

Draft: 3/22/21

Statutory Accounting Principles (E) Working Group  
Virtual Meeting (*in lieu of meeting at the 2021 Spring National Meeting*)  
March 15, 2021

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met March 15, 2021. The following Working Group members participated: Dale Bruggeman, Chair (OH); Carrie Mears and Kevin Clark, Vice Chairs (IA); Shelia Travis (AL); Kim Hudson (CA); William Arfanis and Kathy Belfi (CT); Tom Hudson (DE); Eric Moser, Cindy Andersen and Kevin Fry (IL); James J. Donelon, Stewart Guerin, Melissa Gibson and Caroline Fletcher (LA); Judy Weaver (MI); Doug Bartlett (NH); Bob Kasinow (NY); Melissa Greiner and Kimberly Rankin (PA); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI). Also participating was: Glen Mulready (OK).

1. Adopted its Jan. 25, 2021; Jan. 6, 2021; Dec. 28, 2020; Dec. 18, 2020; Dec. 8, 2020; and Nov. 12, 2020 Minutes

Ms. Malm made a motion, seconded by Mr. Kim Hudson, to adopt the Working Group's Jan. 25, 2021 (Attachment One-A); Jan 6, 2021 (Attachment One-B); Dec. 28, 2020 (Attachment One-C); Dec. 18, 2020 (Attachment One-D); Dec. 8, 2020 (Attachment One-E); and Nov. 12, 2020 (*See NAIC Proceedings – Fall 2020 – Accounting Practices and Procedures (E) Task Force, Attachment One*) minutes. The motion passed unanimously.

The Working Group met in regulator-to-regulator session on March 9. This regulator session was pursuant to the NAIC Open Meetings Policy paragraph 3 (discussion of specific companies, entities or individuals) and paragraph 6 (consultations with NAIC staff related to NAIC technical guidance of the *Accounting Practices and Procedures Manual*). No actions were taken during this meeting and the discussion was limited to its March 15 agenda.

2. Adopted Non-Contested Positions

The Working Group held a public hearing to review comments (Attachment One-F) on previously exposed items.

Mr. Bartlett made a motion, seconded by Ms. Weaver, to adopt the statutory accounting revisions detailed below as non-contested statutory accounting revisions. Included in this motion was the disposal of agenda item 2020-35: SSAP No. 97 – Audit Opinions. The motion passed unanimously.

a. Agenda Item 2020-32

Mr. Bruggeman directed the Working Group to agenda item 2020-32: SSAP No. 26R – Disclosure Update (Attachment One-G). He stated that this nonsubstantive agenda item expands a current disclosure element in *Statement of Statutory Accounting Principles (SSAP) No. 26R—Bonds* to include securities terminated early through a tender offer. This disclosure will require securities that are sold, redeemed or disposed of through either a call or tender offer to be specifically identified.

b. Agenda Item 2020-33

Mr. Bruggeman directed the Working Group to agenda item 2020-33: SSAP No. 32R – Publicly Traded Preferred Stock Warrants (Attachment One-H). He stated that this nonsubstantive agenda item expands the scope of *SSAP No. 32R—Preferred Stock* to include publicly traded preferred stock warrants, and it will require these warrants to be reported at fair value.

c. Agenda Item 2020-34

Mr. Bruggeman directed the Working Group to agenda item 2020-34: SSAP No. 43R – GSE CRT Program (Attachment One-I). He stated that this nonsubstantive agenda item incorporates modifications to reflect recent changes to the Freddie Mac Structured Agency Credit Risk (STACR) and Fannie Mae Connecticut Avenue Securities (CAS) programs. The modifications will allow credit risk transfer (CRT) securities from these programs to remain in scope of *SSAP No. 43R—Loan-Backed and Structured Securities* when issued through a real estate mortgage investment conduit (REMIC) trust structure.

d. Agenda Item 2020-35

Mr. Bruggeman directed the Working Group to agenda item 2020-35 (Attachment One-J). He stated that this nonsubstantive agenda item was recommended for disposal without changes to statutory accounting, as feedback from interested parties indicated that the nonadmittance of an *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities* 8.b.iii entity (non-insurance subsidiary, controlled and affiliated [SCA]) due to the inability to quantify a U.S. generally accepted accounting principles (GAAP) departure was not prevalent. Accordingly, additional admittance exceptions are not deemed to warrant further consideration.

e. Agenda Item 2020-41

Mr. Bruggeman directed the Working Group to agenda item 2020-41: *ASU 2020-06, Convertible Instruments* (Attachment One-K). He stated that this nonsubstantive agenda item rejects Accounting Standards Update (ASU) 2020-06 in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*, *SSAP No. 72—Surplus and Quasi-Reorganizations*, and *SSAP No. 86—Derivatives*, as this ASU references accounting models for convertible debt instruments not reflected in statutory accounting.

f. Agenda Item 2020-42

Mr. Bruggeman directed the Working Group to agenda item 2020-42: *ASU 2020-07, Presentation and Disclosures by Not-for-Profit Entities* (Attachment One-L). He stated that this nonsubstantive agenda item rejects ASU 2020-07 as not applicable for statutory accounting. Reference to this ASU will be reflected in *Appendix D—Nonapplicable GAAP Pronouncements*.

3. Reviewed Comments on Exposed Items

The Working Group held a public hearing to review comments (Attachment One-F) on previously exposed items.

a. Agenda Item 2020-22

Mr. Bruggeman directed the Working Group to agenda item 2020-22: Accounting for Perpetual Bonds. Jim Pinegar (NAIC) stated that this agenda item addresses the accounting treatment for perpetual bonds in *SSAP No. 26R*. This agenda item incorporates guidance to clarify that the premium associated with a perpetual bond that has an effective call option shall be amortized using the yield-to-worst concept. Perpetual bonds that do not have an effective call option are to be reported at fair value. The proposed revisions to the exposure include clarification regarding the use of the yield to worst concept provided in the interested parties. Diane Bellas (Allstate), representing interested parties, stated that interested parties support adoption of the proposed edits to *SSAP No. 26R*, and further exposure is not necessary.

Mr. Kim Hudson made a motion, seconded by Mr. Bartlett, to adopt the nonsubstantive revisions to *SSAP No. 26R*, modified from the exposure to include proposed edits received from interested parties during the exposure period (Attachment One-M). The motion passed unanimously.

b. Agenda Items 2020-37 and 2020-38

Mr. Bruggeman directed the Working Group to agenda item 2020-37: Separate Account Product Mix and agenda item 2020-38: Pension Risk Transfer Disclosure. Mr. Pinegar stated that these agenda items were drafted at the request of state insurance regulators due to the recent growth of pension risk transfers (PRTs) and registered indexed linked annuities (RILAs). These agenda items initially requested input on the degree of product identifying details in the separate account blanks. Mr. Pinegar stated that as a result of the prior exposure, interested parties suggested general interrogatory reporting of PRTs and RILAs, and state insurance regulators have requested additional reporting granularity in the separate account general interrogatories to ensure consistent reporting of products. He stated that based on these comments, a blanks proposal has been developed to add PRT and RILA reporting categories and modify the general interrogatory instructions to require disaggregated product reporting, using unique product identifiers for each product represented. He stated that aggregation in reporting can still occur if the products are under the same product filing or policy form; otherwise, the instructions require disaggregation in reporting. Mr. Bruggeman stated that as noted in the meeting materials, while disaggregated reporting is proposed to be required, companies will have the ability to eliminate proprietary information in reporting.

Ms. Malm made a motion, seconded by Ms. Weaver, to expose agenda item 2020-37 and agenda item 2020-38 with detail on the proposed general interrogatory reporting changes. The motion passed unanimously. It was noted that the blanks proposal is expected to be concurrently exposed by the Blanks (E) Working Group.

c. Agenda Item 2020-39

Mr. Bruggeman directed the Working Group to agenda item 2020-39: Interpretation Policy Statement. Mr. Pinegar stated that this agenda item was drafted in response to questions received last year as the Working Group and the Accounting Practices and Procedures (E) Task Force considered *Interpretation (INT) 20-08: COVID-19 Premium Refunds, Limited-Time Exception, Rate Reductions and Policyholder Dividends*. The agenda item clarifies the voting requirements of the Working Group for INTs that do or do not amend, supersede or conflict with existing statutory accounting principles (SAPs). Additionally, it clarifies existing options of the Working Group, such as the deferral of adoption until the INT has had an opportunity to be reviewed by the Task Force. Mr. Pinegar stated that interested parties responded with a few edits, primarily to clarify the purpose or ability to issue INTs that conflict with SAPs. He stated that the guidance proposed for adoption does integrate a majority of the edits proposed by interested parties, except for edits that would have restricted the issuance of INTs to emergency situations. He stated that those edits would have restricted the Working Group's current ability to make INTs for time-sensitive, but not emergency items, such as the issuance of *INT 20-01: ASU 2020-04 - Reference Rate Reform*.

Michael M. Monahan (American Council of Life Insurers—ACLI) stated that the ACLI agrees with the edits as proposed by NAIC staff, and an additional exposure of this agenda item is not necessary.

Mr. Kim Hudson made a motion, seconded by Mr. Bartlett, to adopt nonsubstantive revisions, modified from the exposure with edits as proposed by NAIC staff and interested parties, to the *NAIC Policy Statement on Maintenance of Statutory Accounting Principles* regarding the issuance and adoption of accounting interpretations (Attachment One-N). The motion passed unanimously.

d. Agenda Item 2020-40

Mr. Bruggeman directed the Working Group to agenda item 2020-40: Prescribed Practices. Julie Gann (NAIC) stated that this agenda item was drafted in response to questions received last year as the Working Group considered INT 20-08. She stated that this agenda item clarifies that while any state in which a company is licensed can issue prescribed practices, the prescribed practices directed by the domiciliary state shall be reflected in the financial statements filed with the NAIC, and they are the ones subject to independent audit requirements. The revisions clarify that non-domiciliary states may require supplemental financial information that details different accounting practices pursuant to the prescribed practices of the non-domiciliary state. Ms. Gann stated that in response to comments received from interested parties, references to financial statements in both the agenda item and the proposed authoritative guidance have been corrected to reflect supplemental financial information when referring to submissions to the non-domiciliary state.

Keith Bell (Travelers), representing interested parties, agreed that the edits proposed by NAIC staff reflect the request of interested parties, and an additional exposure of this agenda item is not necessary.

Mr. Smith made a motion, seconded by Mr. Kasinow, to adopt nonsubstantive revisions, modified from the exposure to incorporate edits as proposed by NAIC staff and interested parties, to the Preamble Implementation Questions and Answers regarding prescribed accounting practices. (Attachment One-O). The motion passed unanimously.

e. Agenda Item 2020-36

Mr. Bruggeman directed the Working Group to agenda item 2020-36: Derivatives Hedging Fixed Indexed Products. Ms. Gann stated that this agenda item proposes the development of new substantive guidance for the accounting and reporting of derivatives that effectively hedge the growth in interest credited for fixed indexed products that are reported in the general account. Interested parties provided a comment letter requesting additional time for the development of a proposal. Ms. Gann stated that NAIC staff recommend re-exposure of this agenda item with the direction to work with interested parties in the development of applicable guidance.

Rosemarie Albrizio (Equitable), representing interested parties, stated that interested parties appreciate the opportunity to jointly collaborate on this project, and now that year-end reporting has concluded, its staff have the capacity to focus on this proposal.

Mr. Kim Hudson made a motion, seconded by Ms. Weaver, to re-expose agenda item 2020-36 and direct NAIC staff to continue to collaborate with industry on a proposal to account for derivatives that effectively hedge the growth in interest credited for fixed indexed products. The motion passed unanimously.

#### 4. Reviewed Comments on Exposed Items

##### a. Agenda Item 2019-34

Mr. Bruggeman directed the Working Group to agenda item 2019-34: Related Parties, Disclaimer of Affiliation and Variable Interest Entities. Jake Stultz (NAIC) stated that this agenda item proposes several nonsubstantive revisions to *SSAP No. 25—Affiliates and Other Related Parties*. He stated that the agenda item clarifies: 1) the definition of related parties; 2) that a non-controlling ownership over 10% results in a related party classification, regardless of any disclaimer of control or affiliation; and 3) that a disclaimer of control or affiliation does not eliminate the classification as a related party for the disclosure of material transactions, as is required under SSAP No. 25. This agenda item also rejects several Financial Accounting Standards Board (FASB) ASUs regarding variable interest entities. Mr. Stultz stated that the agenda item requires increased disclosure of related parties, and it will provide information on minority ownership interests, as well as significant relationships between minority owners and other U.S. domestic insurers and groups. He stated that in collaboration with interested parties, a few additional minor modifications have been proposed, primarily clarifying that ownership includes both direct or indirect ownership. He stated that in conjunction with the Working Group's agenda item, the Blanks (E) Working Group has a concurrent exposure that includes a new Schedule Y, Part 3, which will be considered for adoption pending the action taken by the Working Group.

Mr. Bell stated that Travelers agrees that the edits proposed by NAIC staff are consistent with the requests of interested parties, and an additional exposure of this agenda item is not necessary.

Mr. Bartlett made a motion, seconded by Ms. Travis, to adopt the exposed nonsubstantive revisions to SSAP No. 25, with modifications to incorporate the minor edits as proposed by NAIC staff and interested parties (Attachment One-P). The motion passed unanimously.

##### b. Agenda Item 2019-24

Mr. Bruggeman directed the Working Group to agenda item 2019-24: Levelized and Persistency Commissions. Robin Marcotte (NAIC) stated that the Working Group has been discussing this topic since August 2019 with this being the sixth public discussion. This agenda item was drafted in response to a specific state insurance regulator request to address an accounting practice identified during a financial examination. Ms. Marcotte stated that a few insurers are utilizing a disputed practice by using third parties to pay policy acquisition costs, and they are not recognizing the full liability to repay those third parties. Not recognizing the full liability to repay the parties who are paying acquisition costs on an insurer's behalf is inconsistent with the guidance in *SSAP No. 71—Policy Acquisition Costs and Commissions*. SSAP No. 71, which has been in place prior to 1998, provides statutory accounting guidance and identifies such agreements as funding agreements, which require full liability recognition. Ms. Marcotte stated that in November 2020, the Working Group exposed additional edits to clarify that the SSAP No. 71 updates would be effective immediately upon adoption and apply to all contracts that are in effect as of the date of adoption. The Working Group has also previously determined that the revisions to SSAP No. 71 have met the due process for either a substantive or nonsubstantive revision; however, it concluded that the revisions are to be classified as nonsubstantive. Ms. Marcotte stated that the Working Group has previously reiterated that under the *NAIC Policy Statement on Maintenance of Statutory Accounting Principles*, it is not the impact of a change on an individual entity that determines whether a change is substantive or nonsubstantive but whether the revision is consistent with the original intent of the SSAP. In addition, the Working Group directed the development of an issue paper to document the historical discussion on this topic.

Ms. Marcotte stated that NAIC staff are recommending that the Working Group: 1) adopt the previously exposed updates to SSAP No. 71 after consideration regarding the effective date; and 2) concurrently expose with the Blanks (E) Working Group a proposal to incorporate a new general interrogatory to assist with the identification of the use of funding agreements. She stated that NAIC staff have drafted an issue paper to document the historical discussions regarding this topic. She stated that

an issue paper is not authoritative, so there is no need to delay the SSAP No. 71 effective date for the adoption of the issue paper. She recommended that the Working Group direct NAIC staff to update the issue paper for actions from this meeting and determine when to expose the issue paper. Additionally, NAIC staff did not recommend further edits to SSAP No. 71, as revisions proposed by interested parties and other commentators either do not concur with the principles of SSAP No. 71 or have been rejected by the Working Group in prior discussions. Mr. Bruggeman stated that NAIC staff have provided a summary of comments received, which includes a response to each position. Accordingly, NAIC staff are not recommending additional modifications.

Commissioner Mulready stated that he had provided a comment letter to the NAIC president and the Financial Condition (E) Committee. He inquired as to whether actions taken by the Working Group regarding this project would go through the complete NAIC committee process, including reporting to the Accounting Practices and Procedures (E) Task Force and the Financial Condition (E) Committee and review by the Executive (EX) Committee and Plenary. Mr. Bruggeman stated that due to the controversial nature of this topic, this agenda item will be specifically considered through all levels of the committee process.

Commissioner Mulready further inquired regarding the expense recognition and payment of cashflows for using a third party to pay policy acquisition costs compared to insurers who directly pay commission expense. Mr. Bruggeman stated that traditional life insurance policies typically have a larger commission in the first year the policy is written. Through the use of a third party, some insurers have used a levelized repayment plan, so the first-year commission is repaid over several years. Additionally, the immediate expense recognition for this first year commission, as is required under SSAP No. 71, is not being properly recognized by some insurers in the year of acquisition. As a third party has remitted funds on behalf of an insurer, the insurer needs to properly recognize the loan as a liability. Commissioner Mulready queried about lapse risk, which is a common element built into these financing agreements. Mr. Bruggeman commented that lapse risk cannot be transferred to a noninsurance entity; and SSAP No. 71 still requires the liability to be recognized, even if repayment to the third party is not guaranteed. Mr. Bruggeman further stated that by not recognizing the full commission financing liability, an insurance company is asserting a 100% lapse rate, which is not an appropriate assumption and not consistent with the reserving methodology used for these products.

Elly Nettleton (Guggenheim) stated that levelized commissions are not a new concept. She noted that a 2010 U.S. Securities and Exchange Commission (SEC) complaint against another carrier notes that levelized commissions were common practice before Issue Paper No. 71 was finalized. She stated that the concept of persistency remains a concern, as Guggenheim believes expense recognition will occur earlier than has traditionally been required. She stated that Guggenheim does feel it is a dangerous practice to remove persistency in the treatment of levelized commission. Mr. Bruggeman stated that the concepts regarding traditional persistency commission are not a part of the proposed edits, as this agenda item is to clarify that initial acquisition costs should not be deferred through the use of a funding agreement.

Mr. Stolte stated that in 1991, Virginia had an insolvency in which the company participated in a structure where it utilized a levelized commission financing arrangement and did not properly recognize a liability for the amounts paid by the third party. However, as the insurer was liquidated, the third-party financier sought reimbursement for commission amounts previously forwarded on behalf of the insurer. Mr. Stolte stated that the insurer had not recorded the full amount of the liability, and this overstated surplus. He stated that if these amounts due are not recorded, they are in essence off book, unrecorded liabilities. He stated that the concept of recognizing commission expenses when incurred has been a long-standing concept of statutory accounting, which was noted even prior to codification. He noted that acquisition costs are expensed as incurred upfront.

Commissioner Donelon responded that the insurer referenced by Mr. Stolte did a levelized commission practice; however, he perceived the accounting practice was fully transparent, and the \$16 million amount of the off-balance sheet liability only represented a fraction of the \$120 million insolvency. He stated that earlier exposures of this item, involved other large life insurers; however their earlier concerns appear to have been accommodated. He inquired regarding the nature of this accommodation. Mr. Bruggeman stated that the referenced was clarification that true persistency commissions—i.e., subsequent year commissions—were not intended to be captured in the scope of levelized commissions revisions in SSAP No. 71. He said the initial revisions that were perceived by the broader insurance industry as affecting traditional persistency commission and the Working Group subsequently clarified that that was not the intent of the revisions. Ms. Gann stated that SSAP No. 71 is a common area SSAP, so it is applicable to all insurer and product types. She stated that the intent of SSAP No. 71 revisions is to capture initial acquisition costs, not traditional persistency commissions as are common in many insurance products.

Thomas B. Considine (National Council of Insurance Legislators—NCOIL) stated that NCOIL believes that the changes proposed are substantive in nature and the timing of an adoption is less than prudent, especially in light of the current economic environment. He noted that the revisions will have adverse capital consequences on some companies. Companies utilizing leveled commission structures have done so for decades, and in conjunction with this requiring a significant financial impact, NCOIL would recommend a four or five-year phase-in of expense recognition. Mr. Stolte stated that in response to a multi-year phase-in request, insurers affected could request a permitted practice from their state of domicile. In doing so, a multi-year phase-in could be granted; however, the financial and capital impact could be appropriately disclosed. Mr. Considine stated that permitted practices are not viewed as favorably as uniform treatment, and this would not be a preferred solution.

Lynn Kelley (Delaware Life), on behalf of interested parties, stated that they do not agree with the proposed edits, and they believe the edits are substantive in nature. She stated that interested parties believe that their accounting practices have been in compliance with SSAP No. 71 and have been subject to numerous insurance exams and independent financial audits. If adopted by the Working Group, an effective date no earlier than Dec. 31, 2021, is requested. She stated her agreement with a multi-year phase-in.

Brendan Bridgeland (Center for Insurance Research—CIR), NAIC consumer representative, stated that the most important function of statutory accounting is to ensure solvency and a level playing field among similar insurers. He stated that an insurer's financial statements should reflect capital available to pay policyholder claims and not include off-balance sheet liabilities. Despite this requiring material adjustments to a few insurers, he stated that adoption was recommended to ensure that financial statements appropriately reflect an insurer's financial position. He stated that deferring the recognition of commissions is what is maintaining a company in the appropriate risk-based capital (RBC) range, then the company may warrant additional scrutiny for other areas as well.

Mr. Bruggeman stated that as the edits proposed do not change the original intent of SSAP No. 71, he views the edits as nonsubstantive in nature. He stated that the concept of requiring immediate expense recognition of initial acquisition costs meets the spirit of statutory accounting concepts, as well as the concept of conservatism as referenced in the preamble. Commissioner Donelon stated that he believes this issue to be substantive in nature, even if it is not in the technical accounting sense. He indicated that the reporting entity that contacted him indicated that it will not have a materially adverse impact on them. However, he has been told that there are reporting entities that will have a significant financial impact on some small companies, and it will jeopardize members of the ACLI and the National Alliance of Life Companies (NALC). He stated recommendation for grandfathering of existing practices or a multi-year phase-in of any recognition requirements. He stated his agreement with Mr. Considine that a permitted practice is not preferred. Mr. Smith stated that when referencing the definitions of substantive versus nonsubstantive in the *Accounting Practices and Procedures Manual* (AP&P Manual), the exposed edits are nonsubstantive in nature.

Commissioner Mulready stated that this practice has been in place for decades, and to classify this as nonsubstantive signifies to him that all prior insurance exams and independent audits are incorrect. Ms. Andersen stated that the proposed edits are only clarifying in nature, as they do not change the intent of SSAP No. 71. She stated that this practice has only been employed by a small subset of insurance entities, and it results in liabilities that are not recorded in the financial statements. Mr. Stolte stated that commission financial arrangements are difficult to discover; in the prior insolvency example referenced by Mr. Stolte, it was not until the company was in receivership that the issue was discovered. He noted that such arrangements create illusory surplus and violate the concepts of statutory accounting. He noted that audits do not review every single contract.

Mr. Smith made a motion, seconded by Mr. Kim Hudson, to classify the edits as nonsubstantive in nature. The motion passed, with Louisiana voting opposed.

Mr. Bruggeman stated that nonsubstantive agenda items are generally effective immediately; however, due to the nature of this topic, it will need to be approved by the Accounting Practices and Procedures (E) Task Force, the Financial Condition (E) Committee, and the Executive (EX) Committee and Plenary. With the Executive (EX) Committee and Plenary not meeting until the Summer National Meeting, the earliest this adoption could take effect is likely the third quarter of 2021. Mr. Smith stated that due to the length that this agenda item has been discussed, they would support an immediate effective date. Ms. Belfi, Mr. Fry, Mr. Clark and Mr. Kim Hudson stated that due to the likelihood of a significant financial impact combined with the requirement for adoption by the Executive (EX) Committee and Plenary, a Dec. 31, 2021, effective date is recommended. In an inquiry from Mr. Bruggeman, no one opposed to a Dec. 31, 2021, effective date.

Ms. Gann stated that in accordance with *SSAP No. 3—Accounting Changes and Corrections of Errors*, as this agenda item directs that any adjustments be accounted for as a change in accounting principle, the effective date will not have a material impact, as any required cumulative adjustments calculated as of Jan. 1, 2021, will impact unassigned funds (surplus). Mr. Bruggeman stated in response to a query that upon adoption, insurers will be required to record a liability for outstanding amounts due to a third-party funding agent as a cumulative effect adjustment to surplus as of Jan. 1. He noted that activities throughout the year after Jan. 1 are recorded through income.

Mr. Kim Hudson made a motion, seconded by Mr. Smith, to adopt the previously exposed nonsubstantive edits to SSAP No. 71 with a Dec. 31, 2021, effective date discussed in the meeting (Attachment One-Q). Included in this motion was a recommendation to support a concurrent Blanks (E) Working Group agenda item requiring a general interrogatory to identify, in certain instances, companies who use third parties to pay commission expenses. The motion passed, with Louisiana voting opposed.

Ms. Marcotte asked whether the Working Group wants to plan an interim vote for exposure after the issue paper is updated for today's actions or wait until a later date to consider for exposure. Mr. Bruggeman noted that the issue paper will be updated for the Working Group's and the Task Force's final actions, and it will be considered for exposure at a later date.

#### 5. Considered Maintenance Agenda – Pending Listing – Exposures

Mr. Kim Hudson made a motion, seconded by Mr. Kasinow, to move agenda items 2021-01 through 2021-09, all of which are classified as nonsubstantive, to the active listing and expose all items for a public comment period ending April 30. The motion passed unanimously.

##### a. Agenda Item 2021-01

Mr. Bruggeman directed the Working Group to agenda item 2021-01: *ASU 2021-01, Reference Rate Reform*. Mr. Pinegar stated that in March 2020, the FASB issued *ASU 2020-04 – Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*. He stated that the Working Group adopted ASU 2020-04 in its entirety, where applicable, through its adoption of INT 20-01: *ASU 2020-04 – Reference Rate Reform*. ASU 2020-04 and INT 20-01 provided temporary, optional and expedient relief in that a qualifying contract modification (because of reference rate reform) should not be considered an event that requires contract remeasurement. This exception guidance applies to both general business and derivative contracts. Mr. Pinegar stated that since the issuance of ASU 2020-04, questions have arisen regarding the accounting for changes in reference rates (that do not specifically reference the London Interbank Offered Rate (LIBOR) or another rate that is expected to be discontinued) that are specifically used for margining, discounting, or contract price alignment. He stated that these items are generally referred to as “basis swaps,” and basis swaps were specifically addressed by the Working Group through *INT 20-09: Basis Swaps as a Result of the LIBOR Transition*. He stated that INT 20-09 requires basis swaps to be reported as “hedging other,” and they are recorded at fair value, unless the entity can prove hedge effectiveness, as is required per SSAP No. 86. However, ASU 2021-01 directs that basis swaps and other derivative instruments affected by changes to the interest rates used for discounting, margining, or contract price alignment (regardless of whether they reference LIBOR or another rate that is expected to be discontinued as a result of reference rate reform) are eligible for the optional relief provided for in ASU 2020-04. Mr. Pinegar stated that NAIC staff recommend minor modifications to INT 20-01 to reflect the additional financial instruments affected by ASU 2021-01.

##### b. Agenda Item 2021-02

Mr. Bruggeman directed the Working Group to agenda item 2021-02: *ASU 2020-08 – Premium Amortization on Callable Debt Securities*. Mr. Pinegar stated that ASU 2020-08 clarifies the amortization of premium associated with callable debt securities, and while the guidance closely mimics existing guidance in SSAP No. 26R, it does preclude the statutory accounting's yield-to-worst concept. Accordingly, there may be scenarios for statutory accounting where application of the yield-to-worst concept will result in a lower asset value than amortizing callable debt premium in accordance with ASU 2020-08. Mr. Pinegar stated that this agenda item proposes to reject ASU 2020-08 in SSAP No. 26R.

##### c. Agenda Item 2021-03

Mr. Bruggeman directed the Working Group to agenda item 2021-03: SSAP No. 103R – Disclosures. Mr. Pinegar stated that this agenda item was drafted as a result of ongoing discussions with industry and state insurance regulators regarding the current

SSAP No. 43R project. One of the topics discussed was the state insurance regulators' desire to identify situations in which a reporting entity has entered into a securitization, asset-backed financing, or similar transfer transaction where a significant economic interest in the transferred asset is retained by the reporting entity. Mr. Pinegar stated that one of the primary concerns is where an asset has been self-securitized, but the economic benefits have been retained. This agenda item proposes additional disclosures and data capturing certain existing disclosures required in *SSAP No. 103R—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. Data capturing of these disclosure elements will permit state insurance regulators to have the ability to perform system inquiries to identify which reporting entities have such transactions and the extent to which they occur. This agenda item proposes a concurrent blanks exposure for possible inclusion in the 2021 year-end financial statements.

d. Agenda Item 2021-04

Mr. Bruggeman directed the Working Group to agenda item 2021-04: SSAP No. 97 – Valuation of Foreign Insurance SCAs. Fatima Sediqzad (NAIC) stated that this agenda item is in response to the Working Group's previously adopted guidance in SSAP No. 97, indicating that equity method losses stop at zero (preventing a negative equity value) except in scenarios in which limited statutory adjustments result in a negative asset value. She noted that interested parties have requested that the Working Group consider an agenda item to reevaluate whether the ability to go negative from the limited statutory basis of accounting adjustments should remain applicable for SSAP No. 97, paragraph 8.b.iv (foreign insurance SCA) entities. She stated that these long-standing adjustments have historically been viewed as necessary in order to prevent non-admitted assets held by an SCA from receiving more favorable treatment than had the assets been held directly by the reporting entity. She stated that after a review of foreign SCA filings, there were no noted instances of negative value SCAs; therefore, revisions to SSAP No. 97 are not recommended. She stated that this agenda item is proposed to be disposed of without edits to statutory accounting.

Mr. Bruggeman stated that while this agenda item was brought forth as a theoretical exercise, industry is requested to demonstrate examples, specifically those that may not be subject to SCA filing requirements and, as a result, were not a part of the review performed by NAIC staff.

Angelica Tamayo-Sanchez (New York Life) stated that only reviewing foreign insurance SCAs that are subject to SSAP No. 97 filing requirements may not be representative of all foreign insurance SCAs captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Additionally, while negative valuation has not been an issue to date, requiring a potential negative equity valuation of a solvent foreign insurance subsidiary does not seem appropriate. Ms. Tamayo-Sanchez stated that a foreign insurance subsidiary should be treated in a similar manner as a domestic insurance subsidiary. Mr. Bruggeman requested that additional details and comments to be submitted during the exposure period.

e. Agenda Item 2021-05

Mr. Bruggeman directed the Working Group to agenda item 2021-05: Cryptocurrencies. Mr. Stultz stated that this agenda item has been drafted in response to inquiries received on the statutory accounting treatment for cryptocurrencies, specifically whether Bitcoin is an admitted asset and within the definition of *SSAP No. 2R—Cash, Cash Equivalents, Drafts and Short-Term Investments*. This agenda item proposes *INT 21-01T: Accounting for Cryptocurrencies* to clarify that cryptocurrencies do not meet the definition of cash in SSAP No. 2R or any other admitted asset that is included in the AP&P Manual. Mr. Stultz stated that the exposure also requests information on the current ownership and potential future acquisition of cryptocurrencies.

f. Agenda Item 2021-06EP

Mr. Bruggeman directed the Working Group to agenda item 2021-06EP: Editorial Maintenance Update. Mr. Stultz stated that this agenda item provides nonsubstantive editorial corrections in accordance with the maintenance process. The revisions propose a minor update to the title of *SSAP No. 53—Property Casualty Contracts—Premiums*, correct grammatical errors in SSAP No. 97, and relocate an existing footnote in the Glossary.

g. Agenda Item 2021-07

Mr. Bruggeman directed the Working Group to agenda item 2021-07: *ASU 2020-11, Financial Services—Insurance (Topic 944): Effective Date and Early Application*. Mr. Stultz stated that ASU 2020-11 updates effective dates of the amendments in *ASU 2019-09, Financial Services – Insurance* and *ASU 2018-12, Targeted Improvements to the Accounting for Long-Duration*



*Contracts*. However, both ASU 2019-09 and ASU 2018-12 have previously been rejected for statutory accounting. He noted that the proposed nonsubstantive revisions to Appendix D reject ASU 2020-11 as not applicable to statutory accounting.

h. Agenda Item 2021-08

Mr. Bruggeman directed the Working Group to agenda item 2021-08: *ASU 2021-02, Franchisors Revenue from Contracts with Customers*. Mr. Stultz stated that ASU 2021-08 slightly amends the guidance that was previously issued in *ASU 2014-09, Revenue from Contracts with Customers* as it relates to franchisors. The Working Group has previously rejected ASU 2014-09 and several other ASUs related to revenue recognition in *SSAP No. 47—Uninsured Plans*. He noted that the nonsubstantive revisions propose to reject ASU 2021-02 in SSAP No. 47.

i. Agenda Item 2021-09: State ACA Reinsurance Programs

Mr. Bruggeman directed the Working Group to agenda item 2021-09: State ACA Reinsurance Programs. Ms. Marcotte stated that *SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act* provides guidance regarding the three federal Affordable Care Act (ACA) risk-sharing programs that had the intent to stabilize insurance rates in the marketplace. She stated that although the risk corridors program and the federal transitional reinsurance program have ended, several states have received approval from the U.S. Department of Health and Human Services (HHS) to run state ACA reinsurance programs under “Section 1332” waivers, which are similar to the federal transitional reinsurance program. This agenda item proposes nonsubstantive revisions to SSAP No. 107 to direct a hybrid accounting approach for the state ACA programs, which is similar to the federal transition reinsurance program. The hybrid accounting approach will divide the accounting into three broad categories, and depending on the characteristics of the plan, a reporting entity will account for the program per *SSAP No. 63—Underwriting Pools*, *SSAP No. 35R—Guaranty Fund and Other Assessments*, or SSAP No. 47.

6. Discussed Other Matters

a. Agenda Item 2020-21: SSAP No. 43R – Update

Ms. Gann stated that since December 2020, Iowa state insurance regulators, NAIC staff, and a small subset of interested parties have been meeting weekly to discuss the exposed Iowa Insurance Proposal to define what should be captured in scope of Schedule D, Part 1: Long-Term Bonds. The decision to review investments eligible for Schedule D, Part 1 reporting was determined an appropriate first step, as this schedule entails investments in scope of both SSAP No. 26R and SSAP No. 43R. Significant progress has been made during these meetings, and it is anticipated that an initial exposure will occur in May 2021, potentially to allow comments prior to the Summer National Meeting. Ms. Gann stated that the initial focus has been on principal concepts to differentiate between issuer credit obligations and asset-backed securities. It is anticipated that there will be investments that have been previously reported on Schedule D, Part 1 that will no longer qualify for bond reporting. At this time, it is anticipated that these investments will be captured on Schedule BA as an other long-term invested asset. However, despite potential Schedule BA reporting, consideration will be given to the proper accounting for these investments, and referrals to the Capital Adequacy (E) Task Force will occur to ensure appropriate consideration for RBC charges.

Mr. Clark stated that while this topic remains complex, all parties have approached the discussions in good faith, and as a result, significant progress has been made. He stated that the concern of state insurance regulators are investments that have been legally structured as a bond but do not reflect the characteristics of a bond that state insurance regulators would anticipate for Schedule D, Part 1 reporting. This structuring could result in a more favorable RBC charge than had the assets been held directly. Mr. Clark stated that the discussions with NAIC staff and the subset of interested parties remain principles-based and are anticipated for initial exposure in the near future.

Mr. Monahan, on behalf of the ACLI and interested parties, stated appreciation for the Iowa state insurance regulators, NAIC staff, and interested parties for assisting with the ongoing SSAP No. 43R project. Mr. Bruggeman stated that remaining principles-based is an important aspect of the project, and he noted that beginning with the review of Schedule D, Part 1 was appropriate, as its implications may affect investments captured in both SSAP No. 26R and SSAP No. 43R.

b. INT 19-02: Freddie Mac Single Security Initiative

Ms. Gann stated that INT 19-02 remains applicable as long as securities are exchanged under the Freddie Mac Single Security Initiative. She stated that NAIC staff researched this item, and as the Freddie Mac Single Security Initiative remains an ongoing

program, INT 19-02 remains in full effect. Subsequent reviews will continue to assess continued applicability.

c. Agenda Item 2019-49: Retroactive Reinsurance Exception – Update

Ms. Marcotte stated that this agenda item was to address a referral from the Committee on Property and Liability Financial Reporting (COPLFR) of the American Academy of Actuaries (Academy) that noted diversity in reporting for companies applying the retroactive reinsurance exception by allowing certain contracts to be reported prospectively. She stated that NAIC staff have held some preliminary discussion with members of the Casualty Actuarial and Statistical (C) Task Force on this topic, and they anticipate additional discussions with industry. A proposal is anticipated for Working Group review for exposure either in the interim or at the Summer National Meeting.

d. Paycheck Protection Program (PPP) – SAP Guidance

Ms. Marcotte stated that in response to questions received, statutory accounting guidance for the forgiveness of Paycheck Protection Program (PPP) loans is addressed in *SSAP No. 15—Debt and Holding Company Obligations*, paragraph 11, and it provides that debt is recognized until extinguished, including formally being forgiven. In addition, per SSAP No. 15, paragraph 25, gains on termination of debt are recognized as capital gains.

e. VOSTF Referral Regarding WCFI

Ms. Marcotte stated that a referral from the Valuation of Securities (E) Task Force regarding revisions to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) in response to the Working Group's May 2020 revisions to *SSAP No. 105R—Working Capital Finance Investments* is expected. NAIC staff anticipate addressing this referral when received.

f. Review of GAAP Exposures:

Ms. Sediqzad stated that NAIC staff have reviewed the outstanding U.S. GAAP exposure, and she noted that comments during the exposure period are not recommended; however, a review will occur once the new ASU is issued as final.

Mr. Bruggeman stated that the comment deadline for all exposed agenda items is April 30.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

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