopted An Act Concerning Personal Data Privacy and Online Monitoring (CTDPA). She said there are now five generally applicable state data privacy laws in: 1) California; 2) Colorado; 3) Connecticut; 4) Utah; and 5) Virginia. Ms. McAdam said there has not been much activity since June. However, she said some state legislatures are still in session, and there are privacy bills currently pending in six jurisdictions: 1) the District of Columbia; 2) Massachusetts; 3) Michigan; 4) New Jersey; 5) Ohio; and 6) Pennsylvania. Ms. McAdam said these bills are all still in their committees of origin, so there has not been much movement with them. She said the District of Columbia bill is based on the Uniform Law Commission's (ULC's) model privacy bill, the Uniform Personal Data Protection Act (UPDPA). Ms. McAdam said that Nebraska and Oklahoma had also introduced legislation based on the UPDPA earlier this year but that those bills died when their sessions ended. She said charts tracking state legislation are posted on the Privacy Protections (H) Working Group's web page for those wanting to read more about these bills. Ms. McAdam said the charts list the business obligations imposed, the consumer rights provided, the manner of enforcement (whether by the attorney general or a private right of action), and any federal Gramm-Leach-Bliley Act (GLBA) or federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) exemptions. She said

her office would continue to follow state data privacy legislation and update the Working Group during its next meeting.

Brooke Stringer (NAIC) reminded the Working Group that the U.S. House Committee on Energy and Commerce approved the American Data Privacy and Protection Act (ADPPA) (H.R. 8152) on July 20 by a vote of 53-2. She said the bill was authored by: Frank Pallone Jr. (D-NJ), chair of the House Committee on Energy and Commerce; Cathy McMorris Rodgers (R-WA), ranking member of the House Committee on Energy and Commerce; and Roger Wicker (R-MS), ranking member of the U.S. Senate Committee on Commerce, Science, and Transportation. She said the bill is being viewed as a breakthrough compromise on two major sticking points for Congress—preemption and private right of action. Ms. Stringer said that the ADPPA would preempt most state privacy laws with some nuanced exceptions and that GLBA- and HIPAA-covered entities are not carved out specifically but are deemed to be in compliance if the entities comply with those laws. She said that even though the ADPPA includes a GLBA provision, the insurance trades are advocating for language that would clearly exempt insurers, agents, and brokers from the scope of the ADPPA. Ms. Stringer said that during the markup of the bill, Rep. Anna G. Eshoo (D-CA) offered an amendment that would have modified the bill's preemption provision to allow states to create stricter laws, but it did not pass. She said the bill provides consumers who believe their rights under the law were violated with the option of suing companies in federal court. However, the private right of action would not take effect until two years after the law is enacted. The bill also provides a small business exemption to the private right of action. Ms. Stringer said this is the first time a comprehensive federal privacy bill has advanced out of committee and that could be made available for a full chamber vote. However, she said time is short with the August recess and an upcoming focus shift to midterm elections. Ms. Stringer said the bill faces some headwinds in that Maria Cantwell (D-WA), chair of the Senate Committee on Commerce, Science, and Transportation, has not signed on to the bill. She said the House Committee on Energy and Commerce has made some changes to the bill in areas where she had some concerns, so it remains to be seen how the bill may fare in the Senate as no Senate Democrat has yet signed on to the bill. Ms. Stringer said she would keep the Working Group posted, and she encouraged the Working Group to keep up its important work.

3. Discussed its Next Steps on the *Consumer Data Ownership and Use White Paper*

Ms. Johnson said the Working Group is still getting responses to the survey and that even though the deadline was July 28, the Working Group will keep the survey tool open to encourage as many responses as possible from anyone who is interested. She said the Working Group is in the process of reviewing and compiling the responses already received. Ms. Johnson said the results will be summarized for use by the Working Group in helping to guide the discussion and drafting of the white paper on consumer data ownership and use assigned to the Working Group in its 2022 charges. She said the white paper will be exposed for public comment in December and discussed under normal NAIC transparency guidelines.

Mr. Aufenthie said the main points of the white paper will consist of a brief history; current personal data collected; use of consumer data for legal and economic purposes; recommendations regarding who owns the data; and what changes should be implemented. He thanked responders for their input through the survey and said the purpose of the survey was to start the conversation only. Mr. Aufenthie said there would be a two-month response period for submitting comments that would be the basis for discussion regarding the initial draft.

4. Discussed its Next Steps for the Drafting of the Model and the Working Group's Final Work Plan

Ms. Johnson said that the Request for NAIC Model Law Development that was adopted during the Working Group's Aug. 2 meeting was for the Working Group to formally request approval to move forward with the creation of one new model to replace the existing privacy Model #670 and Model #672 rather than update them.

She said this change was made in response to comments from Working Group members, interested state insurance regulators, interested parties from the insurance industry, and consumer representatives asking for one new model, as well as due to the extensive nature of revising models that were written several decades ago.

Ms. Johnson said adoption of the Request for NAIC Model Law Development by the Working Group was a part of the standard review process necessary to move forward with the Working Group's charges to review and change NAIC privacy models, such as Model #670 and Model #672 as needed. As noted during prior Working Group meetings, she said the work plan and its schedule have been revised to address the needs of the Working Group to meet its charges and timeline. The new work plan is in the meeting materials posted on the NAIC website.

Ms. Johnson said the drafting group for the model language has been working all summer and is on track to post the draft model for comment in December. She said a two-month comment period will be given for review of the initial exposure draft of the model. She said given the comments received from interested parties who are concerned about provisions that they believe could possibly be included in the draft, the drafting group wanted to provide the following information: 1) that the drafting group is not recommending a private right of action in the draft model; and 2) that the drafting group is considering language to provide a safe harbor for HIPAA entities/data in the model.

Ms. Johnson said that the Working Group is continuing to work closely with the Innovation, Cybersecurity, and Technology (H) Committee and its other working groups in this arena by meeting on a monthly basis—the Big Data and Artificial Intelligence (H) Working Group, the Cybersecurity (H) Working Group, and the E-Commerce (H) Working Group—as each Working Group has its unique set of issues that nevertheless require coordination, especially with regard to definitions.

5. Discussed Other Matters

Ms. Johnson reminded attendees about the upcoming Insurance Summit, which will be held in Kansas City, MO, Sept. 19–23.

Having no further business, the Privacy Protections (H) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/_Privacy/Minutes/PPWG Minutes 08.09.22.docx

Draft: 8/28/22

Privacy Protections (H) Working Group
Virtual Meeting
August 2, 2022

The Privacy Protections (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met Aug. 2, 2022. The following Working Group members participated: Katie Johnson, Chair (VA); Cynthia Amann, Co-Vice Chair, represented by Jo LeDuc (MO); Chris Aufenthie, Co-Vice Chair (ND); Chelsy Maller (AK); Damon Diederich (CA); George Bradner and Kristin Fabian (CT); Erica Weyhenmeyer (IL); LeAnn Crow (KS); Ron Kreiter (KY); Benjamin Yardley (ME); T.J. Patton (MN); Martin Swanson (NE); Teresa Green (OK); Gary Jones (PA); Frank Marnell (SD); Todd Dixon represented by Michael Walker (WA); and Timothy Cornelius and Lauren Van Buren (WI). Also participating were Scott Woods (FL); Jeff Hayden (MI); Chlora Lindley-Myers (MO); Laura Arp (NE); Hermoliva Abejar (NV); George McNab (OH); Mary Block (VT); Shari Maier (WA); and Barbara Belling and Richard Wicka (WI).

1. Adopted its June 15 Minutes

Mr. Aufenthie made a motion, seconded by Mr. Kreiter, to adopt the Working Group's June 15 minutes (Attachment Four-A1). The motion passed unanimously.

2. Considered Adoption of a Request for NAIC Model Law Development Replacing Model #670 and Model #672 with One New Model

Ms. Johnson said the next item on the agenda is for the Working Group to consider adoption of the Request for NAIC Model Law Development replacing the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) with one new model. She said the Request for NAIC Model Law Development was changed to reflect the creation of one new model to replace Model #670 and Model #672 rather than updating both existing models in response to comments from various industry and consumer representatives asking for one new model and due to the extensive nature of revising models that were written several decades ago. She said adoption of the Request for NAIC Model Law Development is part of the standard review process to move forward with the Working Group's charges to review and change NAIC privacy models, such as Model #670 and Model #672, as needed. She said she would also like to address additional comments that were received from interested parties after the revised Request for NAIC Model Law Development was distributed. She said changing the Request for NAIC Model Law Development does not change the newer work plan that will be posted following the meeting, and the drafting group's plan is still to have an exposure draft available for the 2023 Summer National Meeting. She said the work that was done on revisions to Model #670, which is nearly completed, will be incorporated into the one new model and be consistent with the work done previously on Model #672. She said in response to comments asking if the scope of the revisions would go beyond Model #670 and Model #672, it would because the whole point of the charges given to the Working Group was to move consumer privacy protections into the 21st century and address technical changes already made within the insurance industry. She said the suggestion to comments that companies do not collect data they do not need, the survey on consumer data ownership indicated that much of the data companies collect is not needed to provide consumers with insurance coverage, so the suggestion is declined.

Chris Petersen (Arbor Strategies LLC), representing the Healthcare Coalition, said the Working Group is overly optimistic about the number of states that will adopt or pass legislation based on the number of states that passed Model #670 and Model #672. He said the Request for NAIC Model Law Development was sending the wrong message to the Innovations, Cybersecurity, and Technology (H) Committee and the Executive (EX) Committee and

Plenary, and it will be defeated like the [State] Pharmacy Benefit Manager Licensure and Regulation Model Act. He said all existing privacy regulation does not distinguish from mail or internet notices, so he warned the Working Group against trying to regulate the methods of data collection, but rather the Working Group should stick to regulating the use and disclosure of data. Robert W. Woody (American Property Casualty Insurance Association—APCIA) said he agrees with Mr. Petersen that the survey responses to the question about companies collecting data that they did not need to write about insurance coverage were wrong. He also suggested that the word “much” in the Request for NAIC Model Law Development should be changed to the word “some.” Mr. Swanson said he agrees with Mr. Petersen about being cautious about the need for a private right of action and including a safe harbor for Health Insurance Portability and Accountability Act of 1996 (HIPAA) to ensure passage. Birny Birnbaum (Center for Economic Justice—CEJ) said insurers collect data for much more than insurability; i.e., profitability. He recommended that the current Request for NAIC Model Law Development wording be kept even though there would be changes to be considered going forward through the process, and he welcomes the opportunity to provide input from a consumer perspective.

Ms. Johnson said the focus right now is just on getting permission to move forward and open the models. She said everyone would have several months to comment on the exposure draft of the new model. Cate Paolino (National Association of Mutual Insurance Companies—NAMIC) said the Request for NAIC Model Law Development is not perfectly clear about revisions versus drafting a new model from scratch. She said a single new model appears best, but it is not so easy to implement legislation, and she suggested that the Working Group focus on Model #672 notices that were passed in most states. She said based on the topics being raised by the parent committee, such as artificial intelligence (AI), a single model may be premature with the lack of transparency and Model #672 not being an omnibus model. She asked for clarification about how future topics being discussed in other working groups could be incorporated into the new model before such topics are fully discussed. Mr. Diederich said two models mean different protections for consumers in different states. He said insurers have requested uniformity, which would seem to suggest that one model is needed.

As noted during prior Working Group calls, Ms. Johnson said the work plan schedule may be revised when necessary to address the needs of the Working Group to meet its charges and timeline. She said the Working Group is continuing to work very closely with the other Innovation, Cybersecurity, and Technology (H) Committee working groups in this area by participating in monthly Working Group calls and coordinating with other working groups—the Big Data and Artificial Intelligence (H) Working Group, the Accelerated Underwriting (A) Working Group, the Cybersecurity (H) Working Group, and the E-Commerce (H) Working Group—as each has its own unique set of issues that nevertheless require coordination, especially definitions.

Mr. Aufenthie made a motion, seconded by Mr. Diederich, to adopt the Working Group’s Request for NAIC Model Law Development replacing Model #670 and Model #672 with one new model (*see NAIC Proceedings – Summer 2022, Innovation, Cybersecurity, and Technology (H) Committee, Attachment One*). The motion passed with Nebraska opposed.

3. Discussed Other Matters

Ms. Johnson reminded attendees about the upcoming Working Group meeting, which will be held on Aug. 9 during the Summer National Meeting in Portland, OR.

Having no further business, the Privacy Protections (H) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/_Privacy/Minutes/PPWG Minutes 08.02.22.docx

Draft: 8/28/22

Privacy Protections (H) Working Group
Virtual Meeting
June 15, 2022

The Privacy Protections (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met June 15, 2022. The following Working Group members participated: Katie Johnson, Chair (VA); Cynthia Amann, Co-Vice Chair, Jo LeDuc, and Marjorie Thompson (MO); Chris Aufenthie, Co-Vice Chair (ND); Sarah Bailey (AK); Shane Foster (AZ); Damon Diederich (CA); George Bradner, Kristin Fabian and Kurt Swan (CT); Erica Weyhenmeyer (IL); LeAnn Crow, Tate Flott, and Brenda Johnson (KS); Ron Kreiter (KY); Van Dorsey and Alexander Borkowski (MD); Robert Wake (ME); Rick Cruz (MN); Martin Swanson and Connie Van Slyke (NE); Teresa Green (OK); Gary Jones (PA); Carole Cearley and David Gonzalez (TX); Michael Walker, Shari Maier, and Michael Walker (WA); and Timothy Cornelius, Rachel Cissne Carabell, Lauren Van Buren, and Barbara Belling (WI). Also participating were Evan Daniels (AZ); Scott Woods and Rebecca Smid (FL); Kristen Finau (ID); George McNab (OH); Scott D. Martin (OR); Megan Mihara and Ray Santilli (RI); Shelli Isiminger (TN); Shelley Wiseman (UT); Don Beatty, Richard Tozer, and James Young (VA); and Mary Block and Karla Nuisl (VT).

1. Adopted its Spring National Meeting Minutes

Mr. Diederich, made a motion, seconded by Mr. Aufenthie, to adopt the Working Group's April 6 minutes (*see NAIC Proceedings – Spring 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Six*). The motion passed unanimously.

2. Heard Updates on State Privacy Legislation and on Federal Privacy

Jennifer McAdam (NAIC) said the Legal Division tracks comprehensive state privacy legislation in two charts that are located on the Working Group's web page and that Connecticut is the most recent state to adopt a comprehensive privacy law. She said the charts list the business obligations imposed and the consumer rights provided in each state. She said that the exemptions applicable to insurers are as follows: 1) California has a data-level exemption for the federal Gramm-Leach-Bliley Act (GLBA) and an entity-level exemption for the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA); 2) Virginia has an entity-level exemption for the GLBA and HIPAA; 3) Colorado has a data-level exemption for the GLBA and HIPAA; 4) Utah has a data-level exemption for HIPAA and an entity-level exemption for the GLBA; and 5) Connecticut has an entity exemption and data-level exemptions for the GLBA and HIPAA.

Ms. McAdam said the reasons it is important to follow what states are doing with these more broadly applicable data privacy laws are to: 1) track the consumer rights and business obligations being established nationally; and 2) be aware of the carve-outs applicable to the insurance industry so that the Working Group can amend the NAIC privacy laws accordingly. She said the Legal Division will continue to follow state data privacy legislation and update the Working Group at upcoming meetings.

Brooke Stringer (NAIC) said in the past few weeks, there has been a breakthrough in congressional negotiations on a draft data privacy bill, the American Data Privacy and Protection Act. She said the draft legislation was unveiled by U.S. Rep. Frank Pallone, (D-NJ), chairman of the House Committee on Energy and Commerce; U.S. Rep. Cathy McMorris Rodgers, (R-WA), the panel's ranking member; and U.S. Sen. Roger Wicker (R-MS), ranking member of the Senate Committee on Commerce, Science, and Transportation. It reflects a compromise on two of the biggest sticking points in federal privacy negotiations: 1) preemption of state laws; and 2) private right of

action. Ms. Stringer said the bill adds individual rights that allow people to control their data, opt out of targeted advertising, and stop their data from being sold without their permission. She said it also requires the largest companies to conduct impact assessments on their algorithms, including whether they may harm protected classes. Ms. Stringer said it does not rely exclusively on the notice and consent regime generally employed by state privacy laws. She said covered entities may not collect, process, or transfer covered data beyond what is reasonably necessary, proportionate, and limited to provide specifically requested products and services or communicate with individuals in a manner they reasonably anticipate. She also said this duty applies irrespective of any consent from an individual. Moreover, she said covered data must be permanently disposed of or deleted once no longer necessary for the purpose for which it was collected, processed, or transferred. Ms. Stringer said covered entities are defined broadly. As defined in the draft, she said a covered entity is one that “collects, processes, or transfers covered data and is subject to the Federal Trade Commission Act,” plus nonprofits and common carriers. She said she does not think this includes insurers but that she needs to review it and that data brokers are covered subject to specific prescriptive rules.

Ms. Stringer said it preempts most state laws with various exemptions that are nuanced. She said there are several exemptions to the preemption of state law, including part of the California Consumer Privacy Act’s (CCPA’s) private right of action concerning data breaches, the Illinois Biometric Information Privacy Act (BIPA), and state unfair and deceptive acts and practices laws. Ms. Stringer said for data security, entities regulated by and in compliance with the data security requirements in GLBA and the HIPAA will be deemed in compliance with this section. She said the private right of action would take effect four years after enactment and provides consumers who believe their rights under the law were violated with the option of suing companies in federal court.

Ms. Stringer said while this is a significant step forward in data privacy legislation, U.S. Sen. Maria Cantwell (D-WA), chair of the Senate Committee on Commerce, Science, and Transportation, has not signed on to the American Data Privacy and Protection Act (ADPPA). Although the bill appears it may have some bipartisan support in the U.S. House of Representatives, she said the lack of an endorsement from Sen. Cantwell (or another Senate Democrat) means the bill does not yet have bipartisan support in the Senate. Ms. Stringer said she will keep the Working Group posted.

Mr. Diederich asked if the federal draft bill had state law preemptions. Ms. Stringer said the intent of the law is to preempt all state data and privacy laws unless there is some sort of specific exemption. Mr. Wake said if one is a literalist, this bill has neither a federal McLaren-Ferguson Act saving clause nor a federal McLaren-Ferguson Act override clause. So, he said one could at least say that the absence of an override would make it reverse preempted by the federal McClaren-Ferguson Act. Ms. Stringer said that was a good point and one that the NAIC Legal Division would be following closely. Mr. Diederich asked if there was any discussion about the safe harbors that are contained in the bill as it appears to allow companies to create their own compliance standards. He said this is concerning to state insurance regulators because it raises a specter of different, competing standards for compliance, making it very hard to enforce.

3. Discussed Comments Received on the Exposure Draft of its Revisions to Sections 1–3 of Model #670

Ms. Johnson said she wanted to thank all interested parties who provided comments on the Working Group’s revisions. She said the comments are helpful and that the Working Group appreciates those who took the time to look at the work that the Working Group has done. Ms. Johnson said in response to previous comments regarding the work plan, she is going to redo the schedule so the Working Group would finish the revisions to Section 1 and Section 13 of *NAIC Insurance Information and Privacy Protection Model Act (#670)*, exposing them by the end of August for a six-week public comment period. As the rest of the sections in Model #670 are civil proceedings, the review and comment process for will conclude with the public comments received by the end of August to be

discussed during a future meeting. Ms. Johnson said Working Group will be coordinating with other working groups under the Innovation, Cybersecurity, and Technology (H) Committee.

Mr. Wake said it is possible that only one model may be needed that would include new high-tech definitions like biotech, algorithms, etc., as placeholders for now that would be kept as needed for now and revisited as the working groups bring their separate areas of work together into a collaborative state insurance regulatory effort. Bob Ridgeway (America's Health Insurance Plans—AHIP) said it would be a good idea to fold in both models together. Ms. Johnson said there are two notices currently and only one is necessary. Mr. Ridgeway said while he applauds the Working Group finishing Model #670 first, he wondered why the policy changed from starting with the *Privacy of Consumer Financial and Health Information Regulation* (#672) first and shifting to Model #670. Ms. Johnson said this shift was made at the Spring National Meeting because many states require specific authority through laws as an act prior to doing a regulation interpreting that law. She said Model #670 is the authority for Model #672.

Kristin Abbott- (American Council of Life Insurers—ACLI) said the ACLI's members would like common definitions and framework in the form of one uniform model rather than the current patchwork of state insurance privacy laws, rules, and regulations. Lauren Pachman- (Professional Insurance Agents—PIA) said the adverse underwriting decision- (AUD) is a concern and asked if it would apply to all lines of business versus life and health versus non-specific lines. She said the AUD description and definition should vary with the agent's relationship with consumers rather than become an extra requirement on agents.

Ms. Johnson said the original language in the model as well as in Virginia law was not changed. Bob Woody (American Property Casualty Insurance Association—APCIA) said the Working Group is revising the Model #670 and Model #672 again. Randy Chapman- (Blue Cross Blue Shield Association—BCBSA) agreed and asked that the models align with HIPAA. Ms. Johnson said the Working Group is looking at it and will want industry's help on it every step of the way. She emphasized that late comments from the public, industry, state insurance regulators, and consumer representatives will always be accepted.

4. Discussed Other Matters

Ms. Johnson reminded attendees that responses to the Consumer Data Ownership survey questions for the white paper that were distributed and posted July 1 are due by July 28.

Having no further business, the Privacy Protections (H) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/H CMTE/_Privacy/Minutes/PPWG Minutes 06.15.22.docx

NAIC/CONSUMER LIAISON COMMITTEE

NAIC/Consumer Liaison Committee Aug. 12, 2022, Minutes 13-2
NAIC/American Indian and Alaska Native Liaison Committee Aug. 11, 2022, Minutes
(Attachment One) 13-9
NAIC/American Indian and Alaska Native Liaison Committee June 28, 2022, Minutes
(Attachment One-A) 13-12

Draft: 8/23/22

NAIC/Consumer Liaison Committee
Portland, Oregon
August 12, 2022

The NAIC/Consumer Liaison Committee met in Portland, OR, Aug. 12, 2022. The following Liaison Committee members participated: Andrew R. Stolfi, Chair (OR); Grace Arnold, Vice Chair (MN); Alan McClain (AR); Andrew N. Mais represented by George Kurt Swan (CT); Trinidad Navarro (DE); David Altmaier (FL); Colin M. Hayashida represented by Martha Im (HI); Dean L. Cameron represented by Randy Pipal (ID); Vicki Schmidt (KS); James J. Donelon represented by Ron Henderson (LA); Kathleen A. Birrane represented by Alexander Borkowski (MD); Anita G. Fox represented by Renee Campbell (MI); Chlora Lindley-Myers represented by Carrie Couch (MO); Mike Chaney represented by Andy Case (MS); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by Janell Middlestead (ND); Chris Nicolopoulos represented by David Bettencourt (NH); Barbara D. Richardson represented by David Cassetty (NV); Adrienne A. Harris represented by Sumit Sud (NY); Michael Humphreys (PA); Cassie Brown (TX); Scott A. White represented by Don Beatty (VA); and Mike Kreidler (WA).

1. Heard Opening Remarks

Commissioner Stolfi said the NAIC Consumer Board of Trustees met Aug. 1, 2022 to: 1) discuss next steps for adopting proposed revisions to NAIC Consumer Participation Plan of Operation; 2) receive an update on the survey to NAIC Consumer Liaison Committee members and NAIC consumer representatives on how to enhance the level of dialogue at NAIC Consumer Liaison Committee meetings, and 3) hear an update on the criteria and procedures the NAIC consumer representatives use to determine what NAIC Member should receive the Excellence in Consumer Advocacy Award.

2. Adopted its Spring National Meeting Minutes

Commissioner Arnold made a motion, seconded by Commissioner Schmidt, to adopt the Committee's April 8 minutes (*see NAIC Proceedings – Spring 2022, NAIC/Consumer Liaison Committee*). The motion passed unanimously.

3. Discussed Recommendations for the Enhancement of the Consumer Liaison Committee Meetings and Consumer Liaison Engagement in NAIC Activities

Commissioner Stolfi said consumer protection is at the core of the mission for state insurance regulators and the input of the NAIC consumer representatives is very important to this mission. Because of this, Commissioner Stolfi said there was a survey of NAIC Consumer Liaison Committee members and NAIC consumer representatives on how to improve the Consumer Liaison Committee meetings and dialogue between the NAIC Member and NAIC consumer representatives.

Commissioner Stolfi said the survey results reflect three themes. There is a desire to broaden the perspectives shared at NAIC meetings and encourage more robust consumer representative participation, with some responses noting that participation sometimes feels repetitive or that not all consumer voices are heard. It is important that all commissioners, especially new commissioners, be well informed about the work of consumer representatives and have opportunities to collaborate with them. Many regulators would like to see more active and visible consumer representative participation in NAIC work outside the Consumer Liaison Committee.

Ken Klein (California Western School of Law) said it would be helpful if Commissioners would reach out to consumer representatives for input on topics that are of a sensitive nature and may not be appropriate for public

discussion in a large NAIC meeting. Birny Birnbaum (Center for Economic Justice) said NAIC consumer representatives do not attend NAIC meetings as individual consumers and attend NAIC meetings as experts representing consumers on insurance issues. Because of this, NAIC Members are going to hear from the same consumer representatives on certain issues. Mr. Birnbaum said the NAIC meetings are extremely important because consumer representatives do not have the same resources as industry representatives to engage with NAIC Members outside of NAIC national meetings. Mr. Birnbaum said he is concerned with the increasing number of regulator-to-regulator meetings and said there needs to be more open meetings for more stakeholder participation. Bonnie Burns (California Health Advocates) said she has specific expertise and NAIC Members are not likely to see her engage NAIC Committees addressing issues outside of her expertise. At the same time, Ms. Burns said she can call an insurance department to obtain assistance for a consumer or can assist an insurance department on an issue within her scope of expertise.

Amy Bach (United Policyholders) said it is important for consumer representatives to provide organized, specific presentations on issues for the Consumer Liaison Committee meeting. In addition, Ms. Bach said panel discussions, which include industry, academia, and consumer representatives may be beneficial at other NAIC committee meetings. Harry Ting (Consumer Advocate Volunteer) said it can be difficult for a new consumer representative to understand the best way to engage at NAIC meetings and additional assistance should be provided to help new consumer representatives understand the NAIC structure. Mr. Ting said consumer representatives may also be engaged with NAIC task forces and working groups.

Commissioner Stolfi said the survey feedback reflects three goals to guide changes. The first goal is to maximize the value of Consumer Liaison Committee meetings and presentations for members and consumer representatives. The second goal is to use diverse approaches to further encourage all consumer representatives, especially those not often heard from, to actively participate in all NAIC activities, not just Consumer Liaison Committee meetings. The third goal is to create more opportunities for meaningful interactions between regulators and consumer representatives, both at national meetings and elsewhere.

Commissioner Stolfi reviewed the following proposed changes for consideration:

- a. Distribute a one-page preview of consumer representative presentations at each national meeting, with links to presentation slides and supporting materials, one week in advance of each meeting to help regulators and their staffs prepare for a discussion.
- b. Distribute a summary of all presentations given at each national meeting, with links to presentation materials, after each national meeting.
- c. Give consumer representatives time at each Consumer Liaison meeting to briefly highlight presentations being given at that national meeting, other than those given at the Consumer Liaison meeting.
- d. Schedule the Consumer Liaison Committee meeting earlier in the national meeting week. Also begin the meeting later in the day to promote greater attendance.
- e. Increase the time of the Consumer Liaison meeting to 2 hours from 1.5 hours.
- f. Provide no less than 20 minutes (15-minute presentation, 5 min Q&A) for each presentation at national meetings (unless presenter requests less time, e.g., for an update).
- g. Ensure appropriate split of time between presentations on a range of topics, including health and non-health issues, without having pre-determined time allocations.
- h. Conduct post-meeting regulator surveys to provide consumer representative presentation feedback.
- i. Find a more intimate meeting room set up.
- j. Encourage consumer representatives to include local consumer organizations in presentations/discussions at national meetings when feasible.
- k. Hold interim hybrid meetings when needed to discuss issues of interest.
- l. Organize a themed consumer-focused symposium once a year, later in the day during a national meeting (comparable to CIPR events).

- m. Schedule a meeting at each national meeting where several (2-3) states can present to consumer representatives (over a meal) on what is happening in their states.
- n. At least once a year, poll regulators on the topics they would like to hear about from consumer representatives; share results with consumer representatives.
- o. Assign each consumer representative, at least during their initial term, a regulator mentor.

Mr. Birnbaum said the NAIC Consumer Liaison Committee will be hearing a lot about health insurance if the Committee wants to hear from more consumer representatives since many consumer representatives have expertise in health insurance. Mathew Smith (Coalition Against Insurance Fraud) said consumer representatives do not always know what is most important to insurance regulators and feedback from insurance regulators on what topics are most important would be beneficial. Eric Ellsworth (Consumers' Checkbook/Center of the Study of Services) said it would be helpful to have meetings with NAIC Committee staff support. Wayner Turner (National Health Law Program) suggested the NAIC post the many reports and presentations from NAIC consumer representatives on a more visible NAIC Weblink so regulators and others could use these materials as resources.

Commissioner Stolfi said there will not be a formal vote on these ideas but recognized there was general agreement among NAIC Consumer Liaison Committee members and NAIC consumer representatives on the ideas presented today.

4. Heard a Presentation on Updates to Section 1557 and the Role of State Insurance Regulators

Yosha Dotson (Georgians for a Health Future) said Section 1557 of the ACA prohibits discrimination against protect classes by health programs receiving federal funding. Ms. Dotson said the 2016 interpretation of Section 1557 provided nondiscrimination protections for gender identity, sex stereotypes, and pregnancy status but that a narrower interpretation in 2020 eliminated these protections. Ms. Dotson said the 2022 proposal seeks to reinstate the scope of Section 1557 to include all health and human services programs and activities. Ms. Dotson said the 2022 proposal goes further than the previous rule by requiring entities with fifteen or more employees to have a Section 1557 coordinator and prohibits discrimination in the use of algorithms to support decision making. Ms. Dotson said the 2022 proposed rule has explicitly recognized how individuals can experience compound discrimination and how network inadequacy can cause alienation from care and poor health outcomes.

Kellan Baker (Whitman-Walker Institute) said he wants to focus on one of the most substantial changes in the rule, which relates to the scope of sex nondiscrimination provisions. Mr. Baker said the ACA prohibits discrimination on the basis of sex, among other covered bases, and the 2016 rule indicated that gender identity sex stereotypes and pregnancy status were included under the definition of sex. The 2016 rule also included specific examples of gender identity nondiscrimination in coverage and care.

Mr. Baker said there are issues in coverage that affect the ability of transgender and other gender diverse people and populations to access appropriate care and services, including preventive screenings. This includes gender affirming care, such as hormone therapy or surgeries, as well as mental health counseling and any other type of healthcare that a transgender person might need. Mr. Baker said the 2016 rule was based on the concept of parity, meaning anything covered for a non-transgender person must be covered for a transgender person as well. The action in 2016 followed actions by more than twenty states to prohibit discrimination against transgender people, particularly in benefit design.

Mr. Baker said the 2020 rule eliminated gender identity, sex stereotyping and pregnancy nondiscrimination protections, and nondiscrimination protections in the marketing of qualified health plans, as well as in the essential health benefits. The 2022 rule is based on the 2020 Supreme Court decision of *Bostock v. Clayton County*, which re-establishes gender identity nondiscrimination protections under the basis of sex, adds sexual orientation, and re-establishes protections on the basis of sex stereotypes and pregnancy status. The rule clarifies that

religious/conscience exemptions will be considered on a case-by-case basis by the Office of Civil Rights under existing federal laws. The rule does not require providers to perform services outside of their scope of practice or area of specialty.

Mr. Baker said the rule requires the collection, analysis, and reporting of demographic data for various purposes, including civil rights enforcement, which is why the Office for Civil Rights includes a number of provisions and questions for commenters related to data collection and use. Several other provisions relate to data through research and clinical algorithms. Covered entities may not discriminate in federally supported research (e.g., in study enrollment). Clinical decision-making algorithms cannot incorporate bias that results in reduced access to health care or coverage benefits or services.

Mr. Baker said network adequacy is a major consideration in advancing health equity and ensuring high quality of coverage. This is a major consideration in advancing health equity and ensuring high quality of coverage. The Office of Civil Rights does not propose to establish a single network adequacy standard but notes that narrow networks may pose discrimination concerns.

Silvia Yee (Disability Rights Education and Defense Fund) said another key provision of the proposed rule is that it generally restores the breadth of application of the 2016 rule, including all the operations of entities that provide for or administer health insurance. This includes issuers of Medicare Advantage Plans. Ms. Yee said the proposed rule expands the scope of Section 1557 beyond the 2016 rule by including Medicare Part B providers, and this is often particularly important for people with disabilities, who need to see specialist who may not accept Medicare patients. The rule also provides for meaningful access and effective communication for persons with limited English proficiency. The proposed rule maintains the structural accessibility obligations of the 2020 rule and reaffirms that covered entities must provide reasonable modifications to people with disabilities unless doing so would be an undue burden or fundamentally alter the nature of the service. The proposed rule does not set an explicit requirement for accessible web content, but request comments on this issue. Ms. Yee said blind persons and people who have experienced vision loss have limited independence and choice when using Websites that other consumers use to make appointments, look up and compare insurance coverage, and find self-care information.

Ms. Yee said regulators should support health access during the comment period and have a broad perspective of what access means, including language accessibility, and diversity. Ms. Yee urged regulators to strengthen legal protections for consumers, including monitoring and enforcement against discrimination

5. Heard a Presentation Unpacking the Impact of Recent Federal Court Decisions on Consumers

Dorianne Mason (National Women's Law Center) said the decision in *Dobbs v. Jackson Women's Health Organization* is a devastating opinion that overturns *Roe v. Wade* and nearly 50 years of precedent. Ms. Mason said the Dobbs decision and subsequent state abortion bans dismantle patient care and force an uncertainty into the lives of all healthcare providers. This threatens the health and well-being of women. Ms. Mason said the Dobbs decision will disproportionately harm people who are already faced with unequal access to health care. Ms. Mason said patients may incur debt or lose income by taking leave from their jobs without pay because of the need to travel for care. Ms. Mason said others may be forced to carry pregnancies against their will and put their lives at stake.

Ms. Mason said insurance regulators should ensure compliance with existing laws and regulations, such as access to women's preventive services. Ms. Mason said insurance regulators should also reject regulations of reproductive care that inadvertently restrict access to reproductive healthcare. Ms. Mason said the National Women's Law Center has experts that can assist state insurance regulators in being innovative to address deficiencies to reproductive healthcare.

Jackson Williams (Dialysis Patient Citizens) said the United States Supreme Court decision in *Marietta Memorial Hospital v DaVita* involved the end stage renal disease provisions of the Medicare Secondary Payer Act, which allows enrollees to keep a group health plan for 30 months before Medicare becomes their primary payer. The language challenged in this case carved out dialysis treatment from the Preferred Provider Organization so there was no in network provider. Mr. Williams said the Supreme Court decision provided the need for maintenance dialysis was not the same as having end stage renal disease and permitted the carve out. Mr. Williams said insurance regulators should be concerned any time a change in insurance is triggered by an illness. Mr. Williams said there are two potential paths forward. The first path is to continue to pursuing population health strategies, such as health plans having prioritized detection and treatment of chronic kidney disease. The second path is to allow benefit consultants to aggressively sell dialysis carve outs to employers.

Katie Keith (Out2Enroll) said Section 2713 of the ACA requires health plans to cover a wide range of more than one hundred preventive services, such as cancer screenings, hypertension screening, tobacco cessation, immunization, contraception, and other preventive services for women. Ms. Keith said more than 150 million Americans benefited from this requirement in 2020 because it applies to all non-grandfathered plans, including both ERISA plans and fully insured plans. Ms. Keith said these requirements have led to a narrowing of health disparities.

Ms. Keith said there is a Federal court case in Texas, *Kelley v. Becerra (now known as Braidwood v. Becerra)*, in which the plaintiffs are arguing Section 2713 is unconstitutional. If this statutory provision is deemed unconstitutional, Ms. Keith said there would be no standard requirement for preventive services and consumers would see significant variations. Ms. Keith said this would lead to the widening of health disparities. Ms. Keith said insurers would not likely stop covering all one hundred preventive services but said she has concerns about ongoing coverage for contraceptives, screening colonoscopies, and HIV prevention medication. Ms. Keith said many states passed their own versions of Section 2713 in state law to protect the fully insurance market and encouraged all states to extend these protections.

Commissioner Stolfi said Oregon adopted a Reproductive Health Equity Act that went into effect in 2019, which had a list of required services to be covered at no cost. Commissioner Stolfi said Oregon found indications of non-compliance with both the state law and Section 2713 preventive service requirements, especially around cost sharing requirements. In response to Commissioner Arnold's question regarding what are the most important areas for a state insurance department to review, Mr. Baker suggested the following four items: 1) require plans to meet or exceed ACA requirements; 2) require plans to include a wider variety of provider types, such as community health workers and non-physician members of the healthcare workforce; 3) ensure the accuracy and accessibility of provider directories; and 4) explore the potential of standardized plans and related networks for specific conditions.

6. Heard a Presentation on Unpacking Social Inflation

Mr. Klein said there is a general assertion by industry that social inflation is causing insurance premiums and loss ratios to increase. Mr. Klein said social inflation is allegedly caused by plaintiff lawyers involved in insurance claims and Millennials having a sense of entitlement. Mr. Klein said insurers have claimed social inflation exists because incurred losses are rising faster than general inflation. The Casualty Actuarial Society recently issued a paper that identifies three lines of business that display characteristics of social inflation.

Mr. Klein said there is a misunderstanding of the litigation system that equates litigation with frivolous litigation. Mr. Klein said if a defendant loses a case this does not mean the verdict was wrong or the case was frivolous. Mr. Klein said litigation is only frivolous if it is unsupported by evidence and claims of social inflation often miss this point. Mr. Klein said there is no compelling data that shows there is an overall increase in insurance litigation nationally and there is no compelling data reflecting an increase in frivolous insurance litigation by plaintiffs.

Mr. Klein said the insurance industry is claiming the following items as problematic: 1) rollbacks of enacted tort reforms; 2) third-party litigation financing; and 3) a proliferation of class actions. Mr. Klein said there is no evidence rollbacks of enacted tort reforms are impacting premiums and loss ratios. For example, Mr. Klein said the Kansas City metropolitan area is in both Kansas and Missouri and there is no data reflecting lower premiums and loss ratios in Kansas, which rolled back tort reforms. Mr. Klein said there should be data reflecting lower premiums and loss ratios between Kansas and Missouri residents within the Kansas City metropolitan area. Mr. Klein said finance professors from Harvard and Stanford issued a report that concluded third-party litigation financing is not driving up the cost of litigation and found litigation financing does deter defendants from engaging in aggressive settlement strategies. Mr. Klein suggested any increase in litigation costs may be caused by the increased costs of defense attorneys. Mr. Klein said funding of litigation may be leveling what was previously an unlevel playing field. Mr. Klein said the court system is designed to punish those who cause injury to others and that larger verdicts do not equate to inaccurate verdicts. Regarding class action litigation, Mr. Klein said any proliferation of class actions suggests that defense attorneys are more aggressive in settling low value claims because class action litigation is a way for individuals to come together to seek appropriate remedies for low value claims.

Mr. Klein said the court system is designed to intentionally weed out frivolous claims. Mr. Klein said there is no evidence of social inflation, which is causing insurers to incur new, unusual, or higher expenses. Mr. Klein said insurance regulators should not permit premium increases or approve rate filings without confirming the assumptions about social inflation being presented.

Mike DeLong (Consumer Federation of America) said his organization completed a study in March of 2020, which concluded insurers' claims of increased costs were inaccurate. Mr. DeLong said insurers continued to earn profits throughout the pandemic. Mr. DeLong said the need for insurers to raise prices is questionable and any insurer, which is experiencing larger verdicts or more class action lawsuits, may be experiencing these things because of inappropriate behavior.

Mr. Smith said there is a crisis in the Florida insurance market with increased claim costs and litigation. Mr. Smith said one group should not be singled out as the cause and encouraged a review of the totality of issues to determine how all parties can better serve consumers.

Commissioner Schmidt said there is still more discussion occurring in Kansas regarding the Kansas Supreme Court case impacting tort reform and does not believe the Hilburn case is settled case law. Commissioner Schmidt also said there are many Kansas residents who do not live within the Kansas City metropolitan area. Because of this, Commissioner Schmidt said the comparison of Kansas and Missouri premiums within the Kansas City metropolitan area is not a fair comparison.

Commissioner Altmaier said he would strongly encourage the review of data from the regulatory community, which demonstrates a significant increase in litigation. Commissioner Altmaier said having additional costs within the claims settlement process is bad for consumers. Commissioner Altmaier said Florida is having a very challenged property insurance market and encouraged additional discussion on this issue using available, regulatory data.

7. Heard a Presentation on New Rules for Disaster Claims in California, Colorado, and Oklahoma

Ms. Bach said her organization has worked with industry, regulators, and legislators in California, Colorado, and Oklahoma to create new rules for disaster claims, primarily focusing on claims resulting from wildfires where there is not a causation question. Ms. Bach highlighted the following legislative reforms: 1) additional/temporary living expense and replacement cost benefits must be available for at least 24 months and 36 months if reasonably necessary; 2) an underinsured homeowner can use "Other Structures" benefits toward the cost of rebuilding their dwelling even though "Other Structures" benefits are normally available only for garages and outbuildings,

retaining walls, etc.; 3) a homeowner can opt to skip the challenges of rebuilding their home at its original location and instead access their dwelling, extended dwelling and building code and ordinance benefits toward the purchase of a replacement home; and 4) homeowners can avoid being underinsured by accessing their insurer's construction cost expertise and obtaining an estimate for insuring their home to its current replacement cost every other year or at inception.

Having no further business, the NAIC/Consumer Liaison Committee adjourned.

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NAIC/American Indian and Alaska Native Liaison Committee
Portland, Oregon
August 11, 2022

The NAIC/American Indian and Alaska Native Liaison Committee met in Portland, OR, Aug. 11, 2022. The following Liaison Committee members participated: Troy Downing, Chair (MT); Russell Toal, Vice Chair, Bob Biskupiak, and Jennifer A. Catechis (NM); Lori K. Wing-Heier and Anna Latham (AK); Dean L. Cameron represented by Shannon Hohl (ID); Grace Arnold represented by Peter Brickwedde (MN); Edward M. DeLeon Guerrero (MP); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by John Arnold (ND); (NM); Glen Mulready represented by Brian Downs (OK); Andrew R. Stolfi represented by TK Keen (OR); Larry D. Deiter represented by Frank Marnell (SD); Mike Kreidler represented by Todd Dixon (WA); and Jeff Rude (WY). Also participating were Peg Brown (CO); Kathleen A. Birrane (MD); and Ryan Jabber, Tanji J. Northrup, and Reed Stringham (UT).

1. Adopted its June 28 Minutes

Commissioner Downing said the Liaison Committee met June 28. During this meeting, the Liaison Committee took the following action: 1) adopted its Spring National Meeting minutes; 2) heard a presentation on consumer outreach and education regarding fraud; 3) heard a presentation on “Maximizing Collaboration Between Health Insurers and Tribal Communities – What Blue Cross and Blue Shield of New Mexico and Blue Cross and Blue Shield of Oklahoma are Doing to Build Partnerships”; and 4) heard a presentation on “New Mexico’s Health Insurance Exchange – American Indian Program.”

Mr. Downs made a motion, seconded by Mr. Dixon, to adopt the Liaison Committee’s June 28 minutes (Attachment One-A). The motion passed unanimously.

2. Heard a Presentation on the SNHC and SNI

Commissioner Pike introduced the speaker for this presentation as they had been having conversations recently about today’s agenda topic. Mark A. Echo Hawk (Sovereign Nations Health Consortium— SNHC) welcomed the Liaison Committee to Aboriginal territory as they were meeting on tribal lands—the land of the forever people. He said that due to federal oversight, tribes have remained underserved and underinsured. Mr. Echo Hawk said the tribes needed help with insurance needs as there were more people dying than being born currently. He said the Indian Health Service (IHS) funding is not adequate to provide for all native peoples. Mr. Echo Hawk said a supplemental insurance policy is needed to cover costs for services that the IHS does not cover. He described a three-tier program with SNHC as the regulatory consortium; the Native American Restoration Association (NARA) as a charitable, tribal nonprofit membership organization that uses some of its premium income to support Indian charitable programs; and Sovereign Nations Insurance (SNI), the “tribal health and insurance company.”

Mr. Echo Hawk said the SNHC is a consortium of three federally recognized Utah based tribes: 1) the Kanosh Band of Paiutes; 2) the Confederated Tribes of the Goshute Reservation; and 3) the Shivwits Band of Paiutes. He said that SNI has operated for approximately one year under tribal code. Mr. Echo Hawk said the SNI is regulated under the SNHC tribal regulatory authority and is currently offering insurance products to both Indian and non-Indian members. He also said that the NARA is also a charitable organization that uses some of its premium income to support Indian charitable programs.

Commissioner Downing said this presentation is fascinating and that much of it resonates with him regarding collaboration opportunities. Director Wing-Heier said she has worked with Section 638 groups in Alaska and asked Mr. Echo Hawk if he was talking about health care insurance or property/casualty (P/C) insurance as she has concerns about the federal government in this area. Mr. Echo Hawk said it is just health care and that tribes bring whatever health care resources they have to the table. He said it may be a diabetes clinic or program that is not a Section 638 group. Director Wing-Heier said this would not be beneficial if it is not addressed in a 638 contract; however, it is covered, or it can be, if it is in their 638 contracts, so she recommended that the tribes not give up on pursuing a 638 contract. Commissioner Mulready asked how long the SNHC had been operating; if the tribes had any state contracts; and where the tribes' financial standards came from. Mr. Echo Hawk said the SNHC had been operating about a year; that it did not have any state contracts yet; and that the SNHC had surveyed all state solvency and claims funds using state insurance department web pages to add the standards found there in their own tribal codes and internal regulations. Mr. Brickwedde asked what type of distribution network the tribes used. Mr. Echo Hawk said the SNHC had an internet site with companies that help sell policies, as well as tribal call centers on reservations. Ms. Hohl asked what provider networks were used. Mr. Echo Hawk said tribal health care claims are provided by the insurance company policy with off reservation group providers. Director Wing-Heier suggested coordination with the federal Affordable Care Act (ACA) and said the Indian Coordination Act should be pursued.

Mr. Echo Hawk said tribes typically fight against states when they should be collaborating with them. He emphasized a desire to work with state insurance regulators, as well as explore compacts and collaborations. He noted that this program may ultimately pose challenges requiring congressional solutions. He also said this is an important step because the SNHC is reaching out from tribal-owned insurance companies to suggest partnering with state insurance regulators to understand compliance standards for tribal-owned insurance companies and ensure company solvency to maintain their claims-paying ability and consumer protection issues, such as fraud. Commissioner Pike said he and Commissioner Stolfi met with Mr. Echo Hawk's clients briefly but that they just scratched the surface and that a better level of understanding would be needed to find a way to work together. Commissioner Pike said he is intrigued by the idea of a compact and that the Liaison Committee is a good place to start. He said there are currently three tribes in Utah; that the policies are being sold elsewhere already; and that this is a dual insurance universe. Matthew Smith (Coalition Against Insurance Fraud—CAIF) said state insurance departments have a whole litany of laws and asked what fraud laws the tribes have in place. Mr. Echo Hawk said this information is in the agreements that are part of the consortium; there are ways to deal with complaints just as state insurance departments do. He said not all tribes will want to partner with states, but if a compact is built, the hope is that most tribes will decide to join it.

3. Discussed Survey Results of Growing Insurance Markets by Tribal Nations and SNI and its Business Model

Commissioner Downing said it is important for the Liaison Committee to discuss the survey results of growing insurance markets and insurance-related activities on and off reservations by tribal nations, as well as by SNI, and its business model so state insurance regulators can think of ways they might be able to work with such entities going forward. He said the survey inquired on whether tribal insurance programs were operating in state jurisdictions as admitted carriers and whether there was knowledge of state-licensed agents selling tribal insurance products. Liaison Committee members had no comments on the survey results.

4. Heard an Update on its Ad Hoc Drafting Groups

Commissioner Downing said the three ad hoc drafting groups have been consolidated into two groups. He said the ad hoc groups began working on their goals. He also solicited additional volunteers to join the ad hoc groups. Commissioner Downing said that Ad Hoc Group 1 has focused on cultural awareness and communication between

tribal and non-tribal members. He said Ad Hoc Group 2 will produce a report on tribal access to the ACA, ACA navigation, and non-IHS insurance products. Commissioner Downing said this group would also report on “lessons learned” in Indian Country through the COVID-19 pandemic. He said that Montana is doing a lot of financial outreaches to tribal entities.

5. Discussed Other Matters

Commissioner Downing reminded attendees about the upcoming Insurance Summit, which will be held in Kansas City, MO, Sept. 19–23.

Having no further business, the NAIC/American Indian and Alaska Native Liaison Committee adjourned.

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Draft: 8/2/22

NAIC/American Indian and Alaska Native Liaison Committee
Virtual Meeting
June 28, 2022

The NAIC/American Indian and Alaska Native Liaison Committee met June 28, 2022. The following Liaison Committee members participated: Troy Downing, Chair (MT); Russell Toal, Vice Chair (NM); Trinidad Navarro represented by Frank Pyle (DE); Dean L. Cameron (ID); Grace Arnold (MN); Mike Causey represented by Tracy Biehn (NC); Jon Godfread (ND); Glen Mulready (OK); Larry D. Deiter represented by Tony Dorschner (SD); Mike Kreidler represented by Todd Dixon (WA); and Jeff Rude (WY). Also participating were: Kate Harris (CO); Molly Plummer and Bob Biskupiak (MT); and Paige Duhamel (NM).

1. Adopted its Spring National Meeting Minutes

Commissioner Downing said the Liaison Committee met April 6.

Superintendent Toal made a motion, seconded by Commissioner Mulready, to adopt the Liaison Committee's April 6 minutes (see *NAIC Proceedings – Spring 2022, NAIC/Consumer Liaison Committee, Attachment One*). The motion passed unanimously.

2. Heard a Presentation on Consumer Outreach and Education Regarding Fraud

Commissioner Downing said the next item on the agenda is a presentation by Matthew J. Smith, Executive Director of the Coalition Against Insurance Fraud (CAIF) and an NAIC appointed consumer representative, on consumer outreach and education regarding fraud. He said Mr. Smith was meant to give this presentation during the Spring National Meeting, but the Liaison Committee was short on time; therefore, Mr. Smith graciously consented to postponing his presentation until this interim meeting could be arranged.

Mr. Smith said fraud is up by over 400%, with most of it motivated by financial crime causing a pandemic of insurance fraud. He said a study completed by consumer representatives in 2021 was done to determine if there was a system of discrimination and bias. He said the study showed a lack of state insurance regulator engagement, and people were not seeing the outreach to American Indians and Alaska Natives with these groups not receiving the insurance education that was needed. He said only 26% of those responding said they were receiving such information, and the awareness of state insurance departments came in at less than 24%. He said the CAIF wanted to partner with state departments of insurance (DOIs) by providing valuable information to public information officers that could be used for this much-needed outreach. He said the CAIF has 50 customizable videos that it will work with NAIC members to customize, or the CAIF will customize videos for each state by adding insurance department contact information at the end of the videos. He said the CAIF has new customized infographics coming out every six weeks that could be customized free of charge. He said the CAIF could also provide state DOIs with information that could be added to the states' websites, along with other tools and resources, such as multilingual educational information, training, a searchable database of fraud laws and regulations, and access to antifraud materials dealing with insurance fraud.

Commissioner Downing asked if the CAIF has done any specific outreach targeted to the American Indian and Alaska Native consumer. Mr. Smith said he is sad to say that the CAIF is not yet doing enough to reach this population. Commissioner Downing said more culturally appropriate material is needed. Superintendent Toal asked if any insurers are targeting vulnerable populations, and he would appreciate the additional materials. Mr. Smith said he has not seen any company or tracking patterns, but he would like to be more culturally engaged.

Commissioner Downing said while labeling materials is helpful, it would also be good to collaborate with the CAIF and other state insurance departments. He asked what type of licensing requirements the CAIF offer to state insurance regulators who want to take advantage of CAIF materials. Mr. Smith said there are no additional steps, and all materials are available free of charge with full access to use as much as the state wants. Commissioner Navarro said Delaware has partnered with the CAIF for a few years and has used its materials. He said Delaware put the materials on its own website and took full credit for it. He said the American Indian and Alaska Native community is close knit with not a lot of outside access. Tribal victims of insurance fraud do not come forward because they are ashamed and do not want their family to know about it.

3. Heard a Presentation on “Maximizing Collaboration Between Health Insurers and Tribal Communities – What Blue Cross and Blue Shield of New Mexico and Blue Cross and Blue Shield of Oklahoma are Doing to Build Partnerships”

Commissioner Downing said next on the agenda is a presentation by Bonnie Vallo, Community Outreach Specialist and Tribal Liaison of the Blue Cross and Blue Shield of New Mexico (BCBSNM), and Lucinda Myers, Tribal Relations Specialist of the Blue Cross and Blue Shield of Oklahoma (BCBSOK), on what the BCBSNM and the BCBSOK are doing to build partnerships that will maximize the collaboration between health insurers and tribal communities.

Ms. Vallo said this is the second Blue Cross Blue Shield Association (BCBSA) Tribal Markets Workgroup since 2018 focused on how to get more people involved, and the Health Care Service Corporation (HCSC) Tribal Relations Workgroup is focused on bridging communications across tribes, so it is important to be as local as possible through photos that provide a dual role in educating internally and externally. Ms. Myers said Native Americans in Progress is one of nine business resource groups (BRGs) with subject matter experts (SMEs) serving as resources for companies and helping natives progress in business and diversity in Oklahoma, Montana, and New Mexico. She said BRGs identify needs, host donations, and engage in local communities using volunteer time to help with local health issues and needs. She said BRGs also serve as brand ambassadors and engage in business activities with Native American employees. She said best practices for working with Native American populations include: 1) having a common goal; 2) improving the health of citizens; 3) investing in dedicated positions as a tribal liaison to accomplish strategies; 4) because the communities being served are the experts on their issues, listening and engaging them; doing research; and going to tribal websites and social media outlets, especially regarding health; 5) identifying challenges and how resources can help; 6) being open-minded; and 7) providing ongoing support and resources, including food and other personal necessities. Ms. Myers said mobile assistance centers (MACs) provide enrollment specialists and hold enrollment fairs because 60% of their outreach to tribal members in Oklahoma is rural, so Oklahoma has nine Caring Foundation vans under a 501(c) that provide free preventative health services, three of which are staffed by tribal nations, which enhances face-to-face meetings.

Ms. Vallo said it is important for outreach volunteers to be trustworthy, as they provided Medicaid assistance to 1,222 touchpoints in 2022. She said COVID-19 is still a serious concern, so they are still practicing safe distancing via virtual outreach, which has led to higher vaccination numbers. Superintendent Toal said New Mexico is the fifth largest state for tribal challenges. Ms. Vallo said preventative dental care screenings were provided by the BCBSA in vans to 139 kids due to the use of a mascot known as Blue Bear; \$40,000 was donated to the COVID-19 Relief Fund; \$50,000 was raised for schools; and the goal for Montana in 2022 is to donate \$25,000 to this cause. Commissioner Downing thanked Ms. Vallo and Ms. Myers for underlining the issues. He said he likes the phrase, “Remember those you serve are the experts,” and he said Montana does this. He also said later during this meeting, the Liaison Committee members would discuss action plans to create tools for effective communication with tribal nations. Superintendent Toal asked the speakers what they perceive to be the biggest challenge. Ms. Vallo said she prefers to call challenges opportunities, which are to make sure to get the education and information out to tribal communities in flexible ways. Ms. Myers said educational PCs with access to the Indian Health Service (IHS) have the perception that the IHS is health insurance; however, it is not. Ms. Duhamel asked if

federal Affordable Care Act (ACA) coverage is an opportunity to enroll in tribal community health care as well. Ms. Vallo said the ACA includes benefits of third-party and additional services. Ms. Duhamel asked if that works. Ms. Myers said tribal members unfortunately do not think about the ACA when the IHS is closed or when there is no access to services. Ms. Vallo said partnerships with the IHS and the ACA is the best way to do this.

4. Heard a Presentation on “New Mexico’s Health Insurance Exchange – American Indian Program”

Superintendent Toal said it is with great pleasure that he introduces the next agenda presentation, “New Mexico’s Health Insurance Exchange – American Indian Program,” by his friend and colleague, Teresa Gomez, MA, a beWellnm Board member and Board vice chair of the Native American Standing Committee. Ms. Gomez said she is speaking both as an advocate and a consumer as a two times ovarian cancer survivor, but not as an industry person. She said she had employee coverage through her employer and commercial insurance through the IHS to reduce costs for cancer. She said enabling legislation in the form of the New Mexico Health Insurance Exchange Act, which was enacted in 2013, gave Superintendent Toal powers and duties to implement and enforce the provisions in this act. She said the act included Native American specific provisions on diversity; an advisory committee to guide Native American provisions of the ACA; a designated Native American liaison; provisions regarding the consultation of all tribes; a Board of Directors with a Native American Standing Committee that is promoted in its Plan of Operations and in enabling legislation calls for cultural competency training to staff of the exchange; a Native American Service Center with a cabinet-level department and a Native American Advisory Committee. Superintendent Toal encouraged all Liaison Committee members to have a tribal advocate assigned to help their respective DOIs.

5. Discussed Other Matters

Commissioner Downing said his office noticed that sovereign nation programs are just starting to be formed in New Mexico and Oklahoma. He asked if any other Liaison Committee members had seen this type of activity in their states, and he said the Liaison Committee would continue to follow the issue.

Commissioner Downing announced the formation of three ad hoc drafting groups that were created with deliverables based on the results of the state insurance regulator and consumer representative surveys about the goals of the Liaison Committee for 2022. He said an ad hoc drafting group consists of no more than four to five members and meets for a limited time to address specific deliverables. He said Drafting Group 1 will create a tool at the NAIC to address cultural awareness and communication, as Montana has found that words matter within tribal communities, such as using the phrase “financial empowerment” rather than “financial literacy,” as well as not saying “Save for yourself” but rather, “Use funds to help tribal members in need.” He said volunteers for this group include himself, Mr. Dixon, and a representative for Superintendent Toal. He said Drafting Group 2 will produce a report identifying problems with access and outreach through the IHS and the ACA. He said Drafting Group 3 will review COVID-19 vaccination access accomplishments to prepare a simple report that is not COVID-19-specific about the lessons learned and what worked that could be used for the next emergency. Superintendent Toal suggested combining Drafting Groups 2 and 3 into one that will include Commissioner Downing, Mr. Dixon, and a person to be nominated by Superintendent Toal.

Having no further business, the NAIC/American Indian and Alaska Native Liaison Committee adjourned.