Attachment 5

Statutory Accounting Principles (E) Working Group
November 10, 2021 – Interim Call
Comment Letters Received

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October 22, 2021

Mr. Dale Bruggeman, Chairman
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RE: Ref #2021-15, SSAP No. 43R-Residual Tranches

Dear Mr. Bruggeman:

Interested parties ("IPs") appreciate the opportunity to comment on the Statutory Accounting Principles Working Group (the Working Group) proposal Ref #2021-15, SSAP No. 43R-Residual Tranches ("the proposal").

The proposal would require certain modifications to SSAP No. 43R to report non-rated residual tranches or interests, currently in the scope of SSAP No. 43R, on Schedule BA as Other Long-Term Invested Assets at lower of cost or market. Also proposed is that a footnote be added to further define "non-rated residual tranches or interests" as follows:

> "Reference to "non-rated residual tranches or interests" intends to capture securitization tranches, beneficial interests, interests of structured finance investments, as well as other structures captured in scope of this statement, that reflect loss layers without contractual interest or principal payments. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. Although payments to holders can occur throughout an investment's duration (and not just at maturity), such instances still reflect the residual amount permitted to be distributed after other holders have received contractual interest and principal payments."

IPs have the following comments related to the proposal:

1) IPs agree that residual tranches or interests in scope of SSAP No. 43R, which meet the definition in the proposed footnote, should be reported on Schedule BA at lower of cost or market ("LOCOM").

   Some companies already report such investments on Schedule BA and others report them on Schedule D measured at either LOCOM or amortized cost. We believe the proposed change in reporting would be cost justified as it would not be overly burdensome to insurers and would provide consistent reporting by insurers. It also would provide additional information for regulators to continue to evaluate such investments.

2) IPs believe an effective date of 12/31/2021 is achievable with regard to rating all residual tranches in the scope of SSAP No. 43R as NAIC 6. However, for various reasons noted below, IPs do not believe it would be feasible to transfer those residual tranches currently reported on Schedule D to Schedule BA for year-end 2021 reporting.

   In conversations with NAIC staff and regulators, while working on the Working Group's Bond Project (formerly known as the 43R Project), IPs have been asked if adopting the proposal effective 12/31/2021 is feasible and also if reporting such interests on Schedule BA separately depending on the underlying collateral (e.g., fixed income, equity, real estate, etc.; same categories that currently exist on Schedule BA) would be feasible beginning at year-end 2022.

   IPs believe that the 12/31/2021 reporting is not feasible as it would be operationally difficult to change processes in a timely manner prior to year-end reporting, including any vendor modifications that would be required, as well as address downstream implications such as impacts on cash flow statements and investment schedule rollforwards, etc., to ensure there are no unintended consequences related to the various statutory blanks and related processes. IPs support making such a change beginning at year-end 2022 and support the more granular reporting requested (i.e., based on underlying collateral) as it will allow the requisite amount of time to address those operational items discussed above. IPs also support allowing those companies that can address their processes prior to year-end 2021, the opportunity to transfer the residual tranches in scope from Schedule D to BA in 2021. It is important that the Working Group make companies aware that (1) the transfer of residual tranches to Schedule BA is optional for year-end 2021/quarterly 2022 and (2) if they choose to transfer the residual tranches to Schedule BA at year-end 2021, they would also be required to transfer them at year-end 2022 into the more granular categories discussed above based on underlying collateral (e.g., equities, fixed income, real estate, etc.). For those companies that decide to transfer the residual tranches in 2021, Blanks instructions would be needed well in advance of year-end to provide clarity related to the following:

   - The specific section and subsection of Schedule BA where the residual tranches and interests in scope of this proposal would be reported.
   - How the various existing columns of Schedule BA would be used for such investments. For example, Schedule BA "cost" would be used to report "amortized cost" for such investments.
   - Communicating that LOCOM would be applied to such investments and clarifying where both amortized cost and fair value would be reported on the existing Schedule BA.

3) IPs recommend certain modifications to the proposed footnote and changes to SSAP No. 43R as follows:

    - Eliminate the reference to "non-rated" in paragraphs 26a, b, and c and the proposed footnote. IPs recommend eliminating the reference to non-rated as its definition may be interpreted inconsistently by various insurers (e.g., rated by the NAIC, rated by an NRSRO, insurer-rated such as NAIC 5 or 6?). We believe the intent is to exclude from Schedule D reporting, those investments that are typically not rated in the investment markets because their characteristics are not debt-like (e.g., no contractual payments of principal and/or interest) and thus we believe the inclusion of only the criteria "no contractual payments of principal and/or interest" will capture all investments intended to be captured.

    - IPs recommend removing the term "structured finance investments" from the footnote as it is an undefined term and is not clear to IPs at to what it is intended to capture. We believe retaining the references to "securitization tranches and beneficial interests" is adequate and would be understood to include all those investments intended by the regulators to be in the scope of the proposal.

    - IPs recommend modifying the footnote to include those investments "…that reflect loss layers without contractual interest or principal payments" to those investments "…that reflect loss layers without any contractual payments, whether principal, interest, or both". This proposed change would be more complete and "all-encompassing".

    - Ensure LOCOM is clarified to be "lower of **amortized cost** or market". The use of the term "amortized cost" versus "cost" more accurately reflects the type of investment and is more aligned with the use of the term in existing SSAP No. 43R.

    The following proposal reflects IPs comments discussed above as related to the footnote:

    "Reference to "residual tranches or interests" intends to capture securitization tranches and beneficial interests as well as other structures captured in scope of this statement, that reflect loss layers without any contractual payments, whether principal, interest, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. Although payments to holders can occur throughout an investment's duration (and not just at maturity), such instances still reflect the residual amount permitted to be distributed after other holders have received contractual interest and principal payments."

We would be happy to discuss any of our recommendations above and appreciate the continued dialogue related to this topic and the overall Bond Project among the Working Group, NAIC Staff, Regulators, and IPs.

* * *

Thank you for considering interested parties' comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell

Rose Albrizio

cc: NAIC staff
Interested parties

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October 1, 2021

Mr. Dale Bruggeman, Chairman
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RE: Items Exposed for Comment by the Statutory Accounting Principles Working Group on August 26, 2021 with Comments due October 1, 2021

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the exposure drafts released for comment by the NAIC Statutory Accounting Principles (E) Working Group (the Working Group). We offer the following comments:

Ref #2021-11 SSAP No. 43R

The Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed the following:

1. Revisions to *SSAP No. 43R—Loan-Backed and Structured Securities*, as illustrated in the proposal, to explicitly identify the SVO-Identified CTLs that are in scope of SSAP No. 43R. These revisions also propose to delete the examples of "other loan-backed and structured securities" in paragraph 27.b. Comments are requested if this deletion is perceived to remove investments from the scope of SSAP No. 43R.

2. Request for comment on the Working Group's intent to nullify INT 20-10. (This INT nullifies automatically on Oct. 1, 2021, but it is anticipated that the explicit nullification will identify the revisions adopted by the VOSTF for historical reference.)

3. Disposal of agenda item 2020-24: Accounting and Reporting of Credit Tenant Loans without statutory revisions. This was the agenda item in response to the initial VOSTF referral and is no longer applicable with the adopted Task Force edits to clarify that CTLs are mortgage loans in scope of SSAP No. 37.

Interested parties have no comment on this item.

Ref #2021-12 NAIC Accounting Practices and Procedures Manual Editorial and Maintenance Update

The Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed editorial revisions to the Preamble, *Appendix A-001: Investments of Reporting Entities, Appendix C Actuarial Guidelines – Appendices, Appendix C-2 Interpretations of the Emerging Actuarial Issues (E) Working Group,* and *SSAP No. 21R —Other Admitted Assets*, as illustrated in the proposal.

Interested parties have no comment on this item.

Ref #2021-13 SSAP No. 55: Salvage - Legal Recoveries

The Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and took the following actions:

1. Exposed revisions to *SSAP No. 55—Unpaid Claims, Losses and Loss Adjustment Expenses*, as illustrated in the proposal, to clarify that salvage and subrogation recoveries should be reported as a reduction of losses and/or loss adjusting expense (LAE reserves), depending on the nature of the costs being recovered. In addition, updates to the disclosure in paragraph 17.h. were exposed.

2. Directed NAIC staff to coordinate develop conforming revisions to the Annual Statement instructions.

3. Directed notification of the exposure to the following actuarial Task Forces:
    a. Casualty Actuarial and Statistical (C) Task Force,
    b. Life Actuarial (A) Task Force, and
    c. Health Actuarial (B) Task Force

Interested parties support this proposal.

Ref #2021-14 Policy Statement Terminology Change – Substantive & Nonsubstantive

The Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed revisions to the *NAIC Policy Statement on Maintenance of Statutory Accounting Principles*, as illustrated in the proposal and suggested by the Financial Condition (E) Committee in their Aug. 14, 2021, referral, to alter the terminology used when discussing types of statutory accounting revisions.

After some discussion and consideration of the proposal and its impact on the implementation of new statutory accounting standards, interested parties concluded that the distinction between substantive (proposed to change to "development of new SSAPs or New SAP Concepts in an

Existing SSAPs") and non-substantive (proposed to change to "Development of SAP Clarifications") is at times confusing and that there would be more transparency in the development process if the distinction were eliminated. Instead, we recommend that all new standards be handled similarly but that the effective date for each new standard be determined by evaluating the complexity of implementation (e.g., the extent that systems changes are required) and the availability of data to insurers to implement the new standard. This determination would be made as the new standard is being completed and with feedback from industry as to the time needed to adopt the new requirements.

INT 21-02T: Extension of Ninety-Day Rule for the Impact of Hurricane Ida

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. For policies in effect as of the declaration of a state of emergency by either the states, U.S. territories or federal government, as described in paragraph 1, insurers with policyholders in areas impacted by Hurricane Ida, its aftermath and the related flooding may wait 150 days (90 days per existing guidance, plus a 60-day extension), not to extend beyond Jan. 23, 2022, before nonadmitting premiums receivable from those directly impacted policyholders as required per SSAP No. 6, paragraph 9. b. Existing impairment analysis remains in effect for these affected policies.

The Working Group noted that a temporary sixty day (60) extension had previously been provided for other nationally significant disasters including INT 20-11: Extension of Ninety-Day Rule for the Impact of 2020 Hurricanes, California Wildfires and Iowa Windstorms, 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, 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.

This interpretation will be automatically nullified on Jan. 24, 2022 and will be included as a nullified INT in Appendix H – Superseded SSAPs and Nullified Interpretations in the "As of March 2022" *NAIC Accounting Practices and Procedures Manual*.

Interested parties support this proposal.

Ref #2019-24 SSAP No. 71: Levelized Commissions

The Working Group exposed Issue Paper No. 16x: Levelized Commissions to document the historical discussion and final action adopted through the Executive Committee/Plenary.

Interested parties have no further comment on this item.

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Thank you for considering interested parties' comments. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,

D. Keith Bell   Rose Albrizio

cc: NAIC staff
      Interested parties