

**Statutory Accounting Principles (E) Working Group
Hearing Agenda
December 18, 2020
10:00 a.m. – 11:00 p.m. CT**

ROLL CALL

Dale Bruggeman, Chair	Ohio	Judy Weaver	Michigan
Carrie Mears / Kevin Clark, Co-Vice Chairs	Iowa	Doug Bartlett	New Hampshire
Richard Ford	Alabama	Bob Kasinow	New York
Kim Hudson	California	Melissa Greiner	Pennsylvania
Kathy Belfi / William Arfanis	Connecticut	Jamie Walker	Texas
Dave Lonchar	Delaware	Doug Stolte / David Smith	Virginia
Eric Moser	Illinois	Amy Malm	Wisconsin
Caroline Fletcher / Stewart Guerin	Louisiana		

NAIC Support Staff: Julie Gann, Robin Marcotte, Jim Pinegar, Fatima Sediqzad, Jake Stultz

Note: This meeting may be recorded for subsequent use.

REVIEW OF COMMENTS ON EXPOSED ITEMS

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2020-24 INT 20-10 (Julie)	Reporting Nonconforming Credit Tenant Loans (CTLs)	1 – INT 20-10	Comments Received	Industry LBSWG - 1

Summary:

A related agenda item 2020-24 Accounting and Reporting of Credit Tenant Loans was originally drafted in June 2020 in response to a Valuation of Securities (E) Task Force referral regarding the accounting and reporting of nonconforming credit tenant loans (CTLs). The issue originated as certain CTLs, which did not meet the criteria as a “conforming” CTLs detailed in the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*, had been incorrectly captured in Schedule D-1 – Long-Term Bonds.

After a review of the situation, the agenda item was exposed in July 2020 with two potential options. The first option was to reaffirm the reporting of conforming CTLs in scope of SSAP No. 43R—*Loan Backed and Structured Securities* and on Schedule D-1 but to clarify the reporting of nonconforming CTLs on either Schedule B as a mortgage loan or on Schedule BA as an other invested asset. The second option was to classify all CTLs on Schedule BA as an other invested asset. This option was presented as it would prevent the need for a structural analysis in determining whether the “conforming” criteria was present in determining the correct SSAP and reporting location.

Comments were received during the exposure period and discussed during the Nov. 12 virtual meeting. Those comments requested both conforming and nonconforming CTLs be captured in scope of SSAP No. 43R and reported on Schedule D-1. These comments highlighted that with the current Schedule D-1/SSAP No. 43R project, it may be premature to conclude the appropriate schedule and requiring movement at this time may result with subsequent schedule changes once the Schedule D-1/SSAP No. 43R project is finalized.

After considering these comments, the Working Group voted to permit nonconforming CTLs to remain on Schedule D-1 but noted that those securities should not be afforded better reporting privileges than conforming CTLs. As such, since conforming CTLs are not permitted to be reported with CRP ratings as NAIC designations (they are not filing exempt), the Working Group noted that only nonconforming CTLs that file with the NAIC SVO and receive an SVO-assigned designation shall be permitted to be reported on Schedule D-1.

Due to questions received after the Working Group meeting, particularly from insurance companies with nonconforming CTLs that have historically reported on Schedule B or BA (and not on Schedule D-1) who had concerns that they would have to file and reclassify their securities, the Working Group agreed to issue an interpretation to clarify the limited-time guidance.

The tentative *INT 20-10: Reporting Nonconforming Credit Tenant Loans (CTLs)*, which was exposed via evote on Nov. 18, 2020, clarifies the action of the Nov. 12 meeting. This INT details a time limited exception that nonconforming CTLs can continue to be reported on Schedule D-1 if they obtain an SVO-assigned NAIC designation. This provision is noted as an exception to the *Policy Statement on Coordination of the AP&P Manual and the P&P Manual*, as the Policy Statement is explicit that an NAIC designation does not determine reporting schedule. This INT also clarifies that conforming CTLs shall continue to be reported on Schedule D-1 with an SVO-assigned NAIC designation and that nonconforming CTLs that were previously reported on a different schedule (Schedule B or Schedule BA) shall remain on the prior schedule. The tentative INT was proposed to be in effect through the 3rd quarter of 2021 to encourage discussions on the Schedule D-1/43R project to conclude on this issue.

Industry Lease-Backed Securities Working Group:

Per prior information received, this group includes representatives from the following firms: TIAA/Nuveen, Catholic Order of Foresters, CGA Capital, CTL Capital, Mesirow Financial, and Waterway Capital.

We have reviewed the minutes from the November 12th meeting of the Statutory Accounting Principles Working Group, and the Interpretation, INT 20-10, prepared by staff summarizing the conclusion that was reached in that meeting on the reporting of “nonconforming CTLs” (agenda item 2020-24). (For reference, we have attached an excerpt from the minutes to this letter.)

Based on our review, we note the following:

- The Interpretation correctly states the “the Working Group deferred final guidance on the reporting of nonconforming CTLs...as the Working Group has a separate project to assess investments that are captured on Schedule D-1. With this project it was identified that it would be undesirable to require an investment that is currently being reported on Schedule D-1 to be moved to a different schedule if there was the potential for that investment to subsequently qualify for Schedule D-1”.

In addition, with regard to the filing of existing transactions on investors books for the current calendar year, the Interpretation correctly states that “Nonconforming CTLs that have previously been reported on Schedule D-1 may continue to be reported on Schedule D-1 if they receive an SVO-assigned NAIC designation”.

- The minutes include the requirement for “all nonconforming CTLs to be filed immediately with the SVO [in order] to remain on Schedule D-1.....If the nonconforming CTLs are not filed or have not received an NAIC SVO designation before the March 1, 2021 filing date, the securities shall be reported on Schedule BA.”

However, we seek clarification on several issues:

- 1.) Based on the above, it seems clear that while no final decision is being made at this time, notwithstanding that some “nonconforming CTLs” – namely those that do not receive an SVO-assigned NAIC designation -- may be moved to Schedule BA for some interim period pending the outcome of the Schedule D-1 project (formerly

the “43R Project”), that to the extent that so-called “nonconforming CTLs” are ultimately determined to be Schedule D-1 eligible bonds, they would then revert to Schedule D-1 as filing exempt securities if they have received an eligible CRP rating.

- 2) Not explicitly discussed in the November 12th meeting was the RBC charge to be assigned to those securities previously reported on Schedule D-1 and subsequently moved to BA. The Interpretation states that “these [BA] CTLs shall not be reported with a credit-rating provider (CRP) determined NAIC designation.” Presumably, based on this interpretation, those securities which are moved from Schedule D-1 to Schedule BA would receive a 30% RBC charge – equivalent to defaulted debt.

In addition, the Interpretation also states that “if an SVO-assigned designation cannot be obtained for any reason, which includes situations in which the SVO determines that it cannot provide an NAIC designation.....the investment shall be reported on Schedule BA”.

Read literally, this raises the possibility that these performing assets could receive a 30% capital charge – equivalent to defaulted debt – for any number of reasons, including an inability on the part of investors to meet the filing deadline -- or simply the inability of the SVO to get to certain transactions by the March 1st deadline. This would be unfairly punitive to a performing asset class, and patently unfair to insurance company investors who have been reporting these transactions as Schedule D-1 investments in good faith for years.

- 3.) With regard to timing, we note that the SVO just posted – on December 4, 2020 – its filing instructions for these transactions. The instructions are for Conforming CTLs (not Nonconforming CTLs, for which no current form exists) run to eight pages and include the requirement to provide the SVO with all the major legal documents related to a transaction, including appraisals, environmental reports, etc. – a document package that could run to hundreds of pages of legal and other documents. For many investors with old deals on their books, these documents may be stored off-site, and even if available, are often not in electronic form. It may not be possible for investors to compile and make copies of and submit all these documents in the short time available. Our group has received many inquiries from investors who have not been following the CTL discussion closely, and who are confused about exactly what they are required to do – even as to what constitutes a “nonconforming CTL”.

We note further that in the November 12 meeting, Chairman Fry made the comment that “It’s important that these [nonconforming CTLs] don’t get put on BA and have a 30% capital charge put on them – I don’t think we’re recommending that.”

In a recent conversation we had with Chairman Fry, he suggested that an alternative to this outcome would be to move the non-designated transactions to Schedule BA, but that they would continue to receive their bond equivalent capital charges based on their current CRP ratings.

We would ask the Working Group to consider the following:

- 1.) That the final decision as to the appropriate accounting and reporting requirements for the “nonconforming CTL” transactions will be included in and made part of the Schedule D-1 Project (formerly the “43R Project”) and that to the extent that so-called “nonconforming CTLs” are ultimately determined to be Schedule D-1 eligible bonds, they would then revert to Schedule D-1 as filing exempt securities if they have received an eligible CRP rating.
- 2.) To amend the Interpretation to specify that those transactions which are re-classified to Schedule BA for the current reporting year be allowed to be reported using their bond-equivalent capital charges based on their current CRP ratings, pending the final outcome of the Schedule D-1 project.
- 3.) Extending the December 31st deadline for investors to submit these securities to the SVO,

We would ask the Working Group to consider amending the Interpretation to reflect the foregoing points.

Realizing that approval of the current language in the Interpretation may occur via an “e-mail vote”, there is limited opportunity for discussion or for us to raise this issue with the members of the Working Group. However, our goal – as always – is to make sure that the system operates as fairly and transparently as possible for all participants, and to avoid creating confusion in the markets. We would hope that the members of the Working Group would have an opportunity to discuss our comments in advance of a final approval vote on the “Interpretation”.

We thank you for considering our comments.

Recommended Action:

NAIC staff recommends that the Working Group adopt the exposed INT 20-10 without revisions.

The following points address the three requests detailed within the Industry Lease-Backed Securities Working Group letter:

1. **Comment Request:** That the final decision as to the appropriate accounting and reporting requirements for the “nonconforming CTL” transactions will be included in and made part of the Schedule D-1 Project (formerly the “43R Project”) and that to the extent that so-called “nonconforming CTLs” are ultimately determined to be Schedule D-1 eligible bonds, they would then revert to Schedule D-1 as filing exempt securities if they have received an eligible CRP rating.

Response: The decision on whether securities are ultimately permitted filing exempt treatment (meaning, they can be reported with a CRP rating) is governed by the Valuation of Securities (E) Task Force. The Working Group decision to permit nonconforming CTLs to remain on Schedule D-1 until the conclusion of the “Schedule D-1/SSAP No. 43R” project was contingent that nonconforming CTLs receive an SVO-assigned NAIC designation. This is because conforming CTLs are also not permitted as filing exempt and must receive an SVO-assigned designation. It is noted that if the requirement for an SVO-assigned designation does not exist, these nonconforming CTL investments – which do not have the structural safeguards as a conforming CTL – would be afforded better reporting treatment than conforming CTLs. (With such provisions, it would be more advantageous for a company to acquire a nonconforming CTL than a conforming CTL.) **Regardless, nothing about the exposed INT precludes further discussion of whether an investment should be permitted as filing exempt. However, such discussions would be required to occur at the Valuation of Securities (E) Task Force. As such, there are no revisions that can be incorporated to the INT to address this comment.**

2. **Comment Request:** To amend the Interpretation to specify that those transactions which are reclassified to Schedule BA for the current reporting year be allowed to be reported using their bond-equivalent capital charges based on their current CRP ratings, pending the final outcome of the Schedule D-1 project.

Response: It is not recommended that the Working Group consider revisions to permit CRP ratings on Schedule BA if an SVO-assigned designation cannot be assigned. **Similar to the response on comment 1, the intent is not to permit more-advantageous reporting treatment for nonconforming CTLs over conforming CTLs.** If revisions are made in response to this request, the guidance would allow “cherry-picking” of reporting options. For example, if the holder believes the SVO may not agree with the rating provided by a CRP, or that they would not have suitable documentation to provide the SVO, the holder would be able to move the investment to Schedule BA and report with the CRP rating (for improved RBC) without receiving an SVO-assigned designation. (As noted in the response to comment 1, an SVO-assigned designation is required for conforming CTLs.) It would also allow for more favorable RBC treatment compared to insurers that have appropriately reported nonconforming CTLs on Schedule B or BA historically.

The original recommendation offered during the Fall National Meeting was to move the nonconforming investment to Schedule BA, with a limited-time provision to permit CRP ratings. This would have been an exception to existing guidance as only investments with SVO-assigned designations are permitted improved RBC treatment on Schedule BA. Due to a change adopted by the VOSTF in April 2019, except for a limited number of grandfathered securities, CRP ratings are no longer permitted to influence RBC on Schedule BA.

Regardless, this suggested BA option was not supported by the LBSWG during the Fall National Meeting, and instead the focused request was to retain Schedule D-1 reporting. With the Working Group providing a one-time allowance to retain on Schedule D-1, the condition was set that the nonconforming CTLs must be assigned an SVO-assigned designation. With this action, reporting CRP ratings on Schedule BA for improved RBC was no longer permissible as that would provide inconsistent reporting options which provide favorable RBC treatment to nonconforming CTLs on an elective basis by the holder. **As such, for holders of these nonconforming CTLs, the guidance permits Schedule D-1 reporting as a limited time exception if an SVO-assigned designation has been obtained. If an SVO-designation is not received, then the investment shall be reported on Schedule BA and it is not permitted to be reported on the Schedule BA reporting line as if it had received an SVO-assigned designation for improved RBC.** (As a reminder, if the investment is reported on the line with an NAIC designation that is not received by the SVO, there is no RBC benefit. Those investments receive a 30% RBC charge.)

3. Comment Request: Extending the December 31st deadline for investors to submit these securities to the SVO.

Response: NAIC SAPWG and SVO staff are not familiar with any communication that has identified a Dec. 31, 2020 submission deadline. Rather, the filing must occur in time to receive an SVO-assigned designation prior to the filing of the statutory filing statements (March 1, 2021). As detailed in communication distributed by the SVO on Dec. 2, 2020, it is requested that holders of these nonconforming CTLs submit the filings as soon as possible to the SVO. Although the SVO will work to address the filings as timely as possible, industry needs to recognize that if a multitude of submissions are received in January/February 2021, then it will not be feasible for the SVO to review and provide SVO-assigned designations to all of the submissions. Industry is recommended to communicate with the SVO the number of the investments they intend to file as soon as possible to allow the SVO to plan accordingly. **In summary, since there is no deadline in the INT to submit information on these securities to the SVO, no revisions are needed to the INT to address this comment.**

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
INT 20-11 (Robin)	Extension of Ninety-Day Rule for the Impact of 2020 Hurricanes, California Wildfires and Iowa Windstorms	2 – INT 20-11	Pending	Pending

Summary:

On Nov. 8, 2020, the Working Group exposed a tentative interpretation (INT 20-11) provides a 60-day extension from the ninety-day rule for uncollected premium balances, bills receivable and amounts for uncollected premium balances, bills receivable for premiums and amounts due from agents and policyholders required per *SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers*, paragraph 9. This INT is specific to the following identified disasters:

- Hurricane Isaias, Hurricane Laura, Hurricane Sally, Hurricane Delta, Hurricane Zeta and Hurricane Eta and the related tropical storms or flooding from these six named hurricanes.
- California Wildfires which were declared a disaster on or after August 1, 2020, some of which are ongoing during the fourth quarter 2020.
- Iowa straight-line windstorms impacted policies in the counties in which a state of disaster was declared in August 2020.

Hearing Agenda

This temporary relaxation of the 90-day rule, for directly impacted policies, is similar to previous extensions that have been granted for other major national storms and hurricanes. For this interpretation, as it encompasses a number of different disasters, the dates of emergency declarations vary. Therefore, for ease of application, the sixty-day extension applies to all uncollected premiums more than 90 days overdue from impacted policies at year-end 2020 and expires prior to the first quarter 2021 financial statements.

INT is designed to expire Feb. 28, 2021; therefore, this exception will be nullified in advance of the first quarter 2021 reporting.

Interested Parties' Comments: Pending.

Recommended Action:

A recommendation will be provided once the exposure period has expired.

The comment letters are included in Attachment 3.

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Interpretation of the Statutory Accounting Principles Working Group

INT 20-10: Reporting Nonconforming Credit Tenant Loans

INT 20-10 Dates Discussed

Email Vote to Expose November 18, 2020;

INT 20-04 References

SSAP No. 43R—Loan-Backed and Structured Securities

NAIC Policy Statement on Coordination of the Accounting Practices and Procedures Manual and the Purposes and Procedures Manual of the Investment Analysis Office

INT 20-10 Issue

1. During the Statutory Accounting Principles (E) Working Group’s conference call on November 12, 2020, the Working Group discussed and deferred final decision on inconsistencies in the reporting of “nonconforming” credit tenant loans (CTLs) currently reported on Schedule D-1, and directed reporting exceptions for year-end 2020. Due to subsequent questions, this interpretation has been issued to detail the provisions provided and clarify the reporting of CTLs in the year-end 2020 statutory financial statements.

INT 20-10 Discussion

2. As detailed in agenda item 2020-24, some reporting entities have reported CTLs that do not qualify as “conforming” CTLs per the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) on Schedule D-1: Long-Term Bonds. CTLs that do not qualify under the P&P Manual structural requirements are noted as “nonconforming” CTLs. During the November 12 discussion, the Working Group deferred final guidance on the reporting of nonconforming CTLs. This deferral was supported as the Working Group has a separate project to assess investments that are captured on Schedule D-1. With this project, it was identified that it would be undesirable to require an investment that is currently being reported on Schedule D-1 to be moved to a different schedule if there was potential for that investment to subsequently qualify for Schedule D-1.

3. Although the Working Group deferred final conclusion on the reporting of nonconforming CTLs, it was identified that the long-standing guidance detailed in the P&P Manual only permits CTLs that met certain structural criteria, which is verified by the SVO, to be reported on Schedule D-1. Under this existing guidance, these conforming CTLs are also prohibited from using CRP ratings in determining NAIC designation but are required to utilize SVO-assigned NAIC designations obtained after the SVO verifies compliance with the structural elements. As such, to ensure that nonconforming CTLs are not provided more favorable provisions than conforming CTLs that meet structural requirements, the Working Group confirmed that only CTLs that are filed with the NAIC SVO and receive an SVO-assigned NAIC designation shall be reported on Schedule D-1. Key aspects noted in this direction:

- a. This direction is a limited-time exception to the *NAIC Policy Statement on Coordination of the Accounting Practices and Procedures Manual and the Purposes and Procedures Manual of the Investment Analysis Office* and shall not be inferred to other investments. Pursuant to the noted Policy Statement, obtaining an NAIC designation does not change an investment’s applicable SSAP, annual or quarterly statement reporting schedule, or override other SSAP guidance required for the investment to be an admitted asset. Although nonconforming CTLs will be permitted to be reported on Schedule D-1 upon receipt of an SVO-assigned NAIC designation (even without

meeting structural requirements), this is strictly a limited-time exception to prevent reporting schedule changes while a larger project on the scope of Schedule D-1 is considered.

- b. The requirement to obtain an SVO-assigned NAIC designation for Schedule D-1 applies to all investments that represent credit tenant loans. It is not permissible for a reporting entity to classify an investment, which meets the characteristics of a credit tenant loan, as a different type of investment (for example, as a form of leased-backed security) for purposes of reporting the investment on Schedule D-1 without an SVO-assigned NAIC designation.
- c. The Working Group direction intends to only address nonconforming CTLs that have previously been reported on Schedule D-1 although they did not comply with the requirements of the P&P Manual. This direction is not intended to require, or permit, nonconforming CTLs that have been previously reported as mortgage loans (on Schedule B – Mortgage Loans) or as other invested assets (on Schedule BA- Other Long Term Invested Assets) to be moved to a different reporting schedule. Nonconforming CTLs that have previously been reported on Schedule B or BA shall remain on that reporting schedule for the duration of this INT.

INT 20-10 Consensus

4. The Working Group reached a **tentative** consensus to provide a limited time exception allowing nonconforming CTLs to continue to be reported on Schedule D-1 provided they receive an SVO-assigned NAIC designation. With the issuance of this **tentative** interpretation, the Working Group confirmed the provisions and limitations detailed in paragraph 3, and summarized the resulting provisions below:

- a. CTLs that qualify per the provisions of the P&P Manual are considered to be “conforming” CTLs and shall be reported on Schedule D-1 with the NAIC designation obtained from the SVO.
- b. CTLs that do not qualify per the provisions of the P&P Manual to be “conforming” CTLs shall follow the accounting and reporting provisions detailed in the following subparagraphs. These CTLs are noted as “nonconforming CTLs.”
 - i. Nonconforming CTLs that have previously been reported on Schedule D-1 may continue to be reported on Schedule D-1 for year-end 2020 if they receive an SVO-assigned NAIC designation. If an SVO-assigned NAIC designation cannot be obtained for any reason, which includes situations in which the SVO determines that it cannot provide an NAIC designation on the investments, the investment shall be reported on Schedule BA. If reporting on Schedule BA, these CTLs shall not be reported with a credit-rating provider (CRP) determined NAIC designation.
 - ii. Nonconforming CTLs that have been previously reported on a different reporting schedule (e.g., Schedule B or Schedule BA) shall remain on the prior reporting schedule. There is no requirement for reporting entities to pursue SVO-assigned designations for these CTLs.

5. The exceptions granted in this interpretation are applicable for the year-end 2020 statutory financial statements and through the first three quarters of 2021 (expiring formally on Oct. 1, 2021.) The exceptions provided in this INT shall not be interpreted to indicate the likely conclusion of the Working Group in determining the appropriate reporting schedule for nonconforming CTLs. All reporting entities shall be prepared to make adjustments to comply with the reporting schedule utilized for nonconforming CTLs, which may be Schedule BA, upon final conclusion by the Working Group.

INT 20-10 Status

6. On November 18, 2020, the Statutory Accounting Principles (E) Working Group exposed this interpretation to provide a limited-time exception on the reporting of nonconforming CTLs.
7. Further discussion is planned

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Interpretation of the Statutory Accounting Principles Working Group

INT 20-11: Extension of Ninety-Day Rule for the Impact of 2020 Hurricanes, California Wildfires and Iowa Windstorms

INT 20-11 Dates Discussed

December 8, 2020

INT 20-11 References

SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers

INT 20-11 Issue

1. In the second half of 2020, the United States was impacted by several hurricanes in the Gulf Coast region, California Wildfires, and Iowa had a series of catastrophic straight-line windstorms. These events have resulted in loss of life and property, the extent to which is currently not known. State regulators and insurers are taking action to provide policyholders affected by these disasters with the support and understanding that is deserved.

2. This issue concerns consideration of allowing a fourth quarter 2020 temporary extension of the 90-day rule for uncollected premiums to insurers for policies in U.S. jurisdictions where a state of emergency was declared as identified below. This interpretation is intended to only cover impacted policies in areas for which a state of emergency has been declared by either the states, U.S. territories or federal government and which is noted on the Federal Emergency Management Agency (FEMA) website for the identified disasters as described below:

- a. Hurricane Isaias, Hurricane Laura, Hurricane Sally, Hurricane Delta, Hurricane Zeta and Hurricane Eta and the related tropical storms or flooding from these six named hurricanes.
- b. California Wildfires which were declared a disaster on or after August 1, 2020, some of which are ongoing during the fourth quarter 2020.
- c. Iowa straight-line windstorms impacted policies in the counties in which a state of disaster was declared in August 2020.

INT 20-11 Discussion

3. The Working Group reached a tentative consensus for a one-time optional extension of the ninety-day rule for uncollected premium balances, bills receivable for premiums and amounts due from agents and policyholders required per SSAP No. 6, paragraph 9, as described within this paragraph.

- a. The exception applies to policies in effect as of the declaration of a state of emergency for the disasters described in paragraph 2.
- b. Insurers with policies in areas impacted by the disasters described in paragraph 2, which would be overdue by greater than ninety days (90) on December 31, 2020, may wait until February 28, 2021, before nonadmitting premiums receivable from those policies.
- c. Existing impairment analysis remains in effect for these affected policies.

4. The Working Group noted that a temporary sixty day (60) extension had previously been provided for other nationally significant disasters including *INT 18-04: Extension of Ninety-Day Rule for the Impact of Hurricane Florence and Hurricane Michael*; *INT 17-01: Extension of Ninety-Day Rule for the Impact of Hurricane Harvey*,

INT 20-11**Interpretations**

Hurricane Irma and Hurricane Maria; INT 13-01: Extension of Ninety-Day Rule for the Impact of Hurricane/Superstorm Sandy; and INT 05-04: Extension of Ninety-day Rule for the Impact of Hurricane Katrina, Hurricane Rita and Hurricane Wilma. For this interpretation, as it encompasses a number of different disasters, the dates of emergency declarations vary. Therefore, for ease of application, the sixty-day extension applies to all uncollected premiums more than 90 days overdue from impacted policies at year-end 2020 and expires prior to the first quarter 2021 financial statements.

5. Due to the short-term nature of the applicability of this extension, which expires February 28, 2021, this interpretation will be publicly posted on the Statutory Accounting Principles (E) Working Group web page. This interpretation will be automatically nullified on March 1, 2021, and will be included as a nullified INT in Appendix H – Superseded SSAPs and Nullified Interpretations in the “As of March 2021” *Accounting Practices and Procedures Manual*.

INT 20-11 Status

6. Further discussion is planned.

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The Lease-Backed Securities Working Group

To: Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group

Re: Minutes of the November 12th Meeting of the Statutory Accounting Principals Working Group & Interpretation 20-10: Accounting and Reporting of Non-conforming Credit Tenant Loans

Dear Mr. Bruggeman:.....

We have reviewed the minutes from the November 12th meeting of the Statutory Accounting Principles Working Group, and the Interpretation, INT 20-10, prepared by staff summarizing the conclusion that was reached in that meeting on the reporting of “non-conforming CTLs” (agenda item 2020-24). (For reference, we have attached an excerpt from the minutes to this letter.)

Based on our review, we note the following:

- The Interpretation correctly states the “the Working Group deferred final guidance on the reporting of non-conforming CTLs...as the Working Group has a separate project to assess investments that are captured on Schedule D-1. With this project it was identified that it would be undesirable to require an investment that is currently being reported on Schedule D-1 to be moved to a different schedule if there was the potential for that investment to subsequently qualify for Schedule D-1”.

In addition, with regard to the filing of existing transactions on investors books for the current calendar year, the Interpretation correctly states that “Nonconforming CTLs that have previously been reported on Schedule D-1 may continue to be reported on Schedule D-1 if they receive an SVO-assigned NAIC designation”.

- The minutes include the requirement for “all nonconforming CTLs to be filed immediately with the SVO [in order] to remain on Schedule D-1.....If the nonconforming CTLs are not filed or have not received an NAIC SVO designation before the March 1, 2021 filing date, the securities shall be reported on Schedule BA.”

However, we seek clarification on several issues:

- 1.) Based on the above, it seems clear that while no final decision is being made at this time, notwithstanding that some “nonconforming CTLs” – namely those that do not receive an SVO-assigned NAIC designation -- may be moved to Schedule BA for some interim period pending the outcome of the Schedule D-1 project (formerly the “43R Project”), that to the extent that so-called “nonconforming CTLs” are ultimately determined to be Schedule D-1 eligible bonds, they would then revert to Schedule D-1 as filing exempt securities if they have received an eligible CRP rating.
- 2) Not explicitly discussed in the November 12th meeting was the RBC charge to be assigned to those securities previously reported on Schedule D-1 and subsequently moved to BA. The Interpretation states that “these [BA] CTLs shall not be reported with a credit-rating

The Lease-Backed Securities Working Group

provider (CRP) determined NAIC designation.” Presumably, based on this interpretation, those securities which are moved from Schedule D-1 to Schedule BA would receive a 30% RBC charge – equivalent to defaulted debt.

In addition, the Interpretation also states that “if an SVO-assigned designation cannot be obtained for any reason, which includes situations in which the SVO determines that it cannot provide an NAIC designation.....the investment shall be reported on Schedule BA”.

Read literally, this raises the possibility that these performing assets could receive a 30% capital charge – equivalent to defaulted debt – for any number of reasons, including an inability on the part of investors to meet the filing deadline -- or simply the inability of the SVO to get to certain transactions by the March 1st deadline. This would be unfairly punitive to a performing asset class, and patently unfair to insurance company investors who have been reporting these transactions as Schedule D-1 investments in good faith for years.

- 3.) With regard to timing, we note that the SVO just posted – on December 4, 2020 – its filing instructions for these transactions. The instructions are for Conforming CTLs (not Non-Conforming CTLs, for which no current form exists) run to eight pages and include the requirement to provide the SVO with all the major legal documents related to a transaction, including appraisals, environmental reports, etc. – a document package that could run to hundreds of pages of legal and other documents. For many investors with old deals on their books, these documents may be stored off-site, and even if available, are often not in electronic form. It may not be possible for investors to compile and make copies of and submit all these documents in the short time available. Our group has received many inquiries from investors who have not been following the CTL discussion closely, and who are confused about exactly what they are required to do – even as to what constitutes a “non-conforming CTL”.

We note further that in the November 12 meeting, Chairman Fry made the comment that “It’s important that these [non-conforming CTLs] don’t get put on BA and have a 30% capital charge put on them – I don’t think we’re recommending that.”

In a recent conversation we had with Chairman Fry, he suggested that an alternative to this outcome would be to move the non-designated transactions to Schedule BA, but that they would continue to receive their bond equivalent capital charges based on their current CRP ratings.

We would ask the Working Group to consider the following:

- 1.) That the final decision as to the appropriate accounting and reporting requirements for the “non-conforming CTL” transactions will be included in and made part of the Schedule D-1 Project (formerly the “43R Project”) and that to the extent that so-called “nonconforming CTLs” are ultimately determined to be Schedule D-1 eligible bonds, they would then revert to Schedule D-1 as filing exempt securities if they have received an eligible CRP rating.

The Lease-Backed Securities Working Group

- 2.) To amend the Interpretation to specify that those transactions which are re-classified to Schedule BA for the current reporting year be allowed to be reported using their bond-equivalent capital charges based on their current CRP ratings, pending the final outcome of the Schedule D-1 project.
- 3.) Extending the December 31st deadline for investors to submit these securities to the SVO,

We would ask the Working Group to consider amending the Interpretation to reflect the foregoing points.

Realizing that approval of the current language in the Interpretation may occur via an “e-mail vote”, there is limited opportunity for discussion or for us to raise this issue with the members of the Working Group. However, our goal – as always – is to make sure that the system operates as fairly and transparently as possible for all participants, and to avoid creating confusion in the markets. We would hope that the members of the Working Group would have an opportunity to discuss our comments in advance of a final approval vote on the “Interpretation”.

We thank you for considering our comments.

John Garrison,

On behalf of the Lease-Backed Securities Working Group

Attachment:

From the minutes for the November 12, 2020 SAP Working Group Meeting:

“Mr. Fry made a motion, seconded by Mr. Clark, to require all nonconforming CTLs to be immediately filed with the SVO to remain on Schedule D-1. However, Schedule BA reporting will be required for those who are unable or will not file. Charles Therriault (NAIC) stated that while the SVO would consider an existing nationally recognized statistical rating organization’s (NRSRO’s) report for nonconforming CTLs, the SVO has not developed a methodology for assigning designations to such items. Mr. Bruggeman stated the motion included all the following elements: 1) confirm that conforming CTLs will remain in scope of SSAP No. 43R and reported on D-1; 2) direct a referral to the SVO to request information on the residual risk percentage permitted to be considered a conforming CTL; and 3) permit nonconforming CTLs filed with the SVO that receive an SVO-assigned NAIC designation to be reported on Schedule D-1. If the nonconforming CTLs are not filed or have not received a NAIC SVO designation before the March 1, 2021, filing date, the securities shall be reported on Schedule BA. The motion passed unanimously.”