

REINSURANCE (E) TASK FORCE

Reinsurance (E) Task Force July 22, 2024, Minutes

Reinsurance (E) Task Force and Reinsurance Financial Analysis (E) Working Group 2025 Proposed Charges
(Attachment One)

Memorandum to the Valuation Analysis (E) Working Group, Life Risk-Based Capital (E) Working Group, and
Reinsurance (E) Task Force from the Statutory Accounting Principles (E) Working Group dated March 19,
2024, Regarding SAPWG Exposures on Life Reinsurance (Attachment Two)

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7.22.2024 contents.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/e%20cmtf/2024summernm/meeting/minutes/rtf%207.22.2024%20contents.docx)

Draft Pending Adoption

Draft: 8/3/24

Reinsurance (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2024 Summer National Meeting*)
July 22, 2024

The Reinsurance (E) Task Force met July 22, 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); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by William Arfanis (CT); Trinidad Navarro represented by Charles Santana (DE); Michael Yaworsky represented by Jane Nelson (FL); John F. King represented by Bryce Rawson (GA); Doug Ommen represented by Kim Cross and Kevin Clark (IA); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Vicki Lloyd (KY); Timothy J. Temple represented by Melissa Gibson (LA); Kevin P. Beagan represented by Christopher Joyce (MA); Robert L. Carey represented by Robert Wake (ME); Grace Arnold represented by Fred Andersen (MN); Mike Chaney represented by Chad Bridges (MS); Mike Causey represented by Jackie Obusek (NC); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Chris Amory (NE); D.J. Bettencourt represented by Doug Bartlett (NH); Justin Zimmerman represented by David Wolf (NJ); Alice T. Kane represented by Don Gilbert (NM); Adrienne A. Harris represented by Martha Lees and Bob Kasinow (NY); Judith L. French represented by Cam Piatt (OH); Glen Mulready represented by Eli Snowbarger (OK); Michael Wise represented by Ryan Basnett (SC); Cassie Brown represented by Jamie Walker (TX); Jon Pike represented by Jake Garn (UT); Scott A. White represented by Doug Stolte (VA); and Nathan Houdek represented by Mark McNabb (WI).

1. Adopted its Spring National Meeting Minutes

Obusek made a motion, seconded by Kaumann, to adopt the Task Force's Feb. 26 minutes (*see NAIC Proceedings—Spring 2024, Reinsurance (E) Task Force*). The motion passed unanimously.

2. Adopted its 2025 Proposed Charges

Rehagen noted that the Task Force's 2025 proposed charges included minor revisions from 2024 to reflect the current duties of the Task Force and the Reinsurance Financial Analysis (E) Working Group.

Eft made a motion, seconded by Joyce, to adopt the 2025 proposed charges of the Task Force and the Reinsurance Financial Analysis (E) Working Group (Attachment One). The motion passed unanimously.

3. 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 June 27, May 13, and March 28 to approve several certified and reciprocal jurisdiction reinsurers for passporting.

Kaumann stated that the Working Group has now approved 85 reciprocal jurisdiction reinsurers and 41 certified reinsurers for passporting and that 49 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 Wake, to adopt the report of the Reinsurance Financial Analysis (E) Working Group. The motion passed unanimously.

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4. 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.

5. Discussed Ongoing Projects at the NAIC That Affect Reinsurance

Rehagen stated that a project had been started in the Life Actuarial (A) Task Force that would require asset adequacy testing (AAT) to be performed using a cash flow testing methodology for life and annuity reinsurance transactions. He stated that this project was proposed by several state insurance regulators and recommends changes to the AAT methodology for the assets that support reinsurance transactions. He stated that this project was discussed publicly at the Life Actuarial (A) Task Force's June 20, Feb. 15, and Feb. 8 meetings and noted that there was substantial discussion during those meetings. Rehagen provided an opportunity for Task Force members, interested state insurance regulators, and other interested parties to provide comments on the project.

Andersen stated that the Life Actuarial (A) Task Force was scheduled to meet July 25 to conduct a detailed discussion of the comment letters received from the June 20 exposure.

Karalee Morell (Reinsurance Association of America—RAA) spoke on behalf of the RAA, Swiss Re, and Hannover Re. She stated that her group recognizes that there are valid regulatory concerns, and they are committed to working together to find appropriate solutions. She also stressed the importance of coordination between NAIC groups to ensure that there is no duplication of efforts. She stated that her group believes that the current proposals being considered would create some unnecessary obstacles that will negatively impact the insurance marketplace without addressing the regulator's fundamental concern. She noted that their belief is that the core regulator concern is collectability, not reserving levels; therefore, any solutions should be directly targeted at that issue. In addition, it is critically important that any action taken by the NAIC be consistent with 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) and collateral treatment extended to reciprocal jurisdictions and reciprocal jurisdiction reinsurers under those agreements.

Brian Bayerle (American Council of Life Insurers—ACLI) stated that his group intends to work with the state insurance regulators to develop the necessary tools to assess and mitigate insurance risks while ensuring consumer access to life and retirement products. He noted that reinsurance remains a vital tool for proper risk management and that the NAIC effort should encourage the responsible use of reinsurance and make a great effort not to disrupt this critical marketplace. He stated that his group believes it is critical that the various work streams be coordinated at the NAIC and that industry wants to ensure whatever additional requirements arise out of these efforts are value added to the regulators' regulatory responsibilities and truly address these underlying concerns. He noted that they further want to seek coordination to avoid any duplicate work or contradictory requirements. He noted that it is critical that the state insurance regulators get the scope right to avoid unnecessary work that does not aid in their review of the companies. Specifically, it is necessary and appropriate, depending on the degree of additional work, that these requirements for AAT must be applied prospectively only. He stated that his group supports a disclosure-based framework that leverages the good work that companies are already doing when they enter a reinsurance transaction. Additionally, the ACLI encourages

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the NAIC to look closely at the proposed requirements and how they would align with existing requirements, such as the EU and UK Covered Agreements.

Patricia Matson (Risk and Regulatory Consulting—RRC) stated that her firm has been involved with many transactions that involve moving business offshore and noted that based on what they have seen firsthand, the amount of assets that back the policyholder obligations declined significantly. She noted that she strongly believes that there does need to be a solution to address the decline in assets and is in favor of requirements for the appointed actuary to directly assess the adequacy of the invested assets and reserves in order to make sure that the assets are sufficient to support the policyholder obligations even after a reinsurance transaction. She stated that she does not believe that evaluation of counterparty risk or disclosures alone is sufficient to address the issue. She noted that there are already many disclosures required as those transactions occur, and counterparty risk has to be evaluated by the actuary under existing standards and that despite those requirements that already exist, there are cases where assets after the transaction are not sufficient to cover the obligations to the customer under moderately adverse conditions.

Peter Gould (Unaffiliated) stated that he is a retiree and end user of insurance products and that he depends on annuity income for a substantial portion of his retirement income. He noted that there had been rapid developments and changes in the industry. He suggested that NAIC staff and state insurance regulators begin testing these proposed procedures on real-life data from companies that are currently or have previously failed or are in rehabilitation to help provide an early warning of these problems to fix so that policyholders will not be dependent on state guaranty associations. He stressed the importance of this project and the financial impact that a failure by a company could have on end users of these products.

Mark Tenney (Mathematical Finance Company) noted that his main comment relates to collectability. He stated that the International Monetary Fund's (IMF's) views are that Latin America and offshore islands currently have measures that restrict capital flows during crises, so if there is a financial crisis, the IMF supports these countries in limiting outflows of capital. He stated that if state insurance regulators are expecting that during a crisis there are going to be capital outflows from offshore. The IMF is expecting that to prevent those outflows, there will be a clash between two regulator groups. He stated that with Bermuda, for example, the private equity (PE) companies are very interested in alternative investments and noted that there is a large amount of Chinese money in the Cayman Islands and Bermuda. He noted that there may be more than \$2 trillion of Chinese-related investment money that goes through variable interest entities, which are not allowed under Chinese law, and that at some point, the \$2 trillion could simply disappear if a Chinese court ruled those investments were invalid. He further stated that if the reinsurers in Bermuda can purchase some investments related to that, and if it is cut off by China, then that money just disappears. Additionally, a reinsurance failure in these regions could impact efforts to try to get climate mitigation capital to flow to Latin America, and there is an estimate that they need \$400 billion to \$1.1 trillion per year of spending by Latin America, which is not currently happening. He noted that a large reinsurer failing would discredit the regulators in that region, which would disrupt these enormous climate flow payments that need to be made.

Jason Kehrberg (PolySystems), on behalf of the American Academy of Actuaries (Academy), stated that the Academy developed its comments to balance the view that the appointed actuary should be able to apply principles and judgment in their AAT and that they understand the need for regulators to provide additional guidance on AAT in certain situations, such as those outlined in the exposure. He recognized that reinsurance has proved to be an effective risk mitigation tool and believes that any changes to AAT requirements should avoid incentivizing insurance companies from implementing appropriate reinsurance solutions.

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 they regulate. He noted that the worksheet allows for more consistent and

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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 they can be compiled and shared with the appropriate NAIC group.

Stultz stated that the Valuation Analysis (E) Working Group is currently completing its second 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 AAT 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 EU Covered Agreement and 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 sent two referrals to the Statutory Accounting Principles (E) Working Group at the 2023 Fall National Meeting, and as a result, a referral that summarizes both issues was then sent to the Task Force (Attachment Two). 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. 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 noted that the Statutory Accounting Principles (E) Working Group is also working on a project that proposes to expand reporting of assets that are subject to a funds withheld or modified coinsurance (modco) arrangement and that an agenda item will be exposed at the Summer National Meeting.

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. There have been several legal settlements between Vesttoo and the impacted companies.

Stultz noted that there were several bank failures in early 2023 that 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.

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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.~~ 2. [Oversee the activities of the Reinsurance Financial Analysis \(E\) Working Group.](#)
- ~~2.3.~~ 2.3. [Coordinate with the Mutual Recognition of Jurisdictions \(E\) Working Group on matters regarding reinsurance.](#)
- ~~4.~~ 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.~~ 3.5. [Monitor reinsurance-related activities of other task forces and working groups at the NAIC.](#)
- ~~4.6.~~ 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.~~ 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.~~ 6.8. Consider the impact of reinsurance-related federal legislation, including, but not limited to, the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRA) and the Federal Insurance Office Act, and coordinate any appropriate NAIC action.
- ~~7.9.~~ 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.

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 10*, 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.