NAIC National Association of Insurance Commissioners

Date: 7/21/20

Conference Call

ACCOUNTING PRACTICES AND PROCEDURES (E) TASK FORCE

Wednesday, July 22, 2020
11:30 a.m. – 1:00 p.m. ET / 10:30 a.m. – 12:00 p.m. CT

ROLL CALL

Kent Sullivan, Chair	Texas	Chlora Lindley-Myers	Missouri
Trinidad Navarro, Vice Chair	Delaware	Bruce R. Ramge	Nebraska
Jim L. Ridling	Alabama	Chris Nicolopoulos	New Hampshire
Lori K. Wing-Heier	Alaska	Marlene Caride	New Jersey
Elizabeth Perri	American Samoa	Russell Toal	New Mexico
Alan McClain	Arkansas	Linda A. Lacewell	New York
Ricardo Lara	California	Mike Causey	North Carolina
Andrew N. Mais	Connecticut	Jon Godfread	North Dakota
Karima M. Woods	District of Columbia	Jillian Froment	Ohio
David Altmaier	Florida	Glen Mulready	Oklahoma
Dafne M. Shimizu	Guam	Jessica K. Altman	Pennsylvania
Dean L. Cameron	Idaho	Elizabeth Kelleher Dwyer	Rhode Island
Stephen W. Robertson	Indiana	Larry D. Deiter	South Dakota
Doug Ommen	Iowa	Hodgen Mainda	Tennessee
Vicki Schmidt	Kansas	Todd E. Kiser	Utah
Sharon P. Clark	Kentucky	Michael S. Pieciak	Vermont
James J. Donelon	Louisiana	Scott A. White	Virginia
Eric A. Cioppa	Maine	Mike Kreidler	Washington
Gary Anderson	Massachusetts	James A. Dodrill	West Virginia
Anita G. Fox	Michigan	Mark Afable	Wisconsin
Steve Kelley	Minnesota	Jeff Rude	Wyoming

NAIC Support Staff: Robin Marcotte

AGENDA

1. Consider Financial Condition (E) Committee direction to update *INT 20-08: COVID-19 Premium Refunds, Rate Reductions and Policyholder Dividends—Jamie Walker (TX)*
    - Draft Revised INT 20-08 — Attachment One
    - Comments — Attachment Two

2. Discuss Any Other Matters Brought Before the Task Force—*Jamie Walker (TX)*

3. Adjournment

1. Consider Financial Condition (E) Committee direction to update *INT 20-08: COVID-19 Premium Refunds, Rate Reductions and Policyholder Dividends*

Summary

On the July 1, 2020, the Financial Condition (E) Committee received and adopted the Accounting Practices and Procedures (E) Task Force report of interim adoptions of the Statutory Accounting Principles (E) Working Group and the Blanks (E) Working Group, except for *INT 20-08: COVID-19 Premium Refunds, Rate Reductions and Policyholder Dividends.* INT 20-08 was returned to the Task Force with direction to revise the Interpretation in a way that is still supported by 2/3 of the Task Force members and with the request that the Task Force consider incorporating flexibility in reporting. Reporting entities (led by APCIA) are seeking alternative treatment to allow underwriting expense treatment for reporting entities which made either manual rate filing or policy endorsements which for voluntary payments to policyholders, in response to decreased activity for COVID-19. While the reporting entities which are seeking this treatment are in the minority, they wanted to be permitted to follow this reporting approach without having to seek a permitted practice in multiple states.

A summary of the prior votes for the initial adoption of INT 20-08:

- On June 15, INT 20-08 was adopted by the Statutory Accounting Principles (E) Working Group with a 2/3rd majority vote as required by *NAIC Policy Statement on Maintenance of Statutory Accounting Principles* for interpretations that provide new guidance or provide temporary overrides to existing guidance. The Policy Statement requires a minimum number of Working Group members voting (67%) and a super-majority supporting adoption for these interpretations to be adopted. These vote requirements are in place to permit immediate adoption and application of statutory accounting guidance, most often in response to catastrophes or other situations that require a quick response.

- Per the policy statement, these interpretations can be adopted, overturned, amended or deferred only by a two-thirds majority of the Task Force membership (ex. 28 out of 42 members). This has not occurred previously with any interpretation.

- On June 22, INT 20-08 was adopted by 2/3 majority of the APPTF with 28 members voting in favor, 9 members dissenting and one member abstaining. With this vote, INT 20-08 met the two-thirds threshold requirement required by the NAIC Policy Statement on Maintenance of Statutory Accounting Principles.

NAIC staff has drafted tracked updates to the proposed interpretation for Task Force consideration. Key points in the proposed revisions are as follows: ***Task Force draft for discussion - Attachment One***

1. **Premium adjustment as the default method** - Voluntary premium payments are an adjustment to premium unless the reporting entity is applying the limited time COVID-19 relief payment accounting exception (or has a different prescribed or permitted by their state of domicile).
2. **Limited Scope exception to allow underwriting expense reporting** – Applicable only for P&C policies, which prior to June 15, filed manual rate filings or endorsements to allow for discretionary payments to policyholders due to COVID-19 related issues and disclosed the intent to apply expense treatment.
    a. This treatment does not require additional domestic regulator approval however, if a domestic jurisdiction disapproved this treatment, then the limited scope exception would not be permitted.
3. **Disclosure –**
    a. **All -** Requires disclosure of all COVID-19 related payments in **Note 21A Unusual or Infrequent items** by category (refunds, rate reductions, etc.)

b. **Limited Exception** - Requires disclosure of the application of the limited time exception in the similar manner as a prescribed practice. Disclosure shall include the impact on operating ratios caused by use of the limited time exception in Note 1.

4. **Premium Tax** - Strengthens the previously noted guidance that premium taxation is determined in accordance with the laws and administrative rules of the applicable jurisdiction. This interpretation defers to each jurisdiction's premium tax requirements for purposes of determining taxable amounts.
5. **Sunset date -** The INT expires on Jan. 1, 2021

Comments Received - Attachment Two

American Property Casualty Insurance Association (APCIA)

Note that APCIA shared a draft with NAIC staff of their proposed revisions. The draft is very similar to a prior version discussed by the Working Group on May 20. Rather than noting that underwriting expense treatment is an exception, it adds a policyholder benefit issue as if underwriting expense treatment were always an option under SSAP No. 70. This draft is included with the comment letters.

Health industry (Anthem, Inc. UnitedHealthcare (UHC)

We submit these comments on behalf of the undersigned companies, who together provide insurance and health care coverage for millions of Americans, regarding the accounting treatment for refunds of premium to policyholders that are made in response to the COVID-19 pandemic.

Over the last several months, the emergence of the COVID-19 virus has caused well-documented challenges to people, businesses and institutions across national and global health care systems. Among them is the disruption to traditional patterns of delivering health care causing related economic disruption and imbalances to the nation's health care coverage systems. In response to this challenge, the undersigned companies have taken a variety of actions to provide financial relief to our members. Once such action is the issuance of premium refunds, including voluntary refunds not outlined in the policy terms. It is the accounting for such programs of refunds or credits that is the subject of this letter.

As you are aware, we supported the accounting treatment proposed in INT 20-08T, as adopted by the Statutory Accounting Principles Working Group on June 15 and by the Accounting Practices and Procedures Task Force on June 22. The Financial Condition Committee has now asked you to reconsider that accounting guidance, in particular to allow more flexibility with regard to non-premium treatment. We strongly urge that any such "flexibility" be limited to the exception proposed in the June 25, 2020 letter from the APCIA, namely:

> Companies that filed policy endorsements or manual rate filings and disclosed with the relevant states their intention to report their payments to policyholders as expenses before adoption of the INT should treat those payments as other underwriting expenses, while disclosing those payments as required in Issue 5 of the INT. This treatment would apply to all payments made through the end of 2020.

We urge furthermore that the revised interpretation make clear that this exception is being made as an accommodation, to address concerns raised by regulators and members of the property and casualty industry. We are concerned that any ambiguity on this point could create confusion, and resultant adverse consequences, for both insurers and policyholders.

We believe that treating such refunds and credits to policyholders as a reduction in premium is clearly the proper answer from the standpoint of accounting principles. The payments are not being made as the result of an insured loss, and therefore are not claim payments. They are not being made to purchase goods or services, or to pay for the services of the insurer's own employees, and therefore are not general expenses. They are not being made pursuant to some statutory authority on the part of policyholders to tax or assess insurers; therefore, they are not taxes, regulatory fees, or assessments. Neither should they be relegated to an undefined, write-in expense category. We are crediting these amounts to policyholders solely because those same policyholders paid premium to us in the first place, and therefore the payments should be related to premium. We recount this at length because we are troubled by the suggestions that appropriate accounting treatment for purposes of solvency regulation should somehow be overridden by concerns such as maximizing premium tax revenue or facilitating the payment of agents' commissions. We believe that it is imperative first to determine the conceptually appropriate accounting treatment, and then to carve out only such limited exceptions as are deemed necessary to address other regulatory goals.

We wish to point out two issues that could arise from creating ambiguity about whether these payments to policyholders are genuinely returns of premium: one from the insurer's point of view, the other from the policyholder's. Insofar as the insurer is concerned, it must be clear for purposes of the Affordable Care Act's Medical Loss Ratio (MLR) rebate provisions that these payments are a reduction of premium. Otherwise, an insurer may be forced to refund the same premium dollar twice, once through these discretionary refunds and again as an MLR rebate. Clearly, it would be an undesirable outcome from the standpoint of solvency regulation that an insurer should be forced to pay out twice a dollar that it had only received once. If the discretionary refund is accounted for as an administrative expense or miscellaneous write-in item rather than a reduction of premium, it would not be given the correct treatment in the MLR rebate calculation, and the undesirable double-payment could result. Even if the refund is initially accounted for as a reduction of premium, if that treatment is viewed as being at the discretion of the insurer, it could be challenged when the MLR calculation is audited by either state insurance regulators or the Centers for Medicare and Medicaid Services.

Even more of a concern may be the potential impact on policyholders, as regards their income taxation. It is well established that a return of premium is generally not taxable to the policyholder; at most, if the premium payment was a deductible expense for that policyholder, the policyholder would lose that deduction. If the NAIC takes the position that these refunds are not a return of premium, that could add confusion to the policyholders' tax positions. In particular for individual policyholders, for whom the premium payments would typically not be a deductible expense in the first place, this would raise the issue of whether they now have taxable income for federal and/or state income tax purposes. Policyholders would be forced to seek tax advice, or to make a decision on their own as to whether and how to report income from the refund. It is also worth considering whether the payment would be considered income for other purposes, e.g., if an individual policyholder is eligible for some form of government financial assistance, could this payment be deemed income that would reduce or eliminate that eligibility? While we hope that the respective governmental authorities would in each case reach an appropriate conclusion on these issues, we feel that raising the issues in the first place by an ambiguous accounting treatment would create unnecessary uncertainty and burdens for policyholders.

Accordingly, we reiterate our recommendation: that the revised INT make clear that these refunds generally are a return of premium; and that the only exception to that treatment is for the circumstances described in the APCIA's letter, as cited above.

America's Health Insurance Plans (AHIP) and the Blue Cross Blue Shield Association (BCBSA)

On behalf of America's Health Insurance Plans (AHIP) and the Blue Cross Blue Shield Association (BCBSA), we thank you for the opportunity to provide comments regarding the accounting treatment for refunds of premium to policyholders that are made in response to the COVID-19 pandemic. In these difficult times, providing financial relief in the form of voluntary premium refunds is among the variety of proactive measures for the hundreds of millions of members that AHIP and BCBSA members serve.

We laud the NAIC's expeditious efforts through recent collaborative discussions at the Statutory Accounting Principles Working Group (SAPWG), this Task Force and Financial Condition (E) Committee to craft guidance that is flexible for the various ways that insurers report premium refunds, rate reductions and policyholder dividends.

We are writing to express our support of the proposed NAIC staff modifications made to INT 20-08T that are included in the materials for this Task Force's consideration during its upcoming conference call meeting on July 22. We particularly agree with the bifurcated accounting optionality approach for refunds not required under the existing policy terms and the limited time exception for expense reporting as applicable to P&C lines only since underwriting expense treatment is problematic for health products.

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Interpretation of the Statutory Accounting Principles Working Group

INT 20-08: COVID-19 Premium Refunds, Limited-Time Exception, Rate Reductions and Policyholder Dividends

INT 20-08 Dates Discussed

Email Vote to Expose May 5, 2020; May 20, 2020; June 15, 2020

INT 20-08 References

SSAP *No. 5R—Liabilities, Contingencies and Impairments of Assets*
SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items
SSAP No. 53—Property Casualty Contracts—Premiums
SSAP No. 54R—Individual and Group Accident and Health Contracts
SSAP No. 65—Property and Casualty Contracts
SSAP No. 66—Retrospectively Rated Contracts

INT 20-08 Issue

COVID-19

1. A previously unknown virus began transmitting between October 2019 and March 2020, with the first deaths in the U.S. reported in early March 2020. The disease caused by the virus is known as Coronavirus Disease 2019 (COVID-19). Several states and cities have issued "stay home" orders and forced all non-essential businesses to temporarily close. This led to a significant increase in unemployment and the potential permanent closure of many businesses. Total economic damage is still being assessed however the total impact is likely to exceed $1 trillion in the U.S. alone.

Refunds, Rate Reductions and Policyholder Dividends

2. The federal, state or local government orders requiring non-essential workers to "stay home" caused a significant reduction in commercial and non-commercial activity, including automotive usage. Some consumer groups wrote letters and issued press releases calling for insurance premium refunds or pricing decreases, which included specific comments directed toward consumer automotive lines. The comments presumed that the decrease in activity would result in fewer losses.

3. Many insurers began issuing voluntary premium refunds, future rate reductions or policyholder dividends because of the decreased activity. The majority of the refunds were related to automotive lines of business however, some accident and health products also provided payments. Insurers have provided the reductions in a variety of ways. Some of the rate reductions were specific for in-force policies, whereas some of the rate reductions would apply to future policy renewals. Insurers provided unprecedentedly large payments to policyholders in an expedited fashion. These payments were viewed by regulators and insurers as being in the best interests of policyholders.

Voluntary

4. The majority of the refunds or rate reductions are being offered voluntarily and are not amounts required under the policy terms. The aggregate monetary amount of the return of funds is considered materially significant.

Jurisdiction Directed

5. In addition, a few jurisdictions have issued bulletins directing refunds and rate reductions on accident and health insurance and varying lines of property and casualty insurance, including but not limited to: private passenger automobile, commercial automobile, workers' compensation, commercial multiple peril, commercial liability and medical professional liability. In addition, some jurisdictions have indicated support for refunds or rate reductions, but also directed that payment of such amounts require either premium rate filings or policy form amendments.

Accounting Issues

6. This intent of this interpretation is to address questions related to refunds, rate reductions and policyholder dividends in response to the decreased activity related to COVID-19. Because there are a variety of ways that reporting entities are accomplishing a similar objective of returning money or reducing premiums, this interpretation provides guidance on the following issues:

- Issue 1: How to account for refunds not required under the policy terms.
- Issue 2: How to account for refunds required under the policy terms.
- Issue 3: How to account for rate reductions on inforce and renewal business.
- Issue 4: How to account for policyholder dividends.
- Issue 5: Where to disclose refunds, rate reductions and policyholder dividends related to COVID-19 decreases in activity.

INT 20-08 Discussion

7. As an overall guiding principle, the accounting shall follow existing statutory accounting principles and annual statement reporting where feasible with more specific accounting applicable for the issues within this interpretation.

INT 20-08 Consensus

Issue 1: How to Account for Refunds Not Required Under the Policy Terms

~~7.~~8. The Working Group reached a consensus that voluntary refunds, because of decreased activity related to COVID-19 and jurisdiction-directed refunds which are not required by the policy terms, are fundamentally a return of premium. Absent meeting the criteria for the limited time exception to report as an aggregate write in for other underwriting expense as discussed in paragraphs 12-13, s~~S~~uch refunds shall be accounted for as immediate adjustments to premium. The refunds shall be recognized as a reduction to written or earned premium and the unearned premium reserve adjusted accordingly.

~~8.~~9. Refunds shall be recognized as a liability when the definition of a liability in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets* is met. For example, the declaration of a voluntary dividend by the board of directors will trigger liability recognition. In cases where the refunds are directed by a jurisdiction, the SSAP No. 5R definition of a liability shall be used to determine timing of liability recognition.

~~9.~~10. Immediate adjustment to premium is consistent with the existing guidance in *SSAP No. 53—Property Casualty Contracts—Premiums*. SSAP No. 53 guidance requires adjustments to the premium charged for changes in the level of exposure to insurance risk. It is also consistent with the treatment of loss sensitive premium adjustments in *SSAP No. 66—Retrospectively Rated Contracts*. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply.

11. Immediate adjustments to premium for voluntary accident and health premium refunds is also consistent with the guidance in *SSAP No. 54R—Individual and Group Accident and Health Contracts* on contracts subject to redetermination. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply. The liability for voluntary health premium refunds attributable to COVID-19 and which are not required under the policy terms shall be recognized in aggregate write-ins for other liabilities.

Drafting Note: The limited time exception has been scoped to apply to P&C lines only (underwriting expense treatment is problematic for health products).

Limited Time Exception – Expense Reporting

12. Reporting the voluntary or jurisdiction-directed refund as an expense is not consistent with statutory accounting guidance. However, due to the variety of ways that COVID-19 premium reductions were approved by the various jurisdictions, this interpretation grants a limited-time exception to the existing reporting guidance to allow underwriting expense reporting. This limited-time exception applies to property and casualty lines of business in which the reporting entity filed policy endorsements or manual rate filings prior to June 15, 2020 which allow for discretionary payments to policyholders due to the COVID-19 related issues. In these cases, the reporting entities disclosed to the jurisdictions where the policies are written their intention to report their payments to policyholders as expenses. These property and casualty lines of business are permitted to report such policyholder payments as other underwriting expenses. This interpretation intends to be clear that manual rate filings and policy endorsements are not a source of authoritative accounting and this limited-time exception should not be used as an analogy for application to other such filings.

13. Application of this limited-time exception shall also be subject to the additional disclosures provided in Issue 5 below. Reporting the COVID-19 premium reductions as an expense as provided for in this limited-time exception, shall be disclosed as if it were a permitted practice. The reporting entity shall complete the permitted practices disclosures required by *SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures* in annual statement Note 1 and any other disclosures pursuant to Issue 5 of this interpretation. This interpretation provides a limited-time exception for reporting premium refunds, and does not require domiciliary jurisdiction approval as a permitted practice if the requirements of this interpretation are met. However, disclosure in Note 1 in a manner consistent with permitted practices is required because of the impact on premium which is a key measurement metric for insurers. If a domestic jurisdiction disapproved reporting as an underwriting expense, the limited-time exception does not apply.

(Drafting note: This Note 1 treatment is analogous to the disclosure of the exercise of commissioner discretion as a prescribed or permitted practice as provided for in SSAP No. 62R — Property and Casualty Reinsurance for the Asbestos and Pollution Contracts – Counterparty Reporting Exception. In addition, other places in the AP&P Manual require Note 1 disclosure such as the guidance non tabular discounting in SSAP No. 65–Property and Casualty Contracts - Disclosure of whether the reporting entity is applying non-tabular discounting based upon a jurisdiction prescribed or permitted practice.)

~~12. Reporting the voluntary or jurisdiction-directed refund as an expense is not consistent with statutory accounting guidance and would inappropriately present the expense ratios in the statutory accounting financial statements. Reporting the refund as an expense, or any other method besides a decrease to premium, would be considered a permitted or prescribed practice and shall be disclosed as required by *SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures*:~~

~~a. Reporting the refunded amounts as a miscellaneous underwriting expense is not consistent with the underwriting expense description. This reporting option is inconsistent with the characterization of the amount as a return of premium.~~

~~b. Reporting the refunds as premium balances charged off (e.g., bad debt expense) is inconsistent with guidance in SSAP No. 53, paragraph 14, on earned but uncollected premium. It is also inconsistent with the annual statement instructions as the amount is not an uncollectible amount, but rather a voluntary choice by the reporting entity to reduce the amount charged.~~

Issue 2: How to Account for Refunds Required Under the Policy Terms

~~13.~~14. While most of the premium refunds are voluntary or jurisdiction-directed and not required under the policy terms, some policies have terms that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses. If the policy terms change the amount charged, existing guidance in SSAP No. 53, SSAP No. 54R or SSAP No. 66 continues to apply:

a. SSAP No. 53 provides guidance for policies in which the premium amount is adjusted for changes in the level of exposure to insurance risk. This is often seen in commercial lines of business such as workers' compensation. The guidance notes that audits often occur after the policy term or mid-term in the policy. SSAP No. 53 refers to the adjustment to premium (either due to the customer or to the insurer) as earned but unbilled (EBUB) premium. SSAP No. 53 requires such adjustment to premium to be made immediately either through written premium or earned premium. SSAP No. 53 also requires recognition of the related liabilities and expenses such as commissions and premium taxes based on when the premium is earned.

b. SSAP No. 54R provides guidance for policies subject to redetermination in which the premium is subject to adjustments by contract terms. This is commonly seen in federal and state groups. The guidance notes that estimates are based on experience to date and premium adjustments are estimated for the portion of the policy that has expired. Accrued return premiums are recorded as a liability with a corresponding entry to written premium. Refunds required under the policy terms would continue to be reported as retrospective or redetermination premium liabilities if applicable.

c. SSAP No. 66 provides guidance for policies whose terms or legal formulas determine premium based on losses. SSAP No. 66 references other applicable statements based on contract type for the initial accrual of premium. Estimates of premium adjustments are accrued based on activity to date and result in immediate adjustments to premium. SSAP No. 66 guidance specifies the corresponding annual statement reporting lines for different entity types.

Issue 3: How to Account for Rate Reductions

~~14.~~15. Some reporting entities are offering rate reductions instead of premium refunds. Some of these rate reductions provide one-time price decreases to future payments on in-force policies. Other reporting entities have provided offers of rate reductions on future renewals. Some of the offers for future rate reductions are only applicable to inforce policyholders as of a specified date. Some reporting entities have offered one-time rate reductions for future renewals for both existing and new policyholders for 2020.

a. Rate reductions on in-force business, shall be recognized as immediate adjustments to premium.

b. Rate reductions on future renewals shall be reflected in the premium rate charged on renewal. This is because it is outside of the policy boundary to require the accrual before contract inception. While the amount of future rate reduction can be estimated, it is not a change to existing policy terms and policyholders are not obligated to renew at the reduced rate, therefore, payment of the amount is avoidable. Such amounts shall be disclosed as discussed in Issue No. 5.

Issue 4: How to Account for Policyholder Dividends

~~15.~~16. *SSAP No. 65—Property and Casualty Contracts,* paragraph 46 requires that dividends to policyholders immediately become liabilities of the reporting entity when they are declared by the board of directors and shall be recorded as a liability.

~~16.~~17. The Working Group noted that policyholder dividends are typically only provided on participating policies or policies issued by non-stock companies, such as mutual entities and other corporate entity types in which profits are shared with policyholders.

~~17.~~18. Research during the development of this item identified that a small number of jurisdictions have legal restrictions which only allow policyholder dividends to be provided after the expiration of the policy period for which the dividend was earned. This interpretation only addresses policyholder dividends which are permitted by the applicable jurisdiction.

~~18.~~19. The property and casualty annual statement blank provides specific reporting lines for policyholder dividends including, but not limited to a liability line and a line in the income statement and statement of cash flow. For those entities whose policies are participating or whose corporate shell type and/or membership structure allow for policyholder dividends, the accounting for policyholder dividends is unchanged by this interpretation

~~19.~~20. This interpretation does not change the policyholder dividend disclosure or reporting but provides additional guidance that such policyholder dividends issued in response to COVID-19 decreases in activity shall also be disclosed as discussed in Issue 5.

Issue 5: Where to Disclose Refunds, Rate Reductions and Policyholder Dividends Related to COVID-19 Decreases in Activity

~~20.~~21. There are various places in the notes to the statutory annual statement where disclosures of various aspects of premium refunds, premium reductions or policyholder dividends are required. This interpretation does not recommend changes to those existing disclosures. This interpretation does, however, ~~recommend~~ provides~~a~~ consistent annual statement disclosure for all such amounts to allow for comparable disclosures.

~~21.~~22. *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items* requires disclosure of the nature and financial effects of each unusual or infrequent event or transaction. Gains or losses of a similar nature that are not individually material shall be aggregated. This disclosure shall include the line items which have been affected by the event or transaction considered to be unusual and/or infrequent. This disclosure is currently required to be reported in annual statement Note 21A. (Reporting entities shall maintain jurisdiction-specific information to be made available upon request from department of insurance or revenue regulators.)

23. To allow for aggregate, consistent assessment, the Working Group came to a consensus that all COVID-19 inspired premium refunds, rate reductions, and policyholder dividends shall be disclosed as unusual or infrequent items in annual statement Note 21A. This disclosure is in addition to other existing disclosures on various items related to the policyholder payments.

a. For clarification, refunds required under policy terms in-force prior to the federal declaration of emergency for the COVID-19 pandemic as discussed in paragraph 13 (i.e., policies that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses) are not required to be aggregated in disclosures of COVID-19 inspired premium refunds, rate reductions and policyholder dividends.

b. Policies whose terms were modified after the declaration of emergency in response to COVID-19 are required to disclose the COVID-19 inspired premium refunds, rate reductions and policyholder dividends.

24. All reporting entities shall provide the following information regarding their COVID-19 premium refunds, rate reductions and policyholder dividends as unusual or infrequent items:

a. A description of the accounting practice.

b. The amount of COVID-19 payments to policyholders by major category (premium refunds, rate reductions or policyholder dividends).

25. Reporting entities that utilize the limited-time exception expense reporting described in paragraphs 12 and 13 shall additionally provide the following to illustrate in annual statement Note 1 the impact of reporting the payments as an aggregate underwriting expense rather than a return of premium as if it were a permitted practice. As detailed in paragraph 13 domiciliary jurisdiction approval as a permitted practice is not required to apply the limited time exception. Disclosure is required because of the impact on premium which is a key measurement metric for insurers:

a. A statement that the accounting practice is a limited-time exception to recognize such amounts as an aggregate underwriting expense rather than an return of premium. This disclosure shall include the financial statement reporting line(s) predominantly impacted by the limited-time exception. (Although most practices impact net income or surplus, direct reference to those lines should be avoided. The intent is to capture the financial statement line(s) reflecting the practice which ultimately impacts net income or statutory surplus.) Additionally, a reference to Note 1 shall be included in the individual notes to financial statements impacted by the limited time exception as applicable.

b. The monetary effect on revenue and expense.

c. If a reporting entity's risk-based capital would have triggered a regulatory event had it not used the limited-time exception, that fact should be disclosed.

d. The reasons the reporting entity elected to use the limited-time exception rather than as a return of premium.

e. Note 1 shall also identify the impact of not reporting such amounts as a return of premium on the operating percentages and other percentages reported in the Five Year Historical Data Exhibit and disclose the percentages/ratios as reported and as adjusted to report payments to policyholders as a return of premium.

i. The operating ratios to be reported include:

1. Premium earned,

2. Losses incurred,

3. Loss expenses incurred,

4. Other underwriting expenses incurred, and

5. Net underwriting gain or loss.

ii. The other ratios to be reported include:

1. Other underwriting expenses to net premiums written,

2. Losses and loss expenses incurred to premiums earned, and

3. Net premiums written to policyholder's surplus.

26. If a domiciliary jurisdiction's prescribed or permitted practices allow voluntary COVID-19 payments which are either consistent with the limited time exception or different from a reduction in premium, the reporting entity shall complete the disclosures in Note 1 which identify that a permitted or prescribed practice was applied and in paragraphs 24 and 25 of this Interpretation. The disclosure in paragraph 25 in such instances shall reflect the impact on the ratios in paragraph 25 compared to the default premium treatment.

~~INT 20-08 Consensus~~

~~22. The Working Group reached a consensus to prescribe statutory accounting guidance for insurance reporting entities providing refunds in response to COVID-19. Pursuant to this consensus:~~

~~a. Reporting entities that provide voluntary or jurisdiction-directed refunds which are not required under the policy terms shall follow the guidance in paragraphs 8-12 of this interpretation. This guidance stipulates that such refunds shall be recognized as a reduction of premium. Refunds that are recognized in a different manner (e.g., as an expense), shall be considered a permitted or prescribed practice pursuant to SSAP No. 1.~~

~~b. Reporting entities that provide refunds in accordance with insurance policy terms shall follow paragraph 13 of this interpretation. This guidance indicates that existing statutory accounting principles in SSAP No. 53, SSAP No. 54R or SSAP No. 66 shall be followed as applicable.~~

~~c. Reporting entities that provide rate reductions shall follow paragraph 14 of this interpretation. This guidance provides direction based on whether the rate reduction is for in-force or future policies.~~

~~d. Reporting entities that provide policyholder dividend shall follow the existing guidance for policyholder dividends which is summarized in paragraphs 15-19 and in addition, shall complete the disclosures described in paragraphs 20-22.~~

~~e. This interpretation, paragraphs 20-22 indicates that reporting entities shall continue to comply with all statutory accounting disclosure requirements, but also requires that all premium refunds, rate reductions and/or policyholder dividends provided because of the decreased activity due to COVID-19 shall be aggregated and reported in Note 21A as unusual or infrequent items.~~

Does Not Address Premium Taxation

27. The Working Group noted that premium taxation requirements vary by jurisdiction and this interpretation is not intended to address premium taxation in any jurisdiction. Taxation is determined by the jurisdiction where the premium is written/returned to the policyholder according to the laws, regulations and general administrative rules applicable to all insurance enterprises licensed in a ~~of~~ that jurisdiction. This interpretation defers to each jurisdiction's premium tax requirements for purposes of determining taxable amounts.

Effective Date

~~23.~~28. The limited time exception allowance for expense reporting for endorsements and rate filings prior to June 15, 2020, applies only to these specific issues arising from COVID-19 and will sunset January 1, 2021. This interpretation will be automatically nullified on January 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 20-08 Status

~~24.~~29. Further discussion is planned.

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Accounting Practices and Procedures (E) Task Force
July 22 Conference Call
Comment Letters

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Interpretation of the Statutory Accounting Principles Working Group

INT 20-08: COVID-19 Premium Refunds, Rate Reductions, Policyholder Benefit Payments and Policyholder Dividends

INT 20-08 Dates Discussed

Email Vote to Expose May 5, 2020; May 20, 2020; June 15, 2020

INT 20-08 References

SSAP *No. 5R—Liabilities, Contingencies and Impairments of Assets*
SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items
SSAP No. 53—Property Casualty Contracts—Premiums
SSAP No. 54R—Individual and Group Accident and Health Contracts
SSAP No. 65—Property and Casualty Contracts
SSAP No. 66—Retrospectively Rated Contracts
SSAP No. 70- Allocation of Expenses

INT 20-08 Issue

COVID-19

1. A previously unknown virus began transmitting between October 2019 and March 2020, with the first deaths in the U.S. reported in early March 2020. The disease caused by the virus is known as Coronavirus Disease 2019 (COVID-19). Several states and cities ~~have~~ issued "stay home" orders and forced all non-essential businesses to temporarily close. This led to a significant increase in unemployment and the potential permanent closure of many businesses. Total economic damage is still being assessed however the total impact is likely to exceed $1 trillion in the U.S. alone.

Premium Refunds, Rate Reductions, Policyholder Benefits and Policyholder Dividends

2. The federal, state or local government orders requiring non-essential workers to "stay home" caused a significant reduction in commercial and non-commercial activity, including automotive usage. Some consumer groups wrote letters and issued press releases calling for insurance premium refunds or pricing decreases, which included specific comments directed toward consumer automotive lines. The comments presumed that the decrease in activity would result in fewer losses.

3. ~~Many~~Recognizing the extraordinary economic hardship experienced by their policyholders, the reduction in auto accident frequency, and the resulting decline in economic activity, many insurers ~~began issuing~~designed various programs to provide a portion of the favorable experience realized from reduced accident frequency to policyholders. The underlying objective of the programs were to provide temporary relief to customers during the period that various government-imposed "stay home" orders remained in effect. Those government orders resulted in a significant decline in general economic activity and a significant reduction in accident frequency below historic levels. The methods utilized to deliver temporary relief to policyholders include voluntary premium refunds, future rate reductions, policyholder benefit payments (in certain instances, based on manual rule filings or policy endorsements) or policyholder dividends ~~because~~. Most of the ~~decreased activity. The majority of the refunds were related~~relief programs relate to automotive lines of business. Insurers have provided the ~~reductions~~policyholder relief in a variety of ways~~. Some of the rate reductions were specific~~, including direct relief payments for in-force policies, ~~whereas some of the~~as well as relief programs designed as rate reductions ~~would apply~~to be applied to future policy renewals.

Voluntary

4. The majority of the ~~refunds or rate reductions~~relief programs are being offered voluntarily and are not amounts required under ~~the~~existing policy terms. The aggregate monetary amount of the ~~return of funds~~relief programs is considered materially significant.

Jurisdiction Directed

5. In addition, a few jurisdictions have issued bulletins directing refunds and rate reductions on accident and health insurance and varying lines of property and casualty insurance, including but not limited to: private passenger automobile, commercial automobile, workers' compensation, commercial multiple peril, commercial liability and medical professional liability. In addition, some jurisdictions have indicated support for refunds or rate reductions, but also directed that payment of such amounts require either premium rate filings or policy form amendments.

Accounting Issues

6. ~~This~~The intent of this interpretation is to address ~~questions related to~~the accounting and reporting for premium refunds, rate reductions, policyholder benefit payments and policyholder dividends ~~in response to the decreased activity related~~attributable to COVID-19~~. Because there are a variety~~ impact on the private passenger and commercial auto insurance business. Due to the severity of ~~ways~~the pandemic and the speed at which it emerged, different insurers designed and implemented policyholder relief programs that ~~reporting entities are accomplishing~~are fundamentally different, even if designed to achieve a similar objective. The intent of ~~returning money or reducing premiums, this~~this guidance is to ensure that for accounting purposes, the programs are accounted for in accordance with their design and execution, and, separately, to provide policyholders and other stakeholders with information about the size and scope of the programs and the disclosures that should be required. This interpretation provides guidance on the following issues:

- Issue 1: How to account for refunds not required under the existing policy terms.
- Issue 2: How to account for refunds required under the existing policy terms.
- Issue 3: How to account for rate reductions on ~~inforce~~in-force and renewal business.
- Issue 4: How to account for policyholder benefit payments under modified policy terms.
- Issue 5: How to account for policyholder dividends.
- Issue ~~5~~6: Where to disclose premium refunds, rate reductions, policyholder benefit payments and policyholder dividends related to COVID-19 decreases in activity.

INT 20-08 Discussion

7. As an overall guiding principle, the accounting shall follow existing statutory accounting principles and annual statement reporting where feasible, consistent with the design and execution of the programs. Insurers that filed policy endorsements or manual rule filings and disclosed with the relevant states their intention to report their payments to policyholders as expenses, before adoption of the INT, should treat those payments in accordance with Issue 4 below, while disclosing those payments as required in Issue 6 of the INT.

Issue 1: How to Account for Refunds Not Required Under the Policy Terms

8. The Working Group reached a consensus that voluntary premium refunds because of decreased activity related to COVID-19 and jurisdiction-directed premium refunds ~~which~~that are not required by the policy terms~~, are fundamentally a return of premium. Such refunds~~ shall be accounted for as immediate adjustments to premium. The premium refunds shall be recognized as a reduction to written or earned premium and the unearned premium reserve adjusted accordingly.

9. ~~Refunds~~Premium refunds shall be recognized as a liability when the definition of a liability in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets* is met. For example, the declaration of a voluntary dividend by the board of directors will trigger liability recognition. In cases where the refunds are directed by a jurisdiction, the SSAP No. 5R definition of a liability shall be used to determine timing of liability recognition.

10. Immediate adjustment to premium is consistent with the existing guidance in *SSAP No. 53—Property Casualty Contracts—Premiums*. SSAP No. 53 guidance requires adjustments to the premium charged for changes in the level of exposure to insurance risk. It is also consistent with the treatment of loss sensitive premium adjustments in *SSAP No. 66—Retrospectively Rated Contracts*. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply.

11. Immediate adjustments to premium for voluntary accident and health premium refunds is also consistent with the guidance in *SSAP No. 54R—Individual and Group Accident and Health Contracts* on contracts subject to redetermination. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply. The liability for voluntary health premium refunds attributable to COVID-19 and which are not required under the policy terms shall be recognized in aggregate write-ins for other liabilities.

~~12. Reporting the voluntary or jurisdiction-directed refund as an expense is not consistent with statutory accounting guidance and would inappropriately present the expense ratios in the statutory accounting financia statements. Reporting the refund as an expense, or any other method besides a decrease to premium, would be considered a permitted or prescribed practice and shall be disclosed as required by *SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures*:~~

a. ~~Reporting the refunded amounts as a miscellaneous underwriting expense is not consistent with the underwriting expense description. This reporting option is inconsistent with the characterization of the amount as a return of premium.~~

b. ~~Reporting the refunds as premium balances charged off (e.g., bad debt expense) is inconsistent with guidance in SSAP No. 53, paragraph 14, on earned but uncollected premium. It is also inconsistent with the annual statement instructions as the amount is not an uncollectible amount, but rather a voluntary choice by the reporting entity to reduce the amount charged.~~

Issue 2: How to Account for Refunds Required Under the Policy Terms

~~13.~~12. While most of the premium refunds are voluntary or jurisdiction-directed and not required under the policy terms, some policies have terms that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses. If the policy terms change the amount charged, existing guidance in SSAP No. 53, SSAP No. 54R or SSAP No. 66 continues to apply:

a. SSAP No. 53 provides guidance for policies in which the premium amount is adjusted for changes in the level of exposure to insurance risk. This is often seen in commercial lines of business such as workers' compensation. The guidance notes that audits often occur after the policy term or mid-term in the policy. SSAP No. 53 refers to the adjustment to premium (either due to the customer or to the insurer) as earned but unbilled (EBUB) premium. SSAP No. 53 requires such adjustment to premium to be made immediately either through written premium or earned premium. SSAP No. 53 also requires recognition of the related liabilities and expenses such as commissions and premium taxes based on when the premium is earned.

b. SSAP No. 54R provides guidance for policies subject to redetermination in which the premium is subject to adjustments by contract terms. This is commonly seen in federal and state groups. The guidance notes that estimates are based on experience to date and premium adjustments are estimated for the portion of the policy that has expired. Accrued return premiums are recorded as a liability with a corresponding entry to written premium. Refunds required under the policy terms would continue to be reported as retrospective or redetermination premium liabilities if applicable.

c. SSAP No. 66 provides guidance for policies whose terms or legal formulas determine premium based on losses. SSAP No. 66 references other applicable statements based on contract type for the initial accrual of premium. Estimates of premium adjustments are accrued based on activity to date and result in immediate adjustments to premium. SSAP No. 66 guidance specifies the corresponding annual statement reporting lines for different entity types.

Issue 3: How to Account for Rate Reductions

~~14.~~13. Some reporting entities are offering rate reductions instead of premium refunds. Some of these rate reductions provide one-time price decreases to future payments on in-force policies. Other reporting entities have provided offers of rate reductions on future renewals. Some of the offers for future rate reductions are only applicable to ~~inforce~~in-force policyholders as of a specified date. Some reporting entities have offered one-time rate reductions for future renewals for both existing and new policyholders for 2020.

a. Rate reductions on in-force business~~,~~ shall be recognized as immediate adjustments to premium.

b. Rate reductions on future renewals shall be reflected in the premium rate charged on renewal. ~~This is because it~~The renewal is outside of the policy boundary ~~to~~and cannot require ~~the~~ accrual before contract inception. While the amount of a future rate reduction can be estimated, it is not a change to existing policy terms and policyholders are not obligated to renew at the reduced rate~~,~~; therefore, payment of the amount is avoidable. Such amounts shall be disclosed as discussed in Issue No. 5.

~~Issue 4~~Issue 4: How to Account for Policyholder Benefit Payments Under Modified Policy Terms (e.g., Manual Rule Filings or Policy Endorsements)

15. In an effort to expedite relief to policyholders, certain insurers filed manual rule filings or policy endorsements to modify the terms of their insurance contracts to allow for the payment of discretionary policy benefits. In these instances, policy endorsements or manual rule filings were determined to be the most efficient method to provide relief to policyholders.

16. The manual rule filings or policy endorsements in paragraph 14 allowed for discretionary benefit payments to policyholders that were not otherwise provided under the contract (e.g., the payment did not result from an indemnifiable loss or a premium adjustment based on changes in insurance risk attributable to a policy change or cancellation) and were stated to be in response to circumstances surrounding COVID-19. The manual rule filings or policy endorsement was utilized to expedite relief to policyholders. These insurers represented in their filings that they would treat these payments as expenses. The manual rule filings or policy endorsements would not impact written premium and, therefore, would not result in adjustments to agent commissions. In determining the appropriate accounting and presentation of discretionary policy benefit payments provided through the manual rule filings or policy endorsements, the following factors should be considered:

a. Accounting for discretionary policy benefits paid in accordance with contract terms modified through a manual rule filing or endorsement authorizing payment to policyholders that are not directly related to a change in the level of insurance risk is not specifically addressed in existing statutory accounting literature.

b. SSAP 70, *Allocation of Expenses*, does, however, state that allocable expenses for property and casualty insurance companies shall be classified into one of three categories in the Underwriting and Investment Exhibit, as follows: loss adjustment expenses, investment expenses, other underwriting expenses. Other underwriting expense is defined as allocable expenses other than loss adjustment expenses and investment relate expenses.

c. Given the absence of existing definitive guidance, the need for insurers to expedite relief to policyholders, insurer representations in their state filings as to how these payments would be reported, and the fact that those filings were not disapproved by those states, it would be appropriate to allow those insurers to follow their conveyed relief programs and related accounting.

d. In those circumstances when an insurer modifies the terms of its insurance contracts to allow for discretionary payments that are not directly related to the level of insurance risk under the contract, the payments are not designed as a premium refund, and the insurer has represented in those manual rule filings or policy endorsements that the payment would be reported as an expense, the payment shall be accounted for as an "other underwriting expense".

17. Policyholder payments shall be recognized as a liability when the definition of a liability in *SSAP No. 5R – Liabilities, Contingencies and Impairments of Assets* is met.

Issue 5: How to Account for Policyholder Dividends

~~15.~~18. *SSAP No. 65—Property and Casualty Contracts,* paragraph 46 requires that dividends to policyholders immediately become liabilities of the reporting entity when they are declared by the board of directors and shall be recorded as a liability.

~~16.~~19. The Working Group noted that policyholder dividends are typically only provided on participating policies or policies issued by non-stock companies, such as mutual entities and other corporate entity types in which profits are shared with policyholders.

~~17.~~20. Research during the development of this item identified that a small number of jurisdictions have legal restrictions which only allow policyholder dividends to be provided after the expiration of the policy period for which the dividend was earned. This interpretation only addresses policyholder dividends which are permitted by the applicable jurisdiction.

~~18.~~21. The property and casualty annual statement blank provides specific reporting lines for policyholder dividends including, but not limited to, a liability line and a line in the income statement and statement of cash flow. For those entities whose policies are participating or whose corporate shell type and/or membership structure allow for policyholder dividends, the accounting for policyholder dividends is unchanged by this interpretation

~~19.~~22. This interpretation does not change the policyholder dividend disclosure or reporting, but provides additional guidance that such policyholder dividends issued in response to COVID-19 decreases in activity shall also be disclosed as discussed in Issue ~~5~~6.

Issue ~~5~~6: Where to Disclose Premium Refunds, Rate Reductions, Policyholder Benefit Payments and Policyholder Dividends Related to COVID-19 Decreases in Activity

~~20.~~23. There are various places in the notes to the statutory annual statement where disclosures of various aspects of premium refunds, premium reductions or policyholder dividends are required. This interpretation does not recommend changes to those existing disclosures. This interpretation does, however, recommend a consistent annual statement disclosure for all such amounts to allow for comparable disclosures.

~~21.~~24. *SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items* requires disclosure of the nature and financial effects of each unusual or infrequent event or transaction. Gains or losses of a similar nature that are not individually material shall be aggregated. This disclosure shall include the line items which have been affected by the event or transaction considered to be unusual and/or infrequent. This disclosure is currently required to be reported in annual statement Note 21A. (Reporting entities shall maintain jurisdiction-specific information to be made available upon request from the department of insurance or revenue regulators.)

~~18.~~25. To allow for aggregate, consistent assessment, the Working Group came to a tentative consensus that all COVID-19 inspired premium refunds, rate reductions, policyholder benefit payments and policyholder dividends shall be disclosed as unusual or infrequent items in annual statement Note 21A. This disclosure is in addition to other existing disclosures on various items related to the policyholder payments. For clarification, refunds required under the policy terms ~~in-force prior to the federal declaration of emergency for the COVID-19 pandemic~~ as discussed in paragraph ~~13~~12, (i.e., policies that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses) are not required to be aggregated in disclosures of COVID-19 inspired premium refunds, rate reductions, policyholder benefit payments and policyholder dividends. Policies, whose terms were modified after the declaration of emergency in response to COVID-19, are required to disclose the COVID-19 inspired premium refunds, rate reductions, policyholder benefit payments and policyholder dividends.

INT 20-08 Consensus

~~22.~~26. The Working Group reached a consensus to prescribe statutory accounting guidance for insurance reporting entities providing refunds in response to COVID-19. Pursuant to this consensus:

a. Reporting entities that provide voluntary or jurisdiction-directed premium refunds ~~which~~that are not required under the policy terms shall follow the guidance in paragraphs 8-~~12~~11 of this interpretation. This guidance stipulates that such premium refunds shall be recognized as a reduction of premium. ~~Refunds that are recognized in a different manner (e.g., as an expense), shall be considered a permitted or prescribed practice pursuant to SSAP No. 1.~~

b. Reporting entities that provide premium refunds in accordance with insurance policy terms shall follow paragraph 13 of this interpretation. This guidance indicates that existing statutory accounting principles in SSAP No. 53, SSAP No. 54R or SSAP No. 66 shall be followed as applicable.

c. Reporting entities that provide rate reductions shall follow paragraph 14 of this interpretation. This guidance provides direction based on whether the rate reduction is for in-force or future policies.

d. Reporting entities that provide for the payment of discretionary policy benefits through a manual rule filing or policy endorsement that authorizes payments to policyholders not otherwise provided under the contract (e.g., not a payment resulting from an indemnifiable loss or a return of premium based on changes in insurance risk related to the policy or not related to a policy change or cancellation) and that disclosed in those filings that they intended to report those payments as expense shall account for the payments in accordance with the guidance in paragraphs 15 – 17. This INT addresses and is limited to the accounting for the particular circumstances when policyholder payments, as specified in modified policy terms, are related to conditions resulting from COVID-19 for manual rule filings or policy endorsements filed in response to COVID-19 activity.

~~d.~~e. Reporting entities that provide policyholder dividend shall follow the existing guidance for policyholder dividends, which is summarized in paragraphs ~~15-19~~18-22 and in addition, shall complete the disclosures described in paragraphs ~~20-22~~23-25.

~~e.~~f. ~~This~~Paragraphs 23-25 of this interpretation~~, paragraphs 20-22 indicates~~ indicate that reporting entities shall continue to comply with all statutory accounting disclosure requirements, ~~but~~and also ~~requires~~require that all premium refunds, rate reductions, policyholder benefit payments and/or policyholder dividends provided because of the decreased activity due to COVID-19 shall be aggregated and reported in Note 21A as unusual or infrequent items.

g. Any related transactions that do not follow the fact patterns described in paragraph 26a through 26e should be considered a permitted or prescribed practice pursuant to SSAP No. 1.

~~23.~~27. The Working Group noted that premium taxation requirements vary by jurisdiction. Taxation is determined by the jurisdiction where the premium is written/returned to the policyholder according to the laws of that jurisdiction.

~~24.~~28. This interpretation will be automatically nullified on January 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 20-08 Status

~~25.~~29. Further discussion is planned.

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July 7, 2020

Commissioner Kent Sullivan, Chair
Accounting Practices and Procedures (E) Task Force
National Association of Insurance Commissioners

Via electronic mail to Robin Marcotte

Dear Commissioner Sullivan:

We submit these comments on behalf of the undersigned companies, who together provide insurance and health care coverage for millions of Americans, regarding the accounting treatment for refunds of premium to policyholders that are made in response to the COVID-19 pandemic.

Over the last several months, the emergence of the COVID-19 virus has caused well-documented challenges to people, businesses and institutions across national and global health care systems. Among them is the disruption to traditional patterns of delivering health care causing related economic disruption and imbalances to the nation's health care coverage systems. In response to this challenge, the undersigned companies have taken a variety of actions to provide financial relief to our members. Once such action is the issuance of premium refunds, including voluntary refunds not outlined in the policy terms. It is the accounting for such programs of refunds or credits that is the subject of this letter.

As you are aware, we supported the accounting treatment proposed in INT 20-08T, as adopted by the Statutory Accounting Principles Working Group on June 15 and by the Accounting Practices and Procedures Task Force on June 22. The Financial Condition Committee has now asked you to reconsider that accounting guidance, in particular to allow more flexibility with regard to non-premium treatment. We strongly urge that any such "flexibility" be limited to the exception proposed in the June 25, 2020 letter from the APCIA, namely:

> Companies that filed policy endorsements or manual rate filings and disclosed with the relevant states their intention to report their payments to policyholders as expenses before adoption of the INT should treat those payments as other underwriting expenses, while disclosing those payments as required in Issue 5 of the INT. This treatment would apply to all payments made through the end of 2020.

We urge furthermore that the revised interpretation make clear that this exception is being made as an accommodation, to address concerns raised by regulators and members of the property and casualty industry. We are concerned that any ambiguity on this point could create confusion, and resultant adverse consequences, for both insurers and policyholders.

We believe that treating such refunds and credits to policyholders as a reduction in premium is clearly the proper answer from the standpoint of accounting principles. The payments are not being made as the result of an insured loss, and therefore are not claim payments. They are not being made to purchase goods or services, or to pay for the services of the insurer's own employees, and therefore are not general expenses. They are not being made pursuant to some statutory authority on the part of policyholders to tax or assess insurers; therefore, they are not taxes, regulatory fees, or assessments. Neither should they be relegated to an undefined, write-in expense category. We are crediting these amounts to policyholders solely because those same policyholders paid premium to us in the first place, and therefore the payments should be related to premium. We recount this at length because we are troubled by the suggestions that appropriate accounting treatment for purposes of solvency regulation should somehow be overridden by concerns such as maximizing premium tax revenue or facilitating the payment of agents' commissions. We believe that it is imperative first to determine the conceptually appropriate accounting treatment, and then to carve out only such limited exceptions as are deemed necessary to address other regulatory goals.

We wish to point out two issues that could arise from creating ambiguity about whether these payments to policyholders are genuinely returns of premium: one from the insurer's point of view, the other from the policyholder's. Insofar as the insurer is concerned, it must be clear for purposes of the Affordable Care Act's Medical Loss Ratio (MLR) rebate provisions that these payments are a reduction of premium. Otherwise, an insurer may be forced to refund the same premium dollar twice, once through these discretionary refunds and again as an MLR rebate. Clearly, it would be an undesirable outcome from the standpoint of solvency regulation that an insurer should be forced to pay out twice a dollar that it had only received once. If the discretionary refund is accounted for as an administrative expense or miscellaneous write-in item rather than a reduction of premium, it would not be given the correct treatment in the MLR rebate calculation, and the undesirable double-payment could result. Even if the refund is initially accounted for as a reduction of premium, if that treatment is viewed as being at the discretion of the insurer, it could be challenged when the MLR calculation is audited by either state insurance regulators or the Centers for Medicare and Medicaid Services.

Even more of a concern may be the potential impact on policyholders, as regards their income taxation. It is well established that a return of premium is generally not taxable to the policyholder; at most, if the premium payment was a deductible expense for that policyholder, the policyholder would lose that deduction. If the NAIC takes the position that these refunds are not a return of premium, that could add confusion to the policyholders' tax positions. In particular for individual policyholders, for whom the premium payments would typically not be a deductible expense in the first place, this would raise the issue of whether they now have taxable income for federal and/or state income tax purposes. Policyholders would be forced to seek tax advice, or to make a decision on their own as to whether and how to report income from the refund. It is also worth considering whether the payment would be considered income for other purposes; e.g., if an individual policyholder is eligible for some form of government financial assistance, could this payment be deemed income that would reduce or eliminate that eligibility? While we hope that the respective governmental authorities would in each case reach an appropriate conclusion on these issues, we feel that raising the issues in the first place by an ambiguous accounting treatment would create unnecessary uncertainty and burdens for policyholders.

Accordingly, we reiterate our recommendation: that the revised INT make clear that these refunds generally are a return of premium; and that the only exception to that treatment is for the circumstances described in the APCIA's letter, as cited above.

We would be happy to discuss this matter with you further.

Sincerely,

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Cc: Dan Daveline, NAIC
Sherry Gillespie, UHC

July 17, 2020

Commissioner Kent Sullivan, Chair
Accounting Practices and Procedures (E) Task Force
c/o National Association of Insurance Commissioners

Via electronic mail to Robin Marcotte, NAIC Staff

RE: INT 20-08: COVID-19 Premium Refunds, Rate Reductions and Policyholder Dividends.

Dear Commissioner Sullivan,

On behalf of America's Health Insurance Plans (AHIP) and the Blue Cross Blue Shield Association (BCBSA), we thank you for the opportunity to provide comments regarding the accounting treatment for refunds of premium to policyholders that are made in response to the COVID-19 pandemic. In these difficult times, providing financial relief in the form of voluntary premium refunds is among the variety of proactive measures for the hundreds of millions of members that AHIP and BCBSA members serve.

We laud the NAIC's expeditious efforts through recent collaborative discussions at the Statutory Accounting Principles Working Group (SAPWG), this Task Force and Financial Condition (E) Committee to craft guidance that is flexible for the various ways that insurers report premium refunds, rate reductions and policyholder dividends.

We are writing to express our support of the proposed NAIC staff modifications made to INT 20-08T that are included in the materials for this Task Force's consideration during its upcoming conference call meeting on July 22. We particularly agree with the bifurcated accounting optionality approach for refunds not required under the existing policy terms and the limited time exception for expense reporting as applicable to P&C lines only since underwriting expense treatment is problematic for health products.

We thank the entire Task Force for its consideration of our comments. If you have any questions, please do not hesitate to contact Joe Zolecki at joseph.zolecki@bcbsa.com or Bob Ridgeway at Bridgeway@AHIP.org.

Respectfully yours,

Joe Zolecki
Director, Financial Regulatory Services
Blue Cross Blue Shield Association

Bob Ridgeway
Senior Counsel, Government Affairs
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