

**Statutory Accounting Principles (E) Working Group
Fall National Meeting
Comment Letters Received – Hearing #2**

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D. Keith Bell, CPA
Senior Vice President
Accounting Policy
Corporate Finance
The Travelers Companies, Inc.
860-277-0537; FAX 860-954-3708
Email: d.keith.bell@travelers.com

Rose Albrizio, CPA
Vice President
Accounting Practices
Equitable
201-743-7221
Email: Rosemarie.Albrizio@equitable.com

November 17, 2023

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

RE: Interested Parties Comments on Item Exposed for Comment with Comments due
November 17

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the following item that was exposed for comment by the Statutory Accounting Working Group (the Working Group).

Ref # 2023-23: Residuals in Preferred Stock and Common Stock Structures

NAIC staff recommend that the Working Group include this item on their maintenance agenda as a SAP Clarification and expose this agenda item with proposed revisions to *SSAP No. 30R—Unaffiliated Common Stock* and *SSAP No. 32R—Preferred Stock* to explicitly state that investments that are in-substance residual interests shall be reported on the dedicated reporting lines on *Schedule BA: Other Long-Term Assets*.

The Working Group voted to expose this agenda item for a shortened comment period to allow for adoption consideration during the 2023 Fall National Meeting to ensure appropriate reporting for year-end 2023.

Interested parties recommend the following edits to clarify the proposed changes:

- Move the new language in paragraph 2 of SSAP No 30R to a new paragraph 3 and renumber the subsequent paragraphs. This would be similar to what is reflected in the changes for SSAP No. 32R.
- Add the proposed language from SSAP No. 30R to the annual statement instructions (ASI) for Schedule D – Part 2 – Section 2 as follows:

- Shares of all mutual funds, regardless of the underlying security, whether specialized or a mixture of bonds, stock, money market instruments or other type of investments, except money market mutual funds that are reported in Schedule E, Part 2 as cash equivalents, are considered to be shares of common stock and should be listed in the appropriate category of Mutual Funds.
 - Only transferable shares (i.e., can be bought and sold) of savings and loan or building and loan associations are to be reported in this schedule.
 - Investments in the form of common stock that are in substance residual interests or a residual security tranche, as defined in SSAP No. 43R or SSAP No. 48, shall be reported on Schedule BA: Other Long-Term Assets in the dedicated reporting lines for residuals and not in this schedule.
- Add the proposed language from SSAP No. 32R to the ASI for Schedule D – Part 2 – Section 1 as follows:
 - Only transferable shares (i.e., can be bought and sold) of savings and loan or building and loan associations are to be reported in this schedule.
 - Investments in the form of preferred stock that are in substance residual interests or a residual security tranche, as defined in SSAP No. 43R or SSAP No. 48, shall be reported on Schedule BA: Other Long-Term Assets in the dedicated reporting lines for residuals and not in this schedule.
 - No additional changes are needed to the ASI for Schedule BA for this item as the ASI were changed implicitly via the Working Group referral memo dated October 30, 2023.

* * * *

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

Sincerely,

D. Keith Bell

Rose Albrizio

cc: Interested parties
 NAIC staff

**Mike Monahan**

Senior Director, Accounting Policy

202-624-2324

mikemonahan@acli.com

November 15, 2023

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

Re: INT 23-04T: Life Reinsurance Liquidation Questions

Dear Mr. Bruggeman:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments on the proposed INT 23-04T: Life Reinsurance Liquidation Questions (the “INT”), which was exposed for comment on October 25, 2023 with comments due on November 15, 2023. We appreciate NAIC staff and regulators’ prompt attention to this matter, which has implications for companies’ year end 2023 reporting.

The INT provides guidance for ceding entities when the life reinsurance counterparty is in liquidation. Specifically, the INT addresses five key accounting and reporting issues with respect to these transactions:

- 1) Commutation or Recapture of a Life Reinsurance Contract
- 2) Impairment of Reinsurance Recoverables
- 3) Reporting of Reinsurance Recoverables
- 4) Admissibility of Reinsurance Recoverables
- 5) Disclosures

Although we understand the proposed guidance is intended to be applicable to reinsurance liquidations in general, our analysis and comments on the INT also consider the specific facts and circumstances of an ongoing life reinsurer liquidation (liquidation order effective September 30, 2023), which we believe provide helpful context and inform our views of the appropriate guidance for liquidation events more generally.

Life insurer liquidations are very rare occurrences, and the current ongoing liquidation is the first for a life reinsurer of which we are aware. Recent industry discussions have highlighted that each counterparty involved in the current liquidation has specific facts and circumstances which may not be consistent with a) other parties to the current liquidation or b) other (re)insurer liquidations that may arise in the future. The contractual obligations of a reinsurer are commercial contracts negotiated between sophisticated counterparties and the rights and obligations of each contract are unique. Some contracts are collateralized by a trust and some contracts contain guarantees or other provisions that provide cedants with varying degrees of rights to estate assets. The uniqueness of the facts and circumstances will lead to varied outcomes of a liquidation across cedants. Additionally, some liquidation proceedings may allow for more transparency than others and may provide more actionable information for measurement and reporting.

Given the rarity of (re)insurer liquidations and potential for diverse facts and circumstances, we believe any guidance should provide for consistency in application while allowing latitude for prudent management and regulator judgment. Our comments on specific issues below reflect this view, particularly with respect to the question of whether receivables from a liquidation estate should be considered admitted assets.

Issue 1 – Commutation or Recapture of a Life Reinsurance Contract

This guidance specifies that if a liquidation order cancels a life reinsurance contract, then SSAP 61R paragraph 58 provides guidance under which recaptured balances should be written off through accounts, exhibits, and schedules in which they were originally recorded. We believe the intent of this guidance, when viewed together with the guidance in Issue 3 below, is to require that reporting entities a) unwind reinsurance balances in the manner prescribed by paragraph 58 and b) establish new balances to which the provisions outline under Issue 3 would apply.

ACLI agrees that it is appropriate to apply SSAP No. 61R paragraph 58 and to write off recaptured balances. However, we have comments regarding presentation which are detailed further under Issue 3 below. We believe our proposed changes would eliminate possible inconsistencies when Issues 1 and 3 are viewed together since, as currently drafted, the guidance in Paragraph 16 of the INT could be interpreted to require the continuation of certain reinsurance balances in conflict with paragraph 58 of SSAP No. 61R.

Issue 2 – Impairment of Reinsurance Recoverables

We have no comments on this issue.

Issue 3 – Reporting of Reinsurance Recoverables

The proposed guidance separates recoverables from the estate that arise from unreimbursed claims from “other amounts receivable.” We believe reporting entities will be capable of separating these amounts for the current ongoing liquidation, but future liquidations may not have the same facts and circumstances or may be measured in different ways. Additionally, we believe it is problematic to require separate reporting of amounts such as unreimbursed claims and other receivables as it may give the incorrect impression that some amounts are more recoverable than others. Although certain amounts such as unreimbursed claims may be more readily estimated, we have no information at this time suggesting that amounts will be given higher priority in the current ongoing liquidation solely based on the nature or origin of the receivables. Finally, we believe it may create confusion or obfuscate relevant information if amounts recoverable under liquidation were combined with amounts recoverable under in-force reinsurance contracts.

As an alternative and to allow for industry-wide analysis of aggregate exposure, our proposal is to report the estimated recoverable amount (net of impairment) as a specific write in on line 25.01, Aggregate write-ins for other than invested assets, and identify line 25.01 as Receivables from Liquidation (or similar). The components of the receivable could then be disclosed and potentially data captured. We believe a net write-in would provide more transparency, as regulators and other users would see a net number due from a liquidation estate after it has been appropriately written down based on each company’s knowledge of expected recoveries. The amounts would also not be combined with and potentially obfuscated by other reinsurance balances.

Paragraph 16 states that the amount expected to be recovered from the reinsurer’s estate and any payables shall continue to be reported in annual statement Schedule S. However, this appears to conflict with the guidance in Issue 1 (which requires that all reinsurance balances be eliminated), and it is not clear where on Schedule S these amounts should be reported. We believe that disclosure requirements would be equally as effective in providing and tracking details of the components of a liquidation receivable.

Issue 4 – Admissibility of Reinsurance Recoverables

Paragraph 18 provides that “Given the uncertainty of the reinsurance recoverables, reporting entities shall nonadmit all amounts recoverable from a life reinsurer in liquidation.”

We acknowledge and support state regulators in their exercise of vigilant and prudent oversight as to the financial condition of insurance companies, including the expectation that companies would be conservative in their accounting and provide robust and objective information in support of financial reporting estimates such as those associated with (re)insurer liquidations. However, we believe a blanket requirement to non-admit all balances would be unduly punitive. Such an approach would be inconsistent with the guidance in SSAP No. 61R that is appropriately applied elsewhere in the INT, which provides for the recognition (and admission) of reinsurance recoverables. It would also circumvent the balanced and judicious consideration of relevant facts and circumstances by reporting entities and their domestic regulators, who are best positioned to analyze and opine on the individual facts and circumstances of a given insurer’s exposure in a liquidation (and have done so in the context of the current ongoing liquidation).

While our understanding is that the INT is designed to provide general guidance, it is also important to consider the question of admissibility in the context of the current ongoing liquidation. While there is uncertainty as to the amount and timing of recoveries, the company currently in liquidation has significant assets and reporting entities have sufficient data, informed by the initial assessment drafted by the receiver of the liquidation, to reasonably estimate their recoveries. However, as noted above, the uniqueness of the facts and circumstances will lead to varied outcomes of a liquidation across cedants. Certain companies may have assets held in trust or contractual guarantees (which the liquidation trustee acknowledge have value) that place them in a different economic position than other parties and should be considered in determining appropriate accounting and reporting.

Amounts in trust are one example of a specific constraint that we believe should be considered. The beneficiaries of the trusts in this case are the ceding companies; therefore, the assets will be distributed to them, in accordance with A-785. We believe the guidance should explicitly specify that secured receivables (e.g. by funds held in trust) are admitted to the extent such trust funds are sufficient.

For amounts not otherwise secured, it is appropriate to provide for the wide diversity in facts and circumstances and allow for prudent regulation by companies’ states of domicile. The impairment of recoverables from a life reinsurer in liquidation is not inherently more uncertain than other impairments that may be recognized under SSAP No. 5R, paragraphs 9-12 (to which SSAP No. 61R paragraph 42 refers). We believe SSAP No. 5R provides appropriate latitude for the assessment of impairment and should be consistently applied to amounts recoverable from a life reinsurer in liquidation without additional proscriptions.

Based on the considerations above, we propose the following revisions:

18. To the extent amounts recoverable are secured by assets in trust or otherwise legally restricted as to use for the payment of the reporting entity, such recoverable amounts may be admitted to the extent the security is sufficient.

19. Other recoverable amounts admitted by a reporting entity should be based on appropriate supporting documentation and reasonable assumptions in consideration of a reporting entity’s individual facts and circumstances, which are subject to review by that reporting entity’s domiciliary regulator.

Issue 5 – Disclosures:

As noted above, we believe disclosure is the most effective mechanism for providing transparency and tracking of amounts arising from liquidation proceedings. We propose the following revision to paragraph 21 (as proposed) to provide for detailed disclosure in both the Annual Statement and audited financial statements of reporting entities with exposure to a reinsurer in liquidation.

21. Disclosure in the reinsurance notes to the financial statements shall include additional information necessary to obtain an understanding of the impact of reinsurance counterparties in liquidation, including, but not limited to, information regarding the status of any collateral and the measurement and collectability of any reinsurance recoverables. Where applicable, reporting entities should disclose any individual components (e.g. unreimbursed claims or provisions for future losses) of recoverable amounts that are presented in the aggregate on the financial statements.

Other Comments:

We would recommend removing section 1.f from the background section, as the validity of this portion of the liquidation order is in question. Specifically, it is not clear whether this portion of the liquidation order violates the legal status of the trusts. As a result, we do not believe the provision should be the basis for any change in or interpretation of the accounting guidance on reinsurance recoverables.

We are supportive of the Working Group's efforts to provide clear guidance on reinsurer liquidations, and we appreciate the time and engagement by both NAIC staff and regulators, particularly given the time-sensitive nature of this issue in the context of year-end reporting. If you have any questions regarding this letter, please do not hesitate to contact us.

Sincerely,

Mike Monahan

Senior Director, Accounting Policy

A handwritten signature in black ink, appearing to read "M Monahan", written in a cursive style.

November 15, 2023

Mr. Dale Bruggeman, Chair
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners

Re: INT 23-04T: Life Reinsurance Liquidation Questions

Dear Mr. Bruggeman:

Lincoln Financial Group (“Lincoln”) appreciates the opportunity to submit comments on the proposed INT 23-04T: Life Reinsurance Liquidation Questions (the “INT”), which was exposed for comment on October 25, 2023 with comments due on November 15, 2023. We would like to express our gratitude to the NAIC staff and regulators for their prompt attention to this issue and consideration of our comments.

The American Council of Life Insurers, of which we are a member, has submitted comments on the INT, that we agree with and support. We’d like to take the opportunity to provide additional commentary with respect to Issue 4 on admissibility – specifically as relates to amounts held in trust and claims receivables.

The INT as currently drafted states that “Given the uncertainty of the reinsurance recoverables, reporting entities shall nonadmit all amounts recoverable from a life insurer in liquidation”. However, we believe that reinsurance recoverables that represent assets held in trust and claims receivable have a significant degree of certainty associated with them and, therefore, should be admissible.

Amounts held in trust are representative of assets held as collateral with respect to coinsured reserves. In accordance with the NAIC Credit for Reinsurance Model Law, the trust agreements provide that “if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation or liquidation, and “if the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy claims of the U.S. ceding insurers of the grantor of the trust, the assets or any part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.” Although the reinsurance has been terminated and reserve credit may no longer be taken, the ceding companies are the beneficiaries of the trusts in this case; therefore, the assets will be distributed to them. As such, we believe the assets held in trust are recoverable and therefore a receivable representing the market value of the assets should be an admitted asset.

Claims receivables represent paid claims incurred before the reinsurance contract cancellation due from the reinsurer to the ceding companies under the reinsurance treaties. These claims are still owed to the ceding companies and will be paid out through the liquidation process once policies and procedures for the Proof of Claims process are established. The INT Issue 3, as currently drafted, validates that SSAP 61R is the guidance applicable to the measurement of reinsurance recoverables. It suggests that claims

receivables should be reported on asset page line 16.1 – Amounts Recoverable from Reinsurers, which we agree with. However, we do not object to the possibility that this could be reported as an Aggregate write-in. In accordance with SSAP 61R, reinsurance recoverable amounts on paid or unpaid claims should be analyzed for collectability. We don't believe any changes to this established guidance are necessary. The collectability analysis, which takes all known facts and circumstances into account, results in appropriate impairment charges, and provides the best estimate of recoverable amounts at a given point in time.

With respect to Lincoln's own facts and circumstances and based on the information provided to date from the Receivership and Court in the ongoing U.S.-based reinsurer liquidation (liquidation order effective September 30, 2023), we anticipate that a percentage of the claims receivable amount will be paid out through the liquidation. As such, an impairment charge for the uncollectible amount has been recorded. The impairment analysis is updated on a quarterly basis and additional charges will be taken if necessary as we receive additional information related to collectability. Given the timely monitoring of the receivable amounts for impairment based on information provided directly from the Receivership and Court, non-admission of the balances in their entirety would be unnecessarily punitive. Therefore, such amounts should be admissible up to the amount deemed to be collectible in accordance with the established guidance in SSAP 61R. Insurers could be required to disclose their calculation and supporting documentation with their domestic regulator.

In summary, we recommend that the guidance should explicitly specify that secured receivables (e.g., by funds held in trust) are admitted to the extent such trust funds are sufficient. For amounts not otherwise secured, it is appropriate to account for the wide diversity in facts and circumstances and permit prudent regulation by companies' states of domicile. Therefore, we recommend that claims and other receivables be subject to the impairment analysis prescribed by SSAP 61R and admitted to the extent deemed collectible based on known facts and circumstances of the liquidation.

We appreciate the Working Group's time and consideration with respect to our comments. If you have any questions, please contact me or Roman Gabriel, Senior Vice President, Head of Government Relations, at roman.gabriel@lfg.com.

Sincerely,

Adam Cohen

Adam Cohen
Senior Vice President, Chief Accounting Officer

Adam.Cohen@lfg.com
484-883-5839

November 15, 2023

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

RE: INT 23-04T - Life Reinsurance Liquidation Questions

Dear Mr. Bruggeman,

Nationwide appreciates the opportunity to comment on the exposure draft of Interpretation 23-04T – Life Reinsurance Liquidation Questions. We offer the following comments with respect to the request for comments on the admissibility of reinsurance recoverables highlighted in paragraph 18 of the exposure draft:

Issue 4 – Admissibility of Reinsurance Recoverables

18. Given the uncertainty of the reinsurance recoverables, reporting entities shall nonadmit all amounts recoverable from a life reinsurer in liquidation.

Nationwide supports the admissibility of receivables related to the liquidation of reinsurers held at the amount expected to be recovered from the reinsurer's estate (i.e., less estimates for unrecoverable amounts), concurring with rationale outlined in the ACLI Interested Parties comment letter on INT 230-04T, dated November 15, 2023.

Additionally, we believe the facts and circumstances regarding trust assets supporting reinsurance recoverables require separate consideration for admissibility. Supplementing the rationale outlined in the ACLI letter, Nationwide believes that, at a minimum, the value of trust assets supporting reinsurance recoverables should be considered an admissible reinsurance recoverable due to the following:

- The trust agreements are specifically established with the stated sole purpose of securing the trust grantor's (reinsurer's) obligations to the trust beneficiary (ceding insurer/reporting entity), i.e., securing the reporting entity's recoverable interest.
- If the trust agreement themselves, which are still in effect, provide a unilateral right to the beneficiary to terminate the trust agreement and receive the assets, any reinsurance recoverable held by the ceding entity should be admitted at the fair value of the trust assets held, up to the amount of the recoverable from the reinsurer. It is unlikely that this amount will not be recovered by the reporting entity.
- Penalizing ceding insurers by non-admitting trust assets initially used to back ceded reserves with a reinsurer (prior to termination) under receivership would call into question the utilization of a trust under Appendix A-785, *Credit for Reinsurance*. The requirements for trust agreements to qualify for reinsurance credit outlined under Appendix A-785 are extensive with regards to the acceptable categories of assets that can be held in a trust and legal rights of those assets. The beneficiaries of the trusts in this case are the ceding

companies; therefore, the assets will be distributed to them, in accordance with A-785. We believe the guidance should explicitly specify that receivables secured by funds held in trust are admitted to the extent such trust funds meet accounting requirements as established in securing reinsurance obligations under A-785.

- Information used to estimate the amount recoverable includes: 1) an evaluation of the sufficiency of trust assets held which is verifiable and reliably measured, and 2) to the extent the fair value of trust assets is insufficient to cover the expected recoverable, an evaluation of information independently provided by the Receiver or Trustee to determine a recoverable amount.

In support of admitting reinsurance recoverables backed by trust assets, we concur with the suggested modifications to paragraph 18 included within the ACLI comment letter on INT 23-04T, dated November 15, 2023.

Respectively,

James D. Benson

James D. Benson
Senior Vice President, Enterprise Controller and Chief Accounting Officer
Nationwide