Draft date: 7/10/24

Virtual Meeting
(in lieu of meeting at the 2024 Summer National Meeting)

REINSURANCE (E) TASK FORCE
Monday, July 22, 2024
12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 11:00 a.m. PT

ROLL CALL

Chlora Lindley-Myers, Chair	Missouri	Grace Arnold	Minnesota
Ricardo Lara, Vice Chair	California	Mike Chaney	Mississippi
Mark Fowler	Alabama	Eric Dunning	Nebraska
Lori K. Wing-Heier	Alaska	Scott Kipper	Nevada
Peni Itula Sapini Teo	American Samoa	D.J. Bettencourt	New Hampshire
Alan McClain	Arkansas	Justin Zimmerman	New Jersey
Michael Conway	Colorado	Alice T. Kane	New Mexico
Andrew N. Mais	Connecticut	Adrienne A. Harris	New York
Trinidad Navarro	Delaware	Mike Causey	North Carolina
Michael Yaworsky	Florida	Jon Godfread	North Dakota
John F. King	Georgia	Judith L. French	Ohio
Michelle B. Santos	Guam	Glen Mulready	Oklahoma
Gordon I. Ito	Hawaii	Andrew R. Stolfi	Oregon
Ann Gillespie	Illinois	Michael Humphreys	Pennsylvania
Amy L. Beard	Indiana	Alexander S. Adams Vega	Puerto Rico
Doug Ommen	Iowa	Michael Wise	South Carolina
Vicki Schmidt	Kansas	Cassie Brown	Texas
Sharon P. Clark	Kentucky	Tregenza A. Roach	U.S. Virgin Islands
Timothy J. Temple	Louisiana	Jon Pike	Utah
Robert L. Carey	Maine	Scott A. White	Virginia
Kevin P. Beagan	Massachusetts	Nathan Houdek	Wisconsin

NAIC Support Staff: Jake Stultz/Dan Schelp

AGENDA

1. Consider Adoption of its Spring National Meeting Minutes —*John Rehagen (MO)* — Attachment One

2. Consider Adoption of its 2025 Proposed Charges—*John Rehagen (MO)* — Attachment Two

3. Consider Adoption of the Report of the Reinsurance Financial Analysis (E) Working Group—*Rolf Kaumann (CO)*

4. Receive a Status Report on the Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group—*Robert Wake (ME)*

5. Discuss Ongoing Projects at the NAIC That Affect Reinsurance —*John Rehagen (MO)*
   A. March 29 Referral from the Statutory Accounting Principles (E) Working Group for Exposures on Life Reinsurance — Attachment Three

6. Discuss Any Other Matters Brought Before the Task Force —*John Rehagen (MO)*

7. Adjournment

Draft Pending Adoption

Draft: 3/5/24

Reinsurance (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2024 Spring National Meeting*)
February 26, 2024

The Reinsurance (E) Task Force met Feb. 26, 2024. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by John Rehagen (MO); Ricardo Lara, Vice Chair, represented by Monica Macaluso (CA); Mark Fowler represented by Todrick Burks (AL); Lori K. Wing-Heier represented by David Phifer (AK); Alan McClain represented by Leo Liu (AR); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Qing He (CT); Trinidad Navarro represented by Nicole Brittingham (DE); Michael Yaworsky represented by Jane Nelson (FL); John F. King represented by Bryce Rawson (GA); Doug Ommen represented by Kim Cross (IA); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); Timothy J. Temple represented by Stewert Guerin (LA); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott represented by Robert Wake (ME); Mike Chaney represented by Chad Bridges (MS); Grace Arnold represented by Fred Andersen (MN); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); D.J. Bettencourt represented by Doug Bartlett (NH); Justin Zimmerman represented by David Wolf (NJ); Scott Kipper (NV); Adrienne A. Harris represented by Robert Kasinow (NY); Judith L. French represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Andrew R. Stolfi represented by Brian Fjeldheim (OR); Michael Wise represented by Ryan Basnett (SC); Cassie Brown represented by Rachel Hemphill (TX); Jon Pike represented by Jake Garn (UT); Scott A. White represented by Doug Stolte and David Smith (VA); and Nathan Houdek represented by Mark McNabb (WI).

1. Adopted its 2023 Fall National Meeting Minutes

Crawford made a motion, seconded by Macaluso, to adopt the Task Force's Nov. 16, 2023, minutes (*see NAIC Proceedings—Fall 2023, Reinsurance (E) Task Force*). The motion passed unanimously.

2. Adopted the Report of the Reinsurance Financial Analysis (E) Working Group

Kaumann stated that the Working Group meets in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. He stated that the Working Group met Feb. 5, 2024, and Dec. 20, 2023, to approve several certified and reciprocal jurisdiction reinsurers for passporting.

Kaumann stated that the Working Group has now approved 77 reciprocal jurisdiction reinsurers and 41 certified reinsurers for passporting and that 43 states have passported a reciprocal jurisdiction reinsurer. He noted that the list of passported reinsurers can be found on the Certified and Reciprocal Jurisdiction Reinsurer web page.

Kaumann made a motion, seconded by Wolf, to adopt the report of the Reinsurance Financial Analysis (E) Working Group. The motion passed unanimously.

3. Received a Status Report on the Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group

Wake stated that the Working Group last met Nov. 1, 2023, in regulator-to-regulator session pursuant to paragraph 8 (international regulatory matters) of the NAIC Policy Statement on Open Meetings, where the Working Group reapproved the status of Bermuda, France, Germany, Ireland, Japan, Switzerland, and the United Kingdom (UK) as qualified jurisdictions and Bermuda, Japan, and Switzerland as reciprocal jurisdictions. He noted

that Bermuda, Japan, and the UK are in the process of making changes to their regulatory systems and that NAIC staff are monitoring the implementation of these changes and will report any findings to the Working Group.

4. Discussed the Proposal to Require AAA to be Performed Using a Cashflow Testing Methodology for Life and Annuity Reinsurance Transactions

Rehagen stated that a project had been started in the Life Actuarial (A) Task Force that would require asset adequacy analysis (AAA) to be performed using a cash flow testing methodology for life and annuity reinsurance transactions. He stated that this project was proposed by several regulators and recommends changes to the asset adequacy testing methodology for the assets that support reinsurance transactions, specifically, the proposal recommended that AAA be performed using a cash flow testing methodology and performed at the line of business and treaty level, so within each individual treaty, AAA must be performed standalone for life insurance, annuities, and long duration health insurance.

Rehagen stated that this project was discussed publicly at the Feb. 8 and Feb. 15 meetings of the Life Actuarial (A) Task Force and noted that there was substantial discussion during those meetings. He stated that the intent of the meeting today is to give all interested groups an opportunity to provide input that can be used in this project.

Wolf provided additional background on this project and noted that there are several documents available on the Life Actuarial (A) Task Force web page and that the topic would be discussed further at the Spring National Meeting. He stated this project was proposed by several regulators and recommends that company-appointed actuaries use a cash flow testing methodology in their AAA for certain life and annuity reinsurance transactions. He stated that the proposal considers the significant increase in life and annuity reinsurance in recent years, which has been noted in other NAIC committees, working groups, and task forces and has been a topic in recent industry papers and forums.

Wolf stated that the recommendation focuses on business that heavily relies on asset returns, often referred to asset intensive business, which includes, but is not limited to, variable universal life, individual annuities, and group annuities. When a cedent enters a reinsurance contract, there is risk that the transaction materially lowers the total asset requirement (the sum of reserves and required capital) in support of their asset-intensive business, and thereby facilitates significant releases of capital. This is also a primary driver for companies to pursue these transactions.

Wolf stated that while there are already standards in place for a ceding company to perform AAA supporting the gross liability, including reinsurance, an appointed actuary might not recognize an insufficiency in the total asset requirement. This can be due to various reasons, including simply relying on the creditworthiness of a reinsurer or not having sufficient information from the reinsurer. He noted that this effort is focused on establishing a safeguard involving reinsurance of asset intensive business by using a cash flow testing methodology to ensure there are enough assets to support future liabilities based on the U.S. statutory framework. He added that this safeguard requirement would be placed on the cedent, and while the reinsurer may need to provide additional information to the cedent, there is no additional financial requirement on the reinsurer because of this proposal.

Hemphill stated that this topic would be discussed by the Life Actuarial (A) Task Force at the Spring National Meeting and invited anybody who was interested in this topic to participate in their discussion.

5. Discussed Ongoing Projects at the NAIC That Affect Reinsurance

Jake Stultz (NAIC) stated that in 2023, the Macroprudential (E) Working Group had created a new reinsurance worksheet, which is an optional tool for state insurance regulators to get a better understanding of reinsurance transactions at the companies that they regulate. He noted that the worksheet allows for more consistent and

thorough reviews of reinsurance, can be used for any type of reinsurance, is not intended to otherwise affect the Task Force's policies or procedures, and will not be required in the *Financial Analysis Handbook* or the *Financial Condition Examiners Handbook.* He said that the work completed using the reinsurance worksheet will remain confidential. He requested that if anybody who had used the worksheet had any comments on the overall form or function, please provide those to him so that they can be compiled and shared with the appropriate group at the NAIC.

Stultz stated that the Valuation Analysis (E) Working Group is currently completing its first year of reviews of *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53). He noted that AG 53 is broad and covers asset adequacy testing for life insurers, but he noted that the Task Force's primary focus in the process has been on the work involved with reinsurance, primarily focused on where this may affect the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement) or the "Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance" (UK Covered Agreement). He noted that a wide range of people are working on this project, including actuaries from the NAIC and regulators from several states, including actuaries, investment experts, and financial staff. Stultz said that other subject matter experts (SMEs) from the NAIC are brought in when needed and that the work being performed is regulator-only.

Stultz noted that the Valuation Analysis (E) Working Group had sent two referrals (Attachment One) to the Statutory Accounting Principles (E) Working Group at the 2023 Fall National Meeting. The first referral recommends that the Working Group remove a specific sentence from Appendix A-791, Section 2C, because it is unnecessary and is being misinterpreted, and that the second referral requests clarification on the evaluation of risk transfer on life reinsurance treaties. He stated that these referrals will be addressed by the Statutory Accounting Principles (E) Working Group over the next several months.

Stultz stated that in 2023 there was an issue with Vesttoo, a reinsurance broker, where fraudulent letters of credit had been used for collateral purposes. He noted that several groups at the NAIC had discussed the issue and are continuing to monitor the situation, and that the NAIC's current understanding is that all the letters of credit have been replaced, and there have been several legal settlements between Vesttoo and the impacted companies.

Stultz noted that there were several bank failures in early 2023, which impacted reinsurance since some of these banks were approved on the List of Qualified U.S. Financial Institutions (QUSFI List). He stated that the *Credit for Reinsurance Model Law* (#785) allows a letter of credit to be used as collateral under Section 3, if the issuing bank meets the criteria of Section 4, which details the process for a bank to be reviewed and approved to be added to the QUSFI List. He stated that a drafting note in Model #785 also clarifies what needs to be done in situations when a financial institution loses its status as a QUSFI. As a result of the bank failures, the Valuation of Securities (E) Task Force adopted a minor revision to the *Purposes and Procedures Manual* (P&P Manual) that streamlines the process of removing troubled financial institutions from the QUSFI List. He stated that he is not aware of any issues with any banks at this time, but that NAIC staff will continue to monitor any news about any banks on the QUSFI List.

Having no further business, the Reinsurance (E) Task Force adjourned.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/RTF/2024SpringNM/Meeting/Minutes/0 ReinsuranceTFmin 02.26.2024.docx

2025 Proposed Charges

The mission of the **Reinsurance (E) Task Force** is to monitor and coordinate activities and areas of interest that overlap to some extent the charges of other NAIC groups—specifically the International Insurance Relations (G) Committee.

The **Reinsurance (E) Task Force** will:

1. Provide a forum for the consideration of reinsurance-related issues of public policy.

2. Oversee the activities of the Reinsurance Financial Analysis (E) Working Group.

~~2.~~3. Coordinate with the Mutual Recognition of Jurisdictions (E) Working Group on matters regarding reinsurance.

4. Communicate and coordinate with the Federal Insurance Office (FIO), other federal authorities, and international regulators and authorities on matters pertaining to reinsurance.

~~3.~~5. Monitor reinsurance-related activities of other task forces and working groups at the NAIC.

~~4.~~6. Consider any other issues related to the ~~revised~~ *Credit for Reinsurance Model Law* (#785), *Credit for Reinsurance Model Regulation* (#786), and *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787).

~~5.~~7. Monitor the development of international principles, standards, and guidance with respect to reinsurance. This includes, but is not limited to, monitoring the activities of various groups within the International Association of Insurance Supervisors (IAIS), including the Reinsurance and Other Forms of Risk Transfer Subcommittee, the Reinsurance Mutual Recognition Subgroup, and the Reinsurance Transparency Group.

~~6.~~8. Consider the impact of reinsurance-related federal legislation, including, but not limited to, the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) and the Federal Insurance Office Act, and coordinate any appropriate NAIC action.

~~7.~~9. Continue to monitor the impact of reinsurance-related international agreements, including the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement) and the "Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance" (UK Covered Agreement).

2025 Proposed Charges

The **Reinsurance Financial Analysis (E) Working Group** will:

1. Operate in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, and operate in open session when discussing certified reinsurance topics and policy issues, such as amendments to the Uniform Application for Certified or Reciprocal Jurisdiction Reinsurers.

2. Provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. The process of reviewing applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.

3. Provide a forum for discussion among NAIC jurisdictions of reinsurance issues related to specific companies, entities, or individuals.

4. Support, encourage, promote, and coordinate multistate efforts in addressing issues related to certified reinsurers, including, but not limited to, multistate recognition of certified or reciprocal jurisdiction reinsurers.

5. Provide analytical expertise and support to the states with respect to certified reinsurers, reciprocal jurisdiction reinsurers, and applicants.

6. Provide advisory support on issues related to the determination of qualified jurisdictions.

7. Ensure the public passporting website remains current.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Attachment Three

MEMORANDUM

TO: Fred Andersen, Chair of the Valuation Analysis (E) Working Group
Rachel Hemphill, Vice Chair of the Valuation Analysis (E) Working Group
Philip Barlow, Chair of the Life Risk-Based Capital (E) Working Group
Ben Slutsker, Vice-Chair of the Life Risk-Based Capital (E) Working Group
John Rehagen, Chair representative of Chlora Lindley Meyers, Reinsurance (E) Task Force
Monica Macaluso ,Vice Chair representative of Adreienne Harris, Reinsurance (E) Task Force

FROM: Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group
Kevin Clark, Vice-Chair of the Statutory Accounting Principles (E) Working Group

DATE: March 29, 2024

RE: SAPWG Exposures on Life Reinsurance

During the 2024 Spring National Meeting, the Statutory Accounting Principles (E) Working Group (SAPWG) exposed the following agenda items with a May 31, comment deadline. Both agenda items were to address referrals from the Valuation Analysis (E) Working Group received by SAPWG on their Jan. 10 call.

- Ref #2024-05: Appendix A-791 Life and Health Reinsurance - Revisions remove the first sentence of the *Appendix A-791 Life and Health Reinsurance Agreements* (A-791), paragraph 2.c. Question and Answer, as it is unnecessary.

- Ref #2024-06: Risk Transfer Analysis on Combination Reinsurance Contracts - Revisions to *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance* incorporate guidance from *SSAP No. 62R—Property and Casualty Reinsurance, Exhibit A, Implementation Questions and Answers, question 1*0, which requires risk transfer to be evaluated in aggregate for contracts with interrelated contract features such as experience rating refunds. Additionally, a reference is added to A-791, paragraph 6, regarding the entirety of the contract.

The Working Group is providing notice of the exposures and appreciates your time whether your group chooses to provide feedback or simply is following the development of these items. If you have any questions, please contact Dale Bruggeman, or Kevin Clark, SAPWG Chair and Vice Chair, with any questions.

Cc: Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden, Eva Yeung, Dave Fleming, Maggie Chang, Kazeem Okosun, Scott O'Neal, Jennifer Frasier, Pat Allison

Note 1: The following page summarizes exposed revisions, but full agenda items are on the SAWPG web page. https://content.naic.org/committees/e/statutory-accounting-principles-wg

Ref #*2024-05: Appendix A-791 Life and Health Reinsurance*

#

Exposed Revisions - A-791, Life and Health Reinsurance Agreements, paragraph 2c's, Question and Answer):

> **Q – If group term life business is reinsured under a YRT reinsurance agreement (which includes risk-limiting features such as with an experience refund provision which offsets refunds against current and/or prior years' losses (i.e., a "loss carryforward" provision), under what circumstances would any provisions of the reinsurance agreement be considered "unreasonable provisions which allow the reinsurer to reduce its risk under the agreement" thereby violating subsection 2.c.?**
>
> **A** ~~– Unlike individual life insurance where reserves held by the ceding insurer reflect a statutorily prescribed valuation premium above which reinsurance premium rates would be considered unreasonable, group term life has no such guide.~~ So long as the reinsurer cannot charge premiums in excess of the premium received by the ceding insurer under the provisions of the YRT reinsurance agreement, such provisions would not be considered unreasonable. Any provision in the YRT reinsurance agreement which allows the reinsurer to charge reinsurance premiums in excess of the proportionate premium received by the ceding insurer would be considered unreasonable. The revisions to this QA regarding group term life yearly renewable term agreements ~~is~~ are effective for contracts in effect as of January 1, 2021.

Ref #2024-06: Risk Transfer Analysis on Combination Reinsurance Contracts

On March 16, 2024, the Statutory Accounting Principles (E) Working Group exposed revisions to incorporate guidance to *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance* that is consistent with the guidance currently in *SSAP No. 62R—Property and Casualty Reinsurance*, Exhibit A Implementation Questions and Answers, question 10. This guidance, which originates from GAAP guidance, which is applicable to all contract types, requires risk transfer to be evaluated in aggregate for contracts with interrelated contract features such as experience rating refunds. The revisions also adds a reference in *Appendix A-791 Life and Health Reinsurance Agreements* (A-791), paragraph 6 regarding the entirety of the contract.

Exposed Revisions SSAP No. 61R:

> Transfer of Risk
>
> 17. Reinsurance agreements must transfer risk from the ceding entity to the reinsurer in order to receive the reinsurance accounting treatment discussed in this statement. If the terms of the agreement violate the risk transfer criteria contained herein, (i.e., limits or diminishes the transfer of risk by the ceding entity to the reinsurer), the agreement shall follow the guidance for Deposit Accounting. In addition, any contractual feature that delays timely reimbursement violates the conditions of reinsurance accounting.
>
> ~~17.~~18. For purposes of evaluating whether a contract with a reinsurer transfers risk, what constitutes a contract is essentially a question of substance. It may be difficult in some circumstances to determine the boundaries of a contract. For instance, the profit-sharing provisions of one contract may refer to experience on other contracts and, therefore, raise the question of whether, in substance, one contract rather than several contracts exist. The inconsistency that could result from varying interpretations of the term contract is limited by requiring that features of the contract or other contracts or agreements that directly or indirectly compensate the reinsurer or related reinsurers for losses be considered in evaluating

whether a particular contract transfers risk. Therefore, if agreements with the reinsurer or related reinsurers in the aggregate do not transfer risk, the individual contracts that make up those agreements also would not be considered to transfer risk, regardless of how they are structured.

~~18.~~19. This paragraph applies to all life, deposit-type and accident and health reinsurance agreements except for yearly renewable term reinsurance agreements and non-proportional reinsurance agreements such as stop loss and catastrophe reinsurance. All reinsurance agreements covering products that transfer significant risk shall follow the guidance for reinsurance accounting contained in this statement. All reinsurance contracts covering products that do not provide for sufficient transfer of risk shall follow the guidance for Deposit Accounting.

~~19.~~20. Yearly renewable term (YRT) reinsurance agreements that transfer a proportionate share of mortality or morbidity risk inherent in the business being reinsured and do not contain any of the conditions described in Appendix A-791, paragraphs 2.b., 2.c., 2.d., 2.h., 2.i., 2.j. or 2.k., shall follow the guidance for reinsurance accounting, including paragraphs 55-57 of this statement that apply to indemnity reinsurance. Contracts that fail to meet the requirements for reinsurance accounting shall follow the guidance for Deposit Accounting. For all treaties entered into on or after January 1, 2003, the deferral guidance in paragraph 3 of A-791 shall also apply to YRT agreements. YRT agreements shall follow the requirements of A-791, paragraph 6, regarding the entire agreement and the effective date of agreements. Since YRT agreements only transfer the mortality or morbidity risks to the reinsurer, the recognition of income shall be reflected on a net of tax basis, as gains emerge based on the mortality or morbidity experience.